



Fountain Valley School District

BOARD OF TRUSTEES
REGULAR MEETING

A G E N D A

Board Room
10055 Slater Avenue
Fountain Valley, CA

July 13, 2017

- CALL TO ORDER: 6:30PM
- ROLL CALL
- APPROVAL OF AGENDA

M ____
2nd ____
V ____

- PUBLIC COMMENTS

Speakers may address the Board of Trustees on Closed Session Items. Please comply with procedures listed on the goldenrod form "For Persons Wishing to Address the Board of Trustees" and give the form to the Executive Assistant.

- CLOSED SESSION

The Board of Trustees will retire into Closed Session to address the following:

- Personnel Matters: *Government Code 54957 and 54957.1*
Appointment/Assignment/Promotion of employees; employee discipline/dismissal/release; evaluation of employee performance; complaints/charges against an employee; other personnel matters.
- Pupil Personnel: *Education Code 35146*
- Negotiations: *Government Code 54957.6*
Update and review of negotiations with the FVEA and CSEA Bargaining Units with the Board's designated representative, Cathie Abdel.
- Public Employee Performance Evaluation: *Government Code Section 54957 & 54957.1*
The Board will meet in closed session to discuss the annual performance evaluation of the superintendent.
- OPEN SESSION: 7:00PM

Our mission is to promote a foundation for academic excellence, mastery of basic skills, responsible citizenship, and a desire by students to achieve their highest potential through a partnership with home and community.

- PLEDGE OF ALLEGIANCE

BOARD REPORTS AND COMMUNICATIONS

Board Members will make the following reports and communicate information to fellow Board Members and staff.

PUBLIC COMMENTS

Members of the community and staff are welcome to address the Board of Trustees on any item listed on the Agenda of Business or any other item of specific concern. Speakers are requested to limit their presentation to four minutes unless the time is waived by a majority of the Board Members present. If a member of the audience requests a response to their comments, the Board of Trustees may ask the Superintendent/Staff to respond to them personally or in writing after the meeting, or direct that additional information be provided to the Board on a future agenda.

*** BOARD MEMBERS WHO WISH TO DISCUSS WITH STAFF ANY ITEMS LISTED UNDER LEGISLATIVE SESSION SHOULD INFORM THE BOARD PRESIDENT AT THIS TIME.

LEGISLATIVE SESSION

1. REJECTION OF ALL PROPOSALS FOR THE PRECONSTRUCTION AND LEASE-LEASEBACK SERVICES FOR MEASURE O PHASE 1 - SCHOOL MODERNIZATION AND AIR CONDITIONING

M ____
2nd ____
V ____

On April 13, 2017, the Board of Trustees approved "Resolution 2017-21 Approving The Request For Proposal For Pre-Construction And Lease-Leaseback Services For Measure O Phase 1 – School Modernization And Air Conditioning." After review, and in accordance with SECTION XI of the April 13, 2017 RFP, the Board of Trustees expressly reserved the right to reject any and all proposals.

Superintendent's Recommendation: It is recommended that the Board of Trustees reject all Proposals for the Preconstruction And Lease-Leaseback Services For Measure O Phase 1 - School Modernization And Air Conditioning.

2. ADOPT RESOLUTION 2018-05 APPROVAL OF REQUEST FOR PROPOSALS FOR PRECONSTRUCTION AND LEASE LEASEBACK SERVICES FOR MODERNIZATION AND HVAC PROJECT

M ____

2nd ____
V ____

The lease-leaseback construction project delivery method is authorized under Education Code section 17406 and is one of the most widely used project delivery methods for public school construction in California.

Superintendent's Recommendation: It is recommended that the Board of Trustees adopts Resolution 2018-05 approving the Request for Proposals for Preconstruction

and Lease-Leaseback Services for Modernization and HVAC Project.

3. CONSENT CALENDAR/ROUTINE ITEMS OF BUSINESS

M _____
2nd _____
V _____

All items listed under the Consent Calendar and Routine Items of Business are considered by the Board of Trustees to be routine and will be enacted by the Board in one action. There will be no discussion of these items prior to the time the Board votes on the motion unless members of the Board, staff, or public request specific items to be discussed and/or removed from the Consent Calendar.

Superintendent's Recommendation: The Board of Trustees approves all items listed under the Consent Calendar and Routine Items of Business in one action.

Routine Items of Business

- 3-A.** Board Meeting Minutes from June 15 regular meeting
- 3-B.** Board Meeting Minutes from June 22 regular meeting
- 3-C.** Personnel Items (Employment Functions, Workshops/Conferences, and Consultants)
- 3-D.** Donations
- 3-E.** Warrants
- 3-F.** Purchase Order Listing
- 3-G.** Budget Adjustments
- 3-H.** Resolution 2018-07: Payment to Mr. Collins for missed meeting

Consent Items

3-I. RESOLUTION 2018-01: AUTHORIZATION OF SIGNATURES ON REPLACEMENT WARRANTS

Superintendent's Comments: It is recommended that the Board of Trustees approves Resolution 2018-01: Authorization of Signatures on Replacement Warrants.

3-J. RESOLUTION 2018-02: APPOINTMENT OF CUSTODIAN OF REVOLVING CASH FUND

Superintendent's Comments: It is recommended that the Board of Trustees adopts Resolution 2018-02 naming Christine Fullerton, Assistant Superintendent, Business Services, custodian of the Revolving Cash Fund.

3-K. RESOLUTION 2018-03: AUTHORIZATION OF APPROVAL OF VENDOR CLAIMS/ORDERS

Superintendent's Comments: It is recommended that the Board of Trustees adopts Resolution 2018-03: Authorization of Approval of Vendor Claims/Orders.

3-L. RESOLUTION 2018-04: AUTHORIZATION OF SIGNATURES

Superintendent's Comments: It is recommended that the Board of Trustees approves Resolution 2018-04: Authorization of Signatures.

3-M. RECORD OF EIGHTH GRADE PROMOTION, JUNE 2017

Superintendent's Comments: It is recommended that the Board of Trustees approves, as submitted by the principals, the names of all students recommended for an eighth grade Certificate of Promotion in the 2016-17 school year.

3-N. DISTRICT FIELD TRIP LIST 2017-18

Superintendent's Comments: It is recommended that the Board of Trustees approves the District field trip list for the 2017-18 school year.

3-O. EDUCATIONAL SERVICES APPROVED INDEPENDENT CONTRACTOR LIST

Superintendent's Comments: It is recommended that the Board of Trustees approves the attached Independent Contractor List for the 2017-18 school year.

3-P. APPROVAL OF SINGLE YEAR WITH ANNUAL RENEWAL CONTRACT BETWEEN FOUNTAIN VALLEY SCHOOL DISTRICT AND MIND RESEARCH INSTITUTE TO PROVIDE ST MATH TO THE DISTRICT'S EIGHT SCHOOLS

Superintendent's Comments: It is recommended that the Board of Trustees approves the contract between Fountain Valley School District and MIND Research Institute to continue to provide ST Math to the District's eight schools.

3-Q. APPROVAL OF THREE YEAR CONTRACT BETWEEN FOUNTAIN VALLEY SCHOOL DISTRICT AND TURNITIN, LLC., TO PROVIDE WRITING-TO-LEARN PRODUCTS TO THE DISTRICT'S THREE MIDDLE SCHOOLS

Superintendent's Comments: It is recommended that the Board of Trustees approves the contract between Fountain Valley School District and Turnitin, LLC., to provide writing-to-learn products to the District's three middle schools.

3-R. APPROVE DISTRICT USE OF CMAS CONTRACT AND ANY EXTENSIONS TO PROCURE COPIERS AND RELATED MAINTENANCE AND PRINT SERVICES TO MEET THE NEEDS OF THE DISTRICT

Superintendent's Comments: It is recommended that the Board of Trustees approves the District's use of CMAS contract 3-17-36-0030B and delegates to the Assistant Superintendent of Business Services the authority to execute any related documents.

3-S. APPROVE AGREEMENT WITH VAVRINEK, TRINE, DAY & CO., LLP

FOR YEAR-END CLOSE CONSULTING SERVICES

Superintendent's Comments: It is recommended that the Board of Trustees approves the consulting services agreement and authorizes the Superintendent or designee to sign all required documents.

3-T. ADOPTION OF RESOLUTION 2018-06: TEMPORARY INTER-FUND TRANSFERS FROM FUND 40

Superintendent's Comments: It is recommended that the Board of Trustees adopts Resolution 2018-06, the temporary inter-fund transfers of funds from Fund 40.

3-U. APPROVAL OF LEASE ADDENDUMS FOR MODULAR CLASSROOMS

Superintendent's Comments: It is recommended that the Board of Trustees approves the lease addendums extending the term of these leases through June 30, 2018 and authorizes the Superintendent or his designee to sign all documents.

3-V. APPROVAL OF ORANGE COUNTY DEPARTMENT OF EDUCATION SUNGARD CONTRACTS

Superintendent's Comments: It is recommended that the Board approves Agreement Number 42950 – Amendment #1, “Sungard Business-Plus System Support” and Agreement 39389 – Amendment #4 “Human Resources Application” with the Orange County Department of Education and authorizes the Superintendent or designee to sign all documents.

3-W. AGREEMENT WITH REVENUE ENHANCEMENT GROUP, INC. FOR ASSESSMENT REFUND SERVICES

Superintendent's Comments: It is recommended that the Board of Trustees approves Agreement 9705HA with Revenue Enhancement Group, Inc., for the period of one year, beginning July 26, 2017 and ending July 25, 2018, and authorizes the Superintendent or designee to sign all documents.

3-X. AGREEMENT FOR SPECIAL SERVICES WITH SCHOOL SERVICES OF CALIFORNIA

Superintendent's Comments: It is recommended that the Board of Trustees approves the Agreement for Special Services with School Services of California, Inc., for the period of one year, beginning August 1, 2017 and ending July 31, 2018, and authorizes the Superintendent or designee to sign all documents.

3-Y. 2016-17 QUARTERLY REPORT ON WILLIAMS UNIFORM COMPLAINTS

Superintendent's Comments: It is recommended that the Board of Trustees receives the Williams Quarterly Report for the fourth quarter of the 2016-17 year and

approves its submittal to the Orange County Department of Education.

3-Z. RETAINER AGREEMENT FOR LEGAL SERVICES IN 2017-18 SCHOOL YEAR WITH THE LAW OFFICES OF MARGARET A. CHIDESTER & ASSOCIATES

Superintendent's Comments: It is recommended that the Board of Trustees approves the retainer agreement for legal services in 2017-18 with the Law Offices of Margaret A. Chidester & Associates.

3-AA. CONTRACT FOR PROFESSIONAL DEVELOPMENT SERVICES WITH ELENA MACDONALD

Superintendent's Comments: It is recommended that the Board of Trustees approves the contract for professional development services with Elena MacDonald.

3-BB. SPECIAL ED SETTLEMENT AGREEMENT

Superintendent's Comments: It is recommended that the Board of Trustees approves the settlement agreement as described in the attached.

3-CC. NON-PUBLIC AGENCY CONTRACTS

Superintendent's Comments: Under current consortium budget agreements, any unfunded cost of non-public school or non-public agency placement is a cost to the general fund of the resident district. It is recommended that the following non-public school/agency contracts/addendums be approved and that the West Orange County Consortium for Special Education be authorized to receive invoices and process payment.

Non-Public School/Agency	100% Contract Cost	Effective Dates
Cornerstone Therapies	N/A	7/1/17-6/30/18
Cornerstone Therapies	\$2,970	7/1/17-12/31/17
Del Sol School	N/A	7/1/17-6/30/18
Del Sol School	\$67,783	7/1/17-6/30/18
Olive Crest Academy	N/A	7/1/17-6/30/18
Olive Crest Academy	\$47,079.53	7/1/17-6/30/18
Olive Crest Academy	\$49,196.51	7/1/17-6/30/18
Olive Crest Academy	\$73,014.51	7/1/17-6/30/18
Port View Preparatory, Inc.	N/A	7/1/17-6/30/18
Port View Preparatory, Inc.	\$97,847.50	7/1/17-6/30/18
Del Sol School	N/A	6/19/17-6/30/17
Del Sol School	\$4,884	6/19/17-6/30/17

SUPERINTENDENT'S COMMENTS/NEW ITEMS OF BUSINESS

The Board President will receive any announcements concerning new items of business

from board members or the superintendent.

- CLOSED SESSION
- APPROVAL TO ADJOURN

**The next regular meeting of the Fountain Valley School District
Board of Trustees is on Thursday, August 24, 2017 at 7:00pm.**

A copy of the Board Meeting agenda is posted on the District's web site (www.fvsd.us). Materials related to this agenda submitted to the Board of Trustees less than 72 hours prior to the meeting are available for public inspection by contacting the Superintendent's Office at 10055 Slater Avenue, Fountain Valley, CA 92708 or call 714.843.3255 during normal business hours.

Regular Board meeting proceedings are tape recorded.

Reasonable Accommodation for any Individual with a Disability: Any individual with a disability who requires reasonable accommodation to participate in a board meeting may request assistance by contacting the Superintendent's office: 10055 Slater Avenue, Fountain Valley, CA 92708 or call (714) 843-3255 or FAX (714) 841-0356.



SO 2017-18/B18-02
Fountain Valley School District
Superintendent's Office

M E M O R A N D U M

TO: Board of Trustees
FROM: Christine Fullerton
SUBJECT: **REJECTION OF ALL PROPOSALS FOR THE
PRECONSTRUCTION AND LEASE-LEASEBACK
SERVICES FOR MEASURE O PHASE 1 - SCHOOL
MODERNIZATION AND AIR CONDITIONING**

DATE: July 10, 2017

Background:

On April 13, 2017, the Board of Trustees approved "RESOLUTION 2017-21 APPROVING THE REQUEST FOR PROPOSAL FOR PRE-CONSTRUCTION AND LEASE-LEASEBACK SERVICES FOR MEASURE O PHASE 1 – SCHOOL MODERNIZATION AND AIR CONDITIONING."

After review, and in accordance with SECTION XI of the April 13, 2017 RFP, which states:

1. **District Obligation** - *Receipt of proposals and responses to this RFP does not obligate the District in any way. The District reserves the right to accept or reject any or all proposals, and to waive any irregularities or informalities in any proposal or in the RFP process," and*
2. **Award of Contract** - *This RFP implies no obligation to award contracts to any Firm. If it is in the best interest of the District, the District retains the sole and absolute right to select the Firm that best meets the District requirements. The award is subject to acceptance by the Governing Board of the Fountain Valley School District. The District also reserves the right to reject any or all proposals.*

the Board of Trustees expressly reserved the right to reject any and all proposals.

Recommendation:

It is recommended that the Board of Trustees reject all Proposals for the Preconstruction And Lease-Leaseback Services For Measure O Phase 1 - School Modernization And Air Conditioning.



Fountain Valley School District
Business Service Division

M E M O R A N D U M

TO: Board of Trustees
FROM: Christine Fullerton, Assistant Superintendent Business Services
SUBJECT: **APPROVAL RESOLUTION 2018-05 APPROVAL OF REQUEST
FOR PROPOSALS FOR PRECONSTRUCTION AND LEASE
LEASEBACK SERVICES FOR MODERNIZATION AND HVAC
PROJECT**
DATE: July 10, 2017

Background:

The lease-leaseback construction project delivery method is authorized under Education Code section 17406 and is one of the most widely used project delivery methods for public school construction in California. In the past five years, a number of lawsuits have been filed around the State challenging the generally accepted practice of awarding lease-leaseback contracts. For the most part, the majority of the grounds have been rejected by the courts except for the alleged conflict of interest that is allegedly created when the lease leaseback contractor is first brought in to perform pre-construction services with the architect.

In wake of this litigation, the Legislature has passed AB2316 to address these allegations. The following is an outline of the lease-leaseback process as amended by AB2316 for all lease-leaseback contracts awarded after January 1, 2017:

1. Have the Board approve and adopt the proposed RFP to be issued and the required procedures and guidelines for evaluating the proposals that ensure the “best value” selection process is conducted in a fair and impartial manner. [Education Code section 17406(a)(2).] This should be done by formal action of the Board during a meeting pursuant to a properly noticed item on the Board’s agenda. All Board action and approvals set forth herein should not be performed as a consent item.
2. Publish notice of the RFP as required under Public Contract Code section 20112 as noted below. [Education Code section 17406(a)(2)(B).]
 - a. At least once a week for two weeks in some newspaper of general circulation published in the District, or if there is no such paper, then in some newspaper of general circulation, circulated in the county. The

District may also post the notice of the RFP on the District's website or through an electronic portal.

- b. The notice of the RFP must also be published in a trade paper of general circulation published in the county where the project is located.
 - c. The latest notice must be published at least 10 days before the date for receipt of the proposals.
3. All prime contractors and electrical, mechanical and plumbing subcontractors as defined in Public Contract Code section 20111.6 shall be prequalified in accordance with Public Contract Code section 20111.6 (b) – (m). A list of all prequalified general contractors and electrical, mechanical and plumbing subcontractors must be made available by the District to all proposers at least five business days before the date for receipt of the proposals. [Education Code section 17406(a)(2)(C).]
4. Evaluate proposals received solely upon the criteria and evaluation methodology set forth in the RFP. [Education Code section 17406(a)(2)(F)(ii).]
5. Assign a best value score to each proposal received and rank the proposers from the highest best value to the lowest best value to the District. [Education Code section 17406(a)(2)(F)(ii).]
6. Document the evaluation process and the assignment of the best value score to each proposal. The evaluation committee should use documents such as a scoring sheet with areas for comments and other notes. Documents must support the scores assigned to each proposal and must be able to satisfy an external audit. Therefore, a file should be kept with all information and documents supporting the evaluation process. [Education Code section 17406(a)(2)(F)(v).]
7. Award the contract to the responsive proposer whose proposal is determined to be the best value to the District. [Education Code section 17406(a)(2)(F)(iii).] This should be done by formal action of the Board during a meeting pursuant to a properly noticed item on the Board's agenda.
8. Upon the award of the contract, the Board shall publicly announce its award, identifying the entity awarded the contract, along with a statement regarding the basis of the award.[Education Code section 17406(a)(2)(F)(v).] This announcement should be written with assistance from legal counsel and read by the Board after the award of the contract.
9. If the selected proposer refuses or fails to execute the contract, the Board may award the contract to the proposer with the second highest best value score if

the Board deems it to be in the best interest of the District. If the second selected proposer refuses or fails to execute the contract, the Board may award the contract to the proposer with the third highest best value score if the Board deems it to be in the best interest of the District.[Education Code section 17406(a)(2)(F)(iv).]

10. The Board, in its discretion, may reject all proposals received and request new proposals.[Education Code section 17406(a)(2)(G).]
11. Following the award of a contract, and if the price to be provided pursuant to the RFP is not a lump sum amount:
 - a. The successful proposer shall provide the District with objectively verifiable information of its costs to perform the services requested in the contract;
 - b. The successful proposer shall select subcontractors not identified in the proposal pursuant to Education Code section 17406(a)(4);
 - c. Once preconstruction services are completed and subcontractors are selected, and upon approval of the plans and specifications by DSA (if required), the successful proposer and the District shall finalize the price for all services to be provided pursuant to the contract; and
 - d. The successful proposer shall provide the District with written rationale for the price and the District shall approve or reject the final price at a properly noticed Board meeting. The District's contract file shall include documentation sufficient to support the final price determination.

All of the above must be completed before the successful proposer may proceed with any further work under the contract. [Education Code section 17406(a)(3).]

12. Following the award of a contract, and if the price to be provided pursuant to the RFP is a lump sum amount, the successful proposer shall select subcontractors not identified in the proposal pursuant to Education Code section 17406(a)(4).
13. The successful proposer shall provide any required preconstruction services and shall proceed with construction of the project pursuant to the lease-leaseback contract documents.

Fiscal Impact:

The estimated budget in the Request for Proposal for Pre-Construction and Lease-Leaseback Services for Modernization and HVAC Project is \$15,000,000, using funds generated from the sale of Measure O General Obligation bonds.

is \$15,000,000, using funds generated from the sale of Measure O General Obligation bonds.

Recommendation:

It is recommended that the Board of Trustees adopts Resolution 2018-05 approving the Request for Proposals for Preconstruction and Lease leaseback Services for Modernization and HVAC Project.

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RESOLUTION NO. 2018-05

RESOLUTION OF THE BOARD OF EDUCATION OF THE FOUNTAIN VALLEY SCHOOL DISTRICT TO APPROVE REQUEST FOR PROPOSALS FOR PRECONSTRUCTION AND LEASE LEASEBACK SERVICES FOR MODERNIZATION AND HVAC PROJECT

WHEREAS, the Fountain Valley School District (“District”) plans to construct various projects throughout the District using the lease-leaseback construction delivery method whereby the District will lease sites that the District owns, to contractors who will construct improvements thereon and lease the project and the underlying site back to the District;

WHEREAS, Education Code section 17406 authorizes the governing board of a school district to let to any person, firm or corporation any real property belonging to the District if the instrument by which the property is let requires the lessee therein to construct on the demised premises, or provide for the construction thereon of, a building or buildings for the use of the school district during the term of the lease, and provides that title to that building shall vest in the school district at the expiration of that term;

WHEREAS, any lease-leaseback contract pursuant to Education Code section 17406 shall be based on a competitive solicitation process and awarded to the proposer providing the “best value” (as defined in Education Code section 17400), taking into consideration the proposer’s demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required;

WHEREAS, Education Code section 17406(a)(2) requires the District’s Board of Education (“Board”) to adopt and publish required procedures and guidelines for evaluating qualification or proposers to ensure the best value selections by the District are conducted in a fair and impartial manner;

WHEREAS, in order to ensure that moneys sufficient to pay all costs will be available for a project, the District will appropriate funds for any lease-leaseback project from the current fiscal year the lease-leaseback contract is awarded;

WHEREAS, in order to construct a project using the lease-leaseback delivery method, it is necessary that the District enter into a site lease in which the site will be leased to a contractor, and a sublease which provides for the sublease of the site and the lease of the project by the contractor to the District, and that certain other action be taken and authorized;

WHEREAS, the sublease will include construction provisions with which contractor shall comply with respect to construction of a project (“Construction Services Agreement”);

WHEREAS, the Board has been presented with the form of each document referred to herein relating to the transaction contemplated hereby and the Board has examined and approved each document as to form and desires to authorize and direct evaluation of proposals in accordance with Education Code section 17406; and

WHEREAS, the District desires by a majority of the vote of the Board and pursuant to Education Code section 17604 and similar statutes, to delegate authority to the District's Superintendent to evaluate the qualifications of the proposers based solely upon the criteria and evaluation methodology set forth in the attached Request for Proposals, to assign a best value score to each proposal, and once the evaluation process is complete, to rank all responsive proposals from the highest best value to the lowest best value to the District, and to otherwise carry out the intent of this Resolution.

NOW, THEREFORE, THE BOARD OF EDUCATION OF THE FOUNTAIN VALLEY SCHOOL DISTRICT DOES HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. Recitals. All of the recitals herein contained are true and correct.

Section 2. Request for Proposals. The form of the Request for Proposal to be issued to proposers meeting the requirements set forth in Education Code section 17406 and attached hereto as Exhibit "A" is hereby approved and adopted by the Board.

Section 3. Site Lease and Sublease. The form of agreements entitled "Site Lease," "Sublease" and "Construction Services Agreement," each attached to the Request for Proposals and presented during this meeting and each to be entered into by and between the District and the proposer providing the best value to the District, are hereby approved and adopted subject to any revisions which are acceptable to both District's Superintendent and District's legal counsel.

Section 4. Approval of Process. The Governing Board hereby approves the lease-leaseback process and the competitive solicitation process as set forth herein and the documents attached hereto as Exhibit "A."

Section 5. Other Acts; Delegation. The District's Board hereby approves a delegation of authority and appoints its Superintendent, or the designee of the Superintendent, who is/are hereby authorized and directed, to evaluate the qualifications of the proposers based solely upon the criteria and evaluation methodology set forth in the attached Request for Proposals, to assign a best value score to each proposal, and once the evaluation process is complete, to rank all responsive proposals from the highest best value to the lowest best value to the District, and to otherwise carry out the intent of this Resolution, all subject to ratification of the Board of Education. Said delegation shall be valid until otherwise rescinded by the Board.

Section 6. Effective Date. This Resolution shall take effect upon adoption.

APPROVED, PASSED AND ADOPTED by the Governing Board of the Fountain Valley School District this 13th day of July, 2017, by the following vote:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAINED: _____

I, Sandra Crandall, President of Fountain Valley School District Governing Board, do hereby certify that the foregoing is a full, true, and correct copy of the resolution passed and adopted by said Board at a regularly scheduled and conducted meeting held on said date, which resolution is on file in office of said Board.

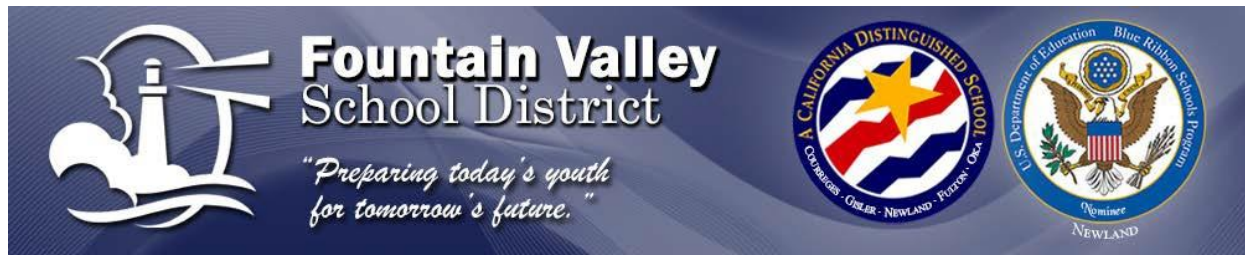
President of the Board of Education
Fountain Valley School District

I, Jim Cunneen, Clerk of the Board of Education of the Fountain Valley School District, do hereby certify that the foregoing Resolution was introduced and adopted by the Board of Education of the Fountain Valley School District at a regular meeting thereof held on the 13th day of July, 2017, by the following forgoing vote.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Fountain Valley School District this 13th day of July, 2017.

Clerk of the Board of Education
Fountain Valley School District

EXHIBIT “A”



REQUEST FOR PROPOSALS FOR PRECONSTRUCTION AND LEASE-LEASEBACK SERVICES FOR MODERNIZATION AND HVAC PROJECT

Proposal Deadline Date

Wednesday August 16, 2017 at 2:00 PM

Submit to:

**Fountain Valley School District
10055 Slater Avenue
Fountain Valley, CA 92708
Attn: Christine Fullerton**

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I. PURPOSE OF THE RFP:

By way of this Request for Proposals (“RFP”), the Fountain Valley School District (“District”) seeks proposals from lease-leaseback contractors (“Contractor” or “Firm”) to provide Preconstruction And Lease-Leaseback Services For Modernization and HVAC Project (“PROJECT”). The purpose of this RFP is to obtain information that will enable the District to select a lease-leaseback Contractor using the “best value” competitive procurement process under Education Code section 17400 et seq. that can assist the District with both preconstruction services and construction services. The “best value” competitive procurement process is an evaluation process whereby a Firm is selected by the District on the basis of objective criteria for evaluating the qualifications of Firms, with the selected Firm representing the best combination of price and qualifications. Each Contractor responding to this RFP should be prepared and qualified to provide the preconstruction services and lease-leaseback construction services described in this RFP to the District in an expeditious and timely manner and on relatively short notice so as to enable the District to meet critical time deadlines and schedules.

II. BACKGROUND ON THE PROJECT:

Fountain Valley School District is located in Orange County and serves approximately 6,300 students at ten campuses (seven elementary schools, and three middle schools) from Fountain Valley and Huntington Beach. On November 8, 2016, the voters passed bond Measure O, which authorizes the issuance of \$63,000,000 in general obligation bonds to repair and modernize aging classrooms and school facilities, including repairing deteriorating roofs, plumbing, electrical and air conditioning systems; upgrade classrooms, science labs, libraries, facilities and technology that support student achievement in reading, math, arts, science and technology; and improve student safety and campus security.

This PROJECT will be constructed using the lease-leaseback project delivery method authorized by Education Code section 17400 et seq. The District has contracted with Rachlin Partners to be the Architect of Record for the PROJECT, and the lease-leaseback Contractor will be expected to provide both preconstruction services and lease- leaseback construction services for the PROJECT, as described below:

The District’s Measure O PROJECT includes upgrades, at multiple sites, to the existing HVAC system to include air conditioning, as well as roof strengthening, updated gas lines and electrical mains, where appropriate, to accommodate the new HVAC system. Roof replacement, window replacement, upgrade or repair of doors, ceilings, lighting, and fire safety alarms. The District may also include modernization projects such as interior and/or exterior painting, and updated flooring.

The estimated construction budget for this phase of the PROJECT is **\$15,000,000** and the estimated performance period is **1 - 3 months in Pre Construction & 18 months in Construction.**

III. RFP TIMELINE:

Request for Proposals Issued	July 14, 2017
Mandatory PROJECT Walk-Through.....	July 31, 2017*
Deadline for Submittal of Prequalification.....	August 1, 2017 by 4:00pm
Deadline for Submittal of Questions.....	August 7, 2017 by 4:00pm
Responses to the Questions Submitted	August 10, 2017
Due Date for Submittal of Proposals	August 16, 2017 by 4:00pm
Interviews	TBD 2017**
Anticipated Board Approval Date	August 24, 2017**
Notification of Selected Firm	August 29, 2017**

* Job walk not mandatory for firms that participated in the job walk on May 10, 2017

** Estimated deadlines subject to revision at the District's discretion.

IV. QUESTIONS AND CLARIFICATION OF THE RFP

All questions, requests for explanation or clarifications of any kind in regard to this RFP shall be made in written form, submitted via email to Christine Fullerton, at fullertonc@fvsd.us; by no later than **4:00 p.m., August 7, 2017**. A response will not be provided to any late questions, or requests for explanation or clarifications. All addenda and clarifications will be posted on the District's website, www.fvsd.us, and provided to those Firms that have registered with the District. Any interpretation, clarification, or correction of this RFP will only be made by addendum, as noted above. No person or Firm is authorized to make any oral interpretation of any provision in this RFP, nor shall any oral interpretation be binding on the District.

V. PRECONSTRUCTION SERVICES

It is anticipated that the planned construction projects will be submitted to the DSA by the time of award of this contract so Preconstruction Services during **Design** will not be required. However, the following Preconstruction Services will still be necessary:

Provide preconstruction services including, but not limited to, reviewing the PROJECTS' plans and specifications to identify and note all deficiencies, incongruities and inconsistencies that may affect constructability of the PROJECTS including, but not limited to, design and specification omissions, incomplete and/or inconsistent plans, details and specifications, and any lack of coordination, together with all other appropriate, necessary and/or required services to facilitate and prepare for the successful development and construction of the PROJECT. Perform a job walk at the site to become familiar with the site conditions to determine if any existing conditions or assumptions as depicted in the contract documents are at variance with the actual conditions observed in the field. Since the project will have been submitted to the DSA by the award of this contract, significant changes to the design will not be made to the PROJECT including revision to the building systems, but quality control corrections will be addressed.

The preconstruction services will also include, but not be limited to, the following tasks: review and validation of estimates prepared by the architect; preparation of a master

critical path method schedule for the PROJECT; preparation of cost estimates based on the final construction documents, including allowances, contingencies, general conditions, costs and fees; constructability reviews; limited value engineering; construction planning and phasing, and cost proposal strategies all with the goal that the DSA-approved plans and specifications for the PROJECT will be complete such that the PROJECT can be constructed in strict accordance with the DSA-approved plans and specifications without change orders, delays, or additional charges to District.

VI. DIR REGISTRATION AND PREVAILING WAGES

DIR Registration. Contractors and their subcontractors (of any tier) shall not be qualified to submit or be listed on a proposal, or engage in the performance of any contract for public work, as defined in the Labor Code, unless currently registered and qualified to perform public work pursuant to Section 1725.5 of the Labor Code. It is not a violation of this section for an unregistered contractor to submit a proposal that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 of the Labor Code at the time the contract is awarded.

Prevailing Wages. The Contractor and all subcontractors shall comply with the requirements set forth in Division 2, Part 7, and Chapter 1 of the Labor Code. Pursuant to Labor Code section 1770 et seq., the District has obtained from the Director of the Department of Industrial Relations the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which this work is to be performed for each craft, classification or type of worker needed to execute the contract. Copies are available from the District to any interested party on request and are also available from the Director of the Department of Industrial Relations.

VII. SUBCONTRACTOR DESIGNATIONS

Pursuant to Education Code section 17406(a)(4)(A), the District **does not** require firms to identify and designate the subcontractors who will be performing more than one-half of one percent of the price allocable to the construction work on the PROJECT.

After award of the lease-leaseback contract for the PROJECT, and in accordance with Education Code section 17406(a)(4)(B), any subcontractor whose subcontract value exceeds one-half of one percent of the price allocable to construction work must be awarded a subcontract in accordance with the following process:

- A. Provide public notice of availability of work to be subcontracted in accordance with publication requirements applicable to the competitive bidding process of the District, including a fixed date and time on which qualifications statements, bids, or proposals will be due.
- B. Establish reasonable qualification criteria and standards.
- C. Award the subcontract either on a best value basis or to the lowest

responsible bidder.

The process above may include prequalification or short-listing. All subcontractors shall be properly licensed by the Contractors State License Board. Subcontractors awarded subcontracts as set forth above shall be afforded all the protections of the Subletting and Subcontracting Fair Practices Act (Public Contract Code section 4100 et seq.)

All subcontractors (of any tier) performing any portion of the Work must comply with Labor Code sections 1725.5 and 1771.1 and must be properly and currently registered with the California Department of Industrial Relations and qualified to perform public works pursuant to Labor Code section 1725.5 throughout the duration of the PROJECT.

VIII. CONTENTS OF THE PROPOSAL

Firms must submit one original, 5 hard copies and a digital copy (on a thumb drive) of the proposal. Firms, who submitted a proposal under the previous RFP, are not required to resubmit a new proposal and may instead submit a letter indicating the intent to use the previously submitted proposal. All proposals should address the requested information for each of the evaluation categories below. The proposal shall demonstrate the qualifications, competence, and capacity of the Firm:

- A. Cover Letter/Letter of Interest** - Include a cover letter, addressed to Christine Fullerton, Assistant Superintendent of Business Services, stating the eligibility of the Firm to respond to this RFP, a brief description and history of the Firm, and a statement of interest.
- B. Table of Contents** - The table of contents shall reflect the order stated herein and shall include section titles and page numbers.
- C. Evaluation Categories**
 - 1. Mandatory Requirements** – The following requirements are mandatory and must be satisfied. The mandatory requirements will be scored on a pass/fail basis. Failure to meet any one of the mandatory requirements specified in this Section VIII(C)(1) will disqualify your Firm from any further consideration for this RFP.

- a. **Lease-Leaseback Contractor and Subcontractor Prequalification** – All Firms submitting a proposal to this RFP must be prequalified with the District pursuant to Public Contract Code section 20111.6 (b)-(m) without exception prior to submitting a proposal. Any Firm that submits a proposal and is not prequalified will be deemed non-responsive and that Firm's proposal will be rejected and returned to the Firm unopened.

The prequalification process is web based and is available from a link found on the Fountain Valley School District website at www.fvsd.us. Prequalification documents must be submitted by Tuesday, **August 1, 2017 by 4:00 PM**. Contractors will be notified by telephone, email, or mail their prequalification rating within a reasonable period of time after submission of their prequalification documents, but not less than five business days prior to the proposal submission deadline. **Contractors currently prequalified with the District for lease-leaseback projects will not need to submit another prequalification package. Provide a copy of your current prequalification status letter from the District with your proposal.**

All mechanical, electrical or plumbing ("MEP") subcontractors (defined as contractors that **hold** a C-4, C-7, C-10, C-16, C-20, C-34, C-36, C-38, C-42, C-43 or C-46 license), and who must be designated and identified in the proposal as set forth in Attachment 3, must also be prequalified prior to submitting a proposal. This prequalification requirement applies even if the subcontractor will perform, or is designated and identified to perform, work that does not require one of the licenses listed above, but the subcontractor **holds** one of the licenses listed above.

MEP subcontractors (as defined above) that are NOT required to be designated and identified in the proposal as set forth in Attachment 3 must be prequalified prior to the award of their respective subcontract. A list of prequalified MEP subcontractors will be made available by the District upon request, but not less than five business days prior to the proposal submission deadline. However, it is the responsibility of the Contractor to ensure that all MEP subcontractors **holding** any of the licenses listed above are properly prequalified.

- b. **Contractor Responsibility** – Identify if your Firm has ever had the following occur in the past seven (7) years. For the purposes of this paragraph, “Firm” shall include any present or past (over the last five years), officers, owners, principals, partners, or any qualifying individuals including any RME or RMO. Any occurrence of the following in the past seven (7) years shall render the Firm not qualified to submit a proposal:
- Found to be a non-responsible contractor by any public agency;
 - Convicted for false claims;
 - Firm’s license revoked or suspended;
 - Debarred or otherwise ineligible to bid on or be awarded a public works contract;
 - Terminated for cause or defaulted on a construction contract; or
 - Convicted of a crime involving the awarding of a construction contract, or the bidding or performance of a construction contract.
- c. **License Requirements** – Pursuant to Business and Professions Code section 7028.15 and Public Contract Code section 3300, the Contractor must possess a California Contractor’s **Class “B”** license at the time of submittal of its proposal, and for the duration of the contract, if awarded. Subcontractors must possess the appropriate license for the work to be performed on the PROJECT.
- d. **Performance and Payment Bonds** – All Firms submitting a proposal to this RFP must be able to provide separate faithful payment and performance bonds, each in an amount equal to 100% of the total contract amount. All bonds must be issued by a California admitted surety as defined in California Code of Civil Procedure section 995.120. Firms must provide a letter from their surety indicating the Firm’s current and overall bonding capacity, and the ability to meet the bond requirements in Section 35.13 of the Construction Services Agreement.
- e. **Insurance Requirements** - All Firms submitting a proposal to this RFP must have the ability to meet all of the insurance requirements set forth in Section 35.4 of the Construction Services Agreement. Firms must include a copy of their current certificate of insurance in their proposals evidencing the following minimum insurance requirements:

Comprehensive general liability insurance with a combined single limit per occurrence of not less than \$2,000,000.00 or commercial general liability Insurance (including automobile insurance) which provides limits of not less than:

- Per occurrence (combined single limit): \$1,000,000.00
- project Specific Aggregate (for this PROJECT only): \$2,000,000.00
- Products and Completed Operations: \$1,000,000.00
- Personal and Advertising Injury Limit: \$1,000,000.00

The following special hazards shall be covered by riders or riders to above mentioned public liability insurance or property damage insurance policy or policies of insurance, in amounts as follows:

- Automotive and truck where operated: \$1,000,000.00
- Material Hoist where used: \$1,000,000.00
- Explosion, Collapse and Underground (XCU coverage): \$1,000,000.00

Excess Liability Insurance coverage in the amount of Five Million Dollars (\$5,000,000.00).

Workers' Compensation Insurance shall be provided in accordance with the provisions of the California Labor Code adequate to protect any person, firm, or corporation employed directly or indirectly in connection with the work of the Contractor from claims under Workers' Compensation Acts which may arise for operations, whether such operations be by any person, firm, or corporation, employed directly or indirectly by the Contractor upon or in connection with the work.

Provide a letter from your insurance broker stating that you will be able to provide and meet the insurance requirements in Section 35.4 of the Construction Services Agreement.

2. **Firm Personnel, Capacity, and Methodology – Attachment 1.** Each Firm must completely answer all questions in Attachment 1 of the RFP. Note: **Questions may be answered in other sections of the proposal if clearly and conspicuously identified and referenced in the proposal.** The following shall be stated:

- a. **Description of Firm** – Include a description of the Firm's qualifications for providing preconstruction and lease-leaseback services on California school construction Projects. Include information regarding the size of the Firm, location of the office from which the required services will be performed, nature of all work performed, and the number of years in this particular business. The Firm shall provide an affirmative statement that it is independent of the District as defined by generally accepted standards.
- b. **Firm's Personnel and Staffing Resources** – Submit resume(s) or profiles for each key staff who will be proposed to provide the requested services, including their qualifications and recent relevant experience providing similar services. Each resume shall include, without limitation, the following information; (a) education; (b) years of relevant experience; (c) professional registrations, certifications and affiliations (d) project-specific experience with focus on public works projects and emphasis on K-12 projects providing preconstruction and lease-leaseback services, including dates and durations of each project listed and the name of the firm where employed. Include a discussion on the Firm's philosophy and approach for providing outstanding customer service.
- c. **Capacity & Methodology** – Describe how the Firm will provide services and fulfill the requirements and expectations of the District and this RFP. Use this section to address the ability of your Firm to undertake and accomplish the required scope of services while meeting deadlines, the Firm's record of meeting schedules and deadlines of other clients, advantages over other firms in the same industry, strength and stability as a business, and supportive client references. Describe the Firm's ability to provide preconstruction and lease-leaseback services exclusively and in a timely manner for the District and the Firm's commitment to providing experienced personnel assigned to District's PROJECT.

- d. **Litigation** – Furnish and provide specific information on any termination for convenience, litigation settled or judgments entered within the last five (5) years, as well as any civil judgments within the last five (5) years. Identify if the Firm or any employee of the Firm is a party to an existing dispute with an owner, or owner's consultants, related to any project for which the Firm provided construction services. If so, please describe the nature of the dispute and its anticipated outcome.

Identify if the Firm has ever filed a petition for bankruptcy. If so, please provide the date the petition was filed and identify the jurisdiction in which it was filed.

3. **Relevant Experience and Past Performance** – Description of past performance and related experience. Each Firm is required to submit a list of its most relevant preconstruction and lease-leaseback services provided in the past five (5) years that are of the approximate size of the project described in the RFP. The list shall include: (1) a description and size of the project, (2) scope of the work, (3) dates services were performed for preconstruction services and for lease-leaseback services, (4) total price for the project (please state amounts separately for preconstruction services and for lease-leaseback services, (5) client's name and address, and (6) client contact name and phone number. **The District may contact these references, including a visit in person to a completed work site, as part of the interview process.**
4. **Preconstruction Services** – Describe your methodology in providing preconstruction services for the PROJECT, specifically discussing value engineering, constructability review, estimating, and scheduling. Provide examples of constructability reviews that you performed that resulted in the identification of significant design conflicts or omissions, and of value engineering that resulted in significant savings of money or time.
5. **Labor Compliance/Skilled and Trained Workforce** – Describe your ability to comply with statutory requirements for the payment of prevailing wages, including the monitoring and enforcement of your subcontractor's payment of prevailing wages. Provide copies of any DIR Civil Wage and Penalty Assessment issued to you, explain the circumstances for the Civil Wage and Penalty Assessment, and the final resolution.

Further describe your plan and methodology to comply with the requirements for the use of a “skilled and trained workforce” as defined in Education Code section 17407.5 and Public Contract Code section 2600 et seq., for each apprenticeship occupation that will be used on the PROJECT, including your subcontractors at any tier. Include in your discussion your plan and methodology to comply with the percentage requirements for the use of “skilled journeypersons” for each apprenticeship occupation. Finally, identify and discuss which apprenticeship occupation(s) will be the most difficult to meet the percentage requirements for skilled journeypersons on the PROJECT and state why.

6. **Safety** – Discuss your plan to maintain a safe worksite. In your discussion, include whether your Firm has an Injury and Illness Prevention Program that complies with 8 CCR § 1509, whether your Firm has a safety program that meets Cal/OSHA requirements, and whether your Firm will provide a full-time person dedicated to safety on the PROJECT.

Please state whether you have had any accidents in the past five years that resulted in a construction fatality on any of your projects and provide any details for each incident.

Please state whether you have had any recordable injuries in the past five years and provide the average total recordable injuries for the past five years.

Please provide an EMR verification from the State of California or an insurance company for each of the past five years.

7. **Local Business Outreach and Participation** - The District is vitally interested in promoting the growth of small and local businesses within the boundaries of the District, Orange County, and/or surrounding Southern California counties, by means of increasing the participation of these businesses in the District's purchase of goods and services. The District has a goal of ten (10) percent of all contracts for these services be awarded to local businesses. A locally-owned business, for purposes of satisfying the locality requirements of this provision, is one which holds a valid business license issued by the City and where the owner maintains an office. Describe the Firm's plan for inclusion of local businesses in the services to be provided for the District.
8. **Exceptions to the Preconstruction Agreement, and/or Lease-Leaseback Agreement** – The Form of both the Preconstruction Services Agreement, and Lease-Leaseback Agreement (Site Lease, Sublease, and Construction Services Agreement) are attached to this RFP as Attachment 4. Please review each agreement and provide any proposed exceptions to those agreements on Attachment 1, Firm Questionnaire, and Section E.

D. Fee Proposal – Preconstruction Fee, Lease-Leaseback Fee, and General Conditions – “Attachment 2”

The fee proposal, “Attachment 2”, must be submitted in a separate, sealed envelope with your company name, proposal title, “Fee Proposal, Attachment 2”, labeled on the outside of the envelope along with your firms proposal.

Provide a lump sum fee to provide preconstruction services, the lease-leaseback fee, and a monthly general conditions fee on Attachment 2. The proposed fees should include all direct labor costs, fringe benefits, insurance, overhead, profit, and all other expenses the Contractor will incur in providing the preconstruction services and the lease-leaseback construction services.

IX. PREPARATION AND SUBMITTAL OF THE PROPOSAL

A. Proposal Submittal and Deadline

One original, 5 hard copies and a digital copy (on a thumb drive) of the proposal must be submitted under sealed cover by no later than **2:00 p.m. on August 14, 2017**. Label the outside of the sealed proposal envelope or box with your company name, proposal title and RFP deadline.

Proposals shall be delivered to the attention of:

Christine Fullerton
Assistant Superintendent of Business
Services Fountain Valley School District
10055 Slater Avenue
Fountain Valley, CA 92708

It is the sole responsibility of the Firm submitting the proposal to ensure that its proposal is actually received in the office prior to the deadline time and due date. Unless this RFP is extended by a written amendment, proposals received after the time on the due date will not be considered. Faxed or emailed proposals will not be accepted.

B. Proposal Completeness

Proposals shall be completed in all respects as required by the instructions herein. A proposal may be rejected if it is conditional or incomplete, or if it contains alterations of form or other irregularities of any kind. A proposal will be rejected if, in the opinion of the District, the information contained therein was intended to mislead the District in the evaluation of the proposal.

C. District Not Responsible For Preparation Costs

All costs incurred in the preparation, submission and/or presentation of Firms responding to the RFP, including but not limited to the Firm's travel expenses to attend any pre- conferences, oral presentations, long distance charges, and negotiation sessions, shall be the sole responsibility of the Firm and will not be reimbursed by the District.

The District shall not pay for any costs incurred for proposal or contract preparation as a result of termination of this RFP or termination of the contract resulting from this RFP.

D. Right to Use Ideas

All proposals and other materials submitted become the property of the District. District reserves the right to use any ideas presented in any response to the RFP. Selection or rejection of the proposal shall not affect this right.

E. Modification or Withdrawal Of Proposal

A Firm may modify or withdraw a proposal after submission by written request of withdrawal and re-submission, provided that the proposal withdrawal is prior to the due date deadline specified.

F. Amendments

Firms are advised that the District reserves the right to amend this RFP at any time. Amendments will be done formally by providing written amendments to all potential Firms known to have received a copy of the RFP and/or by publishing the amendment on the District's website.

G. Equal Opportunity

The Firm shall certify that it is an Equal Opportunity Employer and has made a good faith effort to improve minority employment and agrees to meet federal and state guidelines. Legal residents of the United States of America shall be used in providing all services under this RFP.

Firm shall not discriminate nor permit discrimination against any person because of race, color, religion, age, national origin, ancestry, creed, handicap, sexual orientation, or union membership in the performance of the work, including but not limited to preparation, manufacturing, fabrication, installation, erection and delivery of all supplies and equipment. In the event of receipt of such evidence of such discrimination by the Firm or its agents, employees or representatives, District shall have the right to rescind and terminate the Contract.

The successful Firm agrees to include the paragraph above with appropriate adjustments in all subcontracts, which are entered into for work to be performed pursuant to the Contract.

H. Waiver or Breach Thereof

No term or provision of this RFP shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by an individual authorized to so waive or consent. Any consent by either party to, or waiver of, a breach by the other, whether express or implied, shall not constitute a consent to, waiver of, or excuse for, any other breach or subsequent breach, except as may be expressly provided in the waiver or consent.

I. Covenant Against Gratuities

The Firm warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Firm or any agent or representative of the Firm, to any officer or employee or consultant of the District with a view toward securing the resultant contract or securing favorable treatment with respect to any determinations concerning the award of the contract. For breach or violation of this provision, the District shall have the right to terminate any negotiation or the resultant contract, either in whole or in part, and any loss or damage sustained by the District in procuring on the open market any items which the Firm agreed to supply shall be borne and paid for by the Firm. The rights and remedies of the District provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law.

J. Indemnification and Insurance

The Firm, at its own expense and without exception, shall indemnify, defend and pay all damages, costs, expenses, including attorney fees, and otherwise hold harmless the District, its employees and representatives, from any liability of any nature or kind in regard to the delivery of these services. (See, Construction Services Agreement Section 35.4 for insurance requirements and Section 36 for hold harmless and indemnify requirements.)

K. Conflict of Interest

The Firm is in agreement that it presently has no interest and will not acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of the services hereunder. The Firm further agrees that no person having any such known interest or conveyed an interest shall be employed, directly or indirectly, in the delivery of services under this RFP.

L. Independent Contractor

The Firm represents itself as an independent contractor offering such services to the general public and shall not represent him/herself or his/her employees to be an employee of the District. Therefore, the Firm shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers compensation, employee insurance, minimum wage requirements, overtime, and other expenses.

M. Precedence of Documents

The contract between the District and the successful Firm(s) shall consist of (1) this Request for Proposals (RFP) and any amendments thereto, (2) the Agreement included herein to be executed with the successful Firm(s); and (3) the proposal submitted by the Firm to the District in response to the RFP. In the event of a conflict in language between the documents referenced above, the provisions and requirements set forth and/or referenced in the Agreement shall govern. However, the District reserves the right to clarify any contractual relationship in writing with the concurrence of the Firm, and such written clarification shall govern in case of conflict with the applicable requirements stated in the RFP or the Firm's proposal. In all other matters not affected by the written clarification, if any, the RFP shall govern.

N. Compliance with Laws

In connection with the furnishing of services or performance of work under this RFP, the Firm agrees to comply with the Fair Labor Standards Act, Equal Opportunity Employment Act, and all other applicable federal and state laws, regulations and executive orders to the extent that the same may be applicable.

X. PROPOSAL EVALUATION AND BEST VALUE SCORE

A. Proposal Evaluation Committee

The District's Proposal Evaluation Committee will consist of at least three (3) members and will score each proposal based on the evaluation categories and points set forth in the RFP (See, Section X.B.). Each Firm's proposal will be evaluated and scored only on the information that is included in the Firm's proposal. If any information is missing or incomplete in your proposal, you will not be provided the opportunity to supply the missing or incomplete information, nor will the District seek clarification of any information included in the proposals. Each proposal must be capable of being evaluated independently based solely on the information contained in the proposal.

B. Evaluation Categories, Points, and Scoring

Each member on the Proposal Evaluation Committee will independently score each proposal and each Firm's final score will be equal to the average score from the Evaluation Committee (i.e., the total number of points from the Evaluation Committee divided by the number of Evaluation Committee members: final score = sum total of points/number of committee members). The final score will be calculated to two decimal places.

The RFP contains nine (9) Evaluation Categories, as discussed in Section VIII.C., and the maximum number of points for each category is shown in the table below. There are 1200 possible points.

EVALUATION CATEGORY	POINTS
Mandatory Requirements	Pass/Fail
Firm Personnel, Capacity, and Methodology	300
Relevant Experience and Past Performance	350
Preconstruction Services	50
Labor Compliance/Skilled and Trained Workforce	150
Safety	50
Local Business Outreach and Participation	50
Exceptions to Preconstruction/LLB Agreements	50
Price (Attachment 2)	200
MAXIMUM TOTAL SCORE	1200

C. Short List Interviews

After each Firm's final score is calculated, the Proposal Evaluation Committee, based on the final scores, will determine the short list of Firms that may be invited to interview with the Proposal Evaluation Committee. The District, in its sole discretion, may determine that interviews are not needed after scoring the proposals. If held, the interview will consist of a short presentation (15 minutes) followed by a question and answer period (10 minutes). After the interview, the Proposal Evaluation Committee will re-evaluate the scores for the Firms invited to interview and make adjustments to the scores, if any, based on the information presented at the interviews. The total final scores will be used to determine the Best Value Scores (as defined in Education Code section 17400). Best Value Score equals the sum total of points/number of committee members.

XI. GENERAL TERMS AND CONDITIONS

District Obligation

Receipt of proposals and responses to this RFP does not obligate the District in any way. The District reserves the right to accept or reject any or all proposals, and to waive any irregularities or informalities in any proposal or in the RFP process.

Award of Contract

This RFP implies no obligation to award contracts to any Firm. If it is in the best interest of the District, the District retains the sole and absolute right to select the Firm that best meets the District requirements. The award is subject to acceptance by the Governing Board of the Fountain Valley School District. The District also reserves the right to reject any or all proposals.

Approval to Start Work

The successful Firm may perform work once a Lease-Leaseback Agreement (Site Lease, Sublease, and Construction Services Agreement) has been fully executed and approved by both parties and all appropriate documentation has been received and approved by the District, and a purchase order has been issued. The District shall not be responsible for work done, even in good faith, prior to approval of the agreement and purchase order issuance by the District.

Ownership of Documents

All proposals and materials submitted in response to this RFP shall become the property of the District and shall be considered a part of Public Records, unless exempted by law. In addition, all designs, drawings, specifications, notes and other work developed in the performance of any services resulting from this RFP shall be the sole property of District and may be used by District for any purposes without additional compensation to the selected Firms. Selected Firms agree not to assert any rights or to establish any claim under the design patent or copyright laws.

Joint Ventures

Where two or more Firms desire to submit a single response to this RFP, they should do so on a prime-subcontractor basis rather than as a joint venture or informal team. The District intends to contract with a single Firm and not with multiple Firms doing business as a joint venture.

Fingerprinting

Per the provisions of Education Code section 45125.1, the District has a zero tolerance policy for all Firms having any contacts with students without clearance from the State Department of Justice. All assigned personnel shall comply with the fingerprinting clearance law prior to providing services at the school sites.

ATTACHMENT 1 – FIRM QUESTIONNAIRE

The Respondent shall furnish all the following information accurately and completely for the Respondent and each of the proposed staff. Failure to comply with this requirement may cause rejection of the respondent's qualifications. Additional sheets may be attached if necessary. "You" or "your" as used herein refers to the respondent and/or any of its owners, officers, directors, shareholders, parties or principals.

If the same information is provided elsewhere in your qualification and qualification materials, then please clearly identify such in the following questions.

Please be advised that the District may request verbal or written clarifications, additional information, an interview or presentation at any time regarding this questionnaire.

SECTION A - GENERAL INFORMATION

- (1) Respondent name, address and contact information:

- (2) Telephone: _____ Facsimile: _____

Email and Internet Addresses: _____

- (3) Type of respondent: (check one)

Individual _____ Partnership _____ Corporation _____

- (4) Names and titles of all principals/officers of the respondent:

Name	Title	Phone Number
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

- (5) Please list any applicable certifications and licenses and their associated numbers:
-
- (6) Have you or any of your principals ever conducted similar services under a different name or certification or different license number? ____.
- (a) If yes, give other name, address and certification or license number.
- Name _____
- Address _____
- License No. (if any) _____
- (7) How many years has respondent been in business under its present business name?
-
- (8) How many years of experience does respondent have providing similar services?
-
- (9) For how many public agencies has respondent provided similar services?
-
- (10) Please list the public agencies, including any school districts that respondent has provided similar services for:
-
-
-
-
- (11) Please attach a short history of the respondent including whether it is local, national, or international as well as approximate number of employees. Also provide the number of offices and locations.
- (12) Identify preconstruction and lease-leaseback construction services performed for other school districts in accordance with parameters described above.

- (13) Describe how respondent has successfully provided preconstruction and lease-leaseback construction services such as those described herein.
- (14) Describe the unique or innovative preconstruction and lease-leaseback construction services utilized on previous PROJECTs.

SECTION B – LEGAL

- (15) Have you or any of your principals been in litigation or arbitration of any kind on a question or questions relating to similar services involving a school or community college district during the prior five (5) years? .

(a) If yes, provide the name of the public agency and briefly detail the dispute:

- (16) Have you ever had a service agreement terminated for convenience or cause in the prior five (5) years? _____.

(a) If yes, provide details including the name of the other party:

- (17) Is respondent, owners, and/or any principal or manager involved in or is respondent aware of any pending litigation regarding professional misconduct, bad faith, discrimination, or sexual harassment? .

(a) If yes, provide details:

- (18) Is respondent, owners, and/or any principals or manager involved in or aware of any pending disciplinary action and/or investigation conducted by any local, state or federal agency? .

- (a) If yes, provide details:

- (20) Will respondent comply with all District, local, state and federal legal requirements, regulations and laws? .

SECTION C – ADDITIONAL INFORMATION

- (21) Please provide any other information that may assist the District in ascertaining your qualifications, capability and customer service under any resultant agreement.

SECTION D – CONFLICT OF INTEREST

- (22) Have you ever had any direct or indirect business, financial or other connection with any official, employee or consultant of the District? Identify any conflict of interest in (a):

- (a) Please elaborate and discuss any potential, apparent or actual conflict of interest:

SECTION E. Exceptions to Agreement Forms

The Firm is required to list any exceptions to terms in the Agreement Forms below.

I certify and declare under penalty of perjury under the laws of the State of California that the information provided in the foregoing Firm Questionnaire is true and correct.

Executed this____day of_____, 20__, at_____,
State of _____

Company Name

Signature

Title

Print Name

ATTACHMENT 2 – FEE PROPOSAL

DO NOT SUBMIT THIS FORM WITH THE PROPOSAL. ATTACHMENT 2 MUST BE BROUGHT TO THE INTERVIEW IN A SEALED ENVELOPE. The fee proposal, "Attachment 2", must be submitted in a separate, sealed envelope with your company name, proposal title, "Fee Proposal, Attachment 2", labeled on the outside of the envelope and brought to the interview. Only those Firms that are invited to interview will be required to complete the Fee Proposal (Attachment 2).

The Firm proposes the following fees:

1. The preconstruction fee should be expressed as a lump sum Firm-Fixed Price based on the construction budget, schedule, and description in Section II of the RFP.

Preconstruction Fee: [LUMP SUM] \$_____

2. The Lease-Leaseback Fee shall include the Firm's overhead and profit and should be expressed as a percentage. For purposes of evaluating the fee proposals, the lease-leaseback fee percentage will be multiplied by the construction budget.

Lease-Leaseback Fee: [PERCENTAGE] _____%

3. The general conditions should be expressed as a lump sum based on the construction budget, schedule, and description in Section II of the RFP.

General Conditions: [MONTHLY RATE] \$_____/month

4. Total Fee Proposal:

For purposes of scoring the fee proposals, the monthly fees will be multiplied by 18 months to calculate the total fee for evaluation purposes and the total fee will be used to calculate the Best Value Score. The actual Lease-leaseback Fee and General Conditions price for the Firm awarded the contract will be based on the final construction budget and term of the lease-leaseback contract.

1. Preconstruction Fee: = \$_____

2. Lease-leaseback Fee: % x [construction budget] = _____

3. General Conditions: \$_____/month x [no. of months] = _____

TOTAL PROPOSED FEE: [1+2+3] State the total proposed fee in both numbers and words:

\$_____

Executed this_____ day of _____, 20__

Company Name

Signature

Title

Print Name

ATTACHMENT 3 — AGREEMENT FORMS

_____ **PROJECT**
SITE LEASE

Between
FOUNTAIN VALLEY SCHOOL DISTRICT
and

Dated as of _____

PROJECT

SITE LEASE

This SITE LEASE is dated as of _____ and is by and between the Fountain Valley School District, a school district duly organized and existing under the laws of the State of California (the "District") as lessor and _____, a California corporation operating under the laws of the State of California (the "Lessee").

WHEREAS, the District desires to provide for the construction of certain public improvements at the _____ School site (the "Project"); and

WHEREAS, the District's governing board has determined that it is in the best interests of the District and for the common benefit of the citizens it serves to construct the Project by leasing to the Lessee land and existing buildings at the _____ School site at which the public improvements are to be constructed, as more specifically described in Exhibit "A," (the "Site"), and subleasing from the Lessee the Site and the Project under a Sublease Agreement (the "Sublease") attached hereto as Exhibit "B" and by this reference incorporated herein; and

WHEREAS, the Lessee has conducted Due Diligence of the Site and the Project to determine the suitability of the site, site conditions, utilities, hazardous substances, and other conditions for the construction of the Project (more fully detailed at **Article 5** of the Construction Services Agreement); and

WHEREAS, the District is authorized under Section 17406 of the California Education Code to lease the Site and its governing body has duly authorized the execution of this Site Lease; and

WHEREAS, pursuant to this Site Lease, the District and Lessee have agreed to the terms of the Sublease, which is incorporated and attached hereto as Exhibit "B," by which the District will sublease the Site and retain beneficial use and occupancy of the Site during which term, improvements will be constructed by Lessee. As the constructed improvements are completed, the District shall receive full beneficial use and occupancy of the constructed improvements upon payment for such improvements by the District to the Lessee. As part of this Site Lease, the District and the Lessee have agreed to terms by which the Lessee will perform construction improvements on the Site during the term of the Sublease according to the terms of the Construction Services Agreement ("CSA"), which is incorporated and attached to the Site Lease as Exhibit "C," to ensure that the improvements will meet the District's expectations and comply with applicable law.

NOW THEREFORE, in consideration of the covenants hereinafter set forth, District and Lessee agree as follows:

1. **DEFINITIONS.** Unless the context otherwise requires, the terms defined in this Article shall, for all purposes of this lease, have the meanings as herein specified.
 - A. **"Commencement Date"** shall mean the Project commencement date found in the Notice to Proceed for the Project in accordance with the Construction Services Agreement.
 - B. **"Construction Services Agreement" (CSA)** means the Construction Services Agreement, together with any duly authorized and executed amendments hereto.
 - C. **"Construction Documents"** consist of the Plans and Specifications approved by DSA under Application Number _____, File Number _____, Allowances stipulated in the Contract Documents, and all Addendas, if any, issued prior to the entry into this Agreement. The Construction Documents shall include all Modifications generated after the Effective Date in accordance with the Contract Documents, including,

without limitation, a written amendment to the Contract signed by the Contractor and duly executed and approved by the District, a Change Order, a Construction Change Document, or a written order for a minor change in the Work issued by the Architect.

- D. **“Contract Documents”** means those documents which form the entire Contract by and between District and Contractor. As of the effective date of the Lease and Sublease, the Contract Documents consist of the Lease, the Sublease, any General, Supplementary and other Conditions, the Construction Services Agreement, including all exhibits and attachments hereto, and the Construction Documents. The Contract Documents collectively form the Contract. The Contract represents the entire and integrated Agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a written Modification. The Contract Documents shall be binding solely upon the District and Contractor, do not create a contractual relationship of any kind between the Architect and Contractor, between the District and any Subcontractor or Sub-subcontractor, or between any persons or entities other than the District and the Contractor, and are not intended to and do not create any third party beneficiary. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect’s duties. (See **Article 14** of the CSA).
- E. **“Day”** means a calendar day unless specifically designated as a business day.
- F. **“District”** means the Fountain Valley School District, a school district duly organized and existing under the laws of the State of California.
- G. **“Effective Date”** is the latter of the date upon which the District Board approves the Site Lease and the Sublease and Contractor has executed the Site Lease and Sublease.
- H. **“Lessee”** shall mean _____, and its successors and assigns.
- I. **“Project”** means the improvements and related work to be constructed and installed by the Contractor, as part of this Site Lease and in accordance with the Construction Services Agreement attached hereto as Exhibit “C”.
- J. **“Site”** refers to the grounds of the Project or in some cases may refer to multiple sites as defined in the Contract Documents and such adjacent lands as may be directly affected by the performance of the Work, more particularly described in Exhibit “A” attached hereto.
- K. **“Site Lease” or “Lease”** means this Site Lease together with any duly authorized and executed amendment hereto under which the District leases the Site to the Lessee.
- L. **“Sublease”** means the Sublease attached hereto and incorporated as Exhibit “B”, together with any duly authorized and executed amendment thereto.
- M. **“Sublease Payment”** means any payment required to be made by the District pursuant to Article 7 of the Sublease.
- N. **“Term of this Lease” or “Term”** means the time during which this Lease is in effect, as provided for in Article 3 of this Site Lease.

2. **SITE LEASE.**

The District leases to the Lessee, and the Lessee leases from the District, on the terms and conditions set forth herein, the Site situated in the City of Fountain Valley, County of Orange, State of California, more specifically described in Exhibit "A" attached hereto, including any improvements now or hereafter affixed thereto.

3. **TERM.**

The Term of this Site Lease shall become effective upon the authorized execution of this Site Lease and upon completion of Lessee's Due Diligence with regard to the Site and issuance of a Notice to Proceed. The Term of this Site Lease shall terminate as of the last day of the Sublease, unless sooner terminated as provided thereby. If on the scheduled date of termination of this Site Lease, Sublease Payments shall have therefore been abated at any time and for any reason, then the term of this Site Lease shall be subject to a Liquidated Damages cost as set forth in **Article 3.7** of the Construction Services Agreement and the Site Lease shall be extended until the date upon which all such Sublease Payments shall be fully paid. Without limiting any other term or provision of the Sublease Agreement or Construction Services Agreement between the parties, at the termination of this Site Lease, natural or otherwise, title to the Site, and any improvements constructed thereon by the Lessee, shall vest in the District in accordance with Education Code section 17406.

4. **REPRESENTATIONS, COVENANTS, AND WARRANTIES OF THE DISTRICT.**

The District represents, covenants and warrants to the Lessee that:

- A. The District has good and merchantable fee title to the Site and has authority to enter into and perform its obligations under this Site Lease;
- B. There are no liens on the Site other than Permitted Encumbrances;
- C. All taxes, assessments or impositions of any kind with respect to the Site, if applicable, except current taxes, have been paid in full;
- D. The Site is properly zoned (or subject to an exception from zoning) for the intended purpose and utilization of the Site ;
- E. The District is in compliance with all laws, regulations, ordinances and orders of public authorities applicable to the Site;
- F. Except for Validation Actions concerning the Project, there is no litigation of any kind currently pending or threatened regarding the Site or the District's use of the Site for the purposes contemplated by this Site Lease;
- G. To the best of the District's knowledge, except for that which shall be disclosed by the District prior to the Project commencement date in the Notice to Proceed:
 - (1) no dangerous, toxic or hazardous pollutants, contaminants, chemicals, waste, materials or substances, as defined in or governed by the provisions of any State or Federal Law relating thereto (hereinafter collectively called "Environmental Regulations", and also including, but not limited to, urea-formaldehyde, polychlorinated biphenyls, asbestos, asbestos containing materials, nuclear fuel or waste, radioactive materials, explosives, carcinogens and petroleum products, or any other waste, material, substance, pollutant or contaminant which would subject the

owner of the Site or the Lessee or the Lessee's subcontractors to any damages, penalties or liabilities under any applicable Environmental Regulation (hereinafter collectively called "Hazardous Substances", are now or have been stored, located, generated, produced, processed, treated, transported, incorporated, discharged, emitted, released, deposited or disposed of in, upon, under, over or from the Site;

- (2) no threat exists of a discharge, release or emission of a Hazardous Substance upon or from the Site into the environment;
- (3) the Site has not been used as or for a mine, a landfill, a dump or other disposal facility, industrial or manufacturing facility, or a gasoline service station;
- (4) no underground storage tank is now located in the Site or has previously been located therein;
- (5) no violation of any Environmental Regulation now exists relating to the Site, no notice of any such violation or any alleged violation thereof has been issued or given by any governmental entity or agency, and there is not now any investigation or report involving the Site by any governmental entity or agency which in any way relates to Hazardous Substances;
- (6) no person, party or private or governmental agency or entity has given any notice of or asserted any claim, cause of action, penalty, cost or demand for payment or compensation, whether or not involving any injury or threatened injury to human health, the environment or natural resources, resulting or allegedly resulting from any activity or event described in (1) above;
- (7) there are not now any actions, suits, proceedings or damage settlements relating in any way to Hazardous Substances, in, upon, under over or from the Site;
- (8) the Site is not listed in the United States Environmental Protection Agency's National Priorities List of Hazardous Waste Sites or any other list of Hazardous Substance sites maintained by any federal, state or local governmental agency; and
- (9) the Site is not subject to any lien or claim for lien or threat of a lien in favor of any governmental entity or agency as a result of any release or threatened release-of any Hazardous Substance.

H. To the extent permitted by law, the District shall not abandon the Site for the use for which it is currently required by the District and further, shall not seek to substitute or acquire property to be used as a substitute for the uses for which the Site and Project are to be maintained under the Site Lease.

I. The term "Permitted Encumbrances" as used herein shall mean, as of any particular time:

- (1) liens for general ad valorem taxes and assessments, if any, not then delinquent;
- (2) this Site Lease; the Sublease; any right or claim of any mechanic, laborer, materialman, supplier, or vendor, if applicable, not filed or perfected in the manner prescribed by law; easements, rights of way, mineral rights, drilling rights, and other rights, reservations, covenants, conditions, or restrictions which exist of record as of the date of this Site Lease and which will not materially impair the use of the Site;

- (3) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions, or restrictions established following the date of recordation of this Site Lease and to which the Lessee and the District consent in writing which will not impair or impede the operation of the Site.

5. **REPRESENTATIONS AND WARRANTIES OF THE LESSEE.** The Lessee represents and warrants to the District that:

- A. The Lessee is duly organized in the State of California, and in good standing under the laws of the State of California, with full corporate power and authority to lease and own real and personal property;
- B. The Lessee has full power, authority and legal right to enter into and perform its obligations under this Site Lease, and the execution, delivery and performance of this Site Lease has been duly authorized by all necessary corporate actions on the part of the Lessee and does not require any further approvals or consents;
- C. Execution, delivery and performance of this Site Lease does not and will not result in any breach of or constitute a default under any indenture, mortgage, contract, agreement or instrument to which the Lessee is a party or by which it or its property is bound;
- D. There is no pending or, to the best knowledge of the Lessee, threatened action or proceeding before any court or administrative agency which will materially adversely affect the ability of the Lessee to perform its obligations under this Site Lease; and

6. **RENTAL.**

The Lessee shall pay to the District as and for advance rental hereunder \$1.00 per year or part thereof, or the aggregate sum of [\$1.00 x number of years of lease], on or before the date of commencement of the Term of this Site Lease. The Lessee shall have no obligation to make rental payments hereunder in the event the Commencement Date of this Site Lease does not occur as a result of the District's inability to issue a Notice to Proceed for the Project pursuant to the provisions of the Construction Services Agreement.

7. **PURPOSE.**

The Lessee shall use the Site solely for the purpose of constructing the Project thereon and for subleasing the Site and the Project to the District; provided, that upon the occurrence of an Event of Default by the District under the Sublease, the Lessee may exercise the remedies provided for in the Construction Services Agreement or the Sublease.

8. **TERMINATION.** The Lessee agrees, upon termination of this Site Lease or the end of the Term of this Site Lease:

- A. To quit and surrender the Site in the same good order and condition as it was in at the time of commencement of the Term hereunder, reasonable wear and tear excepted;
- B. To release and reconvey to the District any liens and encumbrances created or caused by the Lessee; and
- C. That any permanent improvements and structures existing upon the Site at the time of the termination of this Site Lease shall remain thereon and title thereto shall vest in the District.

Notwithstanding the District's foregoing rights in the event of termination, the Lessee shall retain the right to full compensation for all services rendered prior to the termination, including all rights they have under the Construction Services Agreement and the Sublease as well as all recourse provided by California law including common law, for the value of the work performed on the Site and/or the Project.

In the event the Construction Services Agreement is terminated pursuant to the provisions therein, this Site Lease shall immediately terminate.

9. **QUIET ENJOYMENT.**

Subject to the terms of the Sublease attached hereto as Exhibit "B", the District covenants and agrees that it will not take any action to prevent the Lessee's quiet enjoyment of the Site during the Term hereof; and, that in the event District's fee title to the Site is ever challenged so as to interfere with the Lessee's right to occupy, use and enjoy the Site, the District will use all governmental powers at its disposal, including the power of eminent domain, to obtain unencumbered fee title to the Site and to defend the Lessee's right to occupy, use, and enjoy the Site. The District, however, retains the right, throughout the Site Lease Term, to use the Site for District purposes, pursuant to the terms of the Sublease.

10. **NO LIENS.**

The District shall not mortgage, sell, assign, transfer or convey the Site or any part thereof to any person during the Term of this Site Lease, without the written consent of the Lessee. Nothing herein shall preclude the District from granting utility easements across the Site to facilitate the use and operation of the Project for which it is intended.

11. **RIGHT OF ENTRY.**

The District reserves the right for any of its duly authorized representatives to use the Project during the Term of this Site Lease or Sublease and enter upon the Site at any reasonable time to inspect the same or to make any repairs, improvements or changes necessary for the preservation thereof, but in doing so shall not interfere with the Lessee's operations on the Project.

12. **ASSIGNMENT AND SUBLEASING.**

The Lessee will not assign or otherwise dispose of or encumber the Site or this Site Lease without the written consent of the District.

13. **NO WASTE.**

The Lessee agrees that at all times that it is in possession of the Site it will not commit suffer or permit any waste on the Site, and it will not willfully or knowingly use or permit the use of the Site for any illegal act or purpose.

14. **DEFAULT.**

In the event the Lessee shall be in default in the performance of any obligation on its part to be performed under the terms of the Construction Services Agreement and this Site Lease, which default continues for thirty (30) days following notice and demand for correction thereof to the Lessee, the District may exercise any and all remedies granted by law, except

that no merger of this Site Lease and of the Sublease shall be deemed to occur as a result thereof.

15. **TITLE.**

During the Term of this Site Lease, the District shall hold title to the Site and obtain title to the Project from the Lessee, including any and all additions which comprise improvements, fixtures, repairs, replacements or modifications, as such improvements are built and paid for pursuant to the Construction Services Agreement with full title vesting in the District to all improvements upon the end of the Term of this Site Lease.

16. **TAXES.**

The terms of this Site Lease may result in the creation of a possessory interest. If such a possessory interest is vested in a private party to this document, the private party may be subjected to the payment of personal property taxes levied on such interest. Pursuant to Section 107.6 of the California Revenue and Taxation Code, District hereby notifies Lessee that: (i) the property interest obtained by Lessee pursuant to the Site Lease may be subject to property taxation; and (ii) Lessee may be subject to the payment of property taxes levied on the property interest obtained by Lessee.

17. **EMINENT DOMAIN.**

In the event the whole or any part of the Site or the improvements thereon, including but not limited to the Project, is taken by eminent domain, the financial interest of the Lessee shall be recognized and is hereby determined to be the amount of all Sublease Payments and Retention Payment, as applicable, then due or past due, less any allowed withholdings or offsets, and unearned interest as of the date the Lessee receives payment in full. The balance of the award in such eminent domain action, if any, shall be paid to the District.

18. **LIQUIDATED DAMAGES.**

Pursuant to Lessee's Due Diligence, as further described in **Article 5** of the Construction Services Agreement, Lessee has determined the Term of this Site Lease which shall extend at least until the Punch List is completed under **Article 13** of the Construction Services Agreement. Pursuant to the Construction Services Agreement, Liquidated Damages shall apply if the Contract Time is exceeded.

19. **PARTIAL INVALIDITY.**

If any one or more of the terms, covenants or conditions of this Site Lease shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Site Lease shall be affected thereby, and each provision of this Site Lease shall be valid and enforceable to the fullest extent permitted by law.

20. **NOTICES.**

Any notices or filings required to be given or made under this Site Lease shall be served, given or made in writing upon the District or the Lessee, as the case may be, by personal delivery or registered mail to the respective addresses given below. Any change in the addresses noted shall not be binding upon the other party unless preceded by no less than

thirty (30) days prior written notice. Any such notices shall be deemed to have been received by the addressee if delivered to the person for whom they are intended or if sent by registered mail, return receipt requested, or by email, or fax followed by regular mail, addressed as follows:

If to Lessee:

Attn: _____
Email: _____

If to District:

FOUNTAIN VALLEY SCHOOL DISTRICT
10055 Slater Avenue
Fountain Valley, CA 92708
Attn: _____
Email: _____

21. **BINDING EFFECT.**

This Site Lease shall inure to the benefit of and shall be binding upon the District, the Lessee and its respective successors in interest and assigns.

22. **AMENDMENTS AND MODIFICATIONS.**

This Site Lease shall not be effectively amended, changed, modified, altered or terminated without the written agreement of the District and the Lessee.

23. **EXECUTION IN COUNTERPARTS.**

This Site Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

24. **LAWS, VENUE AND ATTORNEYS' FEES.**

The terms and provisions of this Site Lease shall be construed in accordance with the laws of the State of California. If any action is brought in a court of law to enforce any term of this Site Lease, the action shall be brought in a state court situated in the County of Orange, State of California, unless a court finds jurisdiction or venue is only proper in a federal court, or a court outside this county. In the event of any such litigation between the parties, the parties shall pay for their respective costs incurred, including attorneys' fees.

25. **INTEGRATION/MODIFICATION.**

This Site Lease represents the entire understanding of the District and Lessee as to those matters contained herein, and supersedes and cancels any prior oral or written understanding, promises or representations with respect to those matters covered herein and shall not be amended, altered, or changed except by a written agreement signed by the parties hereto.

26. **HEADINGS.**

The captions or headings in this Site Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Site Lease.

27. **TIME.**

Time is of the essence in this Site Lease and each and all of its provisions.

IN WITNESS WHEREOF, the parties hereto have executed this Site Lease by their authorized officers as of the day and year first written above.

“DISTRICT”

“LESSEE”

FOUNTAIN VALLEY SCHOOL DISTRICT

BY: _____

BY: _____

EXHIBIT “A”
DESCRIPTION OF SITE

[TO BE INSERTED]

EXHIBIT “B”

SUBLEASE

[TO BE INSERTED]

EXHIBIT “C”
CONSTRUCTION SERVICES AGREEMENT

[TO BE INSERTED]

_____ **PROJECT**

SUBLEASE AGREEMENT

Between

FOUNTAIN VALLEY SCHOOL DISTRICT

and

Dated as of _____

_____**PROJECT**

SUBLEASE AGREEMENT

This SUBLEASE AGREEMENT ("Sublease") is dated as of _____, and is by and between the Fountain Valley School District, a school district duly organized and existing under the laws of the State of California ("District"), and _____, a California corporation and operating under the laws of the State of California ("Lessor" or "Contractor").

RECITALS:

WHEREAS, the District deems it essential for its own governmental purpose, to finance the construction of certain improvements as described in Exhibit "A" attached hereto (the "Project") and situated on the _____ School site described in Exhibit "B" attached hereto (the "Site"); and

WHEREAS, pursuant to Section 17400 *et seq.* of the Education Code, the District may enter into leases and agreements relating to real property and buildings used by the District; and

WHEREAS, pursuant to Section 17406 of the Education Code, the District is leasing the Site to Lessor under a lease agreement dated the date hereof (the "Site Lease") for the purpose of Lessor constructing improvements on the Site during the Term of the Site Lease on the terms and conditions the District finds to be in its best interest and set forth in this Sublease and the Construction Services Agreement attached as Exhibit "C" to the Site Lease; and

WHEREAS, the District owns the Site, and pursuant to the Construction Services Agreement, has prepared and adopted plans and specifications for the completion of improvements, which have been approved pursuant to law as required by Section 17402 of the Education Code; and

WHEREAS, the District and Lessor agree to mutually cooperate now or hereafter, to the extent possible, in order to sustain the intent of this Sublease and the bargain of both parties hereto, and to provide Sublease Payments to be made on the dates and in the amount set forth herein.

WITNESSETH:

In consideration of the mutual covenants hereinafter set forth, the District and Lessor parties hereto agree as follows:

1. **DEFINITIONS.** Unless the context otherwise requires, the terms defined in this Article shall, for all purposes of this Sublease, have the meanings as herein specified.
 - A. **"Commencement Date"** shall mean the Project commencement date found in the Notice to Proceed for the Project in accordance with the Construction Services Agreement.
 - B. **"Construction Costs"** means any and all costs incurred by the Lessor with respect to the construction and equipping, as the case may be, of the Project, whether paid or incurred prior to or after the date hereof, including, without limitation, costs for Site preparation, the removal or demolition of existing structures, the construction of the Project and related facilities and improvements, and all other work in connection therewith, security of the Site and Project, Lessor's overhead and supervision at the Project Site, all costs and expenses including any taxes or insurance premiums paid by the Lessor with respect to the Property, and administrative and other expenses necessary or incident to the Project, excluding Lessor's and Developer's home office overhead and profit. The term "Construction Costs" includes all

Lessor's costs associated with preparing or generating additional copies of any Construction Documents, as defined below, related to or required for the Project, including preparation or generation of additional plans and specifications for Lessor's subcontractors. In no event shall Construction Costs exceed the Guaranteed Maximum Price.

- C. **"Construction Services Agreement"** (CSA) means the Construction Services Agreement attached hereto, together with any duly authorized and executed amendments hereto.
- D. **"Construction Documents"** consist of the Plans and Specifications approved by DSA under Application Number _____, File Number _____, Allowances stipulated in the Contract Documents, and all Addendas, if any, issued prior to the entry into this Agreement. The Construction Documents shall include all Modifications generated after the Effective Date in accordance with the Contract Documents, including, without limitation, a written amendment to the Contract signed by the Contractor and duly executed and approved by the District, a Change Order, a Construction Change Document, or a written order for a minor change in the Work issued by the Architect.
- E. **"Contract Documents"** means those documents which form the entire Contract by and between District and Contractor. As of the effective date of the Lease and Sublease, the Contract Documents consist of the Lease, the Sublease, any General, Supplementary and other Conditions, the Construction Services Agreement, including all exhibits and attachments hereto, and the Construction Documents. The Contract Documents collectively form the Contract. The Contract represents the entire and integrated Agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a written Modification. The Contract Documents shall be binding solely upon the District and Contractor, do not create a contractual relationship of any kind between the Architect and Contractor, between the District and any Subcontractor or Sub-subcontractor, or between any persons or entities other than the District and the Contractor, and are not intended to and do not create any third party beneficiary. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties. (See **Article 14** of the CSA).
- F. **"Day"** means a calendar day unless specifically designated as a business day.
- G. **"District"** means the Fountain Valley School District, a school district duly organized and existing under the laws of the State of California.
- H. **"Effective Date"** is the latter of the date upon which the District Board approves the Site Lease and the Sublease and Contractor has executed the Site Lease and Sublease.
- I. **"Event of Default"** means one or more events of default as defined in Article 16 of this Sublease.
- J. **"Guaranteed Maximum Price" or "GMP"** means the Guaranteed Maximum Price established pursuant to **Article 5** of the CSA to be paid to Lessor for Lessor's construction of the Project hereunder, subject to any adjustments for Extra Work/Modifications as provided in **Article 17** of the CSA.
- K. **"Lessor"** shall mean _____, and its successors and assigns.
- L. **"Project"** means the improvements and related work to be constructed and installed by the Lessor, as more particularly described and/or referenced in Exhibit "A" attached hereto.

- M. **“Site”** refers to the grounds of the Project or in some cases may refer to multiple sites as defined in the Contract Documents and such adjacent lands as may be directly affected by the performance of the Work, particularly described in Exhibit “B” attached hereto.
- N. **“Site Lease” or “Lease”** means the Site Lease of even date herewith, by and between the District and the Lessor together with any duly authorized and executed amendment thereto under which the District leases the Site to the Lessor.
- O. **“Sublease”** means this Sublease together with any duly authorized and executed amendment hereto.
- P. **“Sublease Payment”** means any payment required to be made by the District pursuant to Article 7 of this Sublease.
- Q. **“Term of this Sublease” or “Term”** means the time during which this Sublease is in effect, as provided for in Article 3 of this Sublease.

2. **SUBLEASE.**

Lessor hereby leases and subleases to District, and District hereby leases and subleases from Lessor the Project and the Site, including any real property improvements now or hereafter affixed thereto in accordance with the provisions herein for the full Term of this Sublease. The leasing by the Lessor to the District of the Site shall not effect or result in a merger of the District’s leasehold estate pursuant to this Sublease and its fee estate as lessor under the Site Lease, and the Lessor shall continue to have and hold a leasehold estate in said Site pursuant to the Site Lease throughout the Term thereof and the Term of this Sublease.

3. **TERM OF THE SUBLEASE.**

- A. The Term of this Sublease shall become effective upon the authorized execution of this Sublease and issuance of a Notice to Proceed under the terms of the CSA and payment of the last Sublease Payment, unless otherwise terminated pursuant to this Sublease, the Site Lease, or the CSA.
- B. Termination of Term. Except as otherwise provided, the Term of this Sublease shall terminate upon the earliest of any of the following events:
 - (1) An Event of Default and the Lessor’s election to terminate this Sublease pursuant to the provisions of Articles 16 and 17, hereof;
 - (2) The arrival of the last day of the Term of this Sublease and payment of all Sublease Payments hereunder; or
 - (3) The exercise of the District’s option under Article 21 hereof.

4. **REPRESENTATIONS, WARRANTIES AND COVENANTS OF DISTRICT.** The District represents and warrants to Lessor that:

- A. District is a public school district, duly organized and existing under the Constitution and laws of the State of California with authority to enter into this Sublease and to perform all of its obligations hereunder;

- B. District's governing body has duly authorized the execution and delivery of this Sublease and further represents and warrants that all requirements have been met and procedures followed to ensure its enforceability;
- C. The execution, delivery and performance of this Sublease does not and will not result in any breach of or constitute a default under any indenture, mortgage, contract, agreement or instrument to which District is a party by which it or its property is bound;
- D. There is no pending or, to the knowledge of District, threatened action or proceeding before any court or administrative agency which will materially adversely affect the ability of District to perform its obligations under this Sublease;
- E. The Project and the Site are essential to District in the performance of its governmental functions and their estimated useful life to the District exceeds the Term of this Sublease;
- F. District shall take such action as may be necessary to include all Sublease Payments in its annual budget and annually to appropriate an amount necessary to make such Sublease Payments;
- G. District shall not abandon the Site for the use for which it is currently required by District and, to the extent permitted by law, District shall not seek to substitute or acquire property to be used as a substitute for the uses for which the site is maintained under the Sublease; and
- H. District shall not allow any Hazardous Substances (as such term is defined in the Site Lease and limited by that which shall be disclosed by the District prior to the Project commencement date in the Notice to Proceed) to be used or stored on, under or about the Site.

5. **REPRESENTATIONS AND WARRANTIES OF LESSOR.** Lessor represents and warrants to District that:

- A. Lessor is duly organized in the State of California, and in good standing as a corporation under the laws of the State of California, with full corporate power and authority to lease and own real and personal property;
- B. Lessor has full power, authority and legal right to enter into and perform its obligations under this Sublease, and the execution, delivery and performance of this Sublease has been duly authorized by all necessary corporate actions on the part of Lessor and does not require any further approvals or consents;
- C. The execution, delivery and performance of this Sublease does not and will not result in any breach of or constitute a default under any indenture, mortgage, contract, agreement or instrument to which Lessor is a party by which they or their property is bound;
- D. There is no pending or, to the knowledge of Lessor, threatened action or proceeding before any court or administrative agency which will materially adversely affect the ability of Lessor to perform their obligations under this Sublease; and
- E. Lessor will not mortgage or encumber the Site or the Sublease or assign this Sublease or their rights to receive Sublease Payments hereunder, except as permitted herein.

6. **APPROPRIATION OF FUNDS.**

- A. In order to ensure that moneys sufficient to pay all costs will be available for this purpose when required, District shall maintain on deposit, and shall annually appropriate funds sufficient to make all Sublease Payments which become due to Lessor under this Sublease Agreement.

7. **SUBLEASE PAYMENTS.**

- A. District shall pay Lessor sublease payments (the "Sublease Payments") for the improvements, use and occupancy of the Project and Site. The obligation of the District to pay Sublease Payments hereunder shall constitute a current expense of the District and shall not in any way be construed to be a debt of the District in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the District, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or moneys of the District. The Sublease Payments, which the parties acknowledge and agree, are good and sufficient consideration for the improvements and the District's use and occupancy of the Project and the Site.
- B. The District shall pay Lessor the portion of the GMP in accordance with the CSA. No Sublease Payment shall be made by the District in an amount that exceeds the aggregate cost approved in accordance with the CSA to the Lessor of the work on the Project completed to the date the Lessor submits an application for payment, less the aggregate amount of all Sublease Payments previously made by the District to the Lessor.
- C. In the event the District elects to exercise its option under Article 21.B below, the District's obligations under this Sublease including, but not limited to, the District's obligations to make Sublease Payments under this Article, shall thereupon cease and terminate.
- D. Except as specifically provided in this Article and in Article 9 hereof or as otherwise provided by law, the obligation of the District to make Sublease Payments when due and payable hereunder will be absolute and unconditional in all events and will not be subject to any set-off, defense, counterclaim, abatement or recoupment for any reason whatsoever.

8. **FAIR RENTAL VALUE.**

Sublease Payments shall be paid by District in consideration of the right of possession of, and the continued quiet use and enjoyment of, the Project and the Site during the Term, as well as payment for any tenant improvements made by the Lessor which title to the tenant improvements shall vest progressively in the District as such tenant improvements are built and paid for pursuant to the Construction Services Agreement. Full ownership of the Project shall occur at the end of the Term of this Sublease and payment of any amounts owed under this Sublease, unless this Sublease, the Site Lease or Construction Services Agreement is terminated in accordance with their respective terms and conditions. The parties hereto have agreed and determined that such total rental is not in excess of the fair rental value of the Project and the Site. In making such determination, consideration has been given to the fair market value of the Project and the Site, that title to the improvements completed and paid for by District as to which the District shall have the right to possess, occupy and use, the uses and purposes which may be served by the Project and the Site and the benefits therefrom which will accrue to the District and the general public, the ability of the District to make additions, and modifications and improvements to the Project and the Site which are not inconsistent with the Construction Services Agreement (Exhibit "C" to Site Lease) and which do not interfere with the Lessor's work on the Project and the Site.

9.

SUBLEASE ABATEMENT.

In addition to delay of Sublease Payments provided in Article 7, above, Sublease Payments due hereunder with respect to the Project and the Site shall be subject to abatement prior to the commencement of the use of the Project and the Site by the District or during any period in which, by reason of material damage to or destruction of the Project or the Site, there is substantial interference with the use and right of possession by the District of the Project and the Site or any substantial portion thereof. For each potential incident of substantial interference, decisions to be made on i) whether or not abatement shall apply; ii) the date upon which abatement shall commence; iii) the applicable portion of Sublease Payments to be abated and; iv) the concluding date of the particular abatement shall all be subject to determinations by the District. The amount of Sublease abatement shall be such that the Sublease Payments paid by the District during the period of Project and Site restoration do not exceed the fair rental value of the usable portions of the Project and Site. In the event of any damage or destruction to the Project or the Site, this Sublease shall continue in full force and effect.

10.

USE OF SITE AND PROJECT.

Subject to reasonable interference from construction operations by the Lessor under the terms of the Construction Services Agreement during the Term of this Sublease, Lessor shall provide the District with quiet use and enjoyment of the Site without suit, or hindrance from Lessor or their assigns, provided District is in compliance with its duties under this Sublease. District will not use, operate or maintain the Site or Project improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Sublease. District shall provide all permits and licenses, if any, necessary for the operation of the Project and Site. In addition, the District agrees to comply in all respects (including, without limitation, with respect to the time, maintenance and operation of the Project and Site) with laws of all jurisdictions in which its operations involving the Project and Site may extend and any legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Site or the Project; provided, however, that District may contest in good faith the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of Lessor, adversely affect the estate of Lessor in and to the Site or the Project or its interest or rights under this Sublease. Lessor acknowledges that at any time during the Term of this Sublease, District may access the Site to conduct District business. Lessor acknowledges and agrees to the District's use or occupation of the Site, so long as such use or occupation does not unreasonably interfere with construction of the Project. Upon substantial completion of the Project or severable portions hereof, the Lessor shall provide the District with quiet use and enjoyment of the Site without suit or hindrance from the Lessor or its assigns, subject to reasonable interference from ongoing construction operations on any remaining portion of the Site under construction by the Lessor. Notwithstanding any provision to the contrary in this Sublease or the Construction Services Agreement, the District shall, concurrent with any occupancy, use or possession of any portion of the Project, furnish property and loss liability insurance to cover any such portion of the Project or Site it occupies, uses or possesses. District shall provide certificates of insurance and additional insured endorsement naming Lessor.

11.

LESSOR'S INSPECTION/ACCESS TO THE SITE.

District agrees that Lessor and any of Lessor's representatives shall have the right at all reasonable times to enter upon the Site or any portion thereof to construct and improve the Project, to examine and inspect the Site or Project, to make repairs or service warranty obligations, and to exercise its remedies pursuant to the section in this Sublease entitled

“Remedies on Default.” District further agrees that Lessor and any of Lessor’s representatives shall have such rights of access to the Site as may be reasonably necessary to cause the proper maintenance of the Site and the Project in the event of failure by District to perform its obligations hereunder.

12. **PROJECT ACCEPTANCE.**

District shall acknowledge final inspection and completion of the Project by executing and recording a Notice of Completion. The validity of this Sublease will not be affected by any delay in or failure of completion of the Project.

13. **ALTERATIONS AND ATTACHMENTS.** All permanent additions and improvements that are made to the Project shall belong to and become the property of Lessor, subject to the provisions of this Sublease. Separately identifiable attachments added to the Project by the District shall remain the property of the District. At Lessor’s request, the District agrees to remove the attachments and restore the Project to substantially as good a condition as when acquired and constructed, normal wear and tear excepted, in the event of failure by the District to perform its obligations hereunder.

14. **MAINTENANCE AND UTILITIES.**

Until the date of beneficial occupancy by the District of the entire Project and Substantial Completion of the Project as defined in the CSA, Lessor shall, in its own name, contract for and pay the expenses of all utility services required for the Project. Upon beneficial occupancy of the entire Project and Substantial Completion of the Project, the District shall, in its own name, contract for and pay the expenses of all utility services including, but not limited to, all air conditioning, heating, electrical, gas, refuse collection, water, and sewer units. The District shall be responsible for all utilities and maintenance of only the portion of the Site occupied solely or beneficially by the District during construction of the Project by Lessor. Once the Project is accepted by the District as finally complete, the District shall have responsibility for maintenance and repair of the entire Project and the Site, except for warranty or other obligations of Lessor relating to the improvements as set forth in the Construction Services Agreement.

15. **TAXES.**

District shall keep the Project and the Site free and clear of all levies, liens, and encumbrances and shall pay all license fees, registration fees, assessments, charges, and taxes (municipal, state, and federal) if applicable, which may now or hereafter be imposed upon the ownership, leasing, renting, sale, possession, or use of the Project and the Site, excluding, however, all taxes on or measured by Lessor’s income.

16. **EVENTS OF DEFAULT.** The term “Event of Default,” as used in this Sublease means the occurrence of any one or more of the following events:

- A. The District fails to make any unexcused Sublease Payment (or any other payment) within fifteen (15) days after the due date thereof or the District fails to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder and such failure to either make the payment or perform the covenant, condition or agreement is not cured within ten (10) days after written notice thereof by Lessor;

- B. The Lessor discovers that any statement, representation or warranty made by the District in this Sublease, or in any document ever delivered by the District pursuant hereto or in connection herewith is misleading or erroneous in any material respect;
- C. The District becomes insolvent, is unable to pay its debts as they become due, makes an assignment for the benefit of creditors, applies or consents to the appointment of a receiver, trustee, conservator or liquidator of the District or of all or a substantial part of its assets, or a petition for relief is filed by the District under federal bankruptcy, insolvency or similar laws.

17. **REMEDIES ON DEFAULT.** Upon the happening of any Event of Default, Lessor may exercise remedies set forth below; provided, however, that notwithstanding anything herein to the contrary, there shall be no right under any circumstances to accelerate the Sublease Payments or otherwise declare any Sublease Payments not then in default to be immediately due and payable. The District shall continue to remain liable for the payment of Sublease Payments and damages for breach of this Sublease and the performance of all conditions herein such Sublease Payments and damages shall be payable to Lessor at the time and in the manner set forth in subsections (A) and (B) of this Article:

- A. In the event that Lessor does not elect to terminate this Sublease pursuant to subsection (B) below, the District agrees to and shall remain liable for the payment of Sublease Payments and the performance of all conditions herein and shall reimburse Lessor for the full amount of the Sublease Payments to the end of the Sublease Term.
- B. In the event of termination of this Sublease by Lessor at its option and in the manner hereinafter provided on account of default by the District, the District shall pay Lessor Sublease Payments then owing for past Sublease Payments due and not paid, not to exceed the approved costs for all labor, materials and services provided up to the date of Lessor's termination of the Sublease. Neither notice to pay Sublease Payments, nor to deliver up possession of the Project and the Site given pursuant to law, nor any proceeding in unlawful detainer taken by Lessor shall of itself operate to terminate this Sublease. In the event of any litigation between the parties, the parties shall pay for their respective costs incurred, including attorneys' fees.
- C. No right or remedy herein conferred upon or reserved to Lessor is exclusive of any other right or remedy herein, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise, and may be enforced concurrently therewith or from time to time; provided, however, that notwithstanding any provisions to the contrary herein, Lessor shall not under any circumstances have the right to accelerate the Sublease Payments that fall due in future Sublease periods or otherwise declare any Sublease Payments not then in default to be immediately due and payable.

18. **NON-WAIVER.**

No covenant or condition to be performed by District or Lessor under this Sublease can be waived except by the written consent of the other party. Forbearance or indulgence by District or Lessor in any regard whatsoever shall not constitute a waiver of the covenant or condition in question. Until complete performance by the District or Lessor of said covenant or condition, the other party shall be entitled to invoke any remedy available to it under this Sublease or by law or in equity despite said forbearance or indulgence.

19.

ASSIGNMENT.

Without the prior written consent of the Lessor, which consent shall not be unreasonably withheld, the District shall not (a) assign, transfer, pledge, or hypothecate this Sublease, the Project and the Site, or any part thereof, or any interest therein, or (b) sublet or lend the use of the Project or any part thereof, except as authorized by the provisions of the California Civic Center Act, Education Code section 38130 *et seq.* However, District may lease, license or otherwise allow use or occupation of the Site for third party use so long as such use or occupation does not unreasonably interfere with construction of the Project. Consent to any of the foregoing prohibited acts applies only in the given instance and is not a consent to any subsequent like act by the District or any other person. The Lessor shall not assign its obligations under this Sublease with the exception of their obligation to issue default notices and to convey or re-convey their interest in the Project and Site to the District upon full satisfaction of the District's obligations hereunder; however, the Lessor may assign their right, title and interest in this Sublease, the Sublease Payments and other amounts due hereunder and the Project in whole or in part to one or more assignees or sub-assignees at any time upon written notice to the District. No assignment shall be effective as against the District unless and until the District is so notified in writing. The District shall pay all Sublease Payments due hereunder pursuant to the direction of Lessor or the assignee named in the most recent assignment or notice of assignment. During the Sublease Term, the District shall keep a complete and accurate record of all such assignments. Subject always to the foregoing, this Sublease inures to the benefit of, and is binding upon, the heirs, legatees, personal representatives, successors, and assigns of the parties hereto.

20.

OWNERSHIP.

During the Term of this Sublease, the District shall hold title to the Site and progressively obtain title to the Project from the Lessor, and any and all additions which comprise fixtures, repairs, replacements or modifications thereof, as Sublease Payments are made to Lessor. During the Term of this Sublease, the Lessor shall have a leasehold interest in the Site pursuant to the Site Lease. If the District prepays the Sublease Payments in full pursuant to Article 21 hereof or otherwise pays all required Sublease Payments, all remaining rights, title and interests of the Lessor, if any, in and to the Project and Site, shall be fully transferred to and vested in the District. Title shall be transferred to and vested in the District hereunder without the necessity for any further instrument of transfer. At the termination of this Sublease, title to the Site, and any improvements constructed thereon shall vest in the District.

21.

SUBLEASE PREPAYMENT/ PURCHASE OPTION.

- A. **Sublease Prepayments.** At any time during the term of this Sublease, the District may in its sole discretion, upon the request of the Lessor or on upon its own initiative, make Sublease Prepayments to the Lessor. No Sublease Prepayments requested by the Lessor may be made by the District in an amount exceeding the aggregate true cost to the Lessor of the work on the Project completed to the date the Lessor submits the request for a Sublease Prepayment less the aggregate amount of: (1) all Sublease Payments previously made by the District to the Lessor; (2) all Sublease Prepayments previously made by the District to the Lessor; (3) all amounts previously retained pursuant to Article 21(A)(3), below, from Sublease Prepayments previously made by the District to the Lessor; and (4) the retention for such Sublease Prepayment. Lessor must submit evidence that the conditions precedent set forth in Article 21(A)(1) below, have been met. In the event District elects to make Sublease Prepayments, the Prepayment Price, contemplated in Article 21(B), below, shall be adjusted accordingly.

- (1) The following are conditions precedent to any Sublease Prepayments made to the Lessor pursuant to a request of the Lessor and exercised by the District in its sole discretion:
 - a. Satisfactory progress of the work and construction pursuant to the approved schedule and "Contract Time" pursuant to **Article 9** of the Construction Services Agreement shall have been made as determined in Article 21(A)(2), below.
 - b. Lessor shall also submit to the District (i) duly executed conditional lien releases and waivers (in the form provided in California Civil Code section 8132) from the Lessor and all subcontractors, consultants and other persons retained by the Lessor in connection with the Project, whereby such persons conditionally waive all lien and stop notice rights against the District, the Project and the Project site with respect to the pending Sublease Prepayment to be made by the District, (ii) duly executed unconditional lien releases and waivers (in the form provided in California Civil Code section 8134) from the Lessor and all subcontractors, consultants and other persons retained by the Lessor in connection with the Project, whereby such persons unconditionally and irrevocably waive all lien and stop notice rights against the District, the Project and the Project site with respect to all previous Sublease Prepayments made by the District, and (iii) any other items that the Lessor may be required to collect and distribute to the District pursuant to the terms and provisions of the CSA. Lessor shall promptly pay all amounts due to each subcontractor, consultant and other person retained by Lessor in connection with the Project no later than ten (10) days after Lessor's receipt of a Sublease Prepayment from the District.
- (2) The determination of whether satisfactory progress of the Construction pursuant to the approved schedule and "Contract Time" has occurred shall be made by the Project Inspector hired by the District pursuant to **Article 10** of the CSA. If the Project Inspector determines that pursuant to the approved schedule and "Contract Time", the work required to be performed, as stated in the Lessor's Sublease Prepayment request has not been completed and approved, the Lessor shall not be eligible to receive the requested Sublease Prepayment.

- B. Purchase Option. If the District is not in default hereunder, the District shall be granted options to purchase not less than all of the Project in as-is condition. The Prepayment Price at any given time shall be an amount equal to the GMP, as it may be revised from time to time, less the sum of any Sublease Payments and/or Sublease Prepayments made by the District prior to the date on which the District elects to exercise its option under this Article.

22.

RELEASE OF LIENS.

- A. Notwithstanding Article 21 above, upon Substantial Completion of the Project as defined in the CSA and the recording of a Notice of Completion for the Project, Lessor or its assignee and the District shall release Lessor's leasehold interest in Project and the Site. However, District shall retain any and all claims and or warranties it may have under the CSA.
- B. Lessor shall authorize, execute and deliver to the District all documents reasonably requested by the District to evidence (i) the release of any and all liens created pursuant to the provisions of this Sublease and the Site Lease, and (ii) any other documents required to terminate the Site Lease and this Sublease.

23. **TERMINATION OF CONSTRUCTION SERVICES AGREEMENT.**

In the event the Construction Services Agreement is terminated pursuant to the provisions contained therein, this Sublease shall immediately terminate.

24. **SEVERABILITY.**

If any provision of this Sublease shall be held invalid or unenforceable by a court of competent jurisdiction, such holdings shall not invalidate or render unenforceable any other provision of this Sublease, unless elimination of such provision materially alters the rights and obligations embodied in this Sublease.

25. **INTEGRATION/MODIFICATION.**

This Sublease constitutes the entire agreement between Lessor and the District as to those matters contained herein, and supersedes and cancels any prior oral or written understanding, promises or representations with respect to those matters covered herein, and it shall not be amended, altered, or changed except by a written agreement signed by the parties hereto.

26. **NOTICES.**

Services of all notices under this Sublease shall be sufficient if given personally or mailed to the party involved at its respective address hereinafter set forth or at such address as such party may provide in writing from time to time. Any change in the addresses noted shall not be binding upon the other party unless preceded by no less than thirty (30) days prior written notice. Any such notices shall be deemed to have been received by the addressee if delivered to the person for whom they are intended or if sent by registered mail, return receipt requested, or by email, or fax followed by regular mail, addressed as follows:

If to Lessor:

Attn: _____
Email: _____

If to District:

Fountain Valley School District
1001 S. East Street
Anaheim, CA 92805
Attn: _____
Email: _____

27. **TITLES.**

The titles to the Articles or sections of this Sublease are solely for the convenience of the parties and are not an aid in the interpretation thereof.

28. **TIME.**

Time is of the essence in this Sublease and each and all of its provisions.

29.

LAWS, VENUE AND ATTORNEYS' FEES.

The terms and provisions of this Sublease shall be construed in accordance with the laws of the State of California. If any action is brought in a court of law to enforce any term of this Sublease, the action shall be brought in a state court situated in the County of Orange, State of California, unless a court finds jurisdiction or venue is only proper in a federal court, or a court outside this county. In the event of any such litigation between the parties, each party shall bear its own attorney's fees.

IN WITNESS WHEREOF, the parties hereto have executed this Sublease by their authorized officers as of the day and year first written above.

DISTRICT

"LESSOR"

FOUNTAIN VALLEY SCHOOL DISTRICT

BY: _____

BY: _____

EXHIBIT A
DESCRIPTION OF PROJECT

[TO BE INSERTED]

EXHIBIT B
DESCRIPTION OF SITE

[TO BE INSERTED]

_____ **PROJECT**
CONSTRUCTION SERVICES AGREEMENT

Between

FOUNTAIN VALLEY SCHOOL DISTRICT

and

[_____]

Dated as of _____

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[_____] PROJECT

CONSTRUCTION SERVICES AGREEMENT

This Construction Services Agreement is made as of _____, by and between the Fountain Valley School District, a California School District organized and existing under the laws of the State of California (hereinafter called the "District"), and _____, a California corporation operating under the laws of the State of _____ ("Contractor").

General intent of agreement:

WHEREAS, the District entered into an agreement with _____ (the "Architect") to provide architectural services for the District for the purpose of developing Construction Documents for the construction of improvements at _____ School site (the "Project").

1. GENERAL INTENT

- 1.1 The Board of Education has reviewed the different methodologies available to deliver a public works project and has carefully considered the options of competitive bid to a general contractor who would be responsible for the entire project, a construction management managed multi-prime trade contract project, an at-risk construction management contract, turn-key delivery by another public entity or delivered by another public entity through a joint use project, but have through Board action and independent staff and Board review determined that there are benefits and detriments to each delivery method.
- 1.2 The Board of Education has also reviewed the lease-leaseback methodology under California Education Code section 17406 which permits the governing board of a school district to lease to any person, firm, or corporation any real property owned by the District if the instrument by which such property is leased requires the lessee to construct on the leased premises, or provide for the construction thereon, of a building for the use of the school district, during the term of the lease, and provides that title to that building shall vest in the school district prior to or at the expiration of the lease.
- 1.3 As part of the Board of Education's consideration of the possible methods of delivery, the Board has also reviewed available information from the Coalition of Adequate School Housing materials on delivery methods, California School Board Association, California Association of School Business Officials, Office of Public School Construction Meeting Minutes and SAB Implementation Committee meeting minutes and considered the benefits and detriments of the lease-leaseback delivery method.
- 1.4 Further, the Board of Education understands that unique to the lease-leaseback delivery method, the lease-leaseback Contractor will not only be undertaking the traditional due diligence of investigating existing Project related information, documents and the Project site, but now included as part of the Contractor's "Due Diligence" (as defined herein) as part of this lease-leaseback delivery method, the Contractor will be performing a review of the Construction Documents to visualize conflicts that may have not been located by the Architect as part of the Architect's constructability review when the Construction Documents were being prepared.
- 1.5 The Board of Education in its consideration of the substantial evidence that is available to the District staff and through the Board's own research has determined that this ability to work between the Contractor and the Architect to resolve a greater percentage of construction claims that would ordinarily arise through any of the other delivery methods addressed in Article 1.1 above also provides the ability of the Contractor to determine the likely level of errors and omissions, and provides a Guaranteed Maximum Price for the Project based on the Contractor's Due Diligence. The unique ability to determine with certainty the budget numbers for the Project

provides this Board of Education the ability to not only ensure that the District is best serving the community and its school children, but also provides the ability to focus resources towards future and simultaneous projects that could not be undertaken during any of the other delivery methods since a sizable contingency needs to be set aside for potential claims, litigation, arbitration, mediation, and delays that could jeopardize the ability to plan for occupancy of the building or the possibility of having to spend significant resources to procure alternative facilities.

- 1.6 As part of this lease-leaseback Construction Services Agreement, a site lease with Contractor (the "Site Lease"), for the Project has been entered into and attached as Exhibits to the Site Lease is a description of the site (the "Site") in order for Contractor to construct improvements to this existing school Site under the possessory interest of a lease with a greater degree of control over the overall Project, including ability to coordinate Site related items such as utilities, ability to insure both the Project and the Site against a broader range of risks, and greater primary control and oversight over Subcontractors and suppliers for the Project as the lessee of the Site.
- 1.7 In addition, the Contractor subleases the constructed portions of the Site and the Project back to the District pursuant to a Sublease Agreement (the "Sublease") under which the District will be required to make Sublease Payments as described therein; and
- 1.8 It is agreed that upon the expiration of the Site Lease and Sublease, title to the Project shall vest in the District; and
- 1.9 Contractor represents that Contractor is uniquely experienced in Construction of public schools and community colleges including, but not limited to, the specific requirements and regulations of the Field Act as administered by the Division of State Architect, working with the Division of State Architect, Office of Public School Construction, California Department of Education and work with the various applicable other State and local agencies that have jurisdiction over the Project, is duly licensed as a contractor in the State of California, and is prepared to analyze, synthesize and efficiently perform construction work for the District as more fully set forth in this Agreement
- 1.10 Contractor has thoroughly Due Diligence as defined in Articles 4 and 5 to establish a Guaranteed Maximum Price for the Project (which may include an Errors and Omissions Contingency and a Construction Contingency for Contractor's own errors and omissions) that will not be exceeded. Contractor has investigated the site conditions and reviewed the Construction Documents to establish that there are no known problems with respect to the site conditions or the Construction Documents and that Contractor can and will construct the Project for the Guaranteed Maximum Price as set forth in Article 3 and defined in Article 5 of this Construction Services Agreement, and Contractor will not seek any additional compensation whatsoever, including, without limitation, any requests based upon known site conditions, extensions on the Lease beyond the Lease period or any requests, except for such additional compensation provided for herein based upon unforeseen conditions and/or errors or omissions contained within the plans and specification or Construction Documents.
- 1.11 Since the Contractor has entered into a negotiated Lease and is performing this Construction Services Agreement as the Lessee of the Premises, Contractor understands and agrees that:
 - 1.11.1 Public Contract Code Section 4100 et seq. addressing subcontractor listing shall not apply except to the extent applicable under Education Code section 17406(a)(4). However, the District is requiring an open book accounting and the public selection of Subcontractors pursuant to Article 6.3 of this Agreement.
 - 1.11.2 Public Contract Code Section 20111 addressing competitive bidding does not apply to the Project pursuant to the specific language of Education Code Section 17406 which allows for the award of the lease-leaseback contract on the basis of the best value to the District.

- 1.11.3 Public Contract Code Section 3400 addressing proprietary specifications does not apply since the Contractor has entered into a negotiated Lease pursuant to which is obligated to build the Project. The Contractor agrees and acknowledges that it has had great opportunity throughout the Due Diligence process and negotiation of the Lease and related agreements to propose any changes or substitutions, and warranties that it shall propose no further changes or substitutions pursuant to Public Contract Code Section 3400. Substitutions and Value Engineering are allowed to address cost savings and to more efficiently build the Project at Articles 5.3 and 16.
- 1.11.4 The requirements in Public Contract Code section 22300 shall not apply.
- 1.12 Prequalification of Contractor and MEP Subcontractors. In accordance with California Public Contract Code section 20111.6, the Contractor is required to submit to the District a completed set of prequalification documents on forms provided by the District and be deemed prequalified by the District prior to entering into the Contract for the Project. In addition, all mechanical, electrical or plumbing (“MEP”) Subcontractors of any tier (contractors that hold C-4, C-7, C-10, C-16, C-20, C-34, C-36, C-38, C-42, C-43 or C-46 licenses), must also be prequalified. It is the responsibility of the bidder to ensure that all MEP Subcontractors holding any of the licenses listed above are properly prequalified. This prequalification requirement for MEP Subcontractors applies even if the subcontractor will perform, or is designated to perform, work that does not require one of the licenses listed above, but the subcontractor holds one of the licenses listed above.

2. TITLE 24 RESPONSIBILITIES – GENERAL INTENT OF THE CSA

Contractor accepts the contractual relationship established between it and District by this Construction Services Agreement, and Contractor covenants with District to furnish reasonable skill and judgment in constructing the Project as set forth in the Construction Documents, as defined in Article 4 for the Project which are described and/or set forth herein as Exhibit “A.” Contractor agrees to furnish efficient business administration, coordination review of the Construction Documents, coordination of the work of the Subcontractors and vendors and superintendence to furnish at all times an adequate supply of professionals, workers, and materials and to perform the work appropriately, expeditiously, economically, and consistent with the Construction Services Agreement and Construction Documents as defined in Article 14, below.

- 2.1 **Title 24 Responsibilities.** The Contractor shall continually supervise and direct the Work using the Contractor’s best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, procedures; and shall coordinate all portions of the Work in conformance with the Contract Documents. Specific duties of the Contractor shall include those set out in Section 43 of Title 21 of the California Code of Regulations and Section 4-343 of Title 24 of the California Code of Regulations. These duties include, but are not limited to the following:
 - 2.1.1 *Responsibilities.* It is the duty of the Contractor to complete the Work covered by his or her Contract in accordance with the approved Construction Documents. The Contractor in no way is relieved of any responsibility by the activities of the Architect, Engineer, Inspector or DSA in the performance of their duties.
 - 2.1.2 *Performance of the Work.* The Contractor shall carefully study the approved Construction Documents and shall plan its schedule of operations well ahead of time. If at any time it is discovered that work is being done which is not in accordance with the approved Construction Documents, the Contractor shall correct the Work immediately.
 - 2.1.3 *Inconsistencies.* All inconsistencies or timing or sequences which appear to be in error in the Construction Documents shall promptly be called to the attention of the Architect or, Engineer, for interpretation or correction. Local conditions which may

affect the structure shall be brought to the Architect's attention at once. In no case, shall the instruction of the Architect be construed to cause work to be done which is not in conformity with the approved plans, specifications, change orders, construction change documents, and as required by law. (See Title 24 Section 4-343)

- 2.1.4 *Verified Reports.* The Contractor shall make and submit to the office from time to time, verified reports as required in Title 24 Section 4-366. As part of the Close-Out of the Project (see Article 13.16), Contractor shall be required to execute a Form 6-C as required under Title 24 Sections 4-343.
- 2.1.5 *Reporting Requirements.* Contractor shall fully comply with any and all reporting requirements of Education Code Sections 17315, et seq., in the manner prescribed by Title 24, as applicable.
- 2.1.6 *Contractor Responsibility.* The Contractor shall be responsible to the District for acts and omissions of the Contractor's employees, Subcontractors, material and equipment suppliers, and their agents, employees, invitees, and other persons performing portions of the Work under direct or indirect contract with the Contractor or any of its Subcontractors.
- 2.1.7 *All Work is performed Under the Direction of Inspector.* Pursuant to Title 24 requirements, the Contractor shall not carry on Work except with the knowledge of the Inspector. (See Title 24 generally)
- 2.1.8 *Contractor to Establish Timing and Protocol with Inspector.* Contractor shall establish a protocol for requesting inspection with Inspector so as to not delay the Work and provide adequate time for the Inspector to perform inspection. If such a protocol is not established ahead of time, Inspector may utilize the time criteria set by Title 24 of 48 hours in advance of submitting form DSA 156 for each new area. DSA requirements under PR 13-01 specifically gives the Special Inspector fourteen (14) days to post to the DSA website. Contractor is responsible for delays and for failure to plan.
- 2.1.9 *Conformance with Approved Submittals.* This conformance includes performing all Work only in conformance with approved Submittals, Shop Drawings, and Samples or the Inspector may be required to issue a DSA Form 154 Notice of Deviation from approved DSA Contract Documents.
- 2.1.10 *Incremental Assemblies.* For some Projects, there may be a need to incrementally install certain assemblies. It is up to Contractor to identify areas and assemblies that may be constructed incrementally. Contractor must identify and establish incremental areas of construction and establish protocols with Inspector for DSA 152 approvals so they may be presented to DSA. See PR-13 item 2.1.10 for further discussion.
- 2.1.11 *Coordination with Outside Contractors.* If any of the Work for the Project is known to include Work performed by contractors retained directly by the District, Contractor shall be responsible for the coordination and sequencing of the Work of those other contractors so as to avoid any impact on the Project Schedule.

3. CONTRACT INFORMATION

- 3.1 District: Fountain Valley School District
101 S. East Street
Anaheim, CA 92805
(714) 517-7500

- 3.2 Notices: _____, Director of Facilities
e-mail _____
- 3.3 Contractor: _____ [Name] _____
_____ [Address] _____
_____ [City] _____
_____ [Telephone] _____
- 3.4 Notices: _____
_____ [e-mail] _____

The following are established through Contractor's review of the Program, Contract Documents and through Contractor's Due Diligence prior to entering into this Agreement:

- 3.5 Contract Time is _____ Days.
- 3.6 Liquidated Damages for overstaying Lease (Art. 18) is \$_____ per calendar day.
- 3.7 Guaranteed Maximum Price (Art. 5) is \$_____.
- 3.7.1 Construction Contingency (within GMP) is \$_____.
- 3.7.2 Errors and Omissions Contingency (within GMP) is \$_____.
- 3.8 The only exception to the GMP is Unforeseen Underground Conditions, and District Contingency for Owner requested extras as follows:
- 3.8.1 District's Contingency (Art. 8) is \$_____.
District Contingency is carried outside of the GMP.
- 3.8.2 Unforeseen Allowance is \$_____.
Unforeseen Allowance is carried outside of the GMP.
- 3.9 The Contractor's fee for this Project is _____ percent (___%) and is included in the GMP.

4. DEFINITIONS

- 4.1 Action of the Governing Board is a vote of a majority of the District's Governing Board.
- 4.2 Allowances are separate from the Unforeseen Allowance and mean budgets established for specific scopes of the Work which cannot be fully defined in the Construction Documents at the time that the GMP is established. Allowances may only be drawn upon pursuant to a Change Order issued pursuant to Article 17. In the event that an Allowance is included, the Contractor shall provide all services, work, labor and materials reasonably implicit in the description of the Allowance for the amount stated for the Allowance, all in accordance with the Construction Documents. Contractor acknowledges and agrees that it has had ample time and consideration to fully assess any Allowance(s) and to negotiate the description and amount of the Allowance(s), such that Contractor fully accepts and shall bear the entire risk and responsibility of providing all services, work, labor and materials required for the Allowance(s) under this Agreement. Expenditures from the GMP will either arise from Construction Contingency or Errors and Omissions Contingency and shall be submitted pursuant to Article 17 addressing Change Orders.

The amount of the Change Order shall reflect the difference between actual costs approved by the District and the allowance amounts established in the GMP.

- 4.3 As-Builts are a set of Construction Documents maintained by the Contractor clearly showing all changes, revisions, substitutions, field changes, final locations, and other significant features of the Project. The As-Builts shall be maintained continuously throughout the Work for the Project and is both a prerequisite to the issuance of Pay Application and a requirement for Contract Close-Out. See Article 13.14.
- 4.4 Architect means the architect, engineer, or other design professional engaged by the District to design and perform general observation of the work of construction and interpret the drawings and specifications for the Project.
- 4.5 Beneficial Occupancy is the point in time when a building or buildings are fit for occupancy is fit for occupancy and its intended use. Basic requirements are the building is safe, at or near Substantial Completion, and all life safety is operational. The fact that a building is occupied does not mean that the building is ready for Beneficial Occupancy if there are elements that are unsafe or if life safety items are not operational. Taking occupancy on a structure that is under a fire watch is not considered Beneficial Occupancy. Beneficial Occupancy is not to be used by the Contractor as a basis to request Retention Payment unless the entire Project is Substantially Complete in accordance with Article 4.45.
- 4.6 Claims. A Claim is a request for payment, supported by back-up documentation which includes, invoices, time sheets, or other documents substantiating legitimacy or entitlement that is submitted during the Project or immediately following the Project made prior to the Application for Retention Payment and prior to Final Completion of the Project. A "Claim" means a separate demand by the Contractor for (1) time extension, (2) payment of money or damages arising from Work done by or on behalf of the Contractor pursuant to the Contract and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to, or (3) and amount the payment of which is disputed by the District. See Article 20.
- 4.7 Close-Out means the process for Final Completion of the Project, but also includes the requirements for the DSA Certification that the Project is Complete (See DSA Certification Guide). See Article 13.16.
- 4.8 Commencement Date shall mean the Project commencement date found in the Notice to Proceed for the Project in accordance with Article 4.28 of this Construction Services Agreement.
- 4.9 Complete/ Final Completion means that all Work in the Contract Documents is finished, the requirements of the Contract Documents have been met, successful testing, startup and satisfactory operation of the Project as a total unit has been accomplished in substantial conformance with the Contract Documents, the Project is completed, all Work has ceased on the Project and the Project has been accepted by the District's Board. This may also be referred to as Final Completion. In most cases, the recording of a Notice of Completion shall represent Completion of the Project. Beneficial Occupancy or Substantial Completion does not mean the Work is Complete.
- 4.10 Completion Date is the date when all Work for the Project shall be Substantially Complete and is the date assigned at the end of the Contract Time for the Project.
- 4.11 Construction Change Document (CCD). A Construction Change Document is a DSA term that is utilized to address changes to the DSA approved Construction Documents. There are two types of Construction Change Documents. (1) DSA approved CCD Category A (DSA Form 140) for work affecting Structural, Access or Fire-Life Safety of the Project which will require a DSA approval; and, (2) CCD Category B (DSA Form 140) for work NOT affecting Structural Safety, Access Compliance or Fire and Life Safety that will not require a DSA approval (except to confirm that no approval is required). See Article 17.4.

- 4.12 Construction Services Agreement (CSA) means this Construction Services Agreement, together with any duly authorized and executed amendments hereto.
- 4.13 Construction or Construction Services means all labor and services necessary for the construction of the Project, and all materials, equipment, tools, supplies and incidentals incorporated or to be incorporated in such construction as fully described in the Contract Documents.
- 4.14 Construction Costs means any and all costs incurred by the Contractor with respect to the construction and equipping, as the case may be, of the improvements performed, whether paid or incurred prior to or after the date hereof, including, without limitation, costs for Site preparation, the removal or demolition of existing structures, the construction of the Project and related facilities and improvements, and all other work in connection therewith, security of the Site and Project, Contractors' overhead and supervision at the Project Site, all costs and expenses including any taxes or insurance premiums paid by the Contractor with respect to the Property, and administrative and other expenses necessary or incident to the Project, excluding Contractors' and Developers' home office overhead and profit. The term "Construction Costs" includes all Contractor's costs associated with preparing or generating additional copies of any Construction Documents, as defined below, related to or required for the Project, including preparation or generation of additional Plans and/or Specifications for Contractor's Subcontractors. In no event shall Construction Costs exceed the Guaranteed Maximum Price.
- 4.15 Construction Documents comprise the Plans and Specifications approved by DSA under Application Number _____, File Number _____, Allowances stipulated in the Contract Documents, and all Addenda, if any, issued prior to the entry into this Agreement. The Construction Documents shall include all Modifications generated after the Effective Date in accordance with the Contract Documents, including, without limitation, a written amendment to the Contract signed by the Contractor and duly executed and approved by the District, a Change Order, a Construction Change Document, or a written order for a minor change in the Work issued by the Architect.
- 4.16 Contract Documents means those documents which form the entire Contract by and between District and Contractor. The Contract Documents consist of the Site Lease, Sublease, General, Supplementary and other Conditions, this Construction Services Agreement, including all exhibits and attachments hereto, and the Construction Documents. The Contract Documents collectively form the Contract. The Contract represents the entire and integrated Agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a written Modification. The Contract Documents shall be binding solely upon the District and Contractor, do not create a contractual relationship of any kind between the Architect and Contractor, between the District and any Subcontractor or Sub-subcontractor, or between any persons or entities other than the District and the Contractor, and are not intended to and do not create any third party beneficiary. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.
- 4.17 Contract Time is the time period specified in the Contract Documents in which the Project shall be completed. This is sometimes referred to a Contract Duration, or "time in which the Contractor has to Complete the Project". See Article 9.
- 4.18 Day means a calendar day unless specifically designated as a business day.
- 4.19 Drawings or Plans are graphic and pictorial portions of the Contract Documents prepared for the Project and approved changes thereto, wherever located and whenever issued, showing the design, location, and scope of the Work, generally including plans, elevations, sections, details, schedules, and diagrams as drawn or approved by the Architect. Sometimes Drawings will also be included in Addenda, Change Orders, and Specifications.

- 4.20 Due Diligence is the review and analysis of as-built documents, title documents, any prior design documents for the Project or Site, geotechnical reports, surveys, site investigations and other documents and information provided by the District, and synthesizing of information utilized to determine the components of the GMP. Requirements for Due Diligence are further addressed at Article 5.
- 4.21 DSA is the Division of State Architect. DSA is the agency that provides design and construction oversight for K-12 Schools, Community Colleges, and State Funded Charter School Projects. DSA is the responsible agency for this Project and Contractor has submitted a bid for the Project since Contractor is familiar with Contractor's responsibilities under the DSA requirements more thoroughly set forth at Title 24 of the California Code of Regulations. Contractor agrees to abide by the jurisdiction of DSA and shall construct the Project to conform with the approved plans, specifications, Addenda, and Change Orders (inclusive of approved CCD's and ICD's issued by the District pending CCD approval). The DSA website is at <http://www.dgs.ca.gov/dsa>.
- 4.22 Effective Date is the latter of the date upon which the District Board approves the Site Lease and the Sublease and Contractor has executed the Site Lease and Sublease
- 4.23 Float the total number of days an activity may be extended or delayed without delaying the Completion Date shown in the schedule. Float will fall into three categories: (1) Rain Days; (2) Governmental Delays; and, (3) Project Float. See Article 9.2.
- 4.24 Immediate Change Directive (ICD) is a written order prepared by the Architect and signed by the District and the Architect, directing a change in the Work where the Work must proceed immediately and stating a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both. See Article 17.4.1.2
- 4.25 Inspector of Record (IOR) or Project Inspector (PI) is the individual retained by the District in accordance with Title 24 of the California Code of Regulations who will be assigned to the Project
- 4.26 Guaranteed Maximum Price or GMP means the Guaranteed Maximum Price established pursuant to Article 5 to be paid to Contractor for Contractor's construction of the Project hereunder, subject to any adjustments for Extra Work/Modifications as provided in Article 17.
- 4.27 Notice of Non-Compliance (DSA Form 154) is a document issued by the Inspector if there is a deviation from the DSA approved Plans, Specifications, and Change Orders. See Article 17.2.
- 4.28 Notice to Proceed. After execution of this Construction Services Agreement and the Site Lease(s) and Sublease(s) between the parties, the District shall issue a notice to the Contractor to proceed with the Project ("Notice to Proceed"), which Notice to Proceed shall include the date upon which commencement for the Project shall commence.
- 4.29 Plans are that portion of the Construction Documents consisting of the drawings and other pictorial or other graphic expression of requirements for the work of improvement to be completed by Contractor, including, without limitation, services, work, material, equipment, construction systems, instructions, quality assurance standards, workmanship, and performance of related services.
- 4.30 Project means the improvements to be constructed and installed by the Contractor, as more particularly described and/or referenced in Exhibit "A" attached hereto.
- 4.31 Provide shall include "provide complete in place," that is "furnish and install complete."
- 4.32 Punch List is a list of minor repair items, prepared after the issuance of a Certificate of Substantial Completion, by the Inspector and Architect of Work required in order to complete the Contract Documents and ensure compliance with the DSA Approved Plans so the Project may be Closed

Out. Issuance of the Retention Payment is dependent upon the proper completion of the Punch List. See Article 13.16 and Article 29.

- 4.33 Request for Information (RFI) is a written request prepared by the Contractor requesting the Architect to provide additional information necessary to clarify or amplify an item which the Contractor believes is not clearly shown or called for in the drawings or specifications, or to address problems which have arisen under field conditions.
- 4.34 Schedule is the Contractor's view of the practical way in which the Work will be accomplished. In this Agreement there is a requirement for a Baseline Schedule and regular Schedule Updates that show all Work to be completed during the Contract Time and shall include all items listed under Article 9.3.
- 4.35 Schedule of Values is a detailed breakdown of the Contract Price for each Project, building, Phase of Work or Site as determined by the District. This Schedule of Values shall adequately detail the price for the Work so that the status of the construction of any improvements can be meaningfully reviewed by the Inspector, Architect of Record, Engineer of Record, and District. (See Article 13.12)
- 4.36 Separate Contracts are Contracts that the District may have with other Contractors, vendors, suppliers, or entities to perform Work on the Project. This may include, but is not limited to Multi-Prime Trade Contractors, furniture installers, testing agencies, clean-up contractors, or network or low voltage contractors. Contractor shall plan for certain other contractors that may also be working on the Project site and address these other contractors in Contractor's Schedule. See Article 32.
- 4.37 Site refers to the grounds of the Project or in some cases may refer to multiple sites as defined in the Contract Documents and such adjacent lands as may be directly affected by the performance of the Work.
- 4.38 Site Lease and/or Lease means the Site Lease(s) of even date herewith, by and between the District and the Contractor together with any duly authorized and executed amendment thereto under which the District leases the Site to the Contractor.
- 4.39 Specifications are that portion of the Construction Documents consisting of the written requirements for the work of improvement to be completed by Contractor, including, without limitation, services, work, material, equipment, construction systems, instructions, quality assurance standards, workmanship, and performance of related services.
- 4.40 Standards, Rules, and Regulations referred to are recognized printed standards and shall be considered as one and a part of these specifications within limits specified. Federal, state and local regulations are incorporated into the Contract Documents by reference.
- 4.41 Stop Work Order, or an Order to Comply is issued when either (1) the Work proceeds without DSA approval; (2) the Work proceeds without a DSA Project Inspector, or (3) where DSA determines that the Work is not being performed in accordance with applicable rules and regulations, and would compromise the structural integrity of the Project or would endanger lives. If a Stop Work Order is issued, the Work in the affected area shall cease until DSA withdraws the Stop Work Order. Pursuant to Education Code Section 17307.5(b) and Education Code Section 81133.5, the District shall not be held liable in any action filed against the District for any delays caused by compliance with the Stop Work Order.
- 4.42 Subcontractor means any person or entity, including trade contractors, who have a contract with Contractor to perform any work or supply materials for the Project.

- 4.43 Sublease(s) means the Sublease(s) of even date herewith by and between the District and Contractor together with any duly authorized and executed amendment hereto under which the District subleases the Site from the Contractor.
- 4.44 Sublease Payment means any payment required to be made by the District pursuant to Section 7 of the Sublease.
- 4.45 Substantial Completion is not reached unless and until each of the following four (4) conditions have been met: (1) all contractually required items have been installed with the exception of only minor and Incomplete Punch Items (See Article 13.16); (2) All Fire/Life Safety Systems have been installed, and are working and signed off on the DSA Form 152 Inspection Card, all building systems including mechanical, electrical and plumbing are all functioning; (3) all other items on the DSA Form 152 Inspection Card for the Project have been approved and signed off; and (4) the Project is fit for occupancy and its intended use, as certified by the Architect pursuant to the Certificate of Substantial Completion set forth in the Division 1 Forms attached hereto.
- 4.46 Substitution is a change in product, material, equipment, or method of construction from those required by the Construction Documents proposed by the Contractor. Specific requirements for substitutions are set forth at Article 16.
- 4.47 Unforeseen Allowance means the budget established for hazardous substances and underground conditions that differ from representations in the Contract Documents or Due Diligence Documents and meet the requirements under Article 13.15.5 and 18.4. The Unforeseen Allowance may also include other costs as allocated in the District's sole and absolute discretion related to the Project. The District, in its sole and absolute discretion, may use the District Contingency to fund any costs allowed under the Unforeseen Allowance. Any funds remaining in the Unforeseen Allowance at the completion of the Project shall remain unspent and allocated to the District as the District sees fit to use.
- 4.48 Work shall include all labor, materials, services and equipment necessary for the Contractor to fulfill all of its obligations pursuant to the Contract Documents. It shall include extension of Contractor's obligations to Subcontractor to perform Subcontractor Due Diligence including, but not limited to, visiting the Site of the proposed Work (a continuing obligation after the commencement of the Work), fully acquainting and familiarizing itself with the conditions as they exist and the character of the operations to be carried out under the Contract Documents, and make such investigation as it may see fit so that it shall fully understand the facilities, physical conditions, and restrictions attending the Work under the Contract Documents. Each such Contractor or Subcontractor shall also thoroughly examine and become familiar with the Drawings, Specifications, and associated Contract Documents.
- 4.49 Workers include laborers, workers, and mechanics.

5. ESTABLISHMENT OF GUARANTEED MAXIMUM PRICE "GMP"

- 5.1 Guaranteed Maximum Price (GMP) is the amount agreed upon between the District and Contractor that shall not be exceeded for the Construction of the Project within the Contract Time based on Contractor's thorough review of the Contract Documents, Due Diligence in investigation of all aspects of the Project. The GMP includes the costs for the Sublease Payments being paid by the District as Progress Payments and Retention Payment during construction in accordance with the terms of this Construction Services Agreement. Any references to Progress Payments shall also mean Sublease Payments. A Construction Contingency (Article 5.2.1) and an Errors and Omissions Contingency (Article 5.2.2) is contained within the GMP. Costs that are outside of the GMP shall be as follows:
- 5.1.1 Owner requested additional work (See Article 8) to be paid under the District Contingency.

5.1.2 Unforeseen underground soil conditions or unforeseen hazardous materials that meet the requirements of Article 13.15.5 and 18.4 to be paid under the Unforeseen Allowance.

5.2 GMP. As a result of the Due Diligence of Contractor, the GMP for the Project is set forth under Article 3. The GMP is based upon all Due Diligence performed, the approved Construction Documents, and all other Contract Documents existing and reviewed by the Contractor at the time this Construction Services Agreement is entered into as more fully described and referenced in the Scope of Work set forth in Exhibit "A." Contractor's detailed line item costing of the Project, or Master Budget, totaling the GMP is attached hereto as Exhibit "B." Furthermore, the District and Contractor represent and warrant that the GMP is separate and distinct from the Sublease Payments to be paid by the District under the Sublease. District represents and warrants and Contractor acknowledges that: 1) the total amount of Sublease Payments and any optional Prepayment under the Sublease include the total rental for the Project, which total does not exceed the fair market value for the Project, 2) said rental amount is separate and distinct from Progress Payments and Retention, and 3) said rental amount shall be paid by the District with District non-local match contribution local funds.

The GMP is an "all inclusive" price for the construction of the Project that is calculated after Due Diligence and shall not be exceeded except as set forth in this Agreement. Contractor has taken on all contingencies and calculated those contingencies out in the form of the Construction Contingency. Contractor specifically agrees that once the Construction Contingency is fully exhausted, that Contractor can and shall Complete the Project pursuant to the terms of this Agreement within the Contract Time. No disputes concerning compensation, extras, or application of Contingencies shall be utilized as grounds to slow down or to stop work. The following two contingencies have been calculated through the Due Diligence of the Contractor and shall be calculated against the contingency amounts based on application of the Change Order language of Article 17.

5.2.1 *Construction Contingency.* The Construction Contingency set forth at Article 3.8.1 is for the use of the Contractor, as approved by the District, to pay for miscellaneous work items which are required to complete the Project including to cover trade scope gaps, missed work, areas of damage that may occur between trades during construction, Subcontractor coordination problems, and Contractor coordination errors. The Contractor shall not use the Construction Contingency to pay for costs related to the following: (a) errors or omissions in the Construction Documents; (b) discrepancies with the Construction Documents pertaining to applicable building code requirements; and/or (c) enhancements or additions to the Scope of Work desired by the District. The Contractor shall obtain written approval from the District prior to using the Construction Contingency. The following may be considered, at the District's sole discretion, valid Construction Contingency items: 1) overtime and premium time, 2) costs to address safety items, 3) Contractor coordination issues and errors, 4) scope gaps, 5) trade damage, and 6) for other items requested by the Contractor if approved by the District and in the District's sole discretion. If on Final Completion of the Project, funds are remaining in the Construction Contingency, such funds shall remain unspent and allocated to the District as the District sees fit to use.

5.2.2 *Errors and Omissions Contingency.* Within the GMP shall be a line item amount to cover errors and omissions in the Construction Documents ("Errors and Omissions Contingency"). The Errors and Omissions Contingency at Article 3.7.2 is calculated based on coordination review of the Construction Documents and coordination meetings that have been held with the Subcontractors and Architect. Specifically, it is the coordination items that could not be addressed through coordination meetings and a factor determined based on the coordination review that has been performed by Contractor. The Errors and Omissions Contingency is created from Contractor's Due Diligence and based on Contractor's experience on similar projects. As a result,

Contractor agrees that Contractor shall not seek to charge District for Errors and Omissions in excess of the Errors and Omissions Contingency. In other words, the Errors and Omissions Contingency is the maximum sum available to compensate the Contractor for Errors and Omissions on the part of the Architect and Architect's Consultants and is the maximum amount that can be charged. Contractor shall bear all costs for Errors and Omissions that exceed the Errors and Omissions Contingency.

Contractor shall notify the District under the Change Order Provisions of the need for such work and specifically identify the Work as Errors and Omissions by submitting to the District for its consideration and approval or disapproval, a written request for the work before such work is performed. If District approves such request in writing, the costs of the work, shall be added to or deducted from the Errors and Omissions Contingency within the GMP. Any funds remaining in the Errors and Omissions Contingency at the completion of the Project shall remain unspent and allocated to the District as the District sees fit to use, except for any portions of Savings added to the Errors and Omissions Contingency, which Savings shall be allocated between the parties as provided in Article 7 below.

5.3 Due Diligence **[REVIEW AND REVISE TO REFLECT ACTUAL DUE DILIGENCE PERFORMED BY THE CONTRACTOR]**

5.3.1 *Documents Reviewed.* Contractor has visited the site, entered and evaluated the structures on the site, reviewed all as-built information, environmental reports, Asbestos Hazard Emergency Response Act of 1986 reports applicable to the Project, lead reports, reports on any other hazardous substances, reviewed environmental impact reports, reviewed applicable mitigation measures for the Project, reviewed and observed the current site conditions, reviewed available records from City and/or County Records on the Project. All documents provided or reviewed by the Contractor shall be referred to collectively as the Due Diligence Documents.

5.3.2 *Review of Existing Conditions.* Contractor must have performed basic confirmation of the As-Built information that exists as part of the Due Diligence process. This basic confirmation shall include:

5.3.3 Confirmation of overall dimensions of major column lines, location of elements where coordination of new construction to existing construction is to occur, confirmation that the rooms noted are located on the drawings, review and confirmation that rooms have not been reconfigured.

5.3.3.1 Confirmation of location for utilities and supporting infrastructure. Contractor shall review the utilities and confirm that the infrastructure from the As-Built and Contract Documents are consistent with the actual As-Built Conditions of the Project site.

5.3.3.2 Confirmation that fire/life safety elements are consistent with expectations of the Contract Documents. Specifically, confirmation of the integrity of one-hour corridors, fire separations, working fire sprinklers, working fire alarms, communications systems, EMS systems, and other systems that are to remain in use and relied upon as part of the anticipated Project.

5.3.3.3 Review of the Environmental Documents (Asbestos, Lead, PCB's, etc.) and general confirmation that the scope of hazardous substances is consistent with that which is shown on the environmental reports that are provided.

- 5.3.3.4 Confirmation of Working hours and specific conditions which will affect the ability to work. Contractor shall check requirements for the local city and county and confirm working hours and days, testing schedules at the District for days when work shall not occur, other critical days when work cannot occur, mitigation measures in the EIR or Negative Declaration that may affect the ability to Work on the Project. This review shall help Contractor build a working schedule for the Project.
- 5.3.4 *Review of Construction Documents.* Contractor has performed a complete and diligent review of all plans, specifications, addenda, bulletins or other documents provided as the Construction Documents or otherwise mentioned in the Construction Documents. The Contractor has written and submitted RFIs to address potential design issues prior to the GMP development to obtain a comprehensive GMP that addresses design and constructability issues.
- 5.3.5 *Inconsistencies.* All inconsistencies, timing or sequences which appear to be in error in the Construction Documents shall promptly be called to the attention of the Architect or, Engineer, for interpretation or correction. Local conditions which may affect the structure shall be brought to the Architect's attention at once. In no case, shall the instruction of the Architect be construed to cause work to be done which is not in conformity with the approved plans, specifications, change orders, construction change documents, and as required by law. (See Title 24 Section 4-343)
- 5.3.6 *Coordination Review.* Contractor shall perform a constructability review of the Construction Documents as part of its Due Diligence to determine the level of Errors and Omissions that should be included in the Errors and Omissions Contingency.
- 5.3.7 *Price Fluctuations.* As part of Contractor's Due Diligence responsibilities, Contractor is required schedule and plan to order, obtain, and store materials and equipment sufficiently in advance of its Work at no additional cost to assure that there will be no delays. Contractor understands that this may be a multi-year contract and that materials fluctuate in value and shall have adequately addressed market fluctuations through agreements with Contractor vendors or by other means. Contractor further understands and incorporates into Contractor's bid or proposal cost any wage rate increases during the Project for the Contractor's labor force as well as all other subcontractor and vendor labor forces. Contractor also understands the length of the Project schedule and has incorporated an appropriate budget to include labor, material, and equipment escalation costs into the GMP. At no time will the District accept any costs associated with these increases. District shall not be responsible for market fluctuations in costs or labor rate increases during the Project. Contractor further has incorporated any and all cost increases in areas of Work where there may be schedule variations so that cost increases are not passed through to the District.
- 5.3.8 *Coordination Review.* Contractor has thoroughly reviewed the plans, specifications, and other Due Diligence Documents and satisfied itself that the Construction Contingency is adequate to complete the Project for the GMP.
- 5.3.9 *Due Diligence Determinations.* Contractor has utilized all the available Due Diligence information to verify that the contingencies are adequate and that the Project can be constructed without exceeding the GMP:
- 5.3.9.1 Construction Contingency. Based on review of the scope of work submitted from each Subcontractor, Contractor's Due Diligence and review shall be utilized to determine the size of the Construction Contingency to cover unforeseen conditions (other than noted in Article

5.1), cover trade scope gaps, missed work, areas of damage that may occur between trades during construction, Subcontractor coordination problems, Contractor coordination errors, and miscellaneous work items.

5.3.9.2 Errors and Omission Contingency. Based on a thorough review of the available Construction Documents and information located pursuant to the Due Diligence performed, a set-aside has been made for an Errors and Omissions Contingency that may be utilized to compensate for construction work to correct Errors and Omissions in the Construction Documents.

5.3.9.3 District Contingency (sometimes called Owner Contingency). District Contingency is a sum that is set aside by the District to address any additional services. In the District's sole discretion, design errors or omissions as determined by the District (to the extent the Errors and Omissions Contingency is exhausted) and unforeseen conditions as approved by the District, may be allocated to the District Contingency. Specifics on application of the Owner Contingency are set forth at Article 8.

5.3.9.4 Unforeseen Allowance. Unforeseen Allowance is a sum set aside for unforeseen conditions that differ from representations in the Contract Documents or Due Diligence Documents or meet the requirements under Article 13.15.5 and 18.4. The Unforeseen Allowance may also include other costs as allocated in the District's sole and absolute discretion related to the Project.

5.3.10 *Schedule.* Contractor's Due Diligence will also be critical to the Contractor's determination of the number of days required to complete the Project. Contractor will determine if the suggested number of days from the District and Architect can be performed and shall also consider whether the Project requires Governmental or Rain day float that exceeds that set forth in Article 9. If Contractor does not note any concerns with the suggested Contract Time, then it is presumed that Contractor is in agreement with the proposed completion date the Contractor, by entering into this Agreement, has determined for itself that the Project Contract Time is realistic, reasonable and includes all required Float under Article 9.

6. OPEN BOOK ACCOUNTING AND SELECTION OF SUBCONTRACTORS

6.1 Open Book Accounting. The Contractor's GMP shall be based on actual procured quotes and bids from Subcontractors, vendors, and suppliers or based on estimated costs. In addition, Contractor shall include an estimated overhead and profit line item along with the cost for Contractor supplied labor. This total construction cost, or Base Cost, shall be added to Subcontractor, vendor and supplier contingencies and the Construction Contingency (which includes an Errors and Omissions Contingency) to form the entire GMP. As costs are incurred during the course of the Project, the Job Cost Accounting shall be updated to include actual costs incurred. A report on costs shall be prepared as part of the GMP process and shall be provided on a regular basis to the District.

6.1.1 *Purpose.* While competitive bidding is often viewed as the lowest price, utilizing the lowest bid neither results in the best contractor, efficient construction, or a properly completed product. In some cases, the Project becomes significantly more expensive because competitive bid contractors either don't understand the drawings, aren't qualified to build the Project, or are seeking to utilize the legal process to make money by bringing claims against the District. The lease leaseback methodology provides the

ability to negotiate for the most qualified competent contractor and allow coordination and interaction between the Contractor, Architect and District to alleviate unnecessary problems or areas that would result in claims. However, in exchange for this flexibility and reduction in claims, it is in the District's best interests, as a public entity, to ensure that the Project accounting information is available for review and the financial aspects of the Project can be fully reviewed. Thus, Contractor agrees that all job cost information shall be kept in an "open book" manner, shall show the actual transactions that occurred for the Project and shall be disclosable to the State if State funds are being utilized.

6.1.2 *State Allocation Board Issues.* The Office of Public School Construction, the administering agency for the State Allocation Board, audits the costs for construction under the general authority of Education Code Section 17076.10 and under the specific authority of Regulation Section 1859.100 et seq. governing program accountability audit, material inaccuracy, and expenditure audits. Given the fact the State has approved the lease-leaseback delivery method, and the likelihood that the records of the Project will be audited if there are State Funds involved, a permanent record of all the financial transactions for the construction of the Project shall be available through an Open Book Accounting of the Project expenditures of both hard and soft costs including, but not limited to labor, material and services costs, including the subcontract and material costs that were utilized to build the Project.

6.1.3 *Value Engineering During the Project.* In addition to Value Engineering addressed at Article 7 below, Contractor may have occasion where better pricing can be obtained from Subcontractors or suppliers. This better pricing shall be treated as part of Savings under Article 7.

6.2 Scope Reduction Not Savings. The District at all times shall have the right to reduce the scope of the Project. If the District reduces the scope of the Project, the GMP shall be reduced to reflect the reduced Scope of Work, pursuant to the provisions of Article 17. To the extent possible, it is the mutual goal of the District and Contractor to maximize the Scope of Work as allowed by the GMP. Reductions in scope are not considered Savings.

6.3 Selection of Subcontractors.

6.3.1 If identified or requested in the District's Request for Proposal/ Qualifications ("RFP/RFQ"), the Contractor must use any Subcontractors identified and included in the Contractor's response to the District's RFP/RFQ pursuant to Education Code section 17406(a)(4). All Subcontractors identified and included in the Contractor's response to the District's RFP/RFQ shall be afforded the protections of the Subletting and Subcontracting Fair Practices Act (Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code).

6.3.2 Following the award of the Contract to the Contractor by the District's Board of Education, and for all Subcontractors not identified in the Contractor's response to the District's RFP/RFQ, the Contractor shall proceed as follows in awarding construction Subcontracts with a value exceeding one-half of one percent of the price allocable to construction work:

6.3.2.1 Provide public notice of availability of work to be subcontracted in accordance with the publication requirements applicable to the competitive bidding process of the District, including a fixed date and time on which qualifications statements, bids, or proposals will be due.

6.3.2.2 Establish reasonable qualification criteria and standards.

- 6.3.2.3 Award the subcontract either on a best value basis or to the lowest responsible bidder. The process may include prequalification or short-listing. The process shall not apply to Subcontractors identified and included in the Contractor's response to the District's RFP/RFQ. Subcontractors awarded construction subcontracts under this Article 6.3.2 shall be afforded all the protections of the Subletting and Subcontracting Fair Practices Act (Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code).
- 6.3.2.4 All MEP Subcontractors must be prequalified as set forth in Article 1.12 above.
- 6.3.3 In no case will the Contractor award any subcontracts until the District has concurred to the scope and price of the subcontracted services.
- 6.3.4 All subcontractors (of any tier) performing any portion of the Work must comply with the Labor Code sections 1725.5 and 1771.1 and must be properly and currently registered with the California Department of Industrial Relations and qualified to perform public works pursuant to Labor Code section 1725.5 throughout the duration of the Project.
- 6.3.5 Contractor shall provide the District with full documentation regarding the bids or competitive quotes received by Contractor. In no event shall such documentation be redacted or obliterated. In the event the Contractor does not comply with this provision, the District may terminate this Construction Services Agreement in accordance with the provisions of Article 19 below.
- 6.3.6 Compliance with Disabled Veteran Business Enterprise (DVBE) contracting goals is required under this Construction Services Agreement. In accordance with Education Code section 17076.11 the District has a DVBE participation goal of 3% per year of the overall dollar amount of state funds allocated to the District pursuant to the Leroy F. Greene School Facilities Act of 1998, and expended each year by the District. The District is seeking DVBE participation under this Construction Services Agreement. The Contractor must require Subcontractors to make a good faith effort to contact and utilize DVBE contractors and suppliers in securing bids for performance of the Project. Their efforts shall be documented on the DVBE Good Faith Effort Form attached as Exhibit "C".

7. SAVINGS AND VALUE ENGINEERING

- 7.1 General Intent. The purpose of Savings is to minimize the expenditure of funds for the construction of the Project on items that exceed the minimum criteria required without a corresponding benefit to the District. The District also wishes to eliminate any excess quality levels or performance criteria provided in the Construction Documents so long as such elimination does not alter the design, aesthetics, safety standards or configuration or space, and does not increase future maintenance and operation costs. The District and the Contractor shall work cooperatively with each other, in good faith, to identify appropriate opportunities to reduce the Project costs and promote Savings. There are two stages when Savings may be generated. They are (1) Value Engineering when establishing the GMP and (2) Savings generated through changes, reductions, or Subcontractor negotiations that may occur after the GMP is established.
 - 7.1.1 *Value Engineering* is a review of systems so excess quality, unnecessary design elements, reconfiguration for efficiency, or other changes may be made to reduce the cost of a project. Sometimes, timing and sequences or re-use of materials that are unique to a project or area may generate savings. For example, if export soil is generated on a site which may have a substantial cost for transportation and removal

could be sold to offset the costs incurred then a savings may be generated for the Project. Similarly, if concrete is ground, it may be sold for aggregate rather than as demolished construction materials.

7.1.2 *Other Savings* generated over the course of the Project through Subcontractor negotiations, replacement of Subcontractors, or through other means shall be calculated as part of the overall costs for the Project as part of the “Open Accounting” of the Project and shall be counted towards Project Savings.

7.2 Sharing and Calculation for Return of Savings. If Contractor realizes a Savings on an aspect of the Project, including but not limited to, Value Engineering or other Savings after the GMP is established and after execution of this Construction Services Agreement, such Savings shall be divided in the following proportion: Seventy Five Percent (75%) of any Savings shall be returned to the District and Twenty Five Percent (25%) of any Savings shall be returned to the Contractor. Calculation of Savings shall be determined by adding all expenses for the Project (excluding Change Orders and Owner and Construction Contingency Expenses), separating out overhead costs and either using the actual overhead costs, or the percentage set for overhead in the Article 5.3, whichever is higher an applying the percentage for profit against the GMP (less Change orders, Owner and Construction Contingency). Any remaining money shall be considered Savings. If the Project expenses exceed the GMP, then there are no Savings for the Project and the GMP shall apply. A separate calculation of whether there are savings associated with Change Orders under the Owner and Construction Contingency may be performed to determine if there are any savings that remain on these areas and applied to the overall savings calculation

7.3 Savings Determined Through Audit. District may, at its own costs, have an audit conducted of the Project related job costs to determine Savings as further outlined in Article 21.

8. DISTRICT CONTINGENCY

8.1 The District Contingency is an allowance for use by the District that can be used to pay the Contractor to perform additional services (“Additional Services”) not described in this Construction Services Agreement. This District Contingency is outside of the GMP, is not part of the original bond, except to the extent that District contingency is utilized as a Change to the Contract under Article 17, and may be used for Owner requested additions, revisions to the Project, moving furniture or equipment, and other District unforeseen items. Contractor shall provide a cost estimate and a written description of the Additional Services required to perform such work. The District shall set aside a contingency amount outside the GMP, defined at Article 5 (“District Contingency”) in the amount set forth at Article 3, which District Contingency shall be used for such Additional Services. Compensation for such Additional Services shall be negotiated and agreed upon in writing, in advance of Contractor’s performing or contracting for such Additional Services. Nothing in this Construction Services Agreement shall be construed as limiting the valuation and amount to be paid to Contractor for such Additional Services or its implementation should a written agreement for such services be executed. Contractor shall not be entitled to compensation for Additional Services required as a result of Contractor’s acts, errors or omissions. Further any Architectural Errors and Omissions shall not come out of District Contingency unless agreed upon in writing by the District in its sole discretion.

8.2 Additionally, while District is in no way limited by the manner in which it decides to utilize the District Contingency, said District Contingency shall not be used for any costs associated with errors or omissions in the Construction Documents until such time, if ever, the Errors and Omissions Contingency has been fully exhausted. Any funds remaining in the District Contingency at the completion of the Project shall remain unspent and remain allocated to the District.

9. SCHEDULE

- 9.1 Contract Time: Contractor shall perform and reach Substantial Completion (See Article 4.45) within the time specified in the Agreement. Moreover, Contractor shall proceed on a properly developed and approved CPM Master Baseline Schedule, which represents the Contractor's view of the practical way in which the Work will be accomplished. Note that Contract Time includes and incorporates all Float and other Baseline inclusions as noted in Article 9.3 and as otherwise specifically noted in Article 9
- 9.2 Float is the total number of days an activity may be extended or delayed without delaying the Completion Date shown in the schedule. Float will fall into three categories: (1) Rain Days; (2) Governmental Delays; and (3) Project Float. Project Float and Rain Days are owned by the Project and may be utilized as necessary for critical path delays once the days become available for consumption (i.e. the rain day arrives and is not utilized since rain did not occur or Work was performed on the interior of a building). However, Governmental Delay float shall not be utilized for purposes other than to address critical path delays that arise due to approvals, Inspector approvals or verifications on governmental forms.
- 9.2.1 *Governmental Delay Float.* Given DSA requirements for submission and approval of CCD's prior to a DSA Form 152 sign off on areas of Work that deviate from approved Construction Documents, and the anticipated delays that may arise from this CCD procedure, no less than **twelve (12) days** per calendar year shall be set aside as Governmental Float to be utilized on critical path delays. A pro-rated number of days shall be calculated based on length of Contract Time. (For example, a two (2) year Contract Time shall require **twenty-four (24) days** of Governmental Float. If the Contract Time is 182 days, then the Contract Time shall require **six (6) days** of Governmental Float) This Governmental Delay float must be incorporated into the schedule and should be incorporated in each critical activity as Contractor deems fit. Specifically, major categories of Work under the DSA 152 (Project Inspection Card) should be allocated Governmental Delay Float at the Contractor's discretion. Governmental Delay Float on the Project may exceed **12 days** per one (1) year period, but Contractor is required to include not be less than **12 days** of Governmental Delay Float during each one (1) year period. **[ADJUST NUMBER OF DAYS AS NEEDED]**
- 9.2.2 *Inclement Weather (Rain Days).* The Contractor will only be allowed a time extension for unusually severe weather if it results in precipitation or other conditions which in the amount, frequency, or duration is in excess of the norm at the location and time of year in question as established by the National Oceanic and Atmospheric Administration (NOAA) weather data. No less than 22 calendar days for each Calendar year for Southern California. The NOAA weather related days (22 days in Southern California) shall be set aside as float within the Baseline Schedule. Additional days beyond the NOAA shall be considered under the same criteria that weather days are granted below.
- 9.2.3 *Granting of Days beyond those Anticipated.* A Rain Day shall be granted by Architect or CM if the weather prevents the Contractor from beginning Work at the usual daily starting time, or prevents the Contractor from proceeding with seventy-five (75%) of the normal labor and equipment force towards completion of the day's current controlling item on the accepted schedule for a period of at least five hours, and the crew is dismissed as a result thereof, the Architect will designate such time as unavoidable delay and grant one (1) critical path activity calendar-day extension if there is no available float for the calendar year.
- 9.2.4 *Project Float* is all remaining float, including extra days included in a particular activity.

- 9.3 Inclusions in Baseline. In addition to Scheduling requirements set forth at Article 9, Contractor is specifically directed to include in Contractor's Baseline Schedule and all Schedule updates that provide for the following items required pursuant to this CSA, including but not limited to:
- 9.3.1 *Rain Day Float (excluding inclement weather) as required under Article 9.2.2.* For example, if the NOAA provides 22 days of rain days, all 22 days must be incorporated and noted in the schedule. Further, any days required to clean-up or dry out shall be included for operations that are likely to require a clean-up or dry out period. Days that are not utilized shall be considered float owned by the Project.
 - 9.3.2 *Governmental Delay Float under Article 9.2.1.* This Governmental Delay Float shall only be utilized for Governmental Delays and shall not be considered available float owned by the Project. This float shall be distributed to the Project as granted and approved by the District, and shall be used to offset liquidated damages for overstaying the Lease, and shall not generate compensable delays.
 - 9.3.3 Submittal and Shop drawing schedule under Article 9.6 and 15.6.
 - 9.3.4 Deferred Approvals under Article 15.3 and 15.6
 - 9.3.5 Time for separate contractors, including furniture installation and start up activities, under Article 32.
 - 9.3.6 Coordination and timing of any drawings, approvals, notifications, permitting, connection, and testing for all utilities for the Project. Article 13.15.2 .
 - 9.3.7 Testing, special events, or District activities.
- 9.4 Schedule Updates. Contractor shall update the schedule each month to address actual start dates and durations, the percent complete on activities, actual completion dates, estimated remaining duration for the Work in progress, estimated start dates for Work scheduled to start at future times and changes in duration of Work items
- 9.4.1 *Listing of Items Causing Delays.* Schedule Updates shall provide a listing of activities which are causing delay in the progress of Work and a narrative shall be provided showing a description of problem areas, anticipated delays, and impacts on the Construction Schedule. Simply stating "District Delay" or "Architect Delay" shall be an inadequate listing.
 - 9.4.2 *Recovery Schedule.* In addition to providing a schedule update every thirty (30) days, the Contractor, shall take the steps necessary to improve Contractor's progress and demonstrate to the District and Architect that the Contractor has seriously considered how the lost time, the Completion Date, or the milestones that are required to be met within the terms of the Contract. Contractor shall provide a Recovery Schedule showing how Milestones and the Completion Date will be met.
 - 9.4.2.1 Failure to Provide a Recovery Schedule. Shall subject Contractor to the assessment of Liquidated Damages for failure to meet the Contract Time.
- 9.5 Time of the Essence. Time limits stated in the Contract Documents are of the essence to the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work
- 9.6 Time for Preparing Submittals Must Be Incorporated in Schedule: Contractor shall include Submittals as line items in the Baseline Schedule. Time for preparing and coordinating Submittals

shall not delay the Work, Milestones, or the Completion Date, and shall be in conformance with Article 15.6.

10. INSPECTION OF WORK/ INSPECTOR AND ARCHITECT

10.1 Inspection of Work/Inspector. The District shall hire its own Division of State Architect Inspector as required by law. District, District's Representatives, and the Division of the State Architect shall at all times have access to the work whether it is in preparation or progress, and Contractor shall provide proper facilities for such access and for inspection.

10.1.1 *General.* One or more Project Inspectors employed by the District and approved by the Division of the State Architect will be assigned to the Work in accordance with the requirements of Title 24 of the California Code of Regulations. The Inspector(s) duties are as specifically defined in Title 24 Section 4-333 and 4-342 and in DSA IR A-8.

10.1.2 *Inspector's Duties and DSA Noted Timelines for Inspection.* All Work shall be under the observation of the Inspector. Contractor shall establish a protocol for requesting inspection with Inspector so as to not delay the Work and provide adequate time for the Inspector to perform inspection. If such a protocol is not established ahead of time, Inspector may utilize the time criteria set by Title 24 of 48 hours in advance of submitting form DSA 156 for each new area. The Inspector shall have free access to any or all parts of the Work at any time. The Contractor shall furnish the Inspector such information as may be necessary to keep the Inspector fully informed regarding progress and manner of Work and character of materials. Such observations shall not, in any way, relieve the Contractor from responsibility for full compliance with all terms and conditions of the Contract, or be construed to lessen to any degree the Contractor's responsibility for providing efficient and capable superintendence. The Inspector is not authorized to make changes in the drawings or specifications nor shall the Inspector's approval of the Work and methods relieve the Contractor of responsibility for the correction of subsequently discovered defects, or from its obligation to comply with the Contract Documents.

10.1.3 *Electronic Posting.* Inspector shall electronically post DSA required documents on the DSA electronic posting website. It is the Contractor's responsibility to determine the status of posting and determine if all the criteria for sign off of a category of Work on the Project Inspection Card (Form DSA 152) as defined more thoroughly in the most current version of the DSA 152 manual posted on the DSA website.

10.1.4 *Incremental Approvals under PR-13.* Inspector may collaborate with Contractor about approval of areas that may be constructed and approved incrementally under the DSA 152 card pursuant to the guidelines of PR-13. Inspector shall work with Contractor to present incremental approval proposals to DSA.

10.1.5 *Inspector's Authority to Reject or Stop Work.* The Inspector shall have the authority to reject Work whenever provisions of the Contract Documents are not being complied with, and Contractor shall instruct its Subcontractors and employees accordingly. In addition, the Inspector may stop any Work that poses a probable risk of harm to persons or property. The Contractor shall instruct its employees, Subcontractors, material and equipment suppliers, etc., accordingly. The absence of any Stop Work Order or rejection of any portion of the Work shall not relieve the Contractor from any of its obligations pursuant to the Contract Documents.

10.1.6 *Inspector's Facilities.* Within seven (7) days after notice to proceed, the Contractor shall provide the Inspector with the temporary facilities as required. More specific

requirements for the Inspector facilities may be further described under Division 1 of the Specifications.

- 10.1.7 *Testing Times.* The District will provide inspection and testing at its cost during the normal eight (8) hour day Monday through Friday (except holidays). Work by the Contractor outside of the normal eight (8) hour day shall constitute an authorization from the Contractor to the District to provide inspection and testing as required outside of the normal eight (8) hour day. Contractor shall provide adequate time for inspections so as to not delay the Work. An advanced timing protocol may be established pursuant to Article 10. If the Contractor is behind Schedule then it is incumbent on the Contractor to provide advance forecast through look ahead of the anticipated date for inspection so the Inspector may plan their activities so as to not delay the Project. Contractor shall reimburse District for any additional costs associated with inspection and testing (including re-inspection and re-testing) outside the normal eight-hour day and for any retests caused by the Contractor pursuant to Article 10.4.
- 10.1.8 *Contractor Is Required to Coordinate Testing and Inspections.* It is the Contractor's responsibility to request special inspections with sufficient time so all testing may be timely completed and posted so work may proceed and the Inspector's signature is attached to the Project Inspection Card (Form 152). Specifically, timely request for special inspection under the DSA Verified Report Forms 291 (laboratory), DSA Verified Report Form 292 (Special Inspection), and DSA Verified Report 293 (geotechnical) since DSA requirements under PR 13-01 specifically gives the Special Inspections 14 days to post to the DSA website. It is the Contractor's responsibility to timely schedule and pay (if applicable) for Special Inspections as to not delay the Project, and any failure or resulting delay is not considered Governmental Delay Float under Article 9.2.1.
- 10.1.9 *Special Inspection Out of State, Out of Country or Remote from Project.* If Contractor has a Subcontractor or supplier that requires in plant or special inspections or tests that are out of the country, out of state or a distance of more than 200 miles from the Project site, the District shall provide the Special Inspector or individual performing tests time for inspection and testing during normal work hours. Contractor, however, is responsible for the cost of travel, housing, food, out of area premiums that may be in the Inspector/Testing Agreement with District, or other expenses necessary to ensure proper inspection or testing is provided by a DSA Certified Inspector, Special Inspector, or individual performing tests. In some cases all three (DSA Inspector, Special Inspector, and Testing) may be required. In addition, if the DSA Certified Inspector, Special Inspector, or individual performing test has contractual travel clauses or special rates for out of town inspection, Contractor is responsible for all costs associated with the contractual travel costs in addition to all other costs. Arrangements for inspection and/or testing shall be made far enough in advance so as to not delay the Work.
- 10.2 **STOP WORK ORDER.** DSA may issue a Stop Work Order, or an Order to Comply, when either (1) the Work proceeds without DSA approval; (2) the Work proceeds without a DSA Project Inspector, or (3) where DSA determines that the Work is not being performed in accordance with applicable rules and regulations, and would compromise the structural integrity of the Project or would endanger lives. If a Stop Work Order is issued, the Work in the affected area shall cease until DSA withdraws the Stop Work Order. Pursuant to Education Code Section 17307.5(b) and Education Code Section 81133.5, the District shall not be held liable in any action filed against the District for any delays caused by compliance with the Stop Work Order, except to the extent that an error or omission by the District is the basis for the issuance of the Stop Work Order.

10.3 Inspector's Field Office. Contractor shall provide for the use of inspector a separate trailer or temporary private office of not less than seventy five square feet of floor area to be located as directed by District and to be maintained until removal is authorized by District. The Office shall be of substantial waterproof construction with adequate natural light and ventilation. Door shall have a key type lock or padlock hasp. The Inspector's field office shall have heating and air-conditioning and shall be equipped with a telephone, internet connection, working computer, a fax machine and use of an on-site copier at Contractor's expense. A table satisfactory for the study of plans and two chairs shall be provided by Contractor. Contractor shall provide and pay for adequate electric lights, and adequate heat and air conditioning for the field office until authorized removal.

10.4 RESPONSIBILITY FOR ADDITIONAL CHARGES INCURRED BY THE DISTRICT FOR PROFESSIONAL SERVICES

10.4.1 If at any time prior to the completion of the requirements under the Contract Documents, the District is required to provide or secure additional professional services (including CM, Inspection, Architect, Engineering and Special Consultant Services) for any reason by any act of the Contractor, the District may seek a Deductive Change Order for any costs incurred for any such additional services, which costs shall be deducted from the next scheduled Progress Payment. A Deductive Change Order shall be independent from any other District remedies and shall not be considered a waiver of any District rights or remedies. If payments then or thereafter due to the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the District. Additional services shall include, but shall not be limited to, the following:

- a) Services made necessary by the default of the Contractor (Article 19 or Article 12.2).
- b) Services made necessary due to the defects or deficiencies in the Work of the Contractor.
- c) Preparation of a CCD or ICD to correct a Contractor Deficiency, or Contractor Caused Notices of Non-Compliance (Article 17.2)
- d) Services required by failure of the Contractor to perform according to any provision of the Contract Documents.
- e) Services in connection with evaluating substitutions of products, materials, equipment, Subcontractors' proposed by the Contractor, and making subsequent revisions to drawings, specifications, obtaining DSA approvals, DSA costs for review of CCD's, other governmental agency review costs, and providing other documentation required (except for the situation where the specified item is no longer manufactured or available). (Article 16
- f) Services for evaluating and processing Claims or Disputes submitted by the Contractor in connection with the Work outside the established Change Order or Claims or Disputes process.
- g) Services required by the failure of the Contractor to prosecute the Work in a timely manner in compliance within the specified time of completion.
- h) Services in conjunction with the testing, adjusting, balancing and start-up of equipment other than the normal amount customarily associated for the type of Work involved.

- i) Services in conjunction with more than one (1) re-review of Submittals of Shop Drawings, product data, samples, RFI's etc.

11. ARCHITECT

- 11.1 Architect's Status. In general and where appropriate and applicable, the Architect shall observe the progress and quality of the work on behalf of the District. The Architect shall have the authority to act on behalf of District only to the extent expressly provided in this Construction Services Agreement. After consultation with the Inspector and after using his/her best efforts to consult with the District, the Architect shall have authority to stop work whenever such stoppage may be necessary in his reasonable opinion to insure the proper execution of the Construction Services Agreement. Contractor further acknowledges that the Architect shall be, in the first instance, the judge of the performance of this Construction Services Agreement
- 11.2 Architect's Decisions. Contractor shall promptly notify District in writing if the Architect fails within a reasonable time, make decisions on all claims of the District or Contractor and on all other matters relating to the execution and progress of the Project.

12. DISTRICT RESPONSIBILITIES

- 12.1 District Site Representations. District warrants and represents that, District has, and will continue to retain at all times during the course of construction, legal title to the Site and that said land is properly subdivided and zoned so as to permit the construction and use of said Site. District further warrants and represents that title to said land is free of any easements, conditions, limitation, special permits, variances, agreements or restrictions which would prevent, limit, or otherwise restrict the construction or use of said facility. However, in the event easements for permanent structures or permanent changes in existing facilities are necessary, they shall be secured and paid for by District, unless otherwise specified. Reference is made to the fact that District has provided information on the Site to Contractor. Such information shall not relieve the Contractor of its responsibility; and the interpretation of such data regarding the Site, as disclosed by any borings or other preliminary investigations, is not warranted or guaranteed, either expressly or implicitly, by the District. The Contractor shall be responsible for having ascertained pertinent local conditions such as location, accessibility and general character of the Site and for having satisfied itself as to the observable, known or documented conditions under which the work is to be performed.
- 12.2 Partial Default: District Right to Take Over Work (Two (2) day notice to Cure and Correct). If the Contractor Defaults or neglects to carry out the Work in accordance with the Contract Documents, the District may provide a two (2) business day written notice to cure (a shorter period of time in the case of Emergency or a critical path delay) Contractor's Partial Default in a specific segregated area of work. The District's right to issue a Partial Default of the Contractor's Work and take over that segregated area of Work includes, but is not limited to:
 - a) Failure to supply adequate workers on the entire Project or any part thereof;
 - b) Failure to supply a sufficient quantity of materials;
 - c) Failure to perform any provision of this Contract;
 - d) Failure to comply with safety requirements, or due to Contractor is creation of an unsafe condition;
 - e) Cases of bona fide emergency;
 - f) Failure to order materials in a timely manner;

- g) Failure to prepare deferred-approval items or Shop Drawings in a timely manner;
- h) Failure to comply with Contractor's Baseline or Update Schedule, meet critical Milestones which would result in a Delay to the Critical Path, or Delay the Contract Time;
- i) Failure to comply with the Subcontractor selection and award requirements under Education Code section 17406(a)(4);
- j) Failure to meet the requirements of the American's with Disabilities Act;
- k) Failure to complete Punch List work; or
- l) Failure to proceed on an Immediate Change Directive.

12.2.1 *Failure to correct a Notice of Deviation.* If during the two (2) business day period, the Contractor fails to Cure and correct the deficiency noted in the notice of Partial Default with diligence and promptness, the District may correct such deficiencies without prejudice to other remedies the District may have, including a Termination for Cause as set forth in Article 19.

12.2.2 *Service of Notice of Partial Default with Right to Cure.* A written notice of Partial Default and right to Cure under Article 12.2("Article 12.2 Notice" or "Notice of Partial Default") shall be served by facsimile (with a copy provided by e-mail to the e-mail address provided and copied to the Project Superintendent).

12.2.3 *Shortened Time for Partial Default in the Case of Emergencies.* In an Emergency situation, the District may correct any of the deficiencies described in Article 12.2 without prejudice to other remedies by providing service of written notice of Emergency requiring a shortened time for Partial Default specifying the time given to Cure, if any.

12.2.4 *Shortened Time for Partial Default in the Case of Critical Path Delay.* In the case of critical path delay, the District may correct any of the deficiencies described in Article 12.2 without prejudice to other remedies providing service of written notice of Critical Path Delay to the Contractor with a specific description of the critical path delay items noting the line item or area of Work that is on the Critical Path and prescribe the length of shortened time to Cure, if any.

12.2.5 *Written Notice of Partial Default to be Deducted by Deductive Change Order.* The District shall have the right to determine the reasonable value of the Article 12.2 Partial Default Work, or if there is an actual value for the Work, shall use that value and issue a Deductive Change Orders under Article 17.6.

13. CONTRACTOR RESPONSIBILITIES.

- 13.1 Full Time Supervision. Contractor shall keep on the Work at all times during its progress a competent, English speaking construction Superintendent satisfactory to the District. The Superintendent shall be present on a full-time basis, shall be dedicated exclusively to the Project and shall not share superintendency duties with another project or job. The Superintendent shall not be replaced except with written consent of the District. The Superintendent shall represent the Contractor in its absence and shall be fully authorized to receive and fulfill any instruction from the Architect, the Inspector, the District or any other District representative (including CM in the cases where the District has a CM representative). All Requests for Information shall be originated by the Superintendent and responses thereto shall be given to the Superintendent. No Work shall begin on any day by any Subcontractor or other person on the Project site until the

Superintendent has arrived, or shall any Work continue during the day after the Superintendent has departed from the Project site. The Superintendent shall have authority to bind Contractor through the Superintendent's acts. The Superintendent shall represent the Contractor, and communications given to the Superintendent shall be binding on the Contractor. Before commencing the Work, Contractor shall give written notice to District (and CM representative) and Architect of the name and a Statement of Qualifications of such superintendent. Superintendent shall not be changed except with written consent of District, unless a superintendent proves to be unsatisfactory to Contractor and ceases to be in its employ, in which case, Contractor shall notify District and Architect in writing. Contractor shall provide a replacement superintendent approved by the District prior to performing additional work.

- 13.2 Staff. Notwithstanding other requirements of the Contract Documents, the Contractor and each Subcontractor shall: (1) furnish a competent and adequate staff as necessary for the proper administration, coordination, supervision, and superintendence of its portion of the Work; (2) organize the procurement of all materials and equipment so that the materials and equipment will be available at the time they are needed for the Work; and (3) keep an adequate force of skilled and fit workers on the job to complete the Work in accordance with all requirements of the Contract Documents.
- 13.3 Contractor shall notify District and Architect, in writing, when Contractor desires to change the Project Manager for the Project, and shall provide the information specified above. The new Project Manager cannot serve on the Project until approved by District. District shall have the right, at any time, to direct a change in Contractor's Project Manager if performance is unsatisfactory, as determined by District, in its sole discretion.
- 13.4 Contractor shall give efficient supervision to the work, using its skill and attention and shall cause working drawings and specifications to be prepared and submitted to the District. Following agreement by Contractor and District with respect to said working drawings and specifications, it shall be Contractor's responsibility to perform the work described in said working drawings and specifications in substantial compliance with the Construction Documents.
- 13.5 Right to Remove. District shall have the right, but not the obligation, to require the removal from the Project of any superintendent, staff member, agent, or employee of any Contractor, Subcontractor, material or equipment supplier.
- 13.6 Discipline. The Contractor shall enforce strict discipline and good order among the Contractor's and Subcontractor's employees, and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them. As used in this subsection, "unfit" includes any person who the District concludes is improperly skilled for the task assigned to that person, who fails to comply with the requirements of this Article, or who creates safety hazards which jeopardize other persons and/or property.
- 13.7 Labor and Materials
- 13.7.1 *Contractor to Provide.* Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, material, equipment, tools, construction equipment and machinery, water, heat, air conditioning, utilities, transportation, and other facilities, services and permits necessary for proper execution and completion of the Work whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.
- 13.7.2 *Quality.* Unless otherwise specified, all materials and equipment to be permanently installed in the Project shall be new and shall be of the highest quality or as specifically stated in the Contract Documents. The Contractor shall, if requested, furnish satisfactory evidence as to kind and quality of all materials and equipment within ten (10) days of a written request by the District, including furnishing the

District with bona fide copies of invoices for materials or services provided on the Project. All labor shall be performed by workers skilled in their respective trades, and shall be of the same or higher quality as with the standards of other public school construction.

- 13.7.3 *Replacement.* Any work, materials, or equipment, which do not conform to these requirements or the standards set forth in the Contract Documents, may be disapproved by the District, in which case, they shall be removed and replaced by the Contractor at no additional cost or extension of time to the District.
- 13.8 Pre-Construction Orientation/Construction Meetings. The Contractor, in conjunction with the District and the Architect, shall conduct pre construction orientation conferences for the benefit of Subcontractors to orient the Subcontractors to the various reporting procedures and site rules prior to the commencement of actual construction. These Pre-Construction meetings shall include coordination of the Subcontractor Work to help reduce Errors and Omissions and Construction Contingency requests and shall incorporate the Constructability Due Diligence review done by Contractor.
- 13.9 Owner Meetings. The Contractor shall conduct construction and progress meetings with District Representatives, and Construction Managers that occur at least weekly and as otherwise requested by the District, to discuss such matters as procedures, progress problems and scheduling. The Contractor shall prepare and promptly distribute official minutes of such meetings to all parties in attendance including Architect, District and Inspector.
- 13.10 Budget/Cash Flow Reports. The Contractor shall incorporate approved changes as they occur, and develop cash flow reports and forecasts for submittal to the District on a monthly basis. The Contractor shall provide regular monitoring of the approved estimates of Construction Costs, showing actual costs for activities in progress, and estimates for uncompleted tasks. The Contractor shall identify variances between actual and budgeted or estimated costs, and advise the District and the Architect whenever Project costs exceed budgets or estimates. The Contractor shall maintain cost accounting records on authorized additional services or work performed under unit costs, additional work performed on the basis of actual costs of labor and materials, or other work requiring accounting records.
- 13.11 Progress Reports. The Contractor shall record the progress of the Project, and shall submit monthly written progress reports to the District and the Architect including information on the entire Project, showing percentages of completion and the number and amounts of proposed Extra Work/Modifications and their effect on the Construction Costs as of the date of the report. The Contractor shall also keep a daily log containing a record of weather, Contractors, work on the site, number of workers, work accomplished, problems encountered, and other similar relevant data as the District may require. The Contractor shall make the log available to the District and the Architect. The District shall be promptly informed of all anticipated delays. In the event that the Contractor determines that a schedule modification is necessary, the Contractor shall promptly submit a revised Schedule for approval by the District
- 13.12 Schedule of Values.
- 13.12.1 *Break Down of Schedule of Values.* Schedule of Values shall be broken down by Project, site, building, milestone, or other meaningful method to measure the level of Project Completion as determined by the District. The schedule of values shall include, but not be limited, to Subcontractor costs, the costs for the Submittals, Punch Lists, Commissioning and Start-Up, Close Out Submittals, and As-Builts.
- 13.12.2 *Based on Contractor Costs.* The Schedule of Values shall be based on the costs from Contractor to the District. However, the submission of the Schedule of Values shall not be front loaded so the Contractor is paid a greater value than the value of the Work

actually performed and shall not shift funds from parts of the Project that are later to Work that is performed earlier.

- 13.12.3 *Largest Dollar Value for Each Line Item.* Identify Subcontractors and materials suppliers proposed to provide portions of Work equal to or greater than ten thousand dollars (\$10,000) or one-half (1/2) of one percent (1%) of their Contract Price, whichever is less, or as otherwise approved in writing by the District.
- 13.12.4 *Allowances.* Any Allowances provided for in the Contract shall be a line item in the Schedule of Values.
- 13.12.5 *Labor and Materials Shall Be Separate.* Labor and Materials shall be broken into two separate line items unless specifically agreed in writing by the District.
- 13.12.6 *District Approval Required.* The District shall review all submissions of Schedule of Values received pursuant to this Article in a timely manner. All submissions must be approved by the District before becoming the basis of any payment.
- 13.13 Scheduling. Contractor shall complete the construction pursuant to the CPM Schedule as required under Article 9.
- 13.14 As-Builts. Throughout the duration of the Project, Contractor shall maintain on a current basis an accurate and complete set of As-Built Drawings (and Annotated Specifications) clearly showing all changes, revisions to specifications and substitutions during construction, including, without limitation, field changes and the final location of all electrical and mechanical equipment, utility lines, ducts, outlets, structural members, walls, partitions, and other significant features. In case a specification allows Contractor to elect one of several brands, makes, or types of material or equipment, the annotations shall show which of the allowable items the Contractor has furnished. The Contractor will update the As-Built Drawings and Annotated Specifications as often as necessary to keep them current, but no less often than weekly.
 - 13.14.1 *Updates.* Contractor shall update As-Built Drawings with complete information on an area of Work at or near the time when the Work is being performed and prior to any DSA 152 sign off and prior to any Work being covered.
 - 13.14.2 *Storage.* The As-Built Drawings and Annotated Specifications shall be kept at the Site and available for review and inspection by the District and the Architect. Failure to maintain and update the As-Built Drawings is a basis to withhold scheduled Progress Payments pursuant to Article 29.4.
 - 13.14.3 *Upon Beneficial Occupancy.* Contractor shall obtain and pay for reproducible plans upon Beneficial Occupancy. Contractor shall deliver Plans to District Representative (Construction Manager if one is hired for the Project).
 - 13.14.4 *As-Builts at Completion of Work.* On completion of the Work and prior to and as a condition precedent to the Application for Retention Payment, the Contractor will provide one neatly prepared and complete set of As-Built Drawings and Annotated Specifications to the District. Contractor shall certify the As-Builts as a complete and accurate reflection of the actual construction conditions of the Work by affixing a Stamp indicating the Drawings are As-Builts and Certifying Accuracy on the final set of As-Builts.
 - 13.14.5 *Log of Control and Survey Documentation.* Contractor shall complete and maintain an accurate log or all control and survey documentation for the Project as the Work progresses. All reference and control points shall be recorded on the As-Built

drawings. The basis of elevations shall be one of the established benchmarks that must be maintained on the As-Builts.

- 13.14.6 *Record Coordinates for Key Items.* Contractor shall record, by coordinates, all utilities on-site with top of pipe elevations, major grade and alignment changes, rim, grate or top of curb and flow line elevations of all drainage structures and sewer manholes. Contractor shall update record information at or near the time when work is occurring in an area and prior to DSA 152 sign off on any category of Work and prior to covering the Work.

13.15 Miscellaneous Obligations of Contractor

- 13.15.1 *District Permit and Other Obligations.* It is expressly understood that the District shall pay the DSA for the DSA inspector, soils testing, DSA fees, special testing, etc. If additional review or permits become necessary for reasons not due to Contractor's fault or because of DSA requirements or regulations implemented after the date the GMP is established and not reasonably anticipated at the time the GMP is established, Contractor may seek compensation only for the direct cost (without mark up or added fees) of that review, as an additional cost. In the alternative, District may pay such costs directly to DSA. (Offsite costs and additional inspection costs)
- 13.15.2 *Contractor Permit Obligations.* Contractor shall pay for all remaining general building permits and ancillary permits and licenses not paid by District prior to the commencement of this Construction Services Agreement. Contractor shall also be responsible for arranging and overseeing all necessary inspections and tests, including inspections by the DSA, permits and occupancy permits, and ensure compliance with any Federal and State laws. All municipal charges for permanent utilities including, but not limited to, sewer, electrical, phone, gas, water, and irrigation shall be paid for by District. Contractor shall be responsible for arranging the payment of such fees by District at least one (1) week in advance of when the payment is due. Contractor may either request reimbursement from District for such fees (at direct cost only), or obtain the funds from District prior to paying such fees.
- 13.15.3 *Protection.* The Contractor shall establish procedures for the protection of all existing structures, equipment, utilities, and other existing improvements, both on site and off site.
- 13.15.4 *Nuisance Abatement.* The Contractor shall develop a mutually agreed upon documented program with the District to abate and minimize noise, dust, and disruption to normal activities at the existing facilities on the Site, including procedures to control on site noise, dust, and pollution during construction.
- 13.15.5 *Site Mitigation and Remediation.* Contractor shall be required to undertake Site mitigation or remediation at its sole cost for items identified in the Due Diligence Documents provided to Contractor. For hazardous substances and underground conditions that differ from representations in Contract Documents or Due Diligence Documents, Contractor shall provide notice within five (5) days after the discovery of the occurrence of the unforeseen conditions. If Due Diligence Documents and information provided to Contractor does not provide notice of the unforeseen condition, then the costs for such work shall be added as an extra pursuant to Article 17. Costs shall be allocated to the Unforeseen Allowance. However, to the extent Unforeseen Allowance is exceeded, District may, in its sole and absolute discretion, allocate any costs that exceed the Unforeseen Allowance arising from unforeseen underground conditions and hazardous substances that are not documented in the Construction Documents or in the Due Diligence Documents reviewed to the District Contingency.

- 13.15.6 *Utilities.* The Contractor shall perform and pay for all temporary utility hook ups and connections; the District shall pay for use of utilities during construction, as well as any fees owed to utility suppliers for connection to existing mainline facilities. Buildings shall be connected to water, gas, sewer, and electric services, complete and ready for use. Service connections shall be made and existing services reconnected.
- 13.15.7 *Sanitary Facilities.* The Contractor shall provide a sanitary temporary toilet building as directed by the inspector for the use of all workers. The building shall be maintained in a sanitary condition at all times and shall be left at the site until the inspector directs removal. Use of toilet facilities in the work under construction shall not be permitted except by approval of the Inspector.
- 13.15.8 *Layout and Field Engineering.* All field engineering required for laying out this work and establishing grades for earthwork operations shall be furnished by the Contractor at its expense. Such work shall be done by a qualified civil engineer or land surveyor licensed in California and approved by the Architect. Any required "as built" drawings of site development shall be prepared by a qualified civil engineer or land surveyor licensed in California and approved by the Architect.
- 13.15.9 *Cutting and Patching.* Contractor shall do all cutting, fitting, or patching of work as required to make its several parts come together properly and fit it to receive or be received by work of other contractors showing upon, or reasonably implied by, the drawings and specifications for the completed structure. Contractor shall make good after them as Architect may direct. All cost caused by defective or ill-timed work shall be borne by party responsible therefore. Contractor shall not endanger any work by cutting, excavating, or otherwise altering work and shall not cut or alter work of any other contractor without consent or at the direction of Architect.
- 13.15.10 *Documents on the Project Site.* Contractor shall keep one copy of all Contract Documents, including addenda, change orders, Division I, Title 21 of the California Code of Regulations, Parts 1-5 and 12 of Title 24, and Title 22 of the California Code of Regulations, and the prevailing wage rates applicable to the Project, which are a part of Contract Documents, on job at all times. Said documents shall be kept in good order and shall be available to District representative, Architect and his representatives. Contractor shall be acquainted with and comply with the provisions of said Titles 21, 22 and 24 as they relate to this Project. (See particularly Duties of the Contractor, Title 24 California Code of Regulations, Section 4-343.) Contractor shall also be acquainted with and comply with all California Code of Regulations provisions relating to this Project, particularly Titles 17, 19, 21, 22 and 24.) Contractor shall also make available all books, records, accounts, contracts, bids, etc. upon request of District.
- 13.15.11 *Contractor to Bind Subcontractors to the Provisions of this Contract.* Contractor shall ensure that Subcontractors are bound to the same extent as Contractor is bound to District.
- 13.15.12 *Contractor Responsible for Means and Methods.* Contractor shall be solely responsible for the construction means, methods, techniques, sequences, procedures, and coordinating all portions of the work under the Contract Documents, unless the Contract Documents give other specific instructions concerning these matters. Contractor shall be responsible to see that the finished work complies accurately with the Contract Documents. Contractor shall not perform the work without utilizing the Contract Documents or, where required, approved shop drawings, product data, or samples for any such portion of the work.

13.15.13 *Contractor Responsible for Acts and Omissions of Employees.* Contractor shall be responsible to District for acts and omissions of Contractor's employees, Subcontractors, material and equipment suppliers, and their agents, employees, invitees, and other persons performing portions of the work under direct or indirect contract with Contractor or any of its Subcontractors.

13.15.14 *General DSA Compliance.* During the entire term of this Agreement, Contractor shall coordinate its services with the District, Architect, Project Inspector, and other parties to ensure that all requirements set forth in the DSA's Inspection Card (Form 152) and any subsequent revisions or updates thereto issued or required by DSA, or any other/alternate processes are being met in compliance with DSA requirements. Contractor shall take all action necessary as to not delay progress in meeting any DSA requirements. Contractor shall meet any applicable requirements set forth in DSA's Construction Oversight Process Procedure (PR 13-01) and any subsequent revisions or updates thereto issued or required by DSA. Any references to DSA requirements for the Project shall be deemed to include and incorporate any revisions or updates thereto.

13.16 Close Out

13.16.1 *All DSA Close-Out requirements (See DSA Certification Guide).* Contractor is also specifically directed to the DSA Certification Guide and the applicable certificates for the DSA-311 form.

13.16.2 *Punch List Is Prepared Only After the Project Is Substantially Complete.* The Inspector and Architect shall prepare a Punch List of items which is an inspection report of the Work, if any, required in order to complete the Contract Documents and ensure compliance with the DSA Approved Plans so the Project may be Completed by the Contractor and a final DSA Close-Out is approved. When all Work for the Project is Complete, including Punch Lists and all Work complies with the approved Contract Documents and Change Orders, the Project has reached Final Completion.

13.16.3 *Time for Completion of Punch List.* Contractor shall only be given a period of no more than thirty (30) days to complete the Punch List on Project. During the Punch List period Contractor Superintendent and Project Manager shall remain engaged in the Project and shall not be removed or replaced. If the Punch List is not completed at the end of the Punch List time then Contractor shall issue a valued Punch List within 5 days after the date the Punch List time ends. If Contractor does not issue such a list, the Owner or Architect may issue a valued Punch List to the Contractor and withhold up to 150% of the value of the Punch List Work.

13.16.4 *As-Builts Up to Date and Complete.* The intent of this procedure is to obtain an exact "As-Built" record of the Work upon completion of the Project. The following information shall be carefully and correctly drawn on the prints and all items shall be accurately located and dimensioned from finished surfaces of building walls on all As-Built drawings:

13.16.4.1 The exact location and elevations of all covered utilities, including valves, cleanouts, etc. must be shown on As-Builts

13.16.4.2 Contractor is liable and responsible for inaccuracies in As-Built drawings, even though they become evident at some future date.

13.16.4.3 Upon completion of the Work and as a condition precedent to approval of release of the Retention Payment, Contractor shall obtain the Inspector's approval of the "As-Built" information. When completed,

Contractor shall deliver corrected sepias and/or a Diskette with an electronic file in a format acceptable to the District.

- 13.16.4.4 District may withhold the cost to hire a draftsman and potholing and testing service to complete Record As-Built Drawings at substantial cost if the Contractor does not deliver a complete set of Record As-Built Drawings. This shall result in withholding of between \$10,000 to \$20,000 per building that does not have a corresponding Record As-Built Drawing.
- 13.16.5 *Any Work not installed* as originally indicated on drawings
- 13.16.6 *All DSA Close-Out requirements* (See DSA Certification Guide). Contractor is also specifically directed to the DSA Certification Guide and the applicable certificates for the DSA-311 form.
- 13.16.7 *Submission of Form 6-C.* Contractor shall be required to execute a Form 6-C as required under Title 24 Sections 4-343. The Contractor understands that the filing with DSA of a Form 6-C is a requirement to obtain final DSA Approval of the Construction by Contractor and utilized to verify under penalty of perjury that the Work performed by Contractor complies with the DSA approved Contract Documents.
- 13.16.8 *Contractor shall be Responsible for All Costs to Certify the Project.* The District may Certify the Project complies with Approved Construction Documents by utilizing the procedures under the Project Certification Guide (Located at the DSA website at http://www.documents.dgs.ca.gov/dsa/plan_review_process/project_certification_guide_updated_03-15-13.pdf). All costs for professionals, inspection, and testing required for an alternate Project Certification shall be the Contractor's responsibility and the District reserves its right to institute legal action against the Contractor and Contractor's Surety for all costs to certify the Project and all costs to correct Non-Compliant Work that is discovered during the Alternate Certification Process.
- 13.16.9 *ADA Work that must be corrected* to receive DSA certification. See Article 41.
- 13.16.10 *Maintenance Manuals.* At least thirty (30) days prior to final inspection, three (3) copies of complete operations and maintenance manuals, repair parts lists, service instructions for all electrical and mechanical equipment, and equipment warranties shall be submitted. All installation, operating, and maintenance information and drawings shall be bound in 8½" x 11" binders. Provide a table of contents in front and all items shall be indexed with tabs. Each manual shall also contain a list of Subcontractors, with their addresses and the names of persons to contact in cases of emergency. Identifying labels shall provide names of manufactures, their addresses, ratings, and capacities of equipment and machinery.
- 13.16.11 Maintenance manuals shall also be delivered in electronic media for the Project. Any demonstration videos shall also be provided on electronic media.
- 13.17 Correction of Work: Warranty. Neither a Progress Payment, Sublease Payment nor any provision in the Contract Documents shall relieve Contractor of responsibility for faulty materials or workmanship incorporated in the Project. Contractor warrants that all work under this Construction Services Agreement will be free of faulty materials or workmanship and hereby agrees, within ten (10) days upon receiving notification from District, to remedy, repair or replace, without cost to District, all defects which may appear as a result of faulty materials or workmanship in the Project, at any time, or from time to time, during a period beginning with commencement of the Project and ending one (1) years after the date of completion of the Project,

as defined in Article 18 hereof. The foregoing warranty of Contractor also applies to the remedy, repair or replacement of defects which may in the documents prepared by Contractor and/or any party retained by, through or under Contractor in connection with the Project, but the foregoing warranty of Contractor does not guarantee against damage to the Project sustained by use, wear, intentional acts, accidents, or lack of normal maintenance or as a result of changes or additions to the Project made or done by parties not directly responsible to Contractor, except where such changes or additions to the Project are made in accordance with Contractor's directions. No guarantee furnished by a party other than Contractor with respect to equipment manufactured or supplied by such party shall relieve Contractor from the foregoing warranty obligation of Contractor. The warranty period set forth herein above shall not apply to latent defects appearing in the Project, and with respect to such defects, the applicable statute of limitations shall apply. Contractor agrees to provide the District with all equipment and materials warranties provided by manufacturers to District but has no obligation to assist in processing such warranty claims after said one (1) year warranty period.

13.17.1 *Assignment of Subcontracts.* Upon the Completion of the Warranty period, Contractor shall assign to the District all subcontracts with Subcontractors, material suppliers or other vendors that provided Work for the Project. This assignment shall include all purchase orders and any change orders or addenda that were executed with the assigned Subcontractor.

13.17.1.1 Documents to be Provided to District. Contractor shall provide the following documents to the District as part of Close Out of the Project:

- a. *Subcontractor Warranty.* Contractor shall provide any warranty documents, including warranties consistent with the requirements of this Contract and the Contract Documents.
- b. *Contracts.* Contractor shall provide copies of all subcontracts, amendments, change orders and other documents associated with the Subcontractor's scope of work and price for work on the Project.
- c. *Subcontractors Bound to the Same Extent as Contractor.* The Subcontractors shall be bound to the same extent as the Contractor is bound by this CSA and Subcontractors shall be required to include assignment of their contracts to the District.
- d. *Bonds Assignable.* Contractor shall ensure that Subcontractor performance and payment bonds are assignable and can be assigned to the District.
- e. *Unconditional Releases.* Contractor shall provide as part of the Close Out of the Project, Unconditional Releases for each Subcontractor and Material supplier that provided Work for the Project.
- f. *Project Files.* Contractor shall provide the District a copy of the entire Subcontractor file, including any submittals or shop drawings that were provided by Subcontractor.
- g. *District Reserves the Right to Assume Subcontractor Contracts Prior to the End of the Warranty Period.* District reserves the right to take assignment of Subcontractor contracts prior to the end of the warranty period.

- 13.18 Assignment of Anti-Trust Claims. The Contractor offers and agrees to assign to the District all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 USC Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchase of goods, services, or materials pursuant to the Construction Services Agreement. This assignment shall become effective at the time the District tenders the final Sublease Payment to Contractor, without further acknowledgment by the parties.

14. CONTRACT DOCUMENTS AND INTERPRETATIONS

- 14.1 The Contract Documents shall be executed, and/or initialed as appropriate, in duplicate by District and Contractor. The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all. The intention of the Contract Documents is to include all labor, services and materials reasonably necessary for the proper execution of the work.
- 14.2 It is not intended that work and/or services not covered under any heading, section, branch, class or trade of the specifications shall be supplied, unless it is required elsewhere in the Contract Documents or is reasonably inferable therefrom as being necessary to produce the intended results, in which case such work and/or services shall be supplied by Contractor. Words which have well known technical or trade meanings are used herein in accordance with such recognized meanings. Mutual agreement shall be reached with respect to words which do not have a well-known technical or trade meaning and the definition of which come into question.
- 14.3 Plans and Specifications are intended to be fully cooperative and to agree. All Plan and Specification changes shall be dated and sequentially recorded. All modifications to Plans and Specifications shall be interpreted in conformity with the Contract Documents, which shall govern, unless otherwise specified.

15. SUBMITTALS

15.1 Definitions

- 15.1.1 *Deferred Approvals.* Approval of certain aspects of the construction may be deferred until the construction Contract has been awarded. To facilitate the design process, DSA grants deferred approval to the design and detailing of certain elements of the Project at the request of the Architect or Engineer of Record. Design elements that may be deferred may include, but are not limited to Access floors, Bleachers, Elevator guide rails and related elevator systems, Exterior wall systems - precast concrete, glass fiber reinforced concrete, etc., Skylights, Window wall systems, storefronts, Stage rigging, and other systems as noted in the Contract Documents. (Also see Article 15.3 and 15.6).
- 15.1.2 *Shop Drawings.* The term "Shop Drawings" as used herein means drawings, diagrams, equipment or product schedules, and other data, which are prepared by Contractor, Subcontractors, manufacturers, suppliers, or distributors illustrating some portion of the Work, and includes: illustrations; fabrication, erection, layout and setting drawings; manufacturer's standard drawings; schedules; descriptive literature, instructions, catalogs, and brochures; performance and test data including charts; wiring and control diagrams; and all other drawings and descriptive data pertaining to materials, equipment, piping, duct and conduit systems, and methods of construction as may be required to show that the materials, equipment, or systems and their position conform to the requirements of the Contract Documents.
- 15.1.3 *Manufactured* applies to standard units usually mass-produced, and "Fabricated" means items specifically assembled or made out of selected materials to meet individual design requirements. Shop drawings shall: establish the actual detail of all

manufactured or fabricated items, indicate proper relation to adjoining work, amplify design details of mechanical and electrical systems and equipment in proper relation to physical spaces in the structure, and incorporate minor changes of design or construction to suit actual conditions.

15.1.4 *Submittals* is a term used interchangeably and sometimes refers to Shop Drawings, Product Data, and Samples since all Subcontractor submissions are tracked in a Submittal Log and may include any of the noted items. However, generally, a Submittal is a manufacturer's product information and product data including description, characteristics, size, physical characteristics, and requirements to prepare the jobsite for receiving of the particular manufactured item.

15.1.5 *Samples.* The term "samples" as used herein are physical examples furnished by Contractor to illustrate materials, equipment, or quality and includes natural materials, fabricated items, equipment, devices, appliances, or parts thereof as called for in the Specifications, and any other samples as may be required by the Architect to determine whether the kind, quality, construction, finish, color, and other characteristics of the materials, etc., proposed by the Contractor conform to the required characteristics of the various parts of the Work. All Work shall be in accordance with the approved samples.

15.2 Shop Drawings.

15.2.1 *When Shop Drawings Are Required.* Shop drawings are required for prefabricated components and for installation and coordination of these prefabricated components into the Project. In addition, Shop Drawings, are prepared to address the actual size and installation of components from various Subcontractors and provides an opportunity for the Contractor to coordinate and address conflicts between the subcontracting trades. In some cases, each Subcontractor or trade will provide Shop Drawings in a format agreed upon by District.

15.2.2 *Purpose for Shop Drawings.* Shop drawings are the Contractor's manufacturer, Subcontractor, supplier, vendor or the Contractor's detailed drawings showing particularized method for assembly, specifics to a manufacturer, manufacturer component installation requirements, specifics as to a manufactured item, alterations to a manufactured, a custom created item, or drawn version of more detailed information expanding on the Architect's design shown in the Contract Documents. The Shop Drawings address the appearance, performance, size, weight, characteristics and prescriptive descriptions associated with the Contractor or Contractor's Subcontractor's plan for installation or assembly based on the design in the specifications and Contract Documents. The shop drawing often is more detailed than the information shown in the Contract Documents to give the Architect and Engineer the opportunity to review the fabricator's version of the product (along with particulars specific to that particular product), prior to fabrication. References to the Contract Documents, Construction Documents, Drawings, Plans, and Specifications assist the Architect and Engineer in their review of the Shop Drawings. Attachment of manufacturer's material specifications, "catalog cut sheets," and other manufacturer's information may be provided to accompany Shop Drawings. Because Shop Drawings facilitate the Architect's and Engineer's approval of the system, they should be as clear and complete as possible so they may be reviewed by Architect or Engineer for the Project.

15.2.3 *Shop Drawing Requirements.* The Contractor shall obtain and submit with Shop Drawings all seismic and other calculations and all product data from equipment manufacturers. "Product data" as used herein are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information

furnished by the Contractor to illustrate a material, product, or system for some portion of the Work.

- 15.2.4 *Not a Reproduction of Architectural or Engineering Drawings.* The shop drawing are not a reproduction of the architectural or engineering drawings. Instead, they must show more detail than the Construction Documents and details the fabrication and/or installation of the items to the manufacturer's production crew or Contractor's installation crews.
- 15.2.5 *Shop Drawings Engineering Requirements:* Some shop drawings require an engineer stamp to be affixed on the drawings and calculations. In such cases, a current and valid engineering stamp shall be affixed by a California registered engineer. No out of State engineers shall stamp Shop Drawings. (See DSA IR A-18). In most cases, an engineer means California registered mechanical, structural, electrical or plumbing engineer. California Registered Civil Engineers will not be accepted for structural details unless specifically approved by DSA.
- 15.2.6 *DSA Approvals Required Prior to Work.* No work on a Shop Drawing that requires DSA approval may proceed until DSA approval is received. Contractor has provided DSA approval time and allowed adequate time for corrections in Contractor's Schedule as required pursuant to Article 9.
- 15.2.7 *Shop Drawing Identification.* All Shop Drawings must be properly identified with the name of the Project and dated, and accompanied by a letter of transmittal referring to the name of the Project and to the Specification section number for identification of each item clearly stating in narrative form, as well as "clouding" all qualifications, departures, or deviations from the Contract Documents. Shop drawings, for each section of the Work shall be numbered consecutively and the numbering system shall be retained throughout all revisions. All Subcontractor submissions shall be made through the Contractor. Each drawing shall have a clear space for the stamps of Architect and Contractor.
- 15.3 Deferred Approvals. Deferred approvals shall be submitted and processed to ensure all DSA and other governmental approvals are secured so as to not delay the Project. There may be additional requirements for deferred approvals in Division 1 of the Specifications. All deferred approvals shall be prepared by Contractor or Contractor's agent early enough so as to not delay the Project. Contractor is aware that Title 24 California Code of Regulations Section 4-317 has specific requirements for deferred approvals as to governing agencies and as to the Architect and Engineer for the Project. As a result, any delay associated with the time for approval by applicable agencies or by the Architect or Architect's consultants shall be Contractor's. Contractor is required to comply with inclusion of Deferred Approvals in the Schedule as required under Article 9
 - 15.3.1 *DSA Approvals Required Prior to Work.* No work on a deferred approval item may proceed on the components until DSA approval is received. Contractor has provided DSA approval time and allowed adequate time for any DSA revisions in Contractor's Schedule as required pursuant to Article 9.
- 15.4 Submittals and Samples
 - 15.4.1 *Information Required With Submittals:* Manufacturer, trade name, model or type number and quantities: Information provided must be of sufficient detail to allow Architect and Engineer to compare the submitted item with the specified products and acceptable products listed, in the specification and addenda.
 - 15.4.2 *Description of Use and Performance Characteristics:* Information should be furnished describing the normal use and expected performance of the product. The Architect and

Contractor review this information to confirm that the product is appropriate for the intended use.

- 15.4.3 *Size and Physical Characteristics:* The size and physical characteristics, such as adjustment capabilities, which is reviewed by both the Contractor and Architect. The Contractor has the most available information for comparing adjoining materials and equipment. The Contractor also needs to know the size and weight of the equipment for lifting and handling considerations.
- 15.4.4 *Finish Characteristics:* The Architect reviews the available finishes and selects the appropriate finish, if the finish was not previously specified in the documents. The Contractor should confirm that finish requirements in the specification are being met by the product.
- 15.4.5 *Contractor Responsible for Jobsite Dimensions:* Some material is custom-fabricated to job conditions, requiring dimensions from the jobsite. These jobsite dimensions are provided by the Contractor as part of the Contractor's responsibilities for the Project and shall be provided prior to release of the product for manufacture. Contractor shall not rely on Architect or Engineers to provide jobsite dimensions.
- 15.4.6 *Full Range of Samples Required (When Specific Items Not Specified).* Except in cases where the exact color and type of item is specified since the District is utilizing items Standardized or pre-selected by District, the full range of color, graining, texture, or other characteristics are anticipated for review in finished products, a sufficient number of samples of the specified materials shall be furnished by the Contractor to indicate the full range of characteristics which will be present in the finished products. Products delivered or erected without Submittal and approval without providing a full range of samples shall be subject to rejection. Except for range samples, and unless otherwise called for in the various sections of the Specifications, samples shall be submitted in duplicate.
- 15.4.7 *Labeling of Samples.* All samples shall be marked, tagged, or otherwise properly identified with the name of the submitting party, the name of the Project, the purpose for which the samples are submitted and the date.
- 15.4.8 *Transmittal letter.* All samples shall be accompanied by a letter of transmittal containing similar information, together with the Specification section number.
- 15.4.9 *Labels and Instructions.* All samples of materials shall be supplied with the manufacturer's descriptive labels and application instructions. Each tag or sticker shall have clear space for the review stamps of Contractor and Architect.
- 15.4.10 *Architect's Review.* The Architect will review and, if appropriate, approve submissions and will return them to the Contractor with the Architect's stamp and signature applied thereto, indicating the timing for review and appropriate action in compliance with the Architect's (or District's) standard procedures. In the cases where a CM is hired by the District, CM may be the party that receives and performance logging and initial processing of the Samples. CM may, in some cases, reject samples that are not in conformance with Contract requirements.

15.5 Submittal Submission Procedure

- 15.5.1 *Transmittal Letter and Other Requirements.* All Submittals must be properly identified with the name of the Project and dated, and each lot submitted must be accompanied by a letter of transmittal referring to the name of the Project and to the Specification section number for identification of each item clearly stating in narrative

form, as well as “clouding” on the submissions, all qualifications, departures, or deviations from the Contract Documents. Shop drawings, for each section of the Work shall be numbered consecutively and the numbering system shall be retained throughout all revisions. All Subcontractor submissions shall be made through the Contractor. Each drawing shall have a clear space for the stamps of Architect and Contractor. In the case where a CM is hired on the Project, the CM may be designated to receive the Submittals for the Project, log the Submittals, and in some cases reject Submittals that do not conform to Contract requirements.

- 15.5.2 *Copies Required.* Each Submittal shall include one (1) legible, reproducible (if electronic is available, electronic copies shall also be provided) and five (5) legible prints of each drawing or schedule, table, cut sheet, etc., including fabrication, erection, layout and setting drawings, and such other drawings as required under the various sections of the Specifications, until final acceptance thereof is obtained. Subcontractor shall submit copies, in an amount as requested by the Contractor, of: (1) manufacturers’ descriptive data for materials, equipment, and fixtures, including catalog sheets showing dimensions, performance, characteristics, and capacities; (2) wiring diagrams and controls; (3) schedules; (4) all seismic calculations and other calculations; and (5) other pertinent information as required by the District or Architect.
- 15.5.3 *Corrections.* The Contractor shall make all corrections required by Architect, District or CM and shall resubmit, as required by Architect or CM, corrected copies of Shop Drawings or new samples until approved. Contractor shall direct specific attention in writing or on resubmitted Shop Drawings to revisions other than the corrections required by the Architect on previous submissions. Professional services required for more than one (1) re-review of required Submittals of Shop Drawings, product data, or samples are subject to charge to the Contractor pursuant to Article 10.4.
- 15.5.4 *Approval Prior to Commencement of Work.* No portion of the Work requiring a shop drawing or sample submission or other Submittal shall be commenced until the submission has been reviewed by Contractor and Architect (and CM, if applicable) and approved by Architect (and CM where applicable) unless specifically directed in writing by the Architect. All such portions of the Work shall be in accordance with approved Shop Drawings and samples.
- 15.5.5 *District’s Property.* All Submittals, Shop Drawings, computer disks, constructability reviews, schedules, annotated specifications, samples and other Submittals shall become the District’s property upon receipt by the District or Architect.
- 15.6 Schedule Requirements for Submittals. Contractor shall obtain and shall submit all required Submittals (i.e. Shop Drawings, Deferred Approvals, Samples, etc.), in accordance with Contractor’s “Schedule for Submission of Shop Drawings and Samples” as required in the scheduling portion of the CSA at Article 9 and the Specifications (as long as the Specifications do not conflict with CSA. In the case of conflict, the conflicting provision shall be controlled by the CSA and the remaining specification sections shall be interpreted as if the CSA language is inserted) with such promptness as to cause no delay in its own Work or in that of any other contractor or Subcontractor but in no event later than thirty five (35) days after the Notice to Proceed is issued except in the specific cases noted as an exception as set forth below. No extensions of time will be granted to Contractor or any Subcontractor because of its failure to have Shop Drawings and samples submitted in accordance with this Article 15 and the Schedule. Each Subcontractor shall submit all Shop Drawings, samples, and manufacturer’s descriptive data for the review of the District, the Contractor, and the Architect through the Contractor.
- 15.6.1 *Consideration of Schedule.* Contractor has considered lead times, DSA or other agency governmental review times, Architect or Engineer review times,

manufacturing seasons, and specific long lead procurement concerns for all submittals for the Project.

15.6.1.1 All Submittals for the Project except those specifically agreed upon by District and Architect, in writing, shall be specifically incorporated into the Submittal section of the Schedule so as to not delay the Work. The agreement to allow a later Submittal does not mean that Article 15.6 is waived. Contractor shall order materials and ensure prices are honored and secured for the Project.

- a. Structural Steel may be included as a Submittal later than 35 days if Structural Steel is a significant portion of the Work, at least one or some of the Project is a structural steel structural system, or as specifically agreed upon by the Architect or District.
- b. It is specifically agreed that submissions of structural steel Submittals shall not be piecemeal (unless some portion is requested separately by the Owner or Architect), shall provide complete designs, shall be stamped by the Structural Steel Subcontractor, Contractor, and Structural Steel Subcontractor's structural engineer at time of submission and as further addressed in this Article.
- c. In no case shall the submission of Structural Steel Drawings delay the critical path for the schedule. If a Milestone is provided for submission of complete structural steel Shop Drawings then the date shall be no later than as set forth in the Milestone

15.6.1.2 Exceptions to Submittal Within Thirty-Five (35) Days by Written Agreement. A written request detailing the specific reasons for a submission later than 35 days due to complexity of design, or non-critical path status of the Submittal shall be submitted at the time the Baseline Schedule is submitted. The Baseline Schedule shall not include a delayed Submittal until written agreement is provided. In addition to the request for providing a Submittal after the thirty-five (35) day period, a copy of the Contract with the Subcontractor who shall be performing the Submittal, a written statement from the Subcontractor verifying that work has commenced on the Submittal and providing Subcontractor's own schedule of milestones and completion dates, and a corresponding Submittal designation in the Schedule as required under Article 9

- a. Approval of a delayed Submittal shall not result in any increase in the Contract Price or result in an extension of time for the completion of the Project.

15.6.1.3 Piecemeal Submissions of Submittals. Piecemeal Submittals mean providing portions of Shop Drawings or Submittals as they are being completed. The submission of piecemeal Submittals results in the appearance of a submission when there is inadequate information for the Architect or Engineer to adequately review a submission. Piecemeal differs from submission of complete buildings or phases of buildings or complete assemblies. The Architect may agree to allow

submission of single buildings or areas as long as the Submittals are complete.

15.7 General Submittal Requirements

15.7.1 *Contractor Submittal Representations.* By submitting Shop Drawings, product data, samples, etc., the Contractor represents that it has determined and verified all materials, field measurements, catalog numbers, related field construction criteria, and other relevant data in connection with each such submission, and that it has checked, verified, and coordinated the information contained within such Submittals with the requirements of the Work and of the Contract Documents, including the construction schedule.

15.7.2 *Contractor Coordination.* By submitting Shop Drawings, Submittals, product data, samples, etc., the Contractor represents that it has determined and verified all materials, field measurements, catalog numbers, related field construction criteria, and other relevant data in connection with each such submission, and that it has checked, verified, and coordinated the information contained within such Submittals with the requirements of the Work and of the Contract Documents, including the construction schedule. Contractor shall stamp, sign, and date each Submittal indicating its representation that the Submittal meets all of the requirements of the Contract Documents and evidence Contractor's review through execution of the following stamp to be placed on each Shop Drawings:

“The [contractor] has reviewed and approved the field dimensions and the construction criteria, and has also made written notation regarding any information in the Shop Drawings and Submittals that does not conform to the Contract Documents. This Shop Drawing or Submittal has been coordinated with all other Shop Drawings and Submittals received to date by me as Contractor and this duty of coordination has not been delegated to Subcontractors, material suppliers, the Architect, or the Engineers on this Project.

Signature of Contractor and date

15.7.3 *No Deviation from Contract Documents.* The submission of the Shop Drawings, product data, samples, etc., shall not deviate from the requirements of the Contract Documents including detailing and design intent which is specifically outlined in Contract Documents except as specifically authorized by the Architect or through an accepted substitution pursuant to Article 16. All deviations from the Contract Documents shall be narratively described in a transmittal accompanying the Shop Drawings. However, Shop Drawings shall not be used as a means of requesting a substitution, the procedure for which is defined in Article 16, “Substitutions.”

15.7.4 *Contractor Responsibility for Shop Drawings Conformance to Contract Documents.* Review by District and Architect shall not relieve the Contractor or any Subcontractor from its responsibility in preparing and submitting proper Shop Drawings in accordance with the Contract Documents.

15.7.5 *Incomplete Submittals.* Any submission, which in Architect's opinion is incomplete, contains errors, or has been checked superficially will be returned unreviewed by the Architect for resubmission by the Contractor.

15.7.6 *Shop Drawings and Submittals Shall Not Be Used as a Method to Make a Substitution.* Shop drawings and Submittals shall not be used as a means of

requesting a substitution or to make changes in the Contract Documents. If changes are made to the Contract Documents through the Shop Drawings, the Architect shall have the right to reject the Submittal. If the Architect does not note the deviation from the approved Construction Documents, the Contractor is still responsible for the change and the Architect or the District may require the Shop Drawings be revised to properly reflect the approved Contract Documents. The Architect or District may also require that the Contractor bear all costs under Article 10.4 and consequential damages associated with a CCD to revise Construction Documents to accommodate the deviation from approved Construction Documents.

- 15.7.7 *Extent of Review.* In reviewing Shop Drawings, the Architect will not verify dimensions and field conditions. The Architect will review and approve Shop Drawings, product data, samples, etc., for aesthetics and for conformance with the design concept of the Work and the information in the Contract Documents. The Architect's review shall neither be construed as a complete check which relieves the Contractor, Subcontractor, manufacturer, fabricator, or supplier from responsibility for any deficiency that may exist or from any departures or deviations from the requirements of the Contract Documents unless the Contractor has, in writing, called the Architect's attention to the deviations at the time of submission. The Architect's review shall not relieve the Contractor or Subcontractors from responsibility for errors of any sort in Shop Drawings or schedules, for proper fitting of the Work, coordination of the differing Subcontractor trades and Shop Drawings and Work which is not indicated on the Shop Drawings at the time of submission of Shop Drawings. Contractor and Subcontractors shall be solely responsible for any quantities which may be shown on the Submittals or Contract Documents.

16. REQUEST FOR SUBSTITUTIONS

- 16.1 For purposes of this provision the term "substitution" shall mean a change in product, material, equipment, or method of construction from those required by the Construction Documents proposed by the Contractor.
- 16.2 Public Contract Code section 3400 does not apply to this agreement since the materials, services, and equipment used has been investigated as part of the Due Diligence investigation by Contractor and incorporated in the overall GMP.
- 16.3 Contractor may submit requests together with substantiating data for substitution of any "or equal" material, process or article. Any savings generated from the substitution shall be considered Project Savings under Article 7. The District shall not be responsible for any costs of Contractor associated with "or equal" substitution requests. The District has the complete and sole discretion to determine if a material, process or article is an "or equal" material, process or article that may be substituted. The data required to substantiate requests for substitutions of an "or equal" material, process or article data shall include a signed affidavit from the Contractor stating that the substituted "or equal" material, process or article is equivalent to that specified in the specification in every way except as listed on the affidavit. Substantiating data shall also include:
1. Is equal in quality/service/ability to the Specified Item;
 2. Will entail no changes in detail, construction, and scheduling of related work;
 3. Will be acceptable in consideration of the required design and artistic effect;
 4. Will provide no cost disadvantage to the District;
 5. Will require no excessive or more expensive maintenance, including adequacy and availability of replacement parts; and

6. Will required no change of the construction schedule
- 16.4 Failure to submit all the needed substantiating data, including the signed affidavit, to the Architect in a timely fashion so that the substitution can be adequately reviewed may result in the rejection of the proposed substitution. The District is not obligated to review multiple substitution submittals for the same product or item due to the Contractor's failure to submit a complete package initially.
- 16.5 Contractor shall bear the costs of all architectural and engineering work, DSA CCD review fees, and other costs associated with the review of submittals for substitution. See Article 10.4.
- 16.6 Contractor agrees to include the provisions of this Article in all Subcontractor contracts.
17. **EXTRA WORK/MODIFICATIONS (INCLUSION OF CCD COSTS, DSA COSTS, AND AN ICD PROCESS)**
- 17.1 **No Changes Without Authorization.** There shall be no change whatsoever in the drawings, specifications, or in the Work without an executed Change Order, Change Order Request, Immediate Change Directive, or order by the Architect for a minor change in the Work as herein provided. District shall not be liable for the cost of any extra work or any substitutions, changes, additions, omissions, or deviations from the Drawings and Specifications unless authorized District representative has approved the cost in writing by Change Order or executed Construction Change Document. No extension of time for performance of the Work shall be allowed hereunder unless claim for such extension is made at the time changes in the Work are ordered, and such time duly adjusted in writing in the Change Order. The provisions of the Contract Documents shall apply to all such changes, additions, and omissions with the same effect as if originally embodied in the Drawings and Specifications. Notwithstanding anything to the contrary in this Article 17, all Change Orders shall be prepared and issued by the Architect and shall become effective when executed by the authorized District representative (utilizing either a Construction Contingency Amount or a District Contingency Amount), the Architect, and the Contractor.
- CONTRACTOR UNDERSTANDS, ACKNOWLEDGES, AND AGREES THAT THE REASON FOR THIS NOTICE REQUIREMENT IS SO THAT DISTRICT MAY HAVE AN OPPORTUNITY TO ANALYZE THE WORK AND DECIDE WHETHER THE DISTRICT SHALL PROCEED WITH THE CHANGE ORDER OR ALTER THE PROJECT SO THAT SUCH CHANGE IN WORK BECOMES UNNECESSARY AND TO AVOID THE POSSIBLE DELAYS ASSOCIATED WITH THE ISSUANCE OF A NOTICE OF NON-COMPLIANCE.
- 17.2 **Notices of Non-Compliance.** Contractor deviation or changes from approved Construction Documents may result in the issuance of a Notice of Non-Compliance (See DSA Form 154). Contractor is specifically notified that deviations from the Construction Documents, whether major or minor, may result in the requirement to obtain a DSA Construction Change Document to correct the Notice of Non-Compliance. (See Article 17.4.1.1 for Definition of CCD). In some cases, the lack of a DSA approved CCD AND verification from the Inspector that a Notice of Non-Compliance has been corrected may result in a critical path delay to the next stage of Work on the Project. Specifically, a deviation from approved Construction Documents may prevent approval of the category of Work listed in the DSA 152 Project Inspection Card. Any delays that are caused by the Contractor's deviation from approved Construction Documents shall be the Contractor's responsibility.
- 17.3 **Architect Authority.** The Architect will have authority to order minor changes in the Work that do not involve DSA Approval not involving any adjustment in the Contract Sum, or an extension of the Contract Time.
- 17.4 CONSTRUCTION CHANGE DOCUMENT (CCD Category A, and CCD Category B) and IMMEDIATE CHANGE DIRECTIVE (ICD)

17.4.1 *Definitions*

17.4.1.1 Construction Change Document (CCD). A Construction Change Document is a DSA term that is utilized to address changes to the DSA approved Construction Documents. There are two types of Construction Change Documents. (1) DSA approved CCD Category A (DSA Form 140) for Work affecting Structural, Access or Fire-Life Safety of the Project which will require a DSA approval; and, (2) CCD Category B (DSA Form 140) for work NOT affecting Structural Safety, Access Compliance or Fire and Life Safety that will not require a DSA approval (except to confirm that no Approval is required);

17.4.1.2 Immediate Change Directive (ICD). An Immediate Change Directive is a written order to the Contractor prepared by the Architect and signed by the District (and CM if there is a CM on the Project) and the Architect, directing a change in the Work and stating a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both. The District may by ICD, without invalidating the Contract, direct immediate changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions within. If applicable, the Contract Sum and Contract Time will be adjusted accordingly.

In the case of an Immediate Change Directive being issued, Contractor must commence Work immediately or delays from failure to perform the ICD shall be the responsibility of Contractor and the failure to move forward with Work immediately shall also be grounds for Termination under Article 19 or determination of partial default under Article 12.2.

An ICD does not automatically trigger an Article 20 Dispute or Claim. Contractor must timely follow the procedures outlined at Article 20 and this Article where applicable.

Refer to Forms for a copy of the proposed Immediate Change Directive form.

17.4.1.3 Use to Direct Change. An ICD shall be used to move work forward immediately and to avoid delay. In some cases, an ICD shall be issued in the absence of agreement on the terms of an Extra, or RFP. A copy of an ICD form is provided in the Forms included with this CSA. The anticipated not to exceed price for the Work will be inserted into the ICD. In the case of an ICD issued to correct Contractor Deficiencies or to correct a Contractor caused Notice of Non-Compliance, the ICD may be issued with \$0 and 0 time. Contractor may prepare an Extra associated with the ICD pursuant to Article 17. However, Contractor shall proceed with all Work required under an Approved ICD immediately upon issuance. Failure to proceed with the Work under an ICD shall be grounds for Termination for Cause under Article 19 or take over the Work under Article 12.2.

If adequate time exists, an ICD may be subject of an RFP for pricing and determination if any time that may be required. However, if an RFP is not completed, Contractor shall immediately commence Work when an ICD is issued. If the RFP is incomplete, it may still be completed to be submitted for Pricing Purposes as long as the PR is

submitted within the timeline provided by the PR, or within 10 days following issuance of the ICD.

17.4.1.4 ICD Issued Over a Notice of Non-Compliance or to Cover Work Subject to a DSA 152 Sign Off. In some cases, an ICD shall be for the purpose of proceeding with Work to keep the Project on Schedule and as an acknowledgement by the District that Contractor is proceeding with Work contrary to a Notice of Non-Compliance, prior to issuance of a DSA approved CCD Category A, or to direct the covering of Work which has not yet received a DSA 152 Inspection Approval to move forward.

- a. *Contractor Compliance with all Aspects of an ICD.* Contractor is to undertake the ICD and comply with all aspects of the Work outlined in the ICD. Inspector is to inspect the Work pursuant to the ICD. Failure to follow the ICD may result in deduction of the ICD Work under Article 12.2 or Termination of the Contractor pursuant to Article 19.
- b. *Exception in the Case of DSA Issued Stop Work Order.* Contractor must proceed with an ICD even if a CCD has not been approved by DSA except in the case of a DSA issued Stop Work Order. If a DSA Stop Work Order is issued, Contractor must stop work and wait further direction from the District.
- c. *ICD Due to Contractor Deficiency or Contractor Caused Notice of Non-Compliance.* If an ICD is issued to correct a Contractor Deficiency or a Contractor caused notice of Non-Compliance, Contractor specifically acknowledges responsibility for all consequential damages associated with the Contractor Deficiency or Contractor Caused Notice of Non-Compliance and all consequential damages and costs incurred to correct the deficiency under Article 10.4.

17.5 Extras Request. Extra work or a modification or reduction of requirements or of methods of performing the Construction which differ from the work or requirements set forth in the Construction Documents ("Extra Work/Modifications"); and for such purposes, the District may at any time during the life of this Construction Services Agreement by written order, make such changes as it shall find necessary from Construction Contingency if District approves such request in writing. The costs of the Extra Work/Modifications, as established pursuant to this Article, shall be deducted from the Construction Contingency as mutually agreed in writing or the Errors and Omissions Contingency or the Unforeseen Allowance as determined by the District, and shall not affect the GMP.

17.5.1 *Format.* The following format shall be used, as applicable by the District and the Contractor to communicate proposed additions and deductions to the Contract. A copy of a proposed Construction Change Document form is provided in Division 1 of the Specifications. The most stringent guidelines will apply to all forms.

EXTRA

CREDIT

	<u>EXTRA</u>	<u>CREDIT</u>
(a) Material (attach itemized quantity and unit cost plus sales tax)	_____	_____
(b) Equipment (attach invoices)	_____	_____
(c) Labor Not to Exceed Applicable Prevailing Wage Rates (attach itemized hours and rates)	_____	_____
(d) Subtotal (a-d)	_____	_____
(e) If Subcontractor performed work, add Subcontractor's overhead and profit to portions performed by Subcontractor, not to exceed 10% of item (d).	_____	_____
(f) Subtotal	_____	_____
(g) Contractor's Overhead and Profit: Not to exceed 10% of Item (d) if Contractor performed the work. No more than 5% of Item (d) if Subcontractor performed the work. If work was performed by Contractor and Subcontractors, portions performed by Contractor shall not exceed 10% if Item (d), and portions performed by Subcontractor shall not exceed 10% of Item (d)	_____	_____
(h) Subtotal	_____	_____
(i) Bond not to exceed one percent (1%) of Item (h)	_____	_____
(j) TOTAL	_____	_____
(k) Time/ Days	_____	_____

The undersigned Contractor approves the foregoing Extra Work as to the changes, if any, and the contract price specified for each item and as to the extension of time allowed, if any, for completion of the entire work on account of said Extra Work, and agrees to furnish all labor, materials and service and perform all work necessary to complete any additional work specified therein, for the consideration stated herein. It is understood that said Extra Work shall be effective upon approval from the District's Designee if such amounts are against the GMP and if Owner Contingency is used when approved by the Governing Board of the District.

It is expressly understood that the value of such extra Work or changes, as determined by any of the aforementioned methods, expressly includes any and all of the Contractor's costs and expenses, both direct and indirect, resulting from additional time required on the Project or resulting from delay to the Project. Any costs, expenses, damages or time extensions not included are deemed waived.

The Contractor expressly acknowledges and agrees that any change in the Work performed shall not be deemed to constitute a delay or other basis for claiming additional compensation based on theories including, but not limited to, acceleration, suspension or disruption to the Project.

- 17.5.2 Should Contractor claim that any instruction, request, drawing, specification, action, condition, omission, default, or other situation (i) obligates the District to pay additional compensation to the Contractor; or (ii) obligates the District to grant an extension of time for the completion of the Construction Services Agreement; or (iii) constitutes a waiver of any provision in this Construction Services Agreement, CONTRACTOR SHALL NOTIFY THE DISTRICT, IN WRITING, OF SUCH CLAIM AS SOON AS POSSIBLE, BUT IN NO EVENT WITHIN MORE THAN TEN (10) BUSINESS DAYS FROM THE DATE CONTRACTOR HAS ACTUAL OR CONSTRUCTIVE NOTICE OF THE CLAIM. CONTRACTOR SHALL ALSO PROVIDE DISTRICT WITH SUFFICIENT WRITTEN DOCUMENTATION SUPPORTING THE FACTUAL BASIS OF THE CLAIM under Article 20. Contractor shall be required to certify under penalty of perjury the validity and accuracy of any claims submitted. The Contractor's failure to notify the District within the ten (10) business day period shall be deemed a waiver and relinquishment of the claim against the District. If such notice be given within the specified time, the procedure for its consideration shall be as stated above in this Section.
- 17.5.3 All costs associated with the Extra Work/Modification may be in terms of time, money or both.
- 17.6 Deductive Change Orders
- 17.6.1 All Deductive Change Order(s) must be prepared utilizing the form under Paragraph 17.5 (a)-(d) only setting forth the actual costs incurred. Except in the case of an Article 12.2 or 29.4 Deductive Change Order where no mark-up shall be allowed, Contractor will be allowed a maximum of 5% total profit and overhead.
- 17.6.2 For Unilateral Deductive Change Orders, or where credits are due from Contractor for Allowances, Deductive Items, Inspection, Damage, DSA CCD review costs, Architect or Inspector costs for after hours or corrective services, Work removed from the Agreement under Article 12.2 or Article 29.4, there shall be no mark-up.
- 17.6.3 District may, at any time, after a Deductive Change Order is presented to Contractor by District for items under Article 12.2 or Article 29.4 of if there is disagreement as to the Deductive Change Order, issue a unilateral Deductive Change Order on the Project and deduct the Deductive Change Order from a Progress Payment or the Retention Payment.

18. TIME OF COMPLETION

- 18.1 ONCE THE DISTRICT HAS ISSUED A NOTICE TO PROCEED, CONTRACTOR SHALL PROCEED WITH THE CONSTRUCTION OF THE PROJECT WITH REASONABLE DILIGENCE. CONTRACTOR AGREES THAT THE PROJECT WILL BE SUBSTANTIALLY COMPLETE WITHIN THE CALENDAR DAYS DESIGNATED IN ARTICLE 3 FROM THE NOTICE TO PROCEED. SAID CONTRACT TIME MAY BE EXTENDED FOR SUCH PERIODS OF TIME AS ALLOWED UNDER THE CONTRACT DOCUMENTS. IF THE PROJECT IS NOT SUBSTANTIALLY COMPLETED IN ACCORDANCE WITH THE FOREGOING, IT IS UNDERSTOOD THAT THE DISTRICT WILL SUFFER DAMAGE SINCE CONTRACTOR HAS OVERSTAYED ITS LEASE TERM. IT BEING IMPRACTICAL AND INFEASIBLE TO DETERMINE THE AMOUNT OF ACTUAL DAMAGE, IT IS AGREED THAT CONTRACTOR'S EXTENSION OF THE LEASE SHALL RESULT IN LIQUIDATED DAMAGES, AND NOT AS A PENALTY, THE SUM SET FORTH IN ARTICLE 3 FOR EACH CALENDAR DAY OF DELAY UNTIL WORK IS SUBSTANTIALLY COMPLETED. CONTRACTOR AND ITS SURETY SHALL BE LIABLE FOR THE AMOUNT THEREOF. ANY MONEY DUE OR TO BECOME DUE THE CONTRACTOR MAY BE RETAINED BY THE DISTRICT TO COVER SAID LIQUIDATED DAMAGES FOR

OVERSTAYING THE LEASE. SHOULD SUCH MONEY NOT BE SUFFICIENT TO COVER SAID LIQUIDATED DAMAGES, THE DISTRICT SHALL HAVE THE RIGHT TO RECOVER THE BALANCE FROM THE CONTRACTOR OR ITS SURETIES, WHO WILL PAY SAID BALANCE FORTHWITH.

- 18.2 Within five (5) business days after the Project commencement date in the District's Notice to Proceed, Contractor shall furnish District with a Baseline CPM (Critical Path) Schedule pursuant to Article 9. The Contractor shall include the District's occupancy requirements showing portions of the Projects having occupancy priority.
- 18.3 Contractor shall not be charged for liquidated damages, as set forth in the Agreement, for materially differing underground soil conditions than those outlined in the soils report and from hazardous substances that are encountered that are not documented in the Contract Documents or in the Due Diligence Documents provided to Contractor.
- 18.3.1 In case of encountering such unforeseen conditions noted above, Contractor shall notify the District in writing immediately and no later than seven (7) days following encountering the unforeseen condition. After providing written notice, Contractor shall test and provide District with Test results (unless District chooses to test) and shall proceed with Work based on the Test results. A Change Order pursuant to Article 17 shall be submitted. All time and expenses shall be verified with the Inspector or District Designee either on the day the extra work occurs, but no later than 10 am the following business day.
- 18.3.2 Change Orders associated with approved unforeseen conditions shall be billed as Change Order Work and allocated to the Unforeseen Allowance, and if the Unforeseen Allowance is exceeded, the District, in its sole and absolute discretion, may allocate such costs to the District Contingency to the extent unforeseen conditions as defined in this Article are encountered.
- 18.4 Contractor shall within ten (10) calendar days of beginning of any such delay notify District in writing of causes of delay. Thereupon District shall ascertain the facts and extent of delay and grant extension of time for completing work when, in its judgment, the findings of fact justify such an extension. District's findings of fact thereon shall be final and conclusive on the parties hereto. Extension of time shall apply only to that portion of work affected by the delay, and shall not apply to other portions of work not so affected. Contractor agrees that the extension of time granted under this Article shall be its sole and exclusive remedy for the consequences of any delay described above. For any such delay resulting from the actions or inactions of Architect, District, or their officers, agents, and employees, or changes to the scope of the Work which impact the schedule, Contractor shall be entitled to reimbursement for its reasonable additional costs resulting from such delay, but not any additional profit or fee.
- 18.5 Contractor acknowledges the extreme importance of promptly notifying and thoroughly documenting any request for time extension and further specifically acknowledges that District will suffer extreme prejudice should Contractor fail in any way to comply with this requirement. Failure to comply with the procedures and time limits established in this Article shall constitute a waiver of such request. Evidence presented by Contractor that District had actual notice of the time extension request, that District was not prejudiced by Contractor's failure to comply with this requirement, and/or that District considered Contractor's request despite Contractor's failure to strictly comply with this provision shall not render this requirement unenforceable.
- 18.6 Contractor is required to order, obtain, and store materials and equipment sufficiently in advance of its work at no additional cost or advance payment from District to assure that there will be no delays. An extension of time will not be granted for a delay caused by a shortage of materials.

- 18.7 Contractor shall not be entitled to additional compensation for delays within its control. Contractor is aware that governmental agencies, such as the Department of General Services, gas companies, electrical utility companies, water districts and other agencies may have to approve Contractor-prepared drawings or approve a proposed installation. In the event of delays to the Project from such agencies for which Contractor has no control, provided such delays are not caused by Contractor's or any Subcontractor's acts or omissions, Contractor may be entitled to a time extension for such delays, but shall not be allowed additional compensation for the costs of such delays not impacting the Project's critical path.
- 18.8 District reserves the right to occupy any building or portion thereof or use any improvement contemplated by the Contract Documents prior to the completion of the entire Project. A list of work to be completed and corrected by Contractor, if any, shall be prepared and agreed to between District and Contractor before any such occupancy or use. Such occupancy or use shall not operate as an acceptance of any part of the Project but shall start the guaranty-warranty period on the structure or portion thereof so occupied or improvement or equipment so used; provided, however, that such occupancy or use shall not start the guaranty-warranty period as to items appearing on the list of work yet to be completed and corrected or as to structures or improvements (or portions thereof) that are not occupied or used. No such occupancy or use shall be deemed to have occurred unless and until District has given Contractor written notice of its intention to so occupy or use any particular structure or improvement specifying the portion or portions of the structure, improvement or equipment which will be deemed so occupied or used. District and Contractor shall take reasonable steps to obtain the consent of Contractor's insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse of or reduction of such insurance. Such occupancy or use by District shall relieve Contractor of (and District shall assume) the responsibility for injury or damage to said occupied or used portions of the Project resulting from use by District or the public or from the action of the elements or from any other cause, except injury or damage resulting from the operations, negligence or intentional acts of Contractor, any Subcontractors or materialmen of any tier, or their officers, employees or agents.

19. TERMINATION OF AGREEMENT

19.1 Termination for Breach.

- 19.1.1 If the Contractor refuses or fails to proceed with the construction of the Project or any separable part thereof with such diligence as will insure its completion within the time specified by this Construction Services Agreement or any extension thereof, or fails to Complete the Project within the Contract Time, or if the Contractor should be adjudged bankrupt, or if it should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency, or the Contractor or any of its Subcontractors should violate any of the provisions of this Construction Services Agreement, the District may serve written notice upon the Contractor and its Surety of the District's intention to terminate this Construction Services Agreement. This notice of intent to terminate shall contain the reasons for such intention to terminate this Construction Services Agreement and a statement to that effect that the Contractor's right to perform work on the Project shall cease and terminate upon the expiration of ten (10) days unless such violations have ceased and arrangements satisfactory to the District have been made for correction of said violations.
- 19.1.2 In the event that the District serves such written notice of termination upon the Contractor and the Surety, the Surety shall have the right to take over and perform this Construction Services Agreement. If the Surety does not: (1) give the District written notice of Surety's intention to take over and commence performance of this Construction Services Agreement within fifteen (15) days of the District's service of

said notice of intent to terminate upon Surety; and (2) actually commence performance of this Construction Services Agreement within thirty (30) days of the District's service of said notice upon Surety; then the District may take over the Project and prosecute the same to completion by separate contract(s) or by any other method it may deem advisable for the account and at the expense of the Contractor.

- 19.1.3 In the event that the District elects to obtain an alternative performance of the Construction Services Agreement as specified above: (1) the District may, without liability for so doing, take possession of and utilize in completion of the Project such materials, appliances, plants and other property belonging to the Contractor that are on the site and reasonably necessary for such completion; and (2) Surety shall be liable to the District for any cost or other damage to the District necessitated by the District securing an alternate performance pursuant to this Article.

19.2 Termination for Convenience.

- 19.2.1 The District may terminate performance of the Project called for by the Contract Documents in whole or, from time to time, in part, if the District determines that a termination is in the District's interest.
- 19.2.2 The District shall terminate all or any part of the Project upon delivery to the Contractor of a "Notice of Termination" specifying that the termination is for the convenience of the District, the extent of termination, and the effective date of such termination.
- 19.2.3 After receipt of Notice of Termination, and except as directed by the District's Representative, the Contractor shall, regardless of any delay in determining or adjusting any amounts due under this Termination for Convenience clause, immediately proceed with the following obligations:
1. Stop Work as specified in the Notice of Termination.
 2. Complete any work specified in the Notice of Termination in a least cost/shortest time manner while still maintaining the quality called for under the Contract Documents.
 3. Leave the Property upon which the Contractor was working and upon which the facility (or facilities) forming the basis of the Contract Documents is situated in a safe and sanitary manner such that it does not pose any threat to the public health or safety.
 4. Terminate all subcontracts to the extent that they relate to the portions of the work terminated.
 5. Place no further subcontracts or orders, except as necessary to complete the continued portion of the Construction Services Agreement.
 6. Submit to the District's Representative, within ten (10) days from the Project termination date found in the Notice of Termination, all of the usual documentation called for by the Contract Documents to substantiate all costs incurred by the Contractor for labor, materials and equipment through the Project termination date, including termination costs related to demobilizing and closing out the Project, found in the Notice of Termination. Any documentation substantiating costs incurred by the Contractor solely as a result of the District's exercise of its right to terminate this Construction Services Agreement pursuant to this clause, which costs the Contractor is

authorized under the Construction Services Agreement to incur, shall: (i) be submitted to and received by the District no later than thirty (30) days after the Project termination date found in the Notice of Termination; (ii) describe the costs incurred with particularity; and (iii) be conspicuously identified as "Termination Costs occasioned by the District's Termination for Convenience."

19.2.4 Termination of the Construction Services Agreement shall not relieve the Surety of its obligation for any just claims arising out of or relating to the work performed on the Project.

19.2.5 In the event that the District exercises its right to terminate this Construction Services Agreement pursuant to this clause, the District shall pay the Contractor, upon the Contractor's submission of the documentation required by this provision, and other applicable provisions of the Construction Services Agreement the following amounts not already paid to Contractor:

1. All actual costs incurred according to the provisions of this Construction Services Agreement including but not limited to insurance costs incurred in connection with the Project.
2. A reasonable allowance for profit on the cost of the work on the Project performed and not otherwise paid for the District, provided Contractor establishes to the satisfaction of the District, that it is reasonably probable that the Contractor would have made a profit had the Construction Services Agreement been completed and provided further, that the profit allowed shall in no event exceed five percent (5%) of costs. In no event shall the total amount exceed GMP.
3. A reasonable allowance for Contractor's administrative costs in determining the amount payable due to termination of the Construction Services Agreement under this Article.

19.3 Termination of Agreement by Contractor. The Contractor may terminate the Construction Services Agreement upon ten (10) days written notice to the District, whenever: (1) there is a substantial failure of performance on the part of the District; or (2) the District shall elect not to appropriate funds and/or not to make two (2) successive Sublease Prepayments (if exercised by the District in its sole discretion) following the receipt by District of a request from the Contractor in its capacity as Lessor for each such Sublease Prepayment pursuant to Article 21 of the Sublease. In the event of such termination, the Contractor shall have no claims against the District except for payment for the value of the work performed on the Project as of the date of termination.

19.4 Assignment of Subcontractors and Suppliers. If the Contract is Terminated, Contractor shall provide District copies of all subcontracts, purchase orders, addenda, invoices, payment records, and Project files associated with each Subcontractor and Material Supplier. The District shall have the option to assume any Subcontracts, contracts or purchase orders the District chooses. To the extent that vendors are not paid in full for the labor, materials, or services provided, Contractor shall provide an accounting statement showing the amounts paid and the amounts due to the Subcontractor and a statement on the anticipated payment status associated with the Termination.

19.5 Continuation of Work During Disputes. In the event of a dispute between the parties as to performance of the work or the interpretation of this contract, or payment dispute, the parties shall attempt to resolve the dispute. Pending resolution of this dispute, Contractor agrees to continue the work diligently to completion and shall neither rescind nor terminate the agreement.

20. **RESOLUTION OF AGREEMENT CLAIMS**

20.1 **Decision of Architect.** “Disputes” or “Claims” as defined in Article 20.9.1.1 between District and Contractor involving money or time, including those alleging an error or omission by the Architect shall be referred initially to the Architect for action as provided in Article 20.2 within ten (10) days after Contractor’s Article 17 request for extra work/ modification is denied. If there is a CM, the CM shall receive the Dispute and may review and also assemble opinions and documents to assist the Architect. A decision by the Architect, as provided in Article 20.5, shall be required as a condition precedent to proceeding with remedies set forth in Article 20.9 as to all such matters arising prior to the date Retention Payment Application is due, regardless of whether such matters relate to execution and progress of the Work, or the extent to which the Work has reached Final Completion.

The condition precedent of an Architect decision shall be waived if: (1) the position of Architect is vacant; (2) the Architect has failed to take action required under Article 20.5 within the time periods required therein; or (3) the Dispute or Claim relates to a stop notice claim not arising from any extra Change Order or Immediate Change Directive for which approval has not been provided.

20.2 **Architect’s Review.** The Architect (and CM) will review the Dispute and take one or more of the following preliminary actions upon receipt of a Dispute: (1) request additional supporting data from the claimant; (2) submit a schedule to the parties indicating when the Architect expects to take action; (3) reject the Dispute in whole or in part, stating reasons for rejection; (4) recommend approval of the Dispute; or (5) suggest a compromise. The Architect may also, but is not obligated to, notify the Surety, if any, of the nature and amount of the Dispute..

20.2.1 ***Architectural Immunity.*** Architect review of Disputes and Claims shall be impartial and meant to resolve Disputes and Claims. Pursuant to the case, Huber, Hunt & Nichols, Inc. v. Moore (1977) 67 Cal.App.3d 278, the Architect is provided a quasi-judicial immunity for interpreting and deciding Disputes and Claims between the District and Contractor.

20.3 **Documentation if Resolved.** If a Dispute has been resolved, the Architect (and/or CM) will prepare a Change Order or obtain appropriate documentation to document the terms for Board approval.

20.4 **Actions if Not Resolved.** If a Dispute has not been resolved and all documentation requested pursuant to Article 20.2 has been provided, the Contractor shall, within ten (10) days after the Architect’s initial response, assemble all the documents involved in the Dispute including copies of all back-up documentation of costs and the basis for the Dispute and take one or more of the following actions: (1) modify the initial Dispute; (2) notify the Architect that the initial Dispute stands; or (3) supplement with additional supporting data and re-submit to the Architect under Article 20.2.

20.5 **Architect’s Written Decision.** If a Dispute has not been resolved after consideration of the foregoing and of other evidence presented by the parties or requested by the Architect, the Architect (or Architect through CM) shall provide a written decision twenty (20) days after compliance with Article 20.4. Upon expiration of such time period, the Architect (or Architect through CM) will render to the parties its written decision relative to the Dispute, including any change in the Contract Sum or Contract Time or both. The Architect may also request reasonable additional time to complete Architect’s written decision.

If the resolution of the Dispute by the Architect is not satisfactory to the Contractor and copies of all back-up documentation of costs and the basis for the Dispute is fully articulated in a package of material that is complete, the Contractor may then submit a Claim to the District under Article 20.9.

- 20.6 Continuing Contract Performance. Pending final resolution of a Dispute or Claim, including, negotiation, mediation, arbitration, or litigation, the Contractor shall proceed diligently with performance of the Contract, and the District shall continue to make any undisputed payments in accordance with the Contract (less any withholdings or offsets). If the Claim is not resolved, Contractor agrees it will neither rescind the Contract nor stop the progress of the work, but Contractor's sole remedy shall be to submit such controversy to determination by a court of competent jurisdiction in the county where the Project is located, after the Project has been completed, and not before.
- 20.6.1 *District's Option to Submit Individual Disputes to Arbitration during Claims and Disputes Process.* At the District's sole option, in order to more efficiently resolve Claims during the Project and prior to the completion of the Claims Process, pursuant to Government Code section 9201, the District may submit individual Disputes or Claims for binding arbitration and Contractor agrees to the resolution of for each individual Dispute or Claim by an Arbitrator, including resolution of time and delays. If binding arbitration is utilized for individual Disputes or Claims, such resolution is full and final as to that particular Dispute or Claim. THIS INDIVIDUAL DISPUTE ARBITRATION PROCESS IS NOT AN ARBITRATION CLAUSE AND SHALL NOT BE CONSTRUED AS AN AGREEMENT TO ARBITRATE. THIS INDIVIDUAL DISPUTES ARBITRATION PROCESS IS FOR THE SOLE PURPOSE OF STREAMLINING AND RESOLVING DISPUTES OR CLAIMS DURING CONSTRUCTION AND SHALL BE REQUESTED ON SPECIFIC INDIVIDUAL ITEMS BY THE DISTRICT PRIOR TO RETENTION PAYMENT (EVEN IF THERE ARE DEDUCTIONS MADE FROM RETENTION PAYMENT) WHICH REPRESENTS THE FINAL COMPLETION OF THE PROJECT.
- 20.6.1.1 If there is no Retention remaining on the Project, individual Disputes initiated prior to Project Final Completion shall continue until a final disposition of the Arbitration or resolution of the individual Claim or Dispute.
- 20.6.1.2 The Arbitration process shall not toll the Disputes or Claims process under Article 20 or the requirement to submit Claims to Court under Article 20.13.
- 20.7 Claims for Concealed Trenches or Excavations Greater Than Four Feet Below the Surface. When any excavation or trenching extends greater than four feet below the surface:
- 20.7.1 *Immediately upon discovery,* The Contractor shall promptly, and before the following conditions are disturbed, notify the District, by telephone and in writing of any:
- 20.7.1.1 Subsurface or latent physical conditions at the Site differing from those indicated in the Drawings, Specifications, or pursuant to the documents and information from Contractor's Due Diligence or Due Diligence Documents.
- 20.7.1.2 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 the Contract.
- 20.7.1.3 Hazardous waste condition, except, if Contractor's bid includes removal or disposal of hazardous substances, or is part of Contractor's Due Diligence or Due Diligence Documents. Material that the Contractor believes may be a material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, is required to

be removed to a Class I, Class II, or Class III disposal site in accordance with the provisions of existing law. In such case, the notice procedures and requirements of Article 17.5.2 shall apply.

- 20.7.2 *The District shall investigate the conditions*, and if District finds that the conditions do materially so differ, 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 or Construction Change Document under the procedures described in the Contract.
- 20.7.3 *In the event that a dispute arises between a public entity or District and the Contractor whether the conditions materially differ, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the Work, the Contractor shall not be excused from any scheduled Completion Date provided for by the Contract, but shall proceed with all Work to be performed under the Contract. The Contractor shall retain any and all rights provided either by Contract or by law which pertain to the resolution of disputes and protests between the contracting parties.*
- 20.8 Dispute Concerning Extension of Time. If Contractor and District cannot agree upon an extension of time, whether compensable or not, then Contractor must have first completed the procedures set forth in Article 18. Upon completion of the procedures set forth under Article 18, Contractor must then comply with the requirements in this Article including those set forth under Article 20.9.
- 20.9 Claims Procedures. Pursuant to the remedies under Public Contract Code Section 9201 and Government Code Section 930.2, Contractor, through execution of this Agreement, also agrees to comply with the Claims requirements under Article 20 to quickly and efficiently resolve disputes. Further, to provide a level of accuracy to the records submitted, the District shall have the right to audit books and records pursuant to Article 21 based on the actual costs incurred and to reduce the uncertainty in resolving disputes with limited information.
- 20.9.1 *Procedure Applicable to all Claims*
- 20.9.1.1 Definition of Claim: A "Claim" is where a Dispute between the parties rises to the level where backup documentation is assembled and provided to the District as a separate demand by the Contractor for: (1) a time extension, including, without limitation, for relief from damages or penalties for delay assessed by the District under the Contract; (2) payment by the District of money or damages arising from Work done by, or on behalf of, the Contractor pursuant to the Contract and payment for which is not otherwise expressly provided for or to which the Contractor is not otherwise entitled to; or (3) an amount of payment disputed by the District. If the Claim is for damages associated with a DSA Stop Work Order, the Contractor shall not be entitled to a request for Compensation, but shall be entitled to utilize Governmental Delay Float (See Article 9.2.1.)
- 20.9.1.2 Filing Claim Is Not Basis to Discontinue Work: The Contractor shall promptly comply with Work under the Contract or Work requested by the District even though a written Claim has been filed. The Contractor and the District shall make good faith efforts to resolve any and all Claims that may arise during the performance of the Work covered by this Contract.
- 20.9.1.3 Claim Notification: The Contractor shall within seven (7) calendar days after the written decision of the Architect, or if the time period for Architect's decision has passed under Article 20.5, submit a notification in writing sent by registered mail or certified mail with

return receipt requested, with the District (and the District's CM) stating clearly the basis for the Claim and including all relevant and required documents. If the notification is not submitted within seven (7) days after the written decision of the Architect or the passage of time under Article 20.5, the Contractor shall be deemed to have waived all right to assert the Claim, and the Claim shall be denied. Claims submitted after the Retention Payment date shall also be considered null and void by the District. All Claims shall be reviewed pursuant to Articles 20.1 through 20.5.

20.9.1.4 The Formal Notification of Claim must be presented as follows:

- a. The term "Claim" must be at the top of the page in no smaller than 20 point writing.
- b. All documentation submitted pursuant to Article 20 to the Architect shall be submitted with the title "claim."
- c. A stack of documents, copy of all Project documents, or the submission of random documents shall not constitute an adequate reference to supporting documentation
- d. Any additional or supporting documentation that Contractor believes is relevant should be submitted at this time.

20.9.1.5 Reasonable Documents to Support Claim: The Contractor shall furnish reasonable documentation to support the Claim. The Contractor shall provide all written detailed documentation which supports the Claim, including but not limited to: arguments, justifications, cost, estimates, Schedule analysis and detailed documentation. The format of the required reasonable documentation to support the Claim shall include, without limitation:

- a. Cover letter.
- b. Summary of factual basis of Claim and amount of Claim.
- c. Summary of the basis of the Claim, including the specific clause and section under the Contract under which the Claim is made.
- d. Documents relating to the Claim, including:
 1. Specifications sections in question.
 2. Relevant portions of the Drawings
 3. Applicable Clarifications (RFI's)
 4. Other relevant information, including responses that were received.
 5. Contractor Analysis of Claim merit.
 - (a) Contractor's analysis of any Subcontractor vendor claims that are being passed through.
 - (b) Any analysis performed by outside consultants.

- (c) Any legal analysis that Contractor deems relevant.
- e. Breakdown of all costs associated with the Claim.
- f. For Claims relating to time extensions, an analysis and supporting documentation evidencing any effect upon the critical path in conformance with the requirements of Article 9 and a chronology of events and related correspondence.
- g. Chronology of events and related correspondence.
- h. Applicable daily reports and logs.
 - 1. If the daily reports or logs are not available, lost or destroyed, there shall be a presumption that the lost documentation was unfavorable to the Contractor. See California Civil Jury Instruction 204.
- i. For Claims involving overhead, cost escalation, acceleration, disruption or increased costs, a full version of job costs reports organized by category of work or Schedule of Values with budget information tracked against actual costs. Any and all supporting back-up data, including the original bid or cost documents (and associated original unaltered metadata).
 - 1. The metadata and bid or cost information shall be provided confidentially and subject to a protective order to prevent dissemination to other contractors or to the public. However, the bid or cost documentation should remain intact and available for review and inspection in case of this type of increased cost Claim.
 - 2. This data on the bid or cost information shall be made available to any District attorneys or experts and shall also be utilized as evidence for any legal proceedings.
 - 3. If the bid or cost documentation is not available, lost or destroyed, there shall be a presumption that the lost bid or cost documentation was unfavorable to the Contractor. See California Civil Jury Instruction 204.
- j. Certification: The Contractor (and Subcontractors, if applicable) shall submit with the claim a certification under penalty of perjury:
 - 1. That the Contractor has reviewed the Claim and that such Claim is made in good faith;
 - 2. Supporting data are accurate and complete to the best of the Contractor's knowledge and belief;
 - 3. The amount requested accurately reflects the amount of compensation for which the Contractor believes the District is liable.

4. That the Contractor is familiar with Government Code Sections 12650 et seq. and Penal Code Section 72 and that false claims can lead to substantial fines and/or imprisonment.
- k. Signature of Certification: If the Contractor is not an individual, the certification shall be executed by an officer or general partner of the Contractor having overall responsibility for the conduct of the Contractor's affairs.
- l. Upon receipt of a Claim and all supporting documents as required above, the District shall conduct a reasonable review of the Claim and, within a period not to exceed 45 days, shall provide the Contractor a written statement identifying what portion of the Claim is disputed and what portion is undisputed. Upon receipt of a Claim, the District and Contractor may, by mutual agreement, extend the time period provided in this paragraph.
- m. If the District needs approval from its governing Board to provide the Contractor a written statement identifying the disputed portion and the undisputed portion of the Claim, and the governing Board does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a Claim sent by registered mail or certified mail, return receipt requested, the District shall have up to three days following the next duly publicly noticed meeting of the governing Board after the 45-day period, or extension, expires to provide the Contractor a written statement identifying the disputed portion and the undisputed portion.
- n. Any payment due on an undisputed portion of the Claim shall be processed and made within 60 days after the District issues its written statement. If the District fails to issue a written statement, paragraph t below shall apply.
- o. If the Contractor disputes the District's written response, or if the District fails to respond to a Claim issued pursuant to Article 20.9 within the time prescribed, the Contractor may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the District shall schedule a meet and confer conference within 30 days for settlement of the Claim.
- p. Within 10 business days following the conclusion of the meet and confer conference, if the Claim or any portion of the Claim remains in dispute, the District shall provide the Contractor a written statement identifying the portion of the Claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the Claim shall be processed and made within 60 days after the District issues its written statement. Any disputed portion of the Claim, as identified by the Contractor in writing, shall be submitted to nonbinding mediation, with the District and the Contractor sharing the associated costs equally. The District

and Contractor shall mutually agree to a mediator within 10 business days after the disputed portion of the Claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the Claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the Claim remaining in dispute shall be subject to applicable procedures in Article 20.13.

- q. For purposes of Article 20.9, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.
- r. Unless otherwise agreed to by the District and the Contractor in writing, the mediation conducted pursuant to Article 20.9 shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.
- s. This Claims process does not preclude the District from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under Article 20.9 does not resolve the parties' Claim. This Claims process does not preclude the District from submitting individual Disputes or Claims to binding arbitration pursuant to Article 20.12 below.
- t. Failure by the District to respond to a Claim from the Contractor within the time periods described in this subdivision or to otherwise meet the time requirements of Article 20.9 shall result in the Claim being deemed rejected in its entirety. A Claim that is denied by reason of the District's failure to have responded to a Claim, or its failure to otherwise meet the time requirements of Article 20.9, shall not constitute an adverse finding with regard to the merits of the Claim or the responsibility or qualifications of the Contractor.
- u. If a subcontractor or a lower tier subcontractor lacks legal standing to assert a Claim against a District because privity of contract does not exist, the Contractor may present to the District a Claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on his or her own behalf or on behalf of a lower tier subcontractor, that the Contractor present a Claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the Claim be presented to the District shall furnish reasonable documentation to support the Claim. Within 45 days of receipt of this written request, the Contractor shall notify the subcontractor in writing as to

whether the Contractor presented the Claim to the District and, if the Contractor did not present the Claim, provide the subcontractor with a statement of the reasons for not having done so.

- v. Upon receipt of a Claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable.
- w. The Contractor's Claim shall be denied if it fails to follow the requirements of this Article.

- 20.10 District (through CM or District's Agent or Attorney) May Request Additional Information. Within thirty (30) days of receipt of the Claim and the information under this Article, the District may request in writing any additional documentation supporting the Claim or documentation relating to defenses to the Claim which the District may assert. If additional documents are required, the time in which the Claim is evaluated may be extended by a reasonable time so the Claim and additional documents may be reviewed.
- 20.11 Claims Procedures in Addition to Government Code Claim. Nothing in the Claims procedures set forth in Article 20 of the CSA shall act to waive or relieve the Contractor from meeting the requirements set forth in Government Code section 900 et seq.
- 20.12 Binding Arbitration of Individual Claim Issues. To expedite resolution of Claims pursuant to Public Contract Code Section 9201, at the District's sole option, the District may submit individual Claims to Arbitration prior to Retention Payment consistent with the requirements of Article 20.6.1.
- 20.13 Resolution of Claims in Court of Competent Jurisdiction. If Claims are not resolved under the procedure set forth and pursuant to Article 20.9, such Claim or controversy shall be submitted to a court in the County of the location of the Project after the Project has been completed, and not before
- 20.14 Warranties, Guarantees and Obligations. The duties and obligations imposed by this CSA and the rights and remedies available hereunder to the parties hereto, and, in particular but without limitation, the warranties, guarantees and obligations imposed upon Contractor by the Contract Documents and amendments thereto; and all of the rights and remedies available to District and Architect thereunder, are in addition to, and are not to be construed in any way as a limitation of any rights and remedies available to any or all of them which are otherwise imposed or available by laws or regulations by special warranty or guarantee or by other provisions of the Contract Documents, and the provisions of this Article will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right and remedy to which they apply.

21. MAINTENANCE OF RECORDS; AUDIT/OWNERSHIP OF DOCUMENTS

- 21.1 State Audit. Pursuant to and in accordance with the provisions of Government Code § 10532, or any amendments thereto, all books, records, and files of the District, the Contractor, or any Subcontractor connected with the performance of this Contract involving the expenditure of state funds in excess of Ten Thousand Dollars (\$10,000.00), including, but not limited to, the administration thereof, shall be subject to the examination and audit of the Office of the Auditor General of the State of California for a period of five (5) years after Retention Payment is made or a Notice of Completion is Recorded, whichever occurs first. Contractor shall preserve and cause to be preserved such books, records, hard drives, electronic media, and files for the audit period.

- 21.2 District Audit. Pursuant to the remedies under Public Contract Code Section 9201 and Government Code Section 930.2, Contractor, through execution of this Agreement, also agrees the District shall have the right to review and audit, upon reasonable notice, the books and records of the Contractor concerning any monies associated with the Project. The purpose of this Audit is to quickly and efficiently resolve disputes based on the actual costs incurred and to reduce the uncertainty in resolving disputes with limited information. The District shall perform any audits at its own cost and any such audit shall be performed by an independent auditor, having no direct or indirect relationship with the functions or activities being audited or with the business conducted by the Contractor or District. In the event the independent auditor determines that Change Orders, Response to Request for Proposals, Claims, Appeal of Claims, or other requests for payment the Auditor shall report the results of the Audit findings to the District and provide a copy to the Contractor after giving the District Board the opportunity for at least 10 days review. If the Contractor disputes the findings of the independent auditor, such dispute shall be handled in the manner set forth under Article 20 entitled Disputes.
- 21.3 Failure to Produce Books or Records. If Contractor having agreed to the terms of this Contract fails to produce books or records requested by Auditor, such failure to produce books or records that were required to be preserved for audit, it shall be presumed that the information contained in the withheld books or records were unfavorable to the Contractor and the Auditor shall note this refusal in the results of the Audit findings for further evaluation by the District and the District's Board. The refusal to release records that are concerning monies associated with the Project may be used as a grounds to Debar the Contractor from future Projects for failure to preserve records under this Article and the failure to produce required audit records may also be used as a grounds for a negative finding against the Contractor depending on the significance of the records that are withheld by Contractor. Failure to produce Job Cost Data tied to Job cost categories and budgets shall be presumed an intentional failure to produce key audit records. Similarly, failure to produce daily time records (prepared at or near the time of the Work actually took place shall be presumed an intentional failure to produce key audited records.
- 21.4 Inefficiency, Acceleration or Delay Claims. If Contractor is seeking costs for inefficiency, home office overhead, or unanticipated increased costs due to delays or acceleration, Contractor shall also produce copies of the original bid or cost tabulation utilized in submitting Contractor's cost for the Project. This document shall be considered confidential and shall not be subject to disclosure through a Public Records Act and shall not be distributed to anyone other than the District and the District's counsel. This bid or cost tabulation shall only be used in litigation, arbitration, evaluation of Claims or Disputes, Audit, and trial. If the records for the bid or cost tabulation are kept on a computer, the Contractor shall also produce all metadata (in native format) that accompanies the bid or cost tabulation for inspection to prove the authenticity of the underlying bid or cost tabulation. Failure to produce the bid or cost tabulation for review of inefficiency, home office overhead, or unanticipated increased costs due to delays or accelerations shall be considered material evidence that the bid or cost tabulation was not favorable to the Contractor. This evidence shall be entered as a jury instruction for trial that the bid or cost tabulation was not produced and the bid or cost tabulation information was unfavorable to the Contractor. The evidence may also be used in Debarment Proceedings, and noted as an exception to an Audit Findings.
- 21.5 Upon notification of Contractor concerning the results of the audit and a reasonable time has passed for Contractor to respond to Audit Findings and if either there is no Dispute of the Audit findings under this Article or if the result after utilizing the Disputes Clause confirms the Audit findings, the District may seek any Savings that have not been accounted for with District and may also seek reimbursement for overstated Claims, Change Orders, or Appeal of Claims.
- 21.6 Ownership of Drawings. Notwithstanding any provision of this Agreement, all drawings, specifications, and copies thereof furnished by District are its property. They are not to be used on other work and with exception of signed contract sets, are to be returned to District on request at completion of work.

22. PREVAILING RATES OF WAGES; RECORDS, APPRENTICES

22.1 Wage Rates. Pursuant to the provisions of Article 2 (commencing at § 1720), Chapter 1, Part 7, Division 2, of the Labor Code, the District has obtained the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which this public works project is to be performed for each craft, classification, or type of worker needed for this Project from the Director of the Department of Industrial Relations ("Director"). These rates are on file at the administrative office of the District and are also available from the Director of the Department of Industrial Relations. Copies will be made available to any interested party on request. The Contractor shall post a copy of such wage rates at appropriate, conspicuous, weatherproof points at the Site.

Any worker employed to perform Work on the Project, but such Work is not covered by any classification listed in the published general prevailing wage rate determinations or per diem wages determined by the Director of the Department of Industrial Relations, shall be paid not less than the minimum rate of wages specified therein for the classification which most nearly corresponds to the employment of such person in such classification.

22.2 Holiday and Overtime Pay. Holiday and overtime work, when permitted by law, shall be paid for at the rate set forth in the prevailing wage rate determinations issued by the Director of the Department of Industrial Relations or at least one and one-half (1½) times the specified basic rate of per diem wages, plus employer payments, unless otherwise specified in the Contract Documents or authorized by law

22.3 Wage Rates Not Affected by Subcontracts. The Contractor shall pay and shall cause to be paid each worker engaged in the execution of the Work on the Project not less than the general prevailing rate of per diem wages determined by the Director, regardless of any contractual relationship which may be alleged to exist between the Contractor or any Subcontractor and such workers.

22.4 Per Diem Wages. The Contractor shall pay and shall cause to be paid to each worker needed to execute the Work on the Project per diem wages including, but not limited to, employer payments for health and welfare, pensions, vacation, travel time and subsistence pay as provided for in Labor Code §1773.1.

22.5 Forfeiture and Payments. Pursuant to Labor Code §1775, the Contractor shall forfeit to the District, not more than Two Hundred Dollars (\$200.00) for each calendar day, or portion thereof, for each worker paid less than the prevailing wages rates as determined by the Director of the Department of Industrial Relations, for the work or craft in which the worker is employed for any Work done under the Agreement by the Contractor or by any Subcontractor under it. The amount of the penalty shall be determined by the Labor Commissioner and shall be based on consideration of: (1) whether the Contractor or Subcontractor's failure to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily correct upon being brought to the attention of the Contractor or Subcontractor; and (2) whether the Contractor or Subcontractor has a prior record of failing to meet its prevailing wage obligations.

23. RECORDS OF WAGES PAID

23.1 Payroll Records

23.1.1 Pursuant to §1776 of the Labor Code, each Contractor and Subcontractor shall keep an accurate payroll record showing the name, address, social security number, work classification and straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed by him or her in connection with the Project.

- 23.1.2 All payroll records shall be certified and submitted to the District with each application for payment, but not less than once per month or as otherwise requested by the District. All payroll records shall be available for inspection at all reasonable hours at the principal office of the Contractor on the following basis:
- 23.1.3 A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.
- 23.1.4 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 or the Division of Apprenticeship Standards of the Department of Industrial Relations.
- 23.1.5 A certified copy of all payroll records shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through the District, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to Paragraph (2) above, the requesting party shall, prior to being provided the records, reimburse the costs, according to law for the preparation by the Contractor, Subcontractor(s), and the entity through which the request was made. The public shall not be given access to such records at the principal office of the Contractor.
- 23.1.6 Unless required to be furnished directly to the Labor Commissioner in accordance with Labor Code section 1771.4, the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the Division of Labor Standards Enforcement.
- 23.1.7 The Contractor or Subcontractor(s) shall file a certified copy of all payroll records with the entity that requested such records within 10 calendar days after receipt of a written request.
- 23.1.8 Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the District, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address and social security number. The name and address of the Contractor awarded the Contract or the Subcontractor(s) performing the Contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (Section 175a of Title 29 of the United States Code) shall be marked or obliterated only to prevent disclosure of an individual's name and social security number. Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided non-redacted copies of certified payroll records.
- 23.1.9 The Contractor shall inform the District of the location of all payroll records, including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.
- 23.1.10 The Contractor or Subcontractor(s) shall have ten (10) calendar days in which to comply subsequent to receipt of a written notice requesting payroll records. In the event that the Contractor or Subcontractor(s) fails to comply within the 10-day period,

the Contractor or Subcontractor(s) shall, as a penalty to the District, forfeit One Hundred Dollars (\$100.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from Progress Payments or Retention Payment then due.

23.1.11 Responsibility for compliance with this Article shall rest upon the Contractor.

23.2 Withholding of Payments & Penalties

23.2.1 The District may withhold or delay Progress Payments to the Contractor or a Sublease Payment or Retention if:

23.2.1.1 The required prevailing rate of per diem wages determined by the Director of the Department of Industrial Relations is not paid to all workers employed on the Project; or

23.2.1.2 The Contractor or Subcontractor(s) fail to submit all required certified payroll records with each application for payment, but not less than once per month; or

23.2.1.3 The Contractor or Subcontractor(s) submit incomplete or inadequate payroll records; or

23.2.1.4 The Contractor or Subcontractor(s) fail to comply with the Labor Code requirements concerning apprentices; or

23.2.1.5 The Contractor or Subcontractor(s) fail to comply with any applicable state laws governing workers on public works projects.

24. APPRENTICES

24.1 Apprentice Wages and Definitions. All apprentices employed by the Contractor to perform services under the Contract shall be paid the standard wage paid to apprentices under the regulations of the craft or trade for which he or she is employed, and as determined by the Director of the Department of Industrial Relations, and shall be employed only at the craft or trade to which he or she is registered. Only apprentices, as defined in §3077 of the Labor Code, who are in training under apprenticeship standards that have been approved by the Chief of the Division of Apprenticeship Standards and who are parties to written apprenticeship agreements under Chapter 4 (commencing with §3070) of Division 3, are eligible to be employed under this Contract. The employment and training of each apprentice shall be in accordance with the apprenticeship standards and apprentice agreements under which he or she is training, or in accordance with the rules and regulations of the California Apprenticeship Council.

24.2 Employment of Apprentices. Contractor agrees to comply with the requirements of Labor Code §1777.5. The Contractor awarded the Project, or any Subcontractor under him or her, when performing any of the Work under the Contract or subcontract, employs workers in any apprenticeable craft or trade, the Contractor and Subcontractor shall employ apprentices in the ratio set forth in Labor Code §1777.5. The Contractor or any Subcontractor must apply to any apprenticeship program in the craft or trade that can provide apprentices to the Project site for a certificate approving the contractor or subcontractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, the decision of the apprenticeship program to approve or deny a certificate shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the Contractor or Subcontractor, shall arrange for the dispatch of apprentices to the Contractor or Subcontractor upon the Contractor's or Subcontractor's request. "Apprenticeable craft or trade"

as used in this Article means a craft or trade determined as an apprenticeable occupation in accordance with the rules and regulations prescribed by the California Apprenticeship Council. The ratio of work performed by apprentices to journeyman employed in a particular craft or trade on the Project shall be in accordance with Labor Code §1777.5.

- 24.3 Submission of Contract Information. Prior to commencing Work on the Project, the Contractor and Subcontractors shall submit contract award information to the applicable apprenticeship program(s) that can supply apprentices to the Project and make the request for the dispatch of apprentices in accordance with the Labor Code. The information submitted shall include an estimate of journeyman hours to be performed under the Contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the District if requested. Within sixty (60) days after concluding Work on the Project, the Contractor and Subcontractors shall submit to the District, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the Project.
- 24.4 Apprentice Fund. The Contractor or any Subcontractor under him or her, who, in performing any of the Work under the Contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the Director determines is the prevailing amount of apprenticeship training contributions in the area of the Project. The Contractor and Subcontractors may take as a credit for payments to the California Apprenticeship Council any amounts paid by the Contractor or Subcontractor to an approved apprenticeship program that can supply apprentices to the Project. The Contractor and Subcontractors may add the amount of the contributions in computing its bid or costs for the Contract.
- 24.5 Prime Contractor Compliance. The responsibility of compliance with this Article 13 §1777.5 of the Labor Code for all apprenticeable occupations is with the Prime Contractor. Any Contractor or Subcontractor that knowingly violates the provisions of this Article or Labor Code §1777.5 shall be subject to the penalties set forth in Labor Code §1777.7.
- 24.6 WHEN DETERMINING GMP, CONTRACTOR SHALL INCLUDE TO THE EXTENT POSSIBLE ANTICIPATED GENERAL PREVAILING WAGE RATES FOR THE TIME WHEN WORK ON THE PROJECT WILL ACTUALLY BE PERFORMED.

25. REGISTRATION WITH DEPARTMENT OF INDUSTRIAL RELATIONS

- 25.1 Strict compliance with all DIR registration requirements in accordance with Labor Code sections 1725.5 and 1771.1 is a material obligation of the Contractor and all of its subcontractors (of any tier) under the Contract Documents. The foregoing includes, without limitation, compliance with DIR registration requirements at all times during performance of the Work by the Contractor and all of its subcontractors of any tier. The failure of the Contractor and all subcontractors of any tier to be properly registered with DIR at all times during performance of the Work is a material breach of the Contract Documents and subject to termination for cause.
- 25.2 An affirmative and ongoing obligation of the Contractor under the Contract Documents is the verification that all subcontractors of any tier are at all times during performance of the Work are in full and strict compliance with the DIR registration requirements. The Contractor shall not permit or allow any subcontractor of any tier to perform any Work without the Contractor's verification that all subcontractors are in full and strict compliance with the DIR registration requirements. Any subcontractors of any tier not properly registered with DIR shall be substituted in accordance with Labor Code section 1771.1. Contractor or its subcontractors of any tier shall not be entitled to any additional costs or time arising from or in any way related to compliance with the DIR registration requirements.

- 25.3 The Contractor and all subcontractors shall furnish certified payroll records as required pursuant Labor Code section 1776 directly to the Labor Commissioner in accordance with Labor Code section 1771.4 on at least on a monthly basis (or more frequently if required by the District or the Labor Commissioner) and in a format prescribed by the Labor Commissioner. The District reserves the right to withhold Progress Payments or Retention Payment if the District is notified, or determines as the result of its own investigation, that Contractor is in violation of any of the requirements set forth in Labor Code section 1720 et seq. at no penalty or cost to the District. Monitoring and enforcement of the prevailing wage laws and related requirements will be performed by the Labor Commissioner/ Department of Labor Standards Enforcement (DLSE).
- 25.4 The Labor Commissioner and the Division of Labor Standards Enforcement (DLSE) may conduct various compliance monitoring and enforcement activities including, but not limited to, confirming the accuracy of payroll records, conducting worker interviews, conducting audits, requiring submission of itemized statements prepared in accordance with Labor Code section 226, and conducting random in-person inspections of the Project site ("On-Site Visits"). On-Site Visits may include inspections of records, inspections of the Work site and observation of work activities, interviews of workers and others involved with the Project, and any other activities deemed necessary by the Labor Commissioner/DLSE to ensure compliance with prevailing wage requirements. The Labor Commissioner/DLSE shall have free access to any construction site or other place of labor and may obtain any information or statistics pertaining to the lawful duties of the Labor Commissioner/DLSE.
- 25.5 Any lawful activities conducted or any requests made by the Labor Commissioner/DLSE shall not be the basis for any delays, claims, costs, damages or liability of any kind against the District by the Contractor. Contractor and all Subcontractors shall cooperate and comply with any lawful requests by the Labor Commissioner's office. The failure of the Labor Commissioner, DLSE, or any other part of the Department of Industrial Relations to comply with any requirement imposed by the California Code of Regulations, Title 8, Chapter 8 shall not of itself constitute a defense to the failure to pay prevailing wages or to comply with any other obligation imposed by Division 2, Part 7, Chapter 1 of the Labor Code.
- 25.6 Prior to commencing any Work on the Project, the Contractor shall post the notice/poster required under the California Code of Regulations and Labor Code section 1771.4 in both English and Spanish at a conspicuous, weatherproof area at the Project site. The required notice/poster is available on the Labor Commissioner's website.

26. HOURS OF WORK

- 26.1 Eight (8) hours of work shall constitute a legal day's work. The Contractor and each subcontractor shall forfeit, as penalty to the District, twenty five dollars (\$25) for each worker employed in the execution of work on the Project by the Contractor or any subcontractor under him for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any calendar week in violation of the provisions of the Labor Code, and in particular, Section 1810 to Section 1815, thereof, inclusive, except that work performed by employees of the Contractor and his subcontractors in excess of eight hours per day at not less than one and one half times the basic rate of pay, as provided in Labor Code section 1815.
- 26.2 Generally, construction work on the Project shall be accomplished on a regularly scheduled eight (8) hour per day work shift basis, Monday through Friday, between the hours of 7:00 a.m. and 5:00 p.m., however nothing herein shall prevent Contractor from working weekends and after school hours in order to complete the Project so long as not otherwise prohibited by law or local ordinances or regulations.

- 26.3 Any work necessary to be performed after regular working hours, or on Sundays or other holidays shall be performed and included within the GMP, unless otherwise agreed to in writing before the work in question is commenced pursuant to Article 9, Extra Work/Modifications.

27. SKILLED AND TRAINED WORKFORCE

- 27.1 Contractor and all Subcontractors of any tier must comply with the requirements set forth in Education Code section 17407.5, including providing an enforceable commitment that the Contractor and all Subcontractors of any tier will use a “Skilled and Trained Workforce” as defined in Education Code section 17407.5 (b)(3). Contractor and all Subcontractors are to carefully review all requirements set forth in Education Code section 17407.5 before entering into the Contract for the Project.
- 27.2 The Contractor’s commitment that a Skilled and Trained Workforce will be used to perform Work on the Project and the Contract shall be established by the following:
- 27.2.1 Contractor shall include in all of its subcontracts, and Subcontractors shall require in its subcontracts of any tier, mandatory compliance with Education Code section 17407.5.
- 27.2.2 Contractor shall provide to the District’s Governing Board, on a monthly basis while the Project or Contract is being performed, a written report demonstrating that the Contractor and all Subcontractors of any tier are complying with the requirements set forth in Education Code section 17407.5. If the Contractor fails to provide this monthly report, the District shall immediately cease making payments (Sublease Payments or Retention Payment) to the Contactor.
- 27.2.3 The monthly report provided to the District’s Governing Board as required above shall be a public record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), and shall be open to public inspection.
- 27.2.4 Contractor’s commitment that a Skilled and Trained Workforce will be used to perform Work on the Project and the Contract may also be established by the Contractor providing evidence and any other information or documents reasonably requested by the District showing that the Contractor has entered into a project labor agreement that includes the requirements of Education Code section 17407.5(c) that will bind the Contractor and all its Subcontractors of any tier performing Work on the Project or Contract.
- 27.3 If the District’s Governing Board has entered into a project labor agreement that will bind all contractors and subcontractors performing Work on this Project or Contract that includes the requirements of Education Code section 17407.5(c), the Contractor’s agreement that it will become a party to that project labor agreement shall satisfy the requirements under Education Code section 17407.5(c).
- 27.4 If the Contractor or Subcontractor of any tier is not in compliance with all of the requirements set forth in Education Code section 17407.5, the District shall exercise any rights or remedies allowed under Education Code section 17407.5 or other applicable law.

28. PROTECTION OF PERSONS AND PROPERTY

- 28.1 Fingerprinting. If any portion of the work for the Project is to be performed at an operating school, Contractor shall comply with the applicable requirements of Education Code Sections 45125.1 and 45125.2 with respect to fingerprinting of employees who may have contact with District’s pupils. Contractor shall also ensure that its Subcontractors on the Project comply with

the applicable requirements of Sections 45125.1 and 45125.2. To this end, Contractor and its Subcontractors must provide for the completion of the Fingerprint Certification form attached as Exhibit "F" and incorporated herein by this reference prior to commencing work on the Project. In no event shall any employees of Contractor or its Subcontractors come into contact with District's pupils before the certification is completed. Contractor's failure to comply with this law shall be considered a material breach of the Agreement upon where the Agreement may be terminated, at District's sole discretion, without any further compensation to Contractor. Contractor and Subcontractor personnel on Site shall not have been convicted of any criminal offense which may have a discernible adverse impact on District or its students. Contractor shall advise its employees of these requirements before they enter on the Site and shall immediately remove from the Site any employee in violation of these requirements as determined by Contractor or by District. Contractor shall impose these requirements on its Subcontractors.

- 28.2 Contractor has been advised and is aware that District has adopted a Board Policy which prohibits the use of tobacco products, including smokeless tobacco, anywhere on District property. Contractor shall be responsible for the enforcement of District's tobacco-free policy among all Contractor's employees and Subcontractors while on District property. Contractor understands and agrees that should any employee or Subcontractor of Contractor violate the Board Policy, after having already been warned once for violating District's tobacco-free policy, Contractor shall remove the individual for the duration of the Project. Contractor shall not be entitled to any additional compensation and/or time in completing the Project as a result of such removal.
- 28.3 Contractor shall take all steps necessary to insure that employees of Contractor or any of its Subcontractors' employees do not use, consume, or work under the influence of alcohol or illegal drugs while on the Project. Contractor shall prevent any of its employees or its Subcontractors' employees from playing any recorded music devices or radios or wearing any radio headphone devices for entertainment while working on the Project. Contractor shall also prevent its employees or Subcontractors' employees from bringing any animal onto the Project.
- 28.4 Contractor shall be responsible for all damages to persons or property that occur as a result of its fault or negligence in connection with the prosecution of this Contract and shall take all necessary measures and be responsible for the proper care and protection of all materials delivered and work performed until completion and final acceptance by District.
- 28.5 Contractor shall take, and require Subcontractors to take, all necessary precautions for safety of workers on the work and shall comply with all applicable federal, state, local and other safety laws, standards, orders, rules, regulations, and building codes to prevent accidents or injury to persons on, about, or adjacent to premises where work is being performed and to provide a safe and healthful place of employment. In addition to meeting all requirements of OSHA, Cal-OSHA, state, and local codes, Contractor shall furnish, erect and properly maintain at all times, as directed by District or required by conditions and progress of work, all necessary safety devices, safeguards, construction canopies, signs, audible devices for protection of the blind, safety rails, belts and nets, barriers, lights, 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 its organization on the work, whose duty shall be to post information regarding protection and obligations of workers and other notices required under occupational safety and health laws, to comply with reporting and other occupational safety requirements, and to protect the life, safety and health of workers. Name and position of person so designated shall be reported to District by Contractor. Contractor shall correct any violations of safety laws, rules, orders, standards or regulations. Upon the issuance of a citation or notice of violation by the Division of Occupational Safety and Health, such violation shall be corrected promptly.
- 28.6 In an emergency affecting safety of life or of work or of adjoining property, Contractor, without special instruction or authorization from District, is hereby permitted to act, at its discretion, to prevent such threatened loss or injury; and Contractor shall so act if so authorized or instructed by

District. Any compensation claimed by Contractor on account of emergency work shall be determined by agreement.

- 28.7 Contractor shall provide such heat, covering, and enclosures as are necessary to protect all work, materials, equipment, appliances, and tools against damage by weather conditions.
- 28.8 Contractor shall take adequate precautions to protect existing roads, sidewalks, curbs, pavements, utilities, adjoining property and structures (including, without limitation, protection from settlement or loss of lateral support), and to avoid damage thereto, and repair any damage thereto caused by construction operations. All permits, licenses, or inspection fees required for such repair work shall be obtained and paid for by Contractor.
- 28.9 Trenches Five Feet or More in Depth. The Contractor shall submit to the District, in advance of excavation, a detailed plan showing the design of shoring, bracing, sloping or other provisions to be made for worker protection from the hazard of caving ground during the excavation of any trench or trenches five feet or more in depth. The Contractor shall also submit a copy of its annual trench/excavation permit approved by CAL-OSHA. The plan shall be prepared by a registered civil or structural engineer. As part of the plan, a note shall be included stating that the registered civil or structural engineer certifies that the plan complies with CAL OSHA Construction Safety Orders, or stating that the registered civil or structural engineer certifies that the plan is not less effective than the shoring, bracing, sloping, or other provisions of the Safety Orders.
- 28.9.1 All shoring submittal shall include surcharge loads from adjacent embankments, construction loads and spoil bank. Submittal shall indicate minimum horizontal distance from top of trench to edge of all surcharge loads for all cases of shoring and side slopes.
- 28.9.2 Nothing in this Section shall relieve Contractor of the full responsibility for providing shoring, bracing sloping, or other provisions adequate for worker protection. If such plan varies from the shoring system standards established by the Construction Safety Orders, the plan shall be prepared by a registered civil or structural engineer and shall be approved by CAL-OSHA. No excavation of such trench or trenches shall be commenced until said plan has been accepted by the District or the person to whom authority to accept has been delegated by the District.
- 28.10 Contractor shall (unless waived by District in writing):
- 28.10.1 When performing construction on existing sites, become informed and take into specific account the maturity of the students on the site; and when performing work which may interfere with the school routine before, during or after school hours, enclose working area with a substantial barricade, and arrange work to cause minimum amount of inconvenience and danger to students and faculty in their regular school activities.
- 28.10.2 Not allow any person, other than workers on the Project, or individuals authorized by District to come upon any portion of the premises where work is being performed. Contractor shall require all workers on the Project to be conspicuously identified either by a firm logo on their clothing, or by means of a prominent identification badge.
- 28.10.3 Provide substantial barricades around any shrubs or trees indicated to be preserved.
- 28.10.4 Deliver materials to building area over route designated by District.
- 28.10.5 Take preventive measures to eliminate dust.

- 28.10.6 Confine apparatus, the storage of materials, and the operations of workers to limits indicated by law, ordinances, permits, or directions of District; and shall not interfere with the work or unreasonably encumber premises or overload any structure with materials; and enforce all instructions of District regarding signs, advertising, fires, smoking, the presence of liquor, and the presence of firearms and require that all workers comply with all regulations while on construction site.
- 28.10.7 Take care to prevent disturbing or covering any survey markers, monuments, or other devices marking property boundaries or corners. If such markers are disturbed by accident, they shall be replaced by an approved land surveyor or civil engineer at no cost to District.
- 28.10.8 Not allow personal radios on the work site
- 28.10.9 Where the Project involves work at an operating school, inform and take such preventive measures necessary to insure that all employees, Subcontractors and other individuals authorized on the Project site refrain from any personal contact or conversations with the students on site.
- 28.10.10 Contractor shall not impose structural loading upon any part of the work under construction or upon existing construction on or adjacent to the Site in excess of safe limits, or loading such as to result in damage to the structural, architectural, mechanical, electrical, or other components of the work. The design of all temporary construction equipment and appliances used in construction of the work and not a permanent part thereof, including, without limitation, hoisting equipment, cribbing, shoring, and temporary bracing of structural steel, is the sole responsibility of Contractor. All such items shall conform with the requirements of governing codes and all laws, ordinances, rules, regulations, and orders of all authorities having jurisdiction. Contractor shall take reasonable and customary precautions, such as shoring of masonry walls and temporary tie bracing of structural steel work, to prevent possible wind damage during construction of the work. The installation of such bracing or shoring shall not damage the work in place or the work installed by others. Any damage which does occur shall be promptly repaired by Contractor at no cost to District.
- 28.10.11 Contractor shall require that Subcontractors participate in, and enforce, the safety and loss prevention programs established by Contractor for the Project, which will cover all work performed by Contractor and its Subcontractors. All Subcontractors and material or equipment suppliers shall cooperate fully with Contractor, District, and all insurance carriers. Subcontractors shall immediately, within twenty four (24) hours, report in writing to Contractor all accidents whatsoever arising out of, or in connection with, the performance of the work, whether on or off the Site, which caused death, personal injury, or property damage, giving full details and statements of witnesses. Contractor shall thereafter immediately, within two (2) days, report the facts in writing to District giving full details of the accident.
- 28.10.12 Contractor and Subcontractors shall use only those ingress and egress routes designated by District, observe the boundaries of the Site designated by District, park only in those areas designated by District, which areas may be on or off the Site, and comply with any parking control program established by District, such as furnishing license plate information and placing identifying stickers on vehicles.
- 28.10.13 Contractor shall be responsible for providing security services for the Site as needed for the protection of the Site and as determined in District's reasonable discretion.

- 28.10.14 Contractor shall, for all contracts involving state funds, submit a “Drug-Free Workplace Certification.” Contractor shall take all reasonable steps necessary to ensure that any employees of Contractor or any of its Subcontractors’ employees report for work in a manner fit to do their job. Such employees shall not be under the influence of or in possession of any alcoholic beverage or of any controlled substance (except a controlled substance as prescribed by a physician so long as the performance or safety at the Project Site is not affected thereby). Contractor shall advise its employees of these requirements before they enter on the Site and shall immediately remove from the site any employee in violation of these requirements as determined by Contractor or by the District. Contractor shall impose these requirements on its Subcontractors.
- 28.10.15 Contractor and Subcontractors shall at all times enforce strict discipline and good order among their employees and other persons carrying out the Contract and shall not employ on work any unfit person or anyone not skilled in work assigned to such person. It shall be the responsibility of Contractor to ensure compliance with this Article. Any person in the employ of Contractor or Subcontractors whom District may deem incompetent, unfit, intemperate, troublesome or otherwise undesirable shall be excluded from the work Site and shall not again be employed on it except with written consent of District. Contractor must sign and cause all Subcontractors to sign the Conduct Rules for Contractors form attached as Exhibit “I” and incorporated herein by this reference prior to commencing work on the Project.
- 28.11 Contractor shall be at all times during the performance of work hereunder in full compliance with the provisions of the Immigration Reform and Control Act of 1986 (“IRCA”) in the hiring of its employees, and Contractor shall indemnify, hold harmless and defend District against any and all actions, proceedings, penalties or claims arising out of Contractor’s failure to comply strictly with the IRCA.

29. PAYMENTS AND RETENTION

The Construction Cost of the Project shall not exceed the GMP, except as otherwise provided in this Construction Services Agreement and Sublease. During the progress of construction, Contractor will provide monthly progress payment applications for the total scheduled value of the work completed under the GMP set forth in Section 3.7. District shall pay to Contractor a monthly progress payment comprising a sum equal to ninety-five percent (95%) of the scheduled value of the work approved and completed up to the last day of the previous month, less aggregate of previous payments (“Progress Payment”). If all of the necessary information is submitted and accurate (including the schedule of values), District shall approve the Progress Payments within fifteen (15) days after District’s receipt of the periodic estimate for partial payment and District shall pay such payments within fifteen (15) days after the District’s approval of the periodic estimate for partial payment. Progress Payments shall be made on the basis of monthly estimates which shall be prepared by Contractor on a form approved by District and certified by Architect and Project Inspector, or any other approved representative of the District, and filed before the fifth day of the month during which payment is to be made. Work completed as estimated shall be an estimate only and no inaccuracy or error in said estimate shall release Contractor or any bondsman from such work or from enforcing each and every provision of this document and District shall have the right subsequently to correct any error made in any estimate for payment. Contractor shall not be entitled to have any payment estimates processed or be entitled to have any payment made for work performed so long as any lawful or proper direction concerning non-complying work or any portion thereof given by the District lacks correction by Contractor. District shall withhold from the Progress Payments 150% of the estimated value of non-complying work unless satisfactorily corrected or remedied. Contractor shall, at a minimum, provide the following documents as part of its request for a Progress Payment: (1) Schedule of Values, (2) Project Contingency Trackers, (3) Project Allowance Trackers, (4) Project Savings Reports (Refer

to the Project Savings Section for the Project Savings Items) including the budget versus actual costs of Project Management and General Condition Expenses , (5) Project Daily Reports (Contractor and Subcontractor), (6) Project Safety Reports, (7) Monthly Lien Releases Unconditional and Conditional Waivers (all contractors), and (8) Monthly Schedule Update and Narratives (with Recovery Schedules as needed).

29.1 The District shall retain five percent (5%) "Retention" from Progress Payments and release Retention as required in this CSA and specifically, not until after Close-Out under Article 13.16.

29.2 In no event shall the cumulative total of the Progress Payments/ Sublease Payments and Retention ever exceed the GMP as defined herein, unless specifically allowed under Article 5.

29.2.1 Title to new materials and/or equipment for the work of this contract, on a continuous basis while the Project is being completed, shall vest in the District. However, responsibility for such new material and/or work of this contract shall remain with the Contractor until incorporated into the work and accepted by District; no part of said materials and/or equipment shall be removed from its place of storage except for immediate installation in the work of this contract; and Contractor shall keep an accurate inventory of all said materials and/or equipment in a manner satisfactory to the owner or his authorized representative.

Notwithstanding anything to the contrary stated above, the Contractor may include in its request for payment the value of any structural steel, glue laminated beams, trusses, bleachers and other such custom-made materials prepared specifically for the Project and unique to the Project so long as all of the following requirements are satisfied:

29.2.1.1 The aggregate cost of materials stored off-site shall not exceed Twenty Five Thousand Dollars (\$25,000) at any time or as otherwise agreed to be District in writing;

29.2.1.2 Title to such materials shall be vested in the District as evidenced by documentation satisfactory in form and substance to the District, including, without limitation, recorded financing statements, UCC filings and UCC searches;

29.2.1.3 With each request for payment, the Contractor shall submit to the District a written list identifying each location where materials are stored off-site (which must be a bonded warehouse) and the value of the materials at each location. The Contractor shall procure insurance satisfactory to the District (in its reasonable discretion) for materials stored off-site in an amount not less than the total value thereof;

29.2.1.4 The consent of any Surety shall be obtained to the extent required prior to payment for any materials stored off-site;

29.2.1.5 Representatives of the District shall have the right to make inspections of the storage areas at any time; and

29.2.1.6 Such materials shall be (1) protected from diversion, destruction, theft and damage to the reasonable satisfaction of the District; (2) specifically marked for use on the Project; and (3) segregated from other materials at the storage facility.

29.3 Reasons to Withhold Payment. The District may withhold any payment, in whole, or in part, to such extent as may be necessary to protect the District from loss because of, but not limited to:

1. Defective Work not remedied;
2. Stop Notices served upon the District;
3. Liquidated damages assessed against the Contractor;
4. The cost of completion of the Contract if there exists reasonable doubt that the Work can be Completed for the unpaid balance of any Contract Price or by the completion date;
5. Damage to the District or other contractor;
6. Unsatisfactory prosecution of the Work by the Contractor;
7. Failure to store and properly secure materials;
8. Failure of the Contractor to submit on a timely basis, proper and sufficient documentation required by the Contract Documents, including, without limitation, acceptable monthly progress schedules, Shop Drawings, Submittal schedules, schedule of values, product data and samples, proposed product lists, executed Change Order, Construction Change Documents, and verified reports;
9. Failure of the Contractor to maintain As-Built drawings;
10. If, in the District's opinion, the representations to the District required pursuant to Article 9.4 cannot be made;
11. Erroneous estimates by the Contractor of the value of the Work performed, or other false statements in an application for payment;
12. Unauthorized deviations from the Contract Documents (including but not limited to Unresolved Notices of Deviations (DSA Form 154);
13. Failure of the Contractor to prosecute the Work in a timely manner in compliance with established progress schedules and completion dates;
14. Failure to properly pay prevailing wages as defined in Labor Code section 1720, et seq.;
15. Failure to properly maintain or clean up the Site;
16. Payments to indemnify, defend, or hold harmless the District;
17. Any payments due to the District including, but not limited to, payments for failed tests, or utilities changes or permits;
18. Failure to submit an acceptable schedule in accordance with Article 9;
19. Failure to pay Subcontractor or suppliers;
20. Failure to secure warranties, including the cost to pay for warranties
21. Failure to provide release from material suppliers or Subcontractors when requested to do so
22. Items deducted pursuant to Article 17.6
23. Incomplete Punch List items under Article 13.6 which have gone through the Article 12.2 process

24. Allowances that have not been used

- 29.4 Reallocation of Withheld Amounts. District may, in its discretion, apply any withheld amount to payment of outstanding claims or obligations. In so doing, District shall make such payments on behalf of Contractor. If any payment is so made by District, then such amount shall be considered as a payment made under this CSA to Contractor and District shall not be liable to Contractor for such payments made in good faith. Such payments may be made without prior judicial determination of claim or obligation. District will render Contractor an accounting of such funds disbursed on behalf of Contractor.

If Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents or fails to perform any provision thereof, District may, after ten (10) calendar days written notice to the Contractor and without prejudice to any other remedy make good such deficiencies. The District shall adjust the total Contract price by reducing the amount thereof by the cost of making good such deficiencies. If District deems it inexpedient to correct Work which is damaged, defective, or not done in accordance with Contract provisions, an equitable reduction in the Contract price (of at least 150% of the estimated reasonable value of the nonconforming Work) shall be made therefor.

- 29.5 Payment After Cure. When the grounds for declining approval are removed, payment shall be made for amounts withheld because of them. No interest shall be paid on any retention or amounts withheld due to the failure of the Contractor to perform in accordance with the terms and conditions of the Contract Documents.

30. NONCONFORMING WORK

Contractor shall promptly remove from premises all Work identified by District as failing to conform to the Contract whether incorporated or not. Contractor shall promptly replace and re-execute its own Work to comply with the Contract without additional expense to District and shall bear the expense of making good all Work of other contractors destroyed or damaged by such removal or replacement.

If Contractor does not remove such Work which has been identified by District as failing to conform to the Contract Documents within a reasonable time, fixed by written notice, District may remove it and may store the material at Contractor's expense. If Contractor does not pay expenses of such removal within ten (10) calendar days' time thereafter, District may, upon ten (10) calendar days' written notice, sell such materials at auction or at private sale and shall account for net proceeds thereof, after deducting all costs and expenses that should have been borne by Contractor.

31. SUBCONTRACTOR PAYMENTS

- 31.1 Payments to Subcontractors. No later than ten (10) days after receipt, or pursuant to Business and Professions Code Section 7108.5, the Contractor shall pay to each Subcontractor, out of the amount paid to the Contractor on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.
- 31.2 No Obligation of District for Subcontractor Payment. The District shall have no obligation to pay, or to see to the payment of, money to a Subcontractor except as may otherwise be required by law.
- 31.3 Payment Not Constituting Approval or Acceptance. An approved request for a Progress Payment, a Certificate of Substantial Completion, or partial or entire use or occupancy of the Project by the District shall not constitute acceptance of Work that is not in accordance with the Contract Documents.

- 31.4 Joint Checks. District shall have the right, if necessary for the protection of the District, to issue joint checks made payable to the Contractor and Subcontractors and material or equipment suppliers. The joint check payees shall be responsible for the allocation and disbursement of funds included as part of any such joint payment. In no event shall any joint check payment be construed to create any contract between the District and a Subcontractor of any tier, any obligation from the District to such Subcontractor, or rights in such Subcontractor against the District. The District may choose to issue joint checks at District's sole discretion and only after all the requirements of that particular school district and county are specifically met. Some school districts cannot issue joint checks, so the ability to issue joint checks will depend on the District and the specific circumstances.

32. SEPARATE CONTRACTS

- 32.1 Reservation of Rights to have other Contractors on Site. District reserves the right to let other contractors enter the Site to perform work as part of its use of the Site. Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work and shall properly connect and coordinate the Project with the work of such Contractors. Such contractors shall comply with all applicable State safety laws and regulations and shall provide a certificate of insurance naming Contractor as additional insured
- 32.2 Notice of Coordination of Work. If the proper execution of any part of the Contractor's work on the Project depends upon the work of any such contractors, Contractor shall inspect and promptly report to District any patent defects or other problems it identifies in such work that render it unsuitable for such proper execution and results. Contractor is only required to inspect the work of such other contractors prior to commencing its own further work in connection with or in relation to that other work. Further, Contractor is only expected to identify patent defects or other problems, and is not required to do any destructive testing or to monitor the progress of such work by other contractors prior to its completion. In no event shall the work of such other contractors be covered by the warranty given by Contractor to the District, nor shall Contractor be required to provide insurance for such work.

33. USE OF PREMISES/SAFETY

Contractor shall confine operations at the Site to areas permitted by law, ordinances, permits and the Construction Documents and shall not unreasonably encumber the Site or existing facilities on the Site with any materials or equipment. Contractor shall not load or permit any part of the work to be loaded with a weight so as to endanger the safety of persons or property at the Site. The Contractor shall maintain emergency first aid treatment for his employees which complies with the Federal Occupational Safety and Health Act of 1970 (29 USC, section 651 et seq.).

34. CLEANING UP

- 34.1 Contractor's Responsibility to Clean Up. Contractor at all times shall keep premises free from debris such as waste, dust, excess water, storm water runoffs, rubbish, and excess materials and equipment. Contractor shall not leave debris under, in, or about the premises, but shall promptly remove same from the premises and dispose of it in a lawful manner. Disposal receipts or dump tickets shall be furnished to the Architect within five (5) days of request.

Contractor shall remove rubbish and debris resulting from the Work on a daily basis. Contractor shall maintain the structures and Site in a clean and orderly condition at all times until acceptance of the Project by the District. Contractor shall keep its access driveways and adjacent streets, sidewalks, gutters and drains free of rubbish, debris and excess water by cleaning and removal each day. All concrete, sidewalks, and paths of travel shall be broom cleaned daily.

34.2 General Final Clean-Up. Upon completion of Work, Contractor shall employ experience workers or professional cleaners for final cleaning. Clean each surface to the condition expected in a normal, commercial, building cleaning and maintenance program.

1. Clean interior and exterior of buildings, 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;
2. Clean the Project site. The grounds should be cleared of any Contractor equipment, raked clean of debris and trash removed. Sweep paved areas broom clean.
3. Repair or replace any damaged materials. Replace any chipped or broken glass.
4. Remove any and all stains.
5. Remove labels that aren't permanent labels.
6. Clean and polish all glass, plumbing fixtures, equipment, finish hardware and similar finish surfaces. Remove any glazing compounds
7. Remove temporary utilities, fencing, barricades, planking, sanitary facilities and similar temporary facilities from Site.
8. Remove temporary film that remains on any hardware, doors or other surfaces.
9. Seal the bottom and tops of all doors
10. Special Clean-Up.
11. In addition to the general cleaning, the following special cleaning shall be done at the completion of the Work in accordance with the specifications including, but not limited to:
 - a. Remove putty stains from glazing, then wash and polish glazing.
 - b. Remove marks, stains, fingerprints and other soil or dirt from painted, stained or decorated work.
 - c. Remove temporary protection and clean and polish floors and waxed surfaces.
 - d. Clean and polish hardware and plumbing trim; remove stains, dust, dirt, plaster and paint
 - e. Wipe surfaces of mechanical and electrical equipment.
 - f. Remove spots, soil, plaster and paint from tile work, and wash tile.
 - g. Clean all fixtures and equipment, remove excess lubrication, clean light fixtures and lamps, polish metal surfaces.
 - h. Vacuum-clean carpeted surfaces.
 - i. Remove debris from roofs, down spout and drainage system.

34.3 Failure to Cleanup. If the Contractor fails to clean up as provided in the Contract Documents, the District may do so, and the cost thereof shall be the responsibility of the Contractor pursuant to Article 12.2 and seek a Deductive Change Order.

35. INSURANCE

35.1 Insurance Requirements. Before the commencement of the Work, the Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in California as admitted carriers with a financial rating of at least an A status as rated in the most recent edition of Best's Insurance Reports or as otherwise amended in these Contract Documents, such insurance as will protect the District from claims set forth below, which may arise out of or result from the Contractor's operations under the Contract and for which the Contractor may be legally liable, whether such operations are by the Contractor, by a Subcontractor, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

1. Claims for damages because of bodily injury, sickness, disease, or death of any person District would require indemnification and coverage for employee claim;
2. Claims for damages insured by usual personal injury liability coverage, which are sustained by a person as a result of an offense directly or indirectly related to employment of such person by the Contractor or by another person;
3. Claims for damages because of injury or destruction of tangible property, including loss of use resulting therefrom, arising from operations under the Contract Documents;
4. Claims for damages because of bodily injury, death of a person, or property damage arising out of the ownership, maintenance, or use of a motor vehicle, all mobile equipment, and vehicles moving under their own power and engaged in the Work;
5. Claims involving contractual liability applicable to the Contractor's obligations under the Contract Documents, including liability assumed by and the indemnity and defense obligations of the Contractor and the Subcontractors; and
6. Claims involving Completed Operations, Independent Contractors' coverage, and Broad Form property damage, without any exclusions for collapse, explosion, demolition, underground coverage, and excavating. (XCU)
7. Claims involving sudden or accidental discharge of contaminants or pollutants.

35.2 Subcontractor Insurance Requirements. The Contractor shall require its Subcontractors to take out and maintain similar public liability insurance and property damage insurance required under this Article in like amounts. A "claims made" or modified "occurrence" policy shall not satisfy the requirements of this Article without prior written approval of the District.

35.3 Additional Insured Endorsement Requirements. The Contractor shall name, on any policy of insurance required under this Article, the District, Architect, Inspector, the State of California, their officers, employees, agents and independent contractors as additional insureds. Subcontractors shall name the Contractor, the District, Architect, Inspector, the State of California, their officers, employees, agents and independent contractors as additional insureds. The Additional Insured Endorsement included on all such insurance policies shall be an ISO CG 20 33 (04/813), or an ISO CG 20 38 (04/13) and ISO CG 20 37 (04/13) or their equivalent as determined by the District in its sole discretion, and must state that coverage is afforded the additional insured with respect to claims arising out of operations performed by or on behalf of the insured. If the additional insureds have other insurance which is applicable to the loss, such other insurance shall be on an excess or contingent basis. The insurance provided by the Contractor pursuant to this Article must be designated in the policy as primary to any insurance obtained by the District. The amount of the insurer's liability shall not be reduced by the existence of such other insurance.

35.4 Specific Insurance Requirements

- 35.4.1 Contractor shall take out and maintain and shall require all Subcontractors, if any, whether primary or secondary, to take out and maintain:
- 35.4.2 Comprehensive General Liability Insurance with a combined single limit per occurrence of not less than \$2,000,000.00 or Commercial General Liability Insurance (including automobile insurance) which provides limits of not less than:
1. Per occurrence (combined single limit) \$1,000,000.00
 2. Project Specific Aggregate (for this Project only) \$2,000,000.00
 3. Products and Completed Operations \$1,000,000.00
 4. Personal and Advertising Injury Limit \$1,000,000.00
- 35.4.3 Insurance Covering Special Hazards. The following Special hazards shall be covered by riders or riders to above mentioned public liability insurance or property damage insurance policy or policies of insurance, in amounts as follows:
1. Automotive and truck where operated in amounts \$1,000,000.00
 2. Material Hoist where used in amounts \$1,000,000.00
 3. Explosion, Collapse and Underground (XCU coverage) \$1,000,000.00
 4. In addition, provide Excess Liability Insurance coverage in the amount of Five Million Dollars (\$5,000,000.00).

35.5 Workers' Compensation Insurance. During the term of this Contract, the Contractor shall provide workers' compensation insurance for all of the Contractor's employees engaged in Work under this Contract on or at the Site of the Project and, in case any of the Contractor's Work is subcontracted, the Contractor shall require the Subcontractor to provide workers' compensation insurance for all the Subcontractor's employees engaged in Work under the subcontract. Any class of employee or employees not covered by a Subcontractor's insurance shall be covered by the Contractor's insurance. In case any class of employees engaged in Work under this Contract on or at the Site of the Project is not protected under the Workers' Compensation laws, the Contractor shall provide or cause a Subcontractor to provide adequate insurance coverage for the protection of those employees not otherwise protected. The Contractor shall file with the District certificates of insurance and in comply with Labor Code § 3700.

35.6 Builder's Risk/All Risk

- 35.6.1 *Course-of-Construction Insurance Requirements.* The Contractor, during the progress of the Work and until final acceptance of the Work by District upon completion of the entire Contract, shall maintain Builder's Risk, Course of Construction or similar first party property coverage issued on a replacement value basis consistent with the total replacement cost of the structures where work is being performed inclusive of all Work for the Project included within the Contract Documents. Coverage is to insure against all risks of accidental direct physical loss, and must include, by the basic grant of coverage or by endorsement, the perils of vandalism, malicious mischief (both without any limitation regarding vacancy or occupancy), fire, sprinkler leakage, civil authority, sonic boom, earthquake, flood, collapse, wind, lightning, smoke and riot. The coverage must include debris removal, demolition, increased costs due to enforcement of building ordinance and law in the repair and replacement of damage and undamaged portions of the property, and reasonable costs for the Architect's and engineering services and expenses required as a result of any insured loss upon the Work and Project which is the subject of the Contract Documents, including the

underlying structure where Work is being performed, completed Work and Work in progress, to the full insurable value thereof. Such insurance shall include the District and the Architect as additional named insureds, and any other person with an insurable interest as designated by the District.

The Contractor shall submit to the District for its approval all items deemed to be uninsurable. The risk of the damage to the Work due to the perils covered by the "Builder's Risk/All Risk" Insurance, as well as any other hazard which might result in damage to the Work, is that of the Contractor and the surety, and no claims for such loss or damage shall be recognized by the District nor will such loss or damage excuse the complete and satisfactory performance of the Contract by the Contractor.

- 35.7 Fire Insurance. Before the commencement of the Work, the Contractor shall procure, maintain, and cause to be maintained at the Contractor's expense, fire insurance on all Work subject to loss or damage by fire. The amount of fire insurance shall be sufficient to protect the Project against loss or damage in full until the Work is accepted by the District.
- 35.8 Other Insurance. The Contractor shall provide all other insurance required to be maintained under applicable laws, ordinances, rules, and regulations.
- 35.9 Proof of Insurance. The Contractor shall not commence Work nor shall it allow any Subcontractor to commence Work under this Contract until all required insurance and certificates have been obtained and delivered in duplicate to the District for approval subject to the following requirements:
- 35.9.1 Certificates and insurance policies shall include the following clause:
1. "This policy shall not be non-renewed, canceled, or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District. Date of cancellation or reduction may not be less than thirty (30) days after the date of mailing notice."
 2. Certificates of insurance shall state in particular those insured, the extent of insurance, location and operation to which the insurance applies, the expiration date, and cancellation and reduction notices.
 3. Certificates of insurance shall clearly state that the District and the Architect are named as additional insureds under the policy described and that such insurance policy shall be primary to any insurance or self-insurance maintained by District.
 4. The Contractor and its Subcontractors shall produce a certified copy of any insurance policy required under this Article upon written request of the District.
- 35.10 Compliance. In the event of the failure of Contractor to furnish and maintain any insurance required by this Article 34, the Contractor shall be in default under the Contract. Compliance by Contractor with the requirement to carry insurance and furnish certificates or policies evidencing the same shall not relieve the Contractor from liability assumed under any provision of the Contract Documents, including, without limitation, the obligation to defend and indemnify the District and the Architect.
- 35.11 No Waiver Created through Payments. The making of any payments under this CSA or the Sublease shall not be construed as creating an insurable risk interest by or for the District or be construed as relieving the Contractor or his Subcontractors of responsibility for loss from any direct physical loss, damage, or destruction occurring prior to Completion of the Project.

- 35.12 Waiver of Subrogation. Contractor waives (to the extent permitted by law) any right to recover against the District for damages to the Work, any part thereof, or any and all claims arising by reason of any of the foregoing, but only to the extent that such damages and/or claims are covered by property insurance and only to the extent of such coverage (which shall exclude deductible amounts) by insurance actually carried by the District.

The provisions of this section are intended to restrict each party to recovery against insurance carriers only to the extent of such coverage and waive fully and for the benefit of each, any rights and/or claims which might give rise to a right of subrogation in any insurance carrier. The District and the Contractor shall each obtain in all policies of insurance carried by either of them, a waiver by the insurance companies thereunder of all rights of recovery by way of subrogation for any damages or claims covered by the insurance.

35.13 Performance and Payment Bonds

- 35.13.1 *Bond Requirements.* Prior to commencing any portion of the Work, the Contractor shall furnish separate payment and performance bonds for its portion of the Work which shall cover 100% faithful performance of and payment of all obligations arising under the Contract Documents and/or guaranteeing the payment in full of all claims for labor performed and materials supplied for the Work. All bonds shall be provided by a corporate surety authorized and admitted to transact business in California as sureties.

To the extent, if any, that the Contract Price is increased in accordance with the Contract Documents, the Contractor shall, upon request of the District, cause the amount of the bonds to be increased accordingly and shall promptly deliver satisfactory evidence of such increase to the District. To the extent available, the bonds shall further provide that no change or alteration of the Contract Documents (including, without limitation, an increase in the Contract Price, as referred to above), extensions of time, or modifications of the time, terms, or conditions of payment to the Contractor will release the surety. If the Contractor fails to furnish the required bonds, the District may terminate the Contract for cause.

- 35.13.2 *Surety Qualification.* Only bonds executed by admitted Surety insurers as defined in Code of Civil Procedure § 995.120 shall be accepted. Surety must be a California-admitted surety and listed by the U.S. Treasury with a bonding capacity in excess of the Project cost.
- 35.13.3 *Alternate Surety Qualifications.* If a California-admitted surety insurer issuing bonds does not meet these requirements, the insurer will be considered qualified if it is in conformance with § 995.660 of the California Code of Civil Procedure and proof of such is provided to the District.
- 35.13.4 Contractor is hereby authorized to obtain a performance and payment bond from any Subcontractors selected by Contractor at its discretion and cost. Any bonds required by this subsection shall comply with the requirements set forth above.

36. HOLD HARMLESS AND INDEMNITY

Contractor shall defend, indemnify and hold harmless District, Architect, Construction Manager, Inspector, the State of California and their officers, employees, agents and independent contractors from all liabilities, claims, actions, liens, judgments, demands, damages, losses, costs or expenses of any kind arising from death, personal injury, property damage or other cause based or asserted upon any act, omission, or breach connected with or arising from the progress of Work or performance of service under this Agreement or the Contract Documents. As part of this indemnity, Contractor shall protect and defend, at its own expense, District, Architect, Inspector, the State of

California and their officers, employees, agents and independent contractors from any legal action including attorney's fees or other proceeding based upon such act, omission, breach or as otherwise required by this Article.

Furthermore, Contractor agrees to and does hereby defend, indemnify and hold harmless District, Architect, Inspector, the State of California and their officers, employees, agents and independent contractors from every claim or demand made, and every liability, loss, damage, expense or attorney's fees of any nature whatsoever, which may be incurred by reason of:

- 36.1.1 Liability for (1) death or bodily injury to persons; (2) damage or injury to, loss (including theft), or loss of use of, any property; (3) any failure or alleged failure to comply with any provision of law or the Contract Documents; or (4) any other loss, damage or expense, sustained by any person, firm or corporation or in connection with the Work called for in this Agreement or the Contract Documents, except for liability resulting from the sole or active negligence, or the willful misconduct of the District.
- 36.1.2 Any bodily injury to or death of persons or damage to property caused by any act, omission or breach of Contractor or any person, firm or corporation employed by Contractor, either directly or by independent contract, including all damages or injury to, loss (including theft), or loss of use of, any property, sustained by any person, firm or corporation, including District, arising out of or in any way connected with Work covered by this Agreement or the Contract Documents, whether said injury or damage occurs either on or off District property, but not for any loss, injury, death or damages caused by the sole or active negligence or willful misconduct of the District.
- 36.1.3 Any dispute between Contractor and Contractor's Subcontractors/supplies/sureties, including, but not limited to, any failure or alleged failure of the Contractor (or any person hired or employed directly or indirectly by the Contractor) to pay any Subcontractor or Materialman of any tier or any other person employed in connection with the Work and/or filing of any stop notice or mechanic's lien claims.

Contractor, at its own expense, cost, and risk, shall defend any and all claims, actions, suits, or other proceedings that may be brought or instituted against the District, its officers, agents, Architect or CM, or employees, on account of or founded upon any cause, damage, or injury identified herein and shall pay or satisfy any judgment that may be rendered against the District, its officers, agents or employees in any action, suit or other proceedings as a result thereof.

Contractor shall ensure that its contract with each of its Subcontractors contains provisions requiring the Subcontractors to defend, indemnify and hold harmless the District, Architect, Inspector, the State of California to a minimum level as set forth in this Article and consistent with the language of this Article.

The Contractor's and Subcontractors' obligation to defend, indemnify and hold harmless the District, Architect, Inspector, the State of California and their officers, employees, agents and independent contractors hereunder shall include, without limitation, any and all claims, damages, and costs for the following: (1) any damages or injury to or death of any person, and damage or injury to, loss (including theft), or loss of use of, any property; (2) breach of any warranty, express or implied; (3) failure of the Contractor or Subcontractors to comply with any applicable governmental law, rule, regulation, or other requirement; (4) products installed in or used in connection with the Work; and (5) any claims of violation of the Americans with Disabilities Act ("ADA") claims arising from failure to comply with the Construction Documents.

37. SUBSTITUTION OF SECURITY

In accordance with Public Contract Code section 22300, the District will permit the substitution of securities for any moneys withheld by the District to ensure performance under the Construction Services Agreement. At the request and expense of the Contractors, securities equivalent to the amount withheld shall be deposited with the District, or with a state or federally chartered bank as the escrow agent, who shall then pay such moneys to the Contractor.

Upon satisfactory completion of the Construction Services Agreement the securities shall be returned to the Contractor.

38. TITLE TO WORK

Title to all work completed and in the course of construction paid for by District and title to all materials on account of which payment has been made by District to Contractor shall vest in District pursuant to the applicable provisions of the Sublease.

39. COMPLIANCE WITH STATE STORM WATER PERMIT FOR CONSTRUCTION

The 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) for all construction activity which results in the disturbance of in excess of one acre of total land area or which is part of a larger common area of development or sale. The Contractor shall be responsible for filing the Notice of Intent and for obtaining the Permit. The Contractor shall be solely responsible for preparing and implementing a Storm Water Pollution Prevention Plan (SWPPP) prior to initiating Work. The Contractor's Qualified SWPPP Developer (QSD) shall work with the Architect and its engineers in preparing an approved SWPPP and revising it as necessary or required. It shall be the Contractor's responsibility to evaluate the cost of procuring the Permit and preparing the SWPPP as well as complying with the SWPPP and any necessary revision to the SWPPP. The Contractor shall employ a Qualified SWPPP Practitioner (QSP) to implement the approved SWPPP during construction. The Contractor shall comply with all requirements of the State Water Resources Control Board. The Contractor shall include all costs of compliance with specified requirements in the GMP.

Contractor shall be responsible for procuring, implementing and complying with the provisions of the Permit and the SWPPP, including the standard provisions, monitoring and reporting requirements as required by the Permit. Contractor shall provide copies of all reports and monitoring information to the District, Architect and the District's third party SWPPP consultant.

The Contractor shall comply with the lawful requirements of any applicable municipality, the County, drainage district, and other local agencies regarding discharges of storm water to separate storm drain system or other watercourses under their jurisdiction, including applicable requirements in municipal storm water management programs.

Failure to comply with the Permit is in violation of federal and state law. The Contractor hereby agrees to indemnify and hold harmless the District, its Board members, officers, agents, employees and authorized volunteers from and against any and all claims, demands, losses or liabilities of any kind or nature which the District, its Board members, officers, agents, employees and authorized volunteers may sustain or incur for noncompliance with the Permit arising out of or in connection with the Project, except for liability resulting from the sole negligence, willful misconduct or active negligence of the District, its Board members, officers, agents, employees or authorized volunteers. District may seek damages from the Contractor for delay in completing the Project caused by the Contractor's failure to comply with the Permit.

40. EQUAL OPPORTUNITY CLAUSE

The Contractor herein agrees not to discriminate in its recruiting, hiring, promotion, demotion or termination practices on the basis of race, religious creed, color, national origin, ancestry, sex, age or physical handicap in the performance of this Construction Services Agreement and to comply with the provisions of the following laws:

- 40.1 California Fair Employment and Housing Act (Gov. Code 12900 et seq., prohibiting discrimination in employment on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex, and prohibiting harassment of an employee or applicant because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, or age);

- 40.2 Federal Civil Rights Act of 1964 (42 USC '2000e et seq., prohibiting discrimination in employment on the basis of race, color, national origin, religion, or sex); Title I of the Americans With Disabilities Act of 1990 (42 USC 12101 et seq., prohibiting discrimination against qualified individuals with a disability in hiring and employment practices);
- 40.3 The Age Discrimination in Employment Act (29 USC 621 et seq., prohibiting age discrimination in employment against individuals who are at least forty years of age);
- 40.4 California Labor Code section 1102.1 (prohibiting discrimination in any aspect of employment or opportunity for employment based on actual or perceived sexual orientation);
- 40.5 Sexual orientation;
- 40.6 American with Disabilities Act (ADA) (See Article 41); and
- 40.7 Any other laws or regulations prohibiting discrimination as may be applicable to Contractor.

41. SPECIAL NOTICE OF AMERICAN'S WITH DISABILITIES ACT

Some of the requirements in the Construction Documents are meant to comply with the American's with Disabilities Act ("ADA"). The requirements of the ADA are technical in nature and may appear to be minor in nature (i.e. whether a walkway or ramp has a 2% cross-slope). Contractor is warned that even the slightest deviation from the specific requirements from the ADA is considered a Civil Rights Violation and subjects the District to fines of three times actual damages sustained by a handicap individual or up to \$4,000 per violation and attorney's fees required to enforce the ADA violation. As a result of the significant liability and exposure associated with ADA aspects of the Contract, Contractor shall take special care to meet all ADA requirements detailed in the Construction Documents. Failure to comply with ADA rules that results in a Notice of Non-Compliance shall be repaired to meet ADA requirements promptly. In addition, any ADA violations that are not identified by Inspector or Architect that are later identified shall be repaired and charged back to the Contractor through a Deductive Change Order.

- 41.1 Indemnification of ADA Claims. ADA claims arising from failure to comply with Construction Documents shall be indemnified, held harmless and defended by Contractor. Further, any withholdings for ADA violations in Article 29.4 shall include potential redesign costs and an accelerated repair costs due to the potential for ADA claims arising from DSA posting of ADA violations on the Project.

42. 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 Construction Services Agreement, including its use by the District, except to the extent a method or means was specifically required by the Contract Documents.

43. EXCISE TAX

If under federal excise tax law any transaction hereunder constitutes a sale on which a federal excise tax is imposed and the sale is exempt from such excise tax because it is a sale to a state or local government for its exclusive use, the District, upon request, will execute a certificate of exemption which will certify (1) that the District is a political subdivision of the state for the purposes of such exemption and (2) that the sale is for the exclusive use of the District. No excise tax for such materials shall be included in the GMP.

44. PROHIBITED INTERESTS

No official of District and no District representative who is authorized in such capacity and on behalf of District to negotiate, make, accept, or approve, or to take part in negotiating, making, accepting or approving any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with construction

of Project, shall be or become directly or indirectly interested financially in this Construction Services Agreement or any part thereof. No officer, employee, architect, attorney, engineer or inspector of or for District who is authorized in such capacity and on behalf of District to exercise any executive, supervisory or other similar functions in connection with construction of Project, shall become directly or indirectly interested financially in this Construction Services Agreement or in any part thereof.

45. COMPLIANCE WITH DTSC GUIDELINES – IMPORTED SOIL/SOILS INSPECTION

- 45.1 If the Project requires the use of imported soils, the Contractor shall be responsible to use and shall certify that the imported material it uses is free of any hazardous and/or toxic substance or material of any nature or type as defined in accordance with California Law and the California Health and Safety Code. The District reserves the right to reject any imported material that has come from agricultural or commercial land uses. Contractor must notify the District of the source of material and comply with the applicable Regional Water Quality Control Board Resolution and when applicable, with the guidelines of the Department of Toxic Substances Control (DTSC).
- 45.2 Unless otherwise provided, when a soils investigation report obtained from test holes at the site is available, such report shall not be a part of this contract. Nevertheless, with respect to any such soils investigation and/or geotechnical report regarding the site, it shall be the responsibility of the Contractor to review and be familiar with such report. Any information obtained from such report or any information given on drawings as to subsurface soil condition or to elevations of existing grades or elevations of underlying rock is approximate only, is not guaranteed, and does not form a part of the contract, unless otherwise specifically provided. Contractor is required to make a visual examination of site and must make whatever tests it deems appropriate to determine the underground condition of the soil. Limited soil tests and subsurface investigations, if any, are available for review and consideration by Contractor and were conducted for the purpose of design only. Subsurface investigation information is made available by District solely as a matter of convenience and general information for Contractor and Contractor is expected to review and be familiar with such information. No representation is made by District or Architect that information provided is completely representative of all conditions and materials which may be encountered. If such a report is referenced in the Contract Documents for performance of the Project, such reference shall be to establish minimum requirements only. Further, no representation is made by District or Architect that information provided is solely adequate for purposes of construction. District disclaims responsibility for interpretations by Contractor of soil and subsurface investigation information, such as in protecting soil-bearing values, rock profiles, presence and scope of boulders and cobbles, soil stability and the presence, level and extent of underground water. Contractor shall determine means, methods, techniques and sequences necessary to achieve required characteristics of completed Work. Conditions found after execution of the Construction Services Agreement to be materially different from those reported and which are not customarily encountered in the geographic area of the Project shall be governed by provisions of this Construction Services Agreement for unforeseen conditions.

46. HAZARDOUS WASTE AND UNKNOWN PHYSICAL CONDITIONS

Contractor shall promptly, and before the following conditions are disturbed, notify the District, in writing, of any:

1. Material that 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, including geological, soils, and or water table issues which impede construction or increase Construction Costs.
3. Unknown physical conditions at the Site (not including structures or improvements) of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Construction Services Agreement.

- 46.1 District shall promptly investigate the conditions, and if it finds that the conditions materially so differ, and the materials that are not on reports or documents supplied or reviewed as part of Contractor's Due Diligence shall be submitted as a Change Order under Article 17 and, upon approval, shall be allocated to the Unforeseen Allowance.
- 46.2 In the event that a dispute arises between District and Contractor whether the conditions materially differ from Due Diligence Documents reviewed for hazardous substances, or cause a decrease or increase in Contractor's cost of, or time required for, performance of any part of the work, Contractor shall not be excused from any scheduled completion date provided for by this Construction Services Agreement but shall proceed with all work to be performed under the Construction Services Agreement.

47. NO ASBESTOS CERTIFICATION

- 47.1 Asbestos Free Installation Certification: Contractor shall execute and submit an "Asbestos Free Materials Certification," and further, is aware of the following
- 47.1.1 Should asbestos containing materials be installed by the Contractor in violation of this certification, or if removal of asbestos containing materials is part of the Project, decontaminations and removals will be performed in accordance with the requirements of all applicable laws and will meet the following criteria:
- 47.1.1.1 Decontamination and removal of work found to contain asbestos or work installed with asbestos containing equipment shall be done only under the supervision of a qualified consultant, knowledgeable in the field of asbestos abatement and accredited by the Environmental Protection Agency (EPA).
- 47.1.1.2 The asbestos removal contractor shall be an EPA accredited contractor qualified in the removal of asbestos and shall be chosen and approved by the asbestos consultant who shall have sole discretion and final determination in this matter.
- 47.1.1.3 The asbestos consultant shall be chosen and approved by the District which shall have sole discretion and final determination in this matter.
- 47.1.1.4 The work will not be accepted until asbestos contamination is reduced to levels deemed acceptable by the asbestos consultant.
- 47.1.2 If removal of asbestos containing materials is part of the Project, the cost of all asbestos removal, including, but not necessarily limited to the cost of the asbestos removal contractor, the cost of the asbestos consultant, analytical and laboratory fees, time delays and additional costs that may be incurred by the District shall be borne entirely by the Contractor.
- 47.1.3 Hold Harmless: Interface of work for the Project with work containing asbestos shall be executed by the Contractor at his/her risk and at his/her discretion with full knowledge of the currently accepted standards, hazards, risks and liabilities associated with asbestos work and asbestos containing products. By execution of the Construction Services Agreement the Contractor acknowledges the above and agrees to the fullest extent permitted by law to hold harmless the District, its Board and each member of the Board, its officers, employees, agents, representatives, including its Architect and assigns, for all asbestos liability which may be associated with this work. The Contractor further agrees to instruct his/her employees with respect to the above mentioned standards, hazards, risk and liabilities.

48. LAWS AND REGULATIONS

Contractor shall give all notices and comply with all laws, ordinances, rules, and regulations bearing on conduct of work as indicated and specified. If Contractor observes that drawings and specifications are at variance therewith, it shall promptly notify Architect in writing and any necessary changes shall be adjusted as provided in this Construction Services Agreement for changes in work. If Contractor performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the District's Architect, it shall bear all costs arising therefrom.

49. AGREEMENT MODIFICATIONS

No waiver, alteration or modification of any of the provisions of this Construction Services Agreement shall be binding upon either District or Contractor unless the same shall be in writing and signed by both District and Contractor.

50. NOTICES

All communications in writing between District and Contractor, including without limitation, applications for payment, shall be deemed to have been received by the addressee if delivered to the person for whom they are intended or if sent by registered mail, return receipt requested, or by telex, telegram, or fax followed by regular mail, addressed pursuant to the Notice Section of Article 3.

51. THIRD-PARTY CLAIMS

Pursuant to Public Contract Code section 9201(b) and (c), District shall provide Contractor with timely notification of the receipt of any third-party claim, relating to the Contract. District is entitled to recover its reasonable costs incurred in providing such notification.

52. ASSIGNMENT

Except Contractor's responsibility to assign Subcontractors and material suppliers to District upon Project Completion and the running of the Warranty Period, Contractor shall not assign or sublet the Lease, Sublease or this Construction Services Agreement, nor shall Contractor assign any monies due or to become due to it hereunder. Contractor has unique abilities and understanding of the Project from negotiations and the Due Diligence that has been undertaken and, thus, any assignment will not transfer to the assignee the specific understanding associated with Contractor on this Project.

53. HEADINGS

The headings herein contained are inserted only as a matter of convenience and reference and are not meant to define, limit or describe the scope or intent of the Contract Documents or in any way to affect the terms and provisions set forth herein.

54. INTEGRATION/MODIFICATION

This Construction Services Agreement represents the entire understanding of District and Contractor as to those matters contained herein, and supersedes and cancels any prior oral or written understanding, promises or representations with respect to those matters covered herein, and it shall not be amended, altered or changed except by a written agreement signed by the parties hereto.

55. APPLICABLE LAW/ PROVISIONS REQUIRED BY LAW DEEMED INSERTED

The terms and provisions of this Construction Services Agreement shall be construed in accordance with the laws of the State of California. If any action is brought in a court of law to enforce any term of this Construction Services Agreement the action shall be brought in a state court situated in the County where the District is located, State of California, unless a court finds jurisdiction or venue is only proper in a federal court, or a court outside this county.

In the event of any such litigation between the parties, the parties shall pay for their respective costs incurred, including attorneys' fees.

Each and every provision of law and clause required by law to be inserted in this Construction Services Agreement shall be deemed to be inserted herein and the Construction Services Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon application of either party, the Construction Services Agreement shall forthwith be physically amended to make such insertion or correction.

56. SUCCESSION OF RIGHTS AND OBLIGATIONS

All rights and obligations under this Construction Services Agreement shall inure to and be binding upon the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have, by their duly authorized representatives, executed this Construction Services Agreement, in duplicate, as of the day and year first above written.

CONTRACTOR

DISTRICT:

FOUNTAIN VALLEY SCHOOL DISTRICT

By: _____
Name
Title

By: _____
Assistant Superintendent, Business Services

DATE: _____

DATE: _____

EXHIBIT “A”

SCOPE OF WORK / CONSTRUCTION DOCUMENTS

[TO BE INSERTED]

EXHIBIT “B”
MASTER BUDGET
[TO BE INSERTED]

EXHIBIT “C”
DVBE REQUIREMENTS

EXHIBIT "D"
PAYMENT BOND
(CALIFORNIA PUBLIC WORK)

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, the FOUNTAIN VALLEY SCHOOL DISTRICT (sometimes referred to hereinafter as "Obligee") has awarded to _____ (hereinafter designated as the "Principal" or "Contractor"), an agreement for the work described as follows: _____ (hereinafter referred to as the "Public Work"); and

WHEREAS, said Contractor is required to furnish a bond in connection with said Contract, and pursuant to California Civil Code Section 9550;

NOW, THEREFORE, We, _____, the undersigned Contractor, as Principal; and _____, a corporation organized and existing under the laws of the State of _____, and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the FOUNTAIN VALLEY SCHOOL DISTRICT and to any and all persons, companies, or corporations entitled by law to file stop notices under California Civil Code Section 9100, or any person, company, or corporation entitled to make a claim on this bond, in the sum of _____ Dollars (\$ _____), such sum being not less than one hundred percent (100%) of the total amount payable by said Obligee under the terms of said Contract, for which payment will and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, its heirs, executors, administrators, successors, or assigns, or subcontractor, shall fail to pay any person or persons named in Civil Code Section 9100; or fail to pay for any materials, provisions, or other supplies, used in, upon, for, or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Code, with respect to work or labor thereon of any kind; or shall fail to deduct, withhold, and pay over to the Employment Development Department, any amounts required to be deducted, withheld, and paid over by Unemployment Insurance Code Section 13020 with respect to work and labor thereon of any kind, then said Surety will pay for the same, in an amount not exceeding the amount herein above set forth, and in the event suit is brought upon this bond, also will pay such reasonable attorneys' fees as shall be fixed by the court, awarded and taxed as provided in California Civil Code Section 9550 et seq.

This bond shall inure to the benefit of any person named in Civil Code Section 9100 giving such person or his/her assigns a right of action in any suit brought upon this bond.

It is further stipulated and agreed that the Surety of this bond shall not be exonerated or released from the obligation of the bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, or specifications, or agreement pertaining or relating to any scheme or work of improvement herein above described, or pertaining or relating to the furnishing of labor, materials, or equipment therefor; nor by any change or modification of any terms of payment or extension of time for payment pertaining or relating to any scheme or work of improvement herein above described; nor by any rescission or attempted rescission of the contract, agreement or bond; nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond; nor by any fraud practiced by any person other than the claimant seeking to recover on the bond; and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given; and under no circumstances shall the Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the Obligee and the Contractor or on the part of any obligee named in such bond; that the sole condition of recovery shall be that the claimant is a person described in California Civil Code Section 9100, and who has not been paid the full amount of his or her claim; and that the Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned.

IN WITNESS WHEREOF this instrument has been duly executed by the Principal and Surety above named, on the _____ day of _____, 20____.

PRINCIPAL/CONTRACTOR:

By: _____

SURETY:

By: _____

Attorney-in-Fact

Surety companies executing bonds must possess a certificate of authority from the California Insurance Commissioner authorizing them to write surety insurance defined in California Insurance Code Section 105, and if the work or project is financed, in whole or in part, with federal, grant or loan funds, Surety's name must also appear on the Treasury Department's most current list (Circular 570 as amended).

(Name and Address of Surety)

Telephone: _____

Telephone: _____

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

STATE OF CALIFORNIA)
) ss.
COUNTY OF)

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

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

WITNESS my hand and official seal.

Notary Public in and for said State

(SEAL)

Commission expires: _____

NOTE: A copy of the power-of-attorney to local representatives of the bonding company must be attached hereto.

EXHIBIT "E"
CONTRACT PERFORMANCE BOND
(CALIFORNIA PUBLIC WORK)

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, the FOUNTAIN VALLEY SCHOOL DISTRICT (sometimes referred to hereinafter as "Obligee") has awarded to _____ (hereinafter designated as the "Principal" or "Contractor"), an agreement for the work described as follows: _____ (hereinafter referred to as the "Public Work"); and

WHEREAS, the work to be performed by the Contractor is more particularly set forth in that certain contract for said Public Work dated _____, (hereinafter referred to as the "Contract"), which Contract is incorporated herein by this reference; and

WHEREAS, the Contractor is required by said Contract to perform the terms thereof and to provide a bond both for the performance and guaranty thereof.

NOW, THEREFORE, we, _____, the undersigned Contractor, as Principal, and _____, a corporation organized and existing under the laws of the State of _____, and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the FOUNTAIN VALLEY SCHOOL DISTRICT in the sum of _____ Dollars (\$ _____), said sum being not less than one hundred percent (100%) of the total amount payable by said Obligees under the terms of said Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the bounded Contractor, his or her heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, and agreements in said Contract and any alteration thereof made as therein provided, on his or her part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill guarantees of all materials and workmanship; and indemnify, defend and save harmless the Obligees, its officers and agents, as stipulated in said Contract, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

The Surety, for value received, hereby stipulates and agrees that it shall not be exonerated or released from the obligation of this bond (either by total exoneration or pro tanto) by any change, extension of time, alteration in or addition to the terms of the contract or to the work to be performed there under or the specifications accompanying the same, nor by any change or modification to any terms of payment or extension of time for any payment pertaining or relating to any scheme of work of improvement under the contract. Surety also stipulates and agrees that it shall not be exonerated or released from the obligation of this bond (either by total exoneration or pro tanto) by any overpayment or underpayment by the Obligees that is based upon estimates approved by the Architect. The Surety stipulates and agrees that none of the aforementioned changes, modifications, alterations, additions, extension of time or actions shall in any way affect its obligation on this bond, and it does hereby waive notice of any such changes, modifications, alterations, additions or extension of time to the terms of the contract, or to the work, or the specifications as well notice of any other actions that result in the foregoing.

Whenever Principal shall be, and is declared by the Obligees to be, in default under the Contract, the Surety shall promptly either remedy the default, or shall promptly take over and complete the Contract through its agents or independent contractors, subject to acceptance and approval of such agents or independent contractors by Obligees as hereinafter set forth, in accordance with its terms and conditions and to pay and perform all obligations of Principal under the Contract, including, without limitation, all obligations with respect to warranties, guarantees and the payment of liquidated damages; or, at Obligees's sole discretion and election, Surety shall obtain a bid or bids for

completing the Contract in accordance with its terms and conditions, and upon determination by Obligees of the lowest responsible bidder, arrange for a contract between such bidder and the Obligees and make available as Work progresses (even though there should be a default or succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the "balance of the Contract price" (as hereinafter defined), and to pay and perform all obligations of Principal under the Contract, including, without limitation, all obligations with respect to warranties, guarantees and the payment of liquidated damages. The term "balance of the Contract price," as used in this paragraph, shall mean the total amount payable to Principal by the Obligees under the Contract and any modifications thereto, less the amount previously paid by the Obligees to the Principal, less any withholdings by the Obligees allowed under the Contract. Obligees shall not be required or obligated to accept a tender of a completion contractor from the Surety.

Surety expressly agrees that the Obligees may reject any agent or contractor which may be proposed by Surety in fulfillment of its obligations in the event of default by the Principal. Unless otherwise agreed by Obligees, in its sole discretion, Surety shall not utilize Principal in completing the Contract nor shall Surety accept a bid from Principal for completion of the work in the event of default by the Principal.

No final settlement between the Obligees and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

The Surety shall remain responsible and liable for all patent and latent defects that arise out of or relate to the Contractor's failure and/or inability to properly complete the Public Work as required by the Contract and the Contract Documents. The obligation of the Surety hereunder shall continue so long as any obligation of the Contractor remains.

Contractor and Surety agree that if the Obligees are required to engage the services of an attorney in connection with enforcement of the bond, Contractor and Surety shall pay Obligees' reasonable attorneys' fees incurred, with or without suit, in addition to the above sum.

In the event suit is brought upon this bond by the Obligees and judgment is recovered, the Surety shall pay all costs incurred by the Obligees in such suit, including reasonable attorneys' fees to be fixed by the Court.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this ____ day of _____,
20____.

PRINCIPAL/CONTRACTOR:

By: _____

SURETY:

By: _____

Attorney-in-Fact

The rate of premium on this bond is _____ per thousand.

The total amount of premium charged: \$_____ (This must be filled in by a corporate surety).

IMPORTANT: THIS IS A REQUIRED FORM.

Surety companies executing bonds must possess a certificate of authority from the California Insurance Commissioner authorizing them to write surety insurance defined in California Insurance Code Section 105, and if the work or project is financed, in whole or in part, with federal, grant or loan funds, Surety's name must also appear on the Treasury Department's most current list (Circular 570 as amended).

Any claims under this bond may be addressed to:
(Name and Address of Surety)

(Name and Address of agent or representative for
service for service of process in California)

Telephone: _____

Telephone: _____

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

STATE OF CALIFORNIA)
) ss.
COUNTY OF)

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

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

WITNESS my hand and official seal.

Notary Public in and for said State

(SEAL)

Commission expires:_____

NOTE: A copy of the power-of-attorney to local representatives of the bonding company must be attached hereto.

EXHIBIT "F"

CONTRACTOR FINGERPRINTING REQUIREMENTS

CONTRACTOR CERTIFICATION

With respect to the Contract dated _____ 20__ by and between the Fountain Valley School District ("District") and _____ ("Contractor") Contractor hereby certifies to the District's governing board that it has completed the criminal background check requirements of Education Code section 45125.1 and that none of its employees that may come in contact with District's pupils have been convicted of a violent felony listed in Penal Code section 667.5(c) or a serious felony listed in Penal Code section 1192.7(c).

Contractor's Representative _____

Date: _____

CONTRACTOR EXEMPTION

Pursuant to Education Code sections 45125.1 and 45125.2, the Fountain Valley School District ("District") as determined that _____ ("Contractor") is exempt from the criminal background check certification requirements for the contract dated _____ 20__ by and between the District and Contractor ("Contract") because:

- ☐ The Contractor's employees will have limited contact with District students during the course of the Contract;
- ☐ Emergency or exceptional circumstances exist; or
- ☐ With respect to Contractors constructing, reconstructing, rehabilitating or repairing a school facility, as provided in Section 45125.2, the Contractor has agreed to ensure the safety of pupils at the school facility by the following method(s) specified in Section 45125.2:
 - ☐ The installation of a physical barrier at the worksite to limit contact with pupils.
 - ☐ Continual supervision and monitoring of all employees of the entity by an employee of the entity whom the Department of Justice has ascertained has not been convicted of a violent or serious felony.

School District Official: _____

Date: _____

EXHIBIT "F" (CONT.)

SUBCONTRACTOR FINGERPRINTING REQUIREMENTS

SUBCONTRACTOR'S CERTIFICATION

The Fountain Valley School District ("District") entered into a contract for services with _____ ("Contractor") on or about _____, 20____ ("Contract"). This certification is submitted by _____, a subcontractor to the Contractor for purposes of that Contract ("Subcontractor"). Subcontractor hereby certifies to the District's governing board that it has completed the criminal background check requirements of Education Code section 45125.1 and that none of its employees that may come in contact with District pupils have been convicted of a violent felony listed in Penal Code section 667.5(c) or a serious felony listed in Penal Code section 1192.7(c).

Subcontractor's Representative: _____

Date: _____

SUBCONTRACTOR'S EXEMPTION

The Fountain Valley School District ("District") entered into a contract for services with _____ ("Contractor") on or about _____, 20____ ("Contract"). Pursuant to Education Code sections 45125.1 and 45125.2, the District has determined that _____, a subcontractor to the Contractor for purposes of that Contract ("Subcontractor") is exempt from the criminal background check certification requirements for the Contract because:

- ☐ The Subcontractor's employees will have limited contact with District students during the course of the Contract;
- ☐ Emergency or exceptional circumstances exist; or
- ☐ With respect to Contractors constructing, reconstructing, rehabilitating or repairing a school facility, as provided in Section 45125.2, the Contractor has agreed to ensure the safety of pupils at the school facility by the following method(s) specified in Section 45125.2:
 - ☐ The installation of a physical barrier at the worksite to limit contact with pupils.
 - ☐ Continual supervision and monitoring of all employees of the entity by an employee of the entity whom the Department of Justice has ascertained has not been convicted of a violent or serious felony.

School District Official: _____

Date: _____

EXHIBIT “G”

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, either as an individual employee or as one employer in a group of employers, 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 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 Construction Services Agreement.

Contractor _____

Title _____

Date _____

(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 Construction Services Agreement.)

EXHIBIT "H"

DRUG-FREE WORKPLACE CERTIFICATION

This Drug-Free Workplace Certification form is required from all successful bidders pursuant to the requirements mandated by Government Code Sections 8350 et seq., the Drug-Free Workplace Act of 1990. The Drug-Free Workplace Act of 1990 requires that every person or organization awarded a contract or grant for the procurement of any property or service from any State agency must certify that it will provide a drug-free workplace by performing certain specified acts. In addition, the Act provides that each contract or grant awarded by a State agency may be subject to suspension of payments or termination of the contract or grant, and the Contractor or grantee may be subject to debarment from future contracting, if the contracting agency determines that specified acts have occurred.

Pursuant to Government Code Section 8355, every person or organization awarded a contract or grant from a State agency shall certify that it will provide a drug-free workplace by doing all of the following:

1. Publishing a statement, notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's or organization's workplace, and specifying actions which will be taken against employees for violations of the prohibition.
2. Establishing a drug-free awareness program to inform employees about all of the following:
 - a. The dangers of drug abuse in the workplace;
 - b. The person's or organization's policy of maintaining a drug-free workplace;
 - c. The availability of drug counseling, rehabilitation and employee-assistance programs; and
 - d. The penalties that may be imposed upon employees for drug abuse violations;
3. Requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required by subdivision (a) and that, as a condition of employment on the contract or grant, the employee agrees to abide by the terms of the statement.

I, the undersigned, agree to fulfill the terms and requirements of Government Code Section 8355 listed above and will (a) publish a statement notifying employees concerning the prohibition of controlled substance at the workplace, (b) establish a drug-free awareness program, and (c) require each employee engaged in the performance of the contract be given a copy of the statement required by section 8355(a) and require such employee agree to abide by the terms of that statement.

I also understand that if the District determines that I have either (a) made a false certification herein, or (b) violated this certification by failing to carry out the requirements of Section 8355, that the contract awarded herein is subject to termination, suspension of payments, or both. I further understand that, should I violate the terms of the Drug-Free Workplace Act of 1990, I may be subject to debarment in accordance with the requirements of Sections 8350 et seq.

I acknowledge that I am aware of the provisions of Government Code Sections 8350 et seq. and hereby certify that I will adhere to the requirements of the Drug-Free Workplace Act of 1990.

DATE: _____

CONTRACTOR

By: _____
Signature

EXHIBIT "T"

CONDUCT RULES FOR CONTRACTORS

Each contractor/subcontractor, when performing work on Fountain Valley School District property, in addition to complying with the provisions of the Construction Services Agreement, shall adhere to the following rules of conduct:

1. Professional and courteous conduct is expected and will be displayed at all times.
2. Interaction with students, staff, and/or other visitors is prohibited with the exception of designated administrators.
3. The use of profanity and/or disparaging language will not be tolerated.
4. All contractors/subcontractors shall wear a means of identification on site when school is in session which must be approved by the District prior to commencement of work.
5. All contractors/subcontractors shall remain in the vicinity of his/her work and will not stray to other areas of the property not involved in the Project, including student and staff toilet facilities.
6. Pursuant to Government Code Section 8350 et seq., the Fountain Valley School District is a drug-free workplace. This policy shall be strictly enforced.
7. Alcoholic beverages are prohibited from being consumed or brought on any District property.
8. The use of any tobacco products on District property is strictly prohibited.
9. Any lewd, obscene or otherwise indecent acts, words, or behavior by any contractor/subcontractor shall not be tolerated.
10. All contractors/subcontractors shall conform to a dress code whereby:
 - A. No clothing that contains violent, suggestive, derogatory, obscene, or racially-biased material may be worn.
 - B. Garments, accessories or personal grooming artifacts with slogans, graphics, or pictures promoting drugs, alcohol, tobacco, or any other controlled substances which are prohibited to minors will not be allowed.
11. No firearms are allowed on campuses/District property.
12. All contractors/subcontractors shall comply with Education Code section 45125 et seq. with respect to all fingerprinting requirements.

Non-compliance with any of the above-stated rules of conduct by any contractor/subcontractor may be sufficient grounds for immediate removal from the job site and termination of the contract.

I acknowledge that I am aware of the above-stated rules of conduct and hereby certify that all of my Company's employees, consultants, suppliers, and/or any subcontractors will adhere to these provisions.

Date

Authorized Signature

Print Name

Company

Division 1 Forms

IMMEDIATE CONSTRUCTION CHANGE DIRECTIVE NO.

PROJECT: _____

TO: _____

You are hereby directed to provide the extra work necessary to comply with this ICD.

DESCRIPTION OF CHANGE: _____

COST (This cost shall not be exceeded): _____

TIME FOR COMPLETION: _____

NOTE:

Pursuant to Article 17.4.1.2 An Immediate Change Directive is a written order to the Contractor prepared by the Architect and signed by the District (and CM if there is a CM on the Project) and the Architect, directing a change in the Work and stating a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both. The District may by ICD, without invalidating the Contract, direct immediate changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions within. If applicable, the Contract Sum and Contract Time will be adjusted accordingly. CONTRACTOR SHALL PROCEED WITH WORK SET FORTH IN THIS ICD IMMEDIATELY UPON RECEIPT OR THE DISTRICT MAY EITHER HOLD THE CONTRACTOR IN EITHER PARTIAL DEFAULT PURSUANT TO ARTICLE 12.2 OR TOTAL DEFAULT PURSUANT TO ARTICLE 19.

Architect

District

CERTIFICATE OF SUBSTANTIAL COMPLETION

PROJECT: _____

TO: _____

As the Architect for the Project described above, the Project has reached Substantial Completion. Substantial Completion is not reached unless and until each of the following three (3) conditions have been met: (1) all contractually required items have been installed with the exception of only minor and Incomplete Punch Items (See Article 13.16 of the Construction Services Agreement); (2) All Fire/Life Safety Systems have been installed, and are working and signed off on the DSA Form 152 Inspection Card, all building systems including mechanical, electrical and plumbing are all functioning; and (3) the Project is fit for occupancy and its intended use

I certify that the Project has reached Substantial Completion as defined above on the following date: _____.

Architect

Fountain Valley School District
Superintendent's Office

REGULAR MEETING OF THE BOARD OF TRUSTEES

10055 Slater Avenue
Fountain Valley, CA 92708

June 15, 2017

MINUTES

President Crandall called the regular meeting of the Board of Trustees to order at 6:15pm.

CALL TO ORDER

The following board members were present:

ROLL CALL

Sandra Crandall	President
Lisa Schultz	President Pro Tem
Jim Cunneen	Clerk
Jeanne Galindo	Member

Absent:	
Ian Collins	Member

Motion: Mrs. Schultz moved to approve the meeting agenda.

AGENDA APPROVAL

Second: Mr. Cunneen

Vote: 4-0

There were no requests to address the Board prior to closed session.

PUBLIC COMMENTS

Mrs. Crandall announced that the Board would retire into Closed Session. Action was not anticipated. The following was addressed:

CLOSED SESSION

- Personnel Matters: *Government Code 54957 and 54957.1*
Appointment/Assignment/Promotion of employees; employee discipline/dismissal/release; evaluation of employee performance; complaints/charges against an employee; other personnel matters.
- Pupil Personnel: *Education Code 35146*
Student expulsion(s) or disciplinary matters for

violation of Board Policy 5144.1.

- Negotiations: *Government Code 54957.6*
Update and review of negotiations with the FVEA and CSEA Bargaining Units with the Board's designated representative, Cathie Abdel.
- Conference with Real Property Negotiator:
Government Code Section 54956.8
Property: Approximately 12.9 acres of District land improved with approximately 40,073 sq. ft. of facilities located at 9790 Finch Avenue, Fountain Valley, California (former Fred Moiola School Site) ("Property").

Negotiating Parties: Fountain Valley School District, real property negotiators Christine Fullerton, Assistant Superintendent, Business Services and District legal counsel (Lessor), and LePort Schools, Greg Marick, Vice President, Operations & Development (Lessee).

Under Negotiation: Instruction to negotiators will concern price and terms of payment issues associated with the possible amendment of the existing Lease Agreement for the identified Property.

- Public Employee Performance Evaluation:
Government Code Section 54957 & 54957.1
The Board will meet in closed session to discuss the annual performance evaluation of the superintendent.

The public portion of the meeting resumed at 7:00pm.

PLEDGE OF
ALLEGIANCE

Cub Scout Pak 567 led the Pledge of Allegiance.

SPECIAL PRESENTATIONS

It is an interest of the Board of Trustees to recognize dedication

CELEBRATION OF FVSD

to the teaching profession and our students and therefore, the Board wishes to recognize the following eight teachers who have completed the Fountain Valley School District's rigorous two-year Induction Program and are now eligible to receive their clear teaching credential: Rob Covacevich, Sarah Hughes, Jeremy LaMantia, Jimmy Cao, Kelly Coleman, Ashley Holmes, Tracy Querry, and Ana Shin. The Board of Trustees joined staff and family members in recognizing their commitment and hard work, as well as that of their mentors, who supported them while they completed the program.

**TEACHERS
COMPLETING TWO-
YEAR BTSA INDUCTION
PROGRAM**

From Talbert Middle School, Principal Jennifer Morgan, teacher John Wood, and PTO President Nicola Weiss joined students Mariana Swete, Ian Weiss and Bradley Shannon in presenting an overview of their STEAM (Science Technology Engineering Art and Math) program to the Board of Trustees.

**TALBERT STEAM
PROGRAM
PRESENTATION**

Following the presentations, the Board took a brief recess.

Assistant Superintendent of Business Services, Christine Fullerton, was joined by Lori Raineri and Keith Weaver, from Government Financial Strategies Inc., to review and discuss the results from the District's recent General Obligation Bonds issuance. Ms. Raineri reviewed the competitive bid process including the Government Finance Officers Association (GFOA) best practices utilized, the credit rating process, planning which assumed rising interest rates, and bond sale day. In addition, Ms. Raineri reviewed the results for the District and our District's taxpayers, including the bid results, dollar difference in bids, more funds for facilities, more funds at a lower cost, and projected tax levies below maximum. Ms. Raineri summarized the results, noting lower debt service, less taxes, and more funds for facilities. In closing, she reviewed next steps including planning for the next sale of bonds in two years (2019) and beginning debt administration and compliance.

**RESULTS FROM
GENERAL
OBLIGATION
BONDS ISSUANCE**

STAFF REPORTS AND PRESENTATIONS

Assistant Superintendent, Business, Christine Fullerton and Director, Fiscal Services, Isidro Guerra provided an update for the Board of Trustees on the State Budget and its effect on the Fountain Valley School District. Mrs. Fullerton began the presentation by reviewing the mission statement of the District. She provided an overview of the State economy and budget discussions in the Capitol. Mr. Guerra reviewed the District 2017-18 budgeted revenues, including a historical look at total

**BUDGET UPDATE (ORAL
AND WRITTEN)**

revenues over the last five years, and LCFF Target, noting that the gap is narrowing. In addition, Mr. Guerra also reviewed District 2017-18 budgeted expenditures including a historical look at total expenditures over the last five years. He also provided an overview of the net impact on our General Fund Balance, components of the ending fund balance, and multi-year projection assumptions. In closing, Mrs. Fullerton reviewed risk factors looking forward, and the budget adoption calendar.

BOARD REPORTS AND COMMUNICATIONS

Mr. Cunneen's activities since the last Board meeting included: tours of Fulton, Oka, Talbert, Gisler and Plavan, School Services Fiscal Seminar presented by Ron Bennett, Classified Employee BBQ, BTSA Induction, and the Masuda Middle School end of the year concert.

Mrs. Galindo's activities since the last meeting included: tours of Talbert, Oka, Newland, Gisler, Courreges and Fulton, the Certificated Recognition luncheon with FVEA at Mile Square Park, FVSF meeting, BTSA Induction and School Services Fiscal Seminar presented by Ron Bennett. She noted that she will join Mrs. O'Neal's class at Masuda tomorrow for a Socratic discussion of John Steinbeck's *The Pearl*.

Mrs. Schultz noted her appreciation of her fellow trustees and their representation on behalf of the Board at District and local events. In addition, she thanked Dr. Johnson for his continued efforts in keeping her informed and also thanked staff for their efforts.

Mrs. Crandall congratulated Mrs. Lucchese and Mrs. Arjian for the success of the recent events in the District including the FVEA/FVSD Certificated Recognition and the FV Rotary Teacher Recognition. Her activities since the last meeting included: tours of Talbert, Oka, Newland, Courreges, Cox and Newland, carnivals at Newland, Plavan and Gisler, band, choir and orchestra concerts at Fulton and Masuda, Certificated Recognition with FVEA, BTSA Induction, FV Rotary Teacher Recognition, Girls Who Code event at Masuda, two bond sale presentations by Dr Johnson and Mrs. Fullerton, SPC meeting, track and field event at Fulton, School Services Fiscal Seminar presented by Ron Bennett, and the dedication of the Rosemary Eadie Memorial Garden at Talbert Middle School. She thanked all of the trustees for their service this month.

PUBLIC HEARINGS

The Board of Trustees held a public hearing for the purpose of receiving public comment on the Local Control Accountability Plan. Public input was welcomed. There were no requests to speak and the hearing was closed.

A public hearing was held for the purpose of discussing the proposed 2017-18 final budget prior to approval by the Board of Trustees. Public input was welcomed. There were no requests to speak and the hearing was closed.

PUBLIC HEARING ON
LOCAL CONTROL
ACCOUNTABILITY PLAN
(LCAP) (EDUCATION
CODE SECTION 52062)
PUBLIC HEARING FOR
2017-18 BUDGET

PUBLIC COMMENTS

There were no requests to address the Board of Trustees.

PUBLIC COMMENTS

LEGISLATIVE SESSION

Motion: Mrs. Galindo moved to approve Board Policy 5127 Promotion Ceremonies and Activities for first reading and adoption.

Second: Mrs. Schultz

Vote: 4-0 (Absent: Collins)

BOARD POLICY 5127
PROMOTION
CEREMONIES AND
ACTIVITIES
(FIRST READING AND
ADOPTION)

Mrs. Crandall requested that Item 8-J Memorandum of Understanding with Cotsen Foundation for the Art of Teaching and Fountain Valley School District, Courreges and Oka Elementary Schools be pulled for separate vote.

CONSENT
CALENDAR/
ROUTINE ITEMS OF
BUSINESS

Motion: Mr. Cunneen moved to approve the Consent Calendar with the exception of Item 8-J.

Second: Mrs. Galindo

Vote: 4-0 (Absent: Collins)

Motion: Mrs. Galindo moved to approve Item 8-J Memorandum of Understanding with Cotsen Foundation for the Art of Teaching and Fountain Valley School District, Courreges and Oka Elementary Schools.

Second: Mr. Cunneen

Mrs. Crandall shared details regarding the Cotsen Foundation, its founder, and the Art of Teaching program. In addition, she highlighted the significance of this extraordinary program returning to the Fountain Valley School District and the gift that it will be to our teachers.

Vote: 4-0 (Absent: Collins)

The Consent Calendar included:

- Board Meeting Minutes from the May 18th regular meeting
- Personnel Items (Employment Functions, Workshops/Conferences, and Consultants)
- Donations
- Warrants
- Purchase Order Listing
- Budget Adjustments
- Resolution 2017-24: Payment to Mrs. Schultz for missed meeting due to illness
- School-Based Medi-Cal Administrative Activities (SMAA) Participation Agreement
- Approval of the Agreement for Student Transportation Services Between the Orange County School Districts
- Memorandum of Understanding with Cotsen Foundation for the Art of Teaching and Fountain Valley School District, Courreges and Oka Elementary Schools
- Change of District Employee Group Term Life Insurance
- Consolidated Application - Spring 2017 Data Collection
- MOU Between OCDE and FVSD for Special Schools Program
- Paradigm Healthcare Services, LLC Service Amendment to Agreement
- Special Ed Settlement Agreement Ref: Student A
- Special Ed Settlement Agreement Ref: Student B
- Special Ed Settlement Agreement Ref: Student C
- Authorization to use San Gabriel Valley Co-Op Frozen RFP (#1173-15/16)
- Non-Public Agency Contracts

Non-Public School/Agency	100% Contract Cost	Effective Dates
Cornerstone Therapies	\$1,700	5/23/17-12/31/17
Olive Crest Academy	\$1,802.38	4/25/17-6/30/17

SUPERINTENDENT'S COMMENTS/NEW ITEMS OF BUSINESS

Dr. Johnson Highlighted the programs at our middle schools, including our band and orchestra programs. He noted with pride his enjoyment of the recent performances. He noted as well the growth of these programs as they have

outgrown their performance spaces. In addition, he highlighted our STEAM programs at each of our middle schools, including robotics and the recent Robot Wars under the guidance of teacher Evelyn Lee at Fulton. Moreover, he commended the Talbert STEAM program and their presentation this evening, highlighting as well the exit interviews of the students. Furthermore, he noted the Girls Who Code Club at Masuda under the direction of Laurie Gillis. He noted as well the amazing woodshop programs at each of our middle schools and the addition of foreign language at each of our middle schools. In addition, Dr. Johnson noted the professional development plan for the year to go out for all of 2017-18 to staff. He commended Dr. McLaughlin for his efforts in this regard. In addition, he commended Mrs. Robinson for her efforts with professional development for our SPED program and Mrs. Diecidue. Moreover, he commended Mrs. Abdel for taking on BTSA program. And he commended Mrs. Christine Currasco for the FVEA/FVSD Certificated Recognition joint event. He highlighted the efforts of Mrs. Morgan at Talbert, commending the Rosemay Eadie Memorial Garden dedication. He thanked Mr. Gary Ron and his grounds crew for creating a beautiful memorial to her. Following this, he commended Mrs. Fullerton as we are one step closer to shovels in the ground, with the hope to bring a construction firm to the Board shortly. And lastly, he commended Dr. McLaughlin who recently went to FVSF for funding of STEAM and music programs. He thanked the Foundation for their support, noting what a truly phenomenal organization this is under Judy Edwards' leadership.

ADJOURNMENT

Motion: Mrs. Schultz moved to adjourn the meeting at 9:15pm.

Second: Mr. Cunneen

Vote: Unanimously approved

/rl

Fountain Valley School District
Superintendent's Office

REGULAR MEETING OF THE BOARD OF TRUSTEES

10055 Slater Avenue
Fountain Valley, CA 92708

June 22, 2017

MINUTES

President Crandall called the regular meeting of the Board of Trustees to order at 6:30pm.

CALL TO ORDER

The following board members were present:

ROLL CALL

Sandra Crandall	President
Lisa Schultz	President Pro Tem
Jim Cunneen	Clerk
Jeanne Galindo	Member
Ian Collins	Member

Motion: Mrs. Schultz moved to approve the meeting agenda.

AGENDA APPROVAL

Second: Mr. Cunneen

Vote: 5-0

There were no requests to address the Board prior to closed session.

PUBLIC COMMENTS

Mrs. Crandall announced that the Board would retire into Closed Session. Action was not anticipated. The following was addressed:

CLOSED SESSION

- Personnel Matters: *Government Code 54957 and 54957.1*
Appointment/Assignment/Promotion of employees; employee discipline/dismissal/release; evaluation of employee performance; complaints/charges against an employee; other personnel matters.
- Pupil Personnel: *Education Code 35146*
Student expulsion(s) or disciplinary matters for violation of Board Policy 5144.1.

- Negotiations: *Government Code 54957.6*
Update and review of negotiations with the FVEA and CSEA Bargaining Units with the Board's designated representative, Cathie Abdel.
- Public Employee Performance Evaluation:
Government Code Section 54957 & 54957.1
The Board will meet in closed session to discuss the annual performance evaluation of the superintendent.

The public portion of the meeting resumed at 7:00pm.

**PLEDGE OF
ALLEGIANCE**

Dr. Johnson led the Pledge of Allegiance.

BOARD REPORTS AND COMMUNICATIONS

Mrs. Galindo's activities since the last Board meeting included: tours of Oka and Cox.

Mr. Collins' activities since the last meeting included: tours of Masuda, Newland, Gisler, Plavan, and Cox, CSBA Delegate Assembly, Rotary meetings, FV Rotary Teacher Recognition, FVSF meeting regarding the Golf Tournament, Gisler Carnival, dedication of the Rosemary Eadie Memorial Garden at Talbert, OCSBA Fiscal Seminar by Ron Bennett, and graduation at Edison High School. In addition, he commended Dr. Hoefer and her team for their efforts regarding the District's LCAP.

Mrs. Schultz's activities since the last meeting included: working on the evaluation of the Superintendent and review of the agenda and materials for this evening.

Mr. Cunneen's activities since the last meeting included: tour of Cox.

Mrs. Crandall congratulated Mrs. Green and her CDC staff for their recent recognition by OCDE. Her activities since the last meeting included: kindergarten rainbow connection at Courreges and farewell to Shelia Blain.

PUBLIC COMMENTS

There were no requests to address the Board of Trustees.

PUBLIC COMMENTS

LEGISLATIVE SESSION

Motion: Mr. Collins moved to approve the 2017-18 Local Control Accountability Plan for Fountain Valley School District

Second: Mrs. Galindo

Mrs. Crandall noted that we are truly realizing the goals being set out in this plan. Moreover, the addition of the infographics has been beneficial. She commended the LCAP.

Vote: 5-0

APPROVAL OF THE
2017-18 LOCAL
CONTROL
ACCOUNTABILITY
PLAN FOR FOUNTAIN
VALLEY SCHOOL
DISTRICT

Motion: Mrs. Schultz moved to approve the 2017-18 District Budget.

Second: Mr. Collins

Mrs. Crandall commended the Business team for their efforts, in addition to being available for Board questions.

Vote: 5-0

APPROVAL OF THE
2017-18 DISTRICT
BUDGET

Motion: Mr. Cunneen moved to approve Board Policy 5127 Promotion Ceremonies and Activities for second reading and adoption.

Second: Mrs. Schultz

Vote: 5-0

BOARD POLICY 5127
PROMOTION
CEREMONIES AND
ACTIVITIES
(SECOND READING
AND ADOPTION)

Motion: Mrs. Galindo moved to approve the Consent Calendar.

Second: Mr. Cunneen

Vote: 5-0

CONSENT
CALENDAR/
ROUTINE ITEMS OF
BUSINESS

The Consent Calendar included:

- Children and Families Commission of Orange County Agreement Amendment, Resolution 2017-25 Authorizing First Amendment and Signature
 - Consulting Agreement Approval: The Leader's Institute
 - Non-Public Agency Contracts
- | Non-Public School/Agency | 100% Contract Cost | Effective Dates |
|--------------------------|--------------------|------------------|
| Scott Larson, Ph.D. | \$3,500 | 5/23/17-12/31/17 |

SUPERINTENDENT'S COMMENTS/NEW ITEMS OF BUSINESS

- Mrs. Crandall Initiated discussion and consensus amongst the Board regarding casual dress during summer Board meetings, with school being out.
- Dr. Johnson Extended his heartfelt thanks to all members of the FVSD families for their work this year, noting another exceptional year. He thanked our certificated staff and wished them well this summer break. To our students, he wished them a safe summer spent with loved ones. We look forward to their return and the start of the new school year!

ADJOURNMENT

- Motion:** Mr. Cunneen moved to adjourn the meeting at 7:26pm.
- Second:** Mrs. Schultz
- Vote:** Unanimously approved

/rl

**FOUNTAIN VALLEY SCHOOL DISTRICT
PERSONNEL ITEMS FOR APPROVAL
July 13, 2017**

1.0 EMPLOYMENT FUNCTIONS

1.1 ASSISTANT SUPERINTENDENT, PERSONNEL REQUEST APPROVAL OF THE FOLLOWING EXTENDED SCHOOL YEAR PROGRAM CERTIFICATED EMPLOYEES AT PLAVAN SCHOOL FROM MONDAY, JUNE 27, 2017 TO JULY 27, 2017 4.5 HRS A DAY.

	<u>EMPLOYEE</u>	<u>ASSIGNMENT</u>	<u>SALARY</u>
1.2.1	Carter, Robin	Speech & Language	CESP/III/11- III/12
1.2.2	Gibson, Erica	Speech & Language	CESP/III/07-III/08
1.2.3	Summerhays, Jill	Adapted PE	CE/III/17-III/18
1.2.4	Schultz, Kelly	School Nurse ((4 days, 07/13-07/19)	CESP/S2/03-I/04
1.2.5	Evans, Melanni	School Nurse (15 days, 06/27-07/12 07/20-07/27)	CESP/III/01/III/02
1.2.6	Boyack, Jennifer	Pre-School	CE/I/01
1.2.7	Kim, Melissa	TK-K Grades/MS	CE/III/09-III/10
1.2.8	Liccardo, Dana	TK-K Grades/MM	CE/III/20-III/21
1.2.9	Epling, Lara	1 st -3 rd Grades/MS	CE/III/19-III/20
1.2.10	Hughes, Britanya	3 rd -5 th GradesMM	CE/III/07-III/08
1.2.11	Craig, Jessica	1 st -3 rd Grades/MS	CE/III/06-III/07
1.2.12	Thomas-Shepard, Kara	5 th -7 th Grades/MS	CE/III/12-III/13
1.2.13	Stair, Debbe	Reading Intervention(2hrs/ day)	CE/III/22-III/23

1.2 ASSISTANT SUPERINTENDENT, PERSONNEL HAS ACCEPTED THE RESIGNATION OF THE FOLLOWING CERTIFICATED EMPLOYEE:

	<u>EMPLOYEE</u>	<u>ASSIGNMENT</u>	<u>LOCATION</u>	<u>EFFECTIVE</u>
1.2.1	Keilty, Elizabeth	Science	Talbert Middle School	06/24/2017

**FOUNTAIN VALLEY SCHOOL DISTRICT
PERSONNEL ITEMS FOR APPROVAL
July 13, 2017**

2.0 EMPLOYMENT FUNCTIONS

2.1 ASSISTANT SUPERINTENDENT, PERSONNEL REQUESTS APPROVAL OF THE FOLLOWING CLASSIFIED LEAVES OF ABSENCE:

	<u>EMPLOYEE</u>	<u>LOCATION</u>	<u>ASSIGNMENT</u>	<u>REASON</u>	<u>EFFECTIVE</u>
2.1.1	Wisrock, Dee	Courreges	ESP Aide	Medical	06/13/2017
2.1.2	Perez, Irazmi	District Office	Website & Social Media	Medical	06/27/2017

2.2 ASSISTANT SUPERINTENDENT, PERSONNEL REQUESTS APPROVAL OF THE FOLLOWING LIMITED TERM 2017 EXTENDED SCHOOL YEAR PROGRAM CLASSIFIED EMPLOYEES AT PLAVAN SCHOOL, FROM 6/27/17-7/27/17:

	<u>EMPLOYEE</u>	<u>ASSIGNMENT</u>
2.2.1	Vinatieri, Kristy	BIA
2.2.2	Linnes, Ashley	BIA
2.2.3	Vargas, Marilyn	BIA
2.2.4	Watson, Kaitlyn	BIA
2.2.5	Skaar, Betsy	DTT
2.2.6	Musacchio, Kathy	DTT
2.2.7	Valdez, Taylor	DTT
2.2.8	Talley, Jeremy	DTT
2.2.9	Garcia, Deborah	DTT
2.2.10	Nasab, Betty	DTT
2.2.11	Nielsen, Candace	DTT
2.2.12	Plemons, Lori	DTT
2.2.13	Alt, Kathleen	DTT
2.2.14	Linares, Lisa	DTT
2.2.15	Curoso, Sheree	DTT
2.2.16	Texeira, Danielle	DTT
2.2.17	Sugden-Davis, Jane	DTT
2.2.18	Burbage, Heather	LVN
2.2.19	Garrison, Rachel	IA SH/PH
2.2.20	Clouthier, David	IA SH/PH
2.2.21	Doan, Lan	IA SH/PH
2.2.22	Cowper, Matthew	IA SH/PH
2.2.23	Holmes-Hale, Karen	IA SH/PH
2.2.24	Lammers, Amy	IA SH/PH
2.2.25	Ivans-Aaron, Lynn	Office Manager
2.2.26	Fujiwara, Julie	SLPA
2.2.27	Larson-Coe, Patricia	SLPA
2.2.28	Cano, Rogelio	Custodian

2.3 ASSISTANT SUPERINTENDANT, PERSONNEL REQUEST APPROVAL OF THE FOLLOWING SUMMER CAMP CLASSIFIED EMPLOYEES TO WORK AS RECREATION COORDINATOR ASSISTANTS FROM 6-26 TO 8-25, 2017:

	<u>EMPLOYEE</u>	<u>LOCATION</u>	<u>TERM</u>
2.3.1	Larios, Vanessa	Cox	Weeks 1-9
2.3.2	Covington, Tiffany	Plavan	Weeks 1-9
2.3.3	Silva, Cathy	Courreges	Weeks 1-9

2.4 ASSISTANT SUPERINTENDANT, PERSONNEL REQUESTS APPROVAL OF THE FOLLOWING SUMMER CAMP CLASSIFIED EMPLOYEES TO WORK AS RECREATION LEADERS FROM 6-26 TO 8-25, 2017:

	<u>EMPLOYEE</u>	<u>LOCATION</u>	<u>TERM</u>
2.4.1	Kiesel, Jan	Cox	Weeks 1-5 & 6-9
2.4.2	Stinsman, Kristy	Cox	Weeks 1-9
2.4.3	Hopkins, Debbie	Cox	Weeks 1-5 & 6-9
2.4.4	Ruvalcaba, Cassandra	Cox	Weeks 1-5 & 6-9
2.4.5	Geertson, Danna	Cox	Weeks 1-5
2.4.6	Lamm, Carolyn	Cox	Weeks 1-9
2.4.7	Sepa, Lindsey	Cox	Weeks 1-5 & 6-9
2.4.8	Garnett, Jacob	Cox	Weeks 1-5 & 6-9
2.4.9	Tomita, Alice	Plavan	Weeks 1-3
2.4.10	Lopez, Kyle	Plavan	Weeks 1-5
2.4.11	Anderson, Julie	Plavan	Weeks 1-5
2.4.12	Fields, Lauren	Plavan	Weeks 1-3
2.4.13	Burns, Megan	Plavan	Weeks 1-3
2.4.14	Winmaw, Chitsaya	Plavan	Weeks 4-9
2.4.15	Nguyen, Abe	Plavan	Weeks 6-9
2.4.16	Freeman, Sharai	Plavan	Weeks 6-9
2.4.17	Chin, Sandra	Plavan	Weeks 4-6
2.4.18	Rodriguez, Lydia	Plavan	Weeks 4-6
2.4.19	Loustanau, Lori	Plavan	Weeks 7-9
2.4.20	Tucker, Matthew	Plavan	Weeks 7-9
2.4.21	Gutierrez, Crystal	Courreges	Weeks 1-9
2.4.22	Davis, Payson	Courreges	Weeks 1-5 & 6-9
2.4.23	Hughes, Mechele	Courreges	Weeks 1-9
2.4.24	Rodriguez, Gaby	Courreges	Weeks 1-9
2.4.25	Perez, Natalie	Courreges	Weeks 1-5 & 6-9
2.4.26	Vaquez, Sonia	Courreges	Weeks 1-9
2.4.27	Aguilar, Teresa	Courreges	Weeks 1-9
2.4.28	Siegle, Jacob	Courreges	Weeks 1-5 & 6-9
2.4.29	Burza, Amber	Courreges	Weeks 1-5 & 6-9
2.4.30	Sanchez, Carissa	Courreges	Weeks 1-9

2.5 ASSISTANT SUPERINTENDANT, PERSONNEL REQUESTS APPROVAL OF THE FOLLOWING 2017 SUMMER CAMP CLASSIFIED EMPLOYEES TO WORK AS PRESCHOOL INSTRUCTORS:

	<u>EMPLOYEE</u>	<u>LOCATION</u>	<u>TERM</u>
2.5.1	Tokarz, Amber	Plavan	Weeks 1-3 & 5-9
2.5.2	Blake, Annette	Plavan	Week 4

2.6 ASSISTANT SUPERINTENDANT, PERSONNEL REQUESTS APPROVAL OF THE FOLLOWING 2017 SUMMER CAMP CLASSIFIED EMPLOYEES TO WORK AS PRESCHOOL AIDES FROM 6-26 TO 8-25, 2017:

	<u>EMPLOYEE</u>	<u>LOCATION</u>	<u>TERM</u>
2.6.1	Blake, Annette	Plavan	Weeks 3 & 6-8
2.6.2	Hayes, Michele	Plavan	Weeks 3-6
2.6.3	Le, Kaithlyn	Plavan	Weeks 4-5 & 7,9
2.6.4	Ledezma, Candalaria	Plavan	Weeks 1-2 & 8-9
2.6.5	Presson, Juli	Plavan	Weeks 1-3 & 7-9
2.6.6	Russo, Donna	Plavan	Weeks 1-2 & 4-6

2.7 ASSISTANT SUPERINTENDENT, PERSONNEL HAS ACCEPTED THE RESIGNATION OF THE FOLLOWING CLASSIFIED EMPLOYEES:

	<u>EMPLOYEE</u>	<u>LOCATION</u>	<u>ASSIGNMENT</u>	<u>EFFECTIVE</u>
2.7.1	Corbett, Delia	Cox	Preschool Instructor	06/23/2017
2.7.2	Wellcome, Lisa	Plavan	Preschool Instructor	06/23/2017
2.7.3	Bui, Thuy	District Office	Accountant	07/07/2017

2.8 ASSISTANT SUPERINTENDENT, PERSONNEL HAS ACCEPTED THE RETIREMENT OF THE FOLLOWING CLASSIFIED EMPLOYEE:

	<u>EMPLOYEE</u>	<u>LOCATION</u>	<u>ASSIGNMENT</u>	<u>EFFECTIVE</u>
2.8.1	Grabarkewitz, Joy	Plavan	ESP IA/Health Asst.	06/23/2017

2.9 ASSISTANT SUPERINTENDENT, PERSONNEL REQUESTS APPROVAL OF THE TITLE CHANGE FROM COMMUNITY LIASON TO BILINGUAL TRANSLATOR AND PLACEMENT ON THE SALARY SCHEDULE AT RANGE 36.

2.10 ASSISTANT SUPERINTENDENT, PERSONNEL REQUESTS APPROVAL OF THE TITLE CHANGE FROM MAINTENANCE SUPERVISOR TO DIRECTOR, MAINTENANCE, OPERATIONS AND FACILITIES AND PLACEMENT ON THE MANAGEMENT SALARY SCHEDULE AT RANGE 14.

2.11 ASSISTANT SUPERINTENDENT, PERSONNEL REQUESTS APPROVAL OF THE VOLUNTARY DEMOTION OF JULI PRESSON FROM PRESCHOOL INSTRUCTOR TO PRESCHOOL AIDE EFFECTIVE 06/24/2017.

3.0 WORKSHOP/CONFERENCE ATTENDANCE:

	<u>NAME</u>	<u>ATTENDING</u>	<u>LOCATION</u>	<u>COST</u>	<u>BUDGET</u>	<u>DATES</u>
3.1	Sadegh, Parham	2017 CETPA Annual Conference	Pasadena, Ca	Actual & Necessary	012109078-5210	November 14-17, 2017

**FOUNTAIN VALLEY SCHOOL DISTRICT
PERSONNEL ITEMS FOR APPROVAL**

July 13, 2017

<i>EDUCATIONAL SERVICES</i>

4.0 APPROVAL OF ADDITIONAL DUTY REQUESTS

	<u>NAME</u>	<u>ASSIGNMENT</u>	<u>SALARY</u>	<u>BUDGET</u>	<u>DATE</u>
4.1	COOPER, Kim (Childcare Programs)	Assist with GLAD units preparation	Regular hourly rate, 8 hours per day	120017098-2113	7/17 to 7/21/2017
4.2	RUCK, Lindsey (Cour) (Ed Services)	Science Works Coordinator	\$4,000 stipend	010189275-1115	2017/2018 school year
4.3	VAUGH, Sarita PEREIRA, Shakeera ~ (long term sub) (Ed Services)	Extra hours needed during peak times for the Science Works Material Resource Center	30.0 hours/each 30.0 hours/each 30.0 hours/each Regular hourly rate	010189275-2113	08/17/17 to 09/14/17 11/27/17 to 12/21/17 3/12/18 to 4/13/18

FOUNTAIN VALLEY SCHOOL DISTRICT DONATIONS

BOARD APPROVAL DATE: 07/13/2017

SCHOOL	DONOR	AMOUNT	DESCRIPTION / INTENDED USE
COURREGES			
	Courreges PTA	\$4,000.00	32 Chromebooks with cart
COX			
	Cox PTO	\$199.13	PTO Supplies - paper
	Cox PTO	\$4,839.35	Classroom enhancement -weekly rdrs
	Cox PTO	\$298.36	Principal incentives
	Cox PTO	\$2,478.60	Classroom enhancement -Brain Pop
MASUDA			
	Masuda PTSO	\$3,905.99	Clubs, coach stipends, benefits
NEWLAND			
	Mimi Yang	\$200.00	Classroom supplies
	Pacific Life Grant	\$3,000.00	Reading books - K-5th grade
PLAVAN			
	Plavan PTO	\$2,000.00	ST Math for 2017-18
	Plavan PTO	\$645.00	Traveling Scientist for 6.2/17 -2nd gr.
TALBERT	Edison HS Boosters	\$259.66	Talbert's Music Program
	Talbert PTO	\$744.90	7th STEAM trip to San Diego
	Talbert Stu. Council	\$768.00	ASB Release Days
	Talbert PTO	\$3,386.00	Clubs, Coach stipends, Release days
	Talbert PTO	\$1,500.00	Rosemary's Garden
	Talbert 8 gr. Parents	\$223.00	Talbert's Music Program (Cash)
	M/M Suman Ghosh	\$100.00	2017/18 STEAM Program
	Talbert ASB	\$1,294.80	8th gr. Transportation to Knott's
TAMURA	Tamura PTO	\$1,294.80	5th gr.Field Trip-Griffith Observatory

**FOUNTAIN VALLEY SCHOOL DISTRICT
BOARD MEETING JULY 13, 2017**

To: Christine Fullerton

From: Mino Nhek

Subject: Warrant Listing

Warrant Numbers: 76829 - 77175

Dates: 6/1/2017 - 5/8/2017

Fund 01	General Fund	398,348.95
Fund 12	Child Development	36,681.32
Fund 13	Cafeteria	89,064.69
Fund 25	Capital Facilities	-
Fund 40	Special Reserves	9,848.52
Fund 68	Worker Comp	749.55
Fund 69	Insurance	18,142.44

TOTAL	\$	552,835.47
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FOUNTAIN VALLEY SD
PURCHASE ORDER DETAIL REPORT BY FUND
BOARD OF TRUSTEES MEETING 07/13/2017

FROM 06/01/2017 TO 06/30/2017

<u>PO NUMBER</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>ACCOUNT AMOUNT</u>	<u>ACCOUNT NUMBE</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
K20M4338	DARTCO TRANSMISSION SALES & SE	300.00	300.00	016919395 5645	7240 Special Ed Transportation / Outside Srvs-Repairs & Main
K20M4369	NEW MANAGEMENT INC	744.15	744.15	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
K20M4370	INDUSTRIAL METAL SUPPLY	491.31	491.31	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
K20M4371	DIGITAL NETWORKS GROUP INC.	405.00	405.00	014869390 5645	STAR Building DO-Routine Maint / Outside Srvs-Repairs &
K20M4372	SIGN WAREHOUSE	157.99	157.99	012869390 4345	Maintenance / Maintenance Supplies
K20M4373	ALAN'S LAWNMOWER & GARDEN CENT	2,230.40	2,230.40	012869390 4440	Maintenance / RPLC Equip \$500-\$5000
K20M4374	PINNACLE DRYER CORPORATION	918.03	918.03	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
K20M4375	GANAHL LUMBER COMPANY	162.13	162.13	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
K20M4376	FOREST PLYWOOD SALES	145.71	145.71	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
K20M4377	DUNN-EDWARDS CORPORATION	700.00	700.00	012879390 5899	Vandalism / Other Operating Expenses
K20M4379	GANAHL LUMBER COMPANY	1,223.53	1,223.53	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
K20R1674	SAMS CLUB	45.00	45.00	012719380 4325	Business Department / Office Supplies
			-45.00	012719385 5390	Purchasing / Dues and Membership Non Taxabl
K20R1675	ORANGE COUNTY DEPARTMENT OF ED	1,500.00	1,500.00	012109078 5826	Tech/Media Office Operation / Licensing/Software,Maint/Supp
K20R1676	ARIEL SUPPLY INC.	389.30	389.30	010011616 4310	Sch Site Instr - Newland / Instructional Supplies
K20R1681	ARIEL SUPPLY INC.	221.14	221.14	010019961 4320	Medi-Cal Billing-Instructional / Computer Supplies
K20R1683	FIRST SOUTHERN BAPTIST CHURCH	400.00	400.00	010143889 5610	Donations - Talbert / Outside Services - Rentals
K20R1684	ETS	1,047.68	1,047.68	012395098 4322	7395 Sch/Libr Imp Instr-DO / Testing Supplies
K20R1685	ORANGE COUNTY REGISTER	226.00	226.00	012849380 5825	Fiscal Services / Advertising
K20R1687	VAN DE PLASCH, RICHARD	2,100.00	2,100.00	010149380 4310	Promotion Activities / Instructional Supplies
K20R1688	MALPASS, TERI	2,600.00	2,600.00	012040075 5813	Ed Effectiveness-Ed Quality / Consultant
K20R1689	MOMENTUM IN TEACHING LLC	1,600.00	1,600.00	010114055 4310	Title I - Plavan / Instructional Supplies
K20R1690	VOYAGER SOPRIS LEARNING INC	13,516.80	13,516.80	010055275 4220	State Standards-ELA / Unadopted Textbooks Ref Books
K20R1691	FOUNTAIN VALLEY EDUCATION ASSO	2,376.45	2,376.45	016359380 5828	Staff Recognition Program / Staff Recognition
K20R1693	KEENAN & ASSOCIATES	1,308.00	1,308.00	012749380 5813	Staff Development-Non Instr / Consultant
K20R1694	ORANGE COUNTY DEPARTMENT OF ED	427.50	427.50	012289961 5813	MAA - Administration / Consultant
K20S8062	ARIEL SUPPLY INC.	1,402.33	1,402.33	011000000 9320	Revenue Limit - State Revenues / STORES
K20S8063	CROWN CARTON COMPANY	1,296.30	1,296.30	011000000 9320	Revenue Limit - State Revenues / STORES
Fund 01 Total:		37,934.75	37,889.75		

FOUNTAIN VALLEY SD
PURCHASE ORDER DETAIL REPORT BY FUND
BOARD OF TRUSTEES MEETING 07/13/2017

FROM 06/01/2017 TO 06/30/2017

<u>PO NUMBER</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>ACCOUNT AMOUNT</u>	<u>ACCOUNT NUMBE</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
K20R1677	JOHNS INCREDIBLE PIZZA	2,639.01	2,639.01	120016398 5812	ESP-Summer Camp Instructional / Admission Costs
K20R1680	PARTY BOUNCE	280.15	280.15	120016398 5610	ESP-Summer Camp Instructional / Outside Services - Rentals
K20R1682	JK BOOKEEPING SERVICE	1,875.00	1,875.00	120016398 5812	ESP-Summer Camp Instructional / Admission Costs
Fund 12 Total:		4,794.16	4,794.16		

FOUNTAIN VALLEY SD
PURCHASE ORDER DETAIL REPORT BY FUND
BOARD OF TRUSTEES MEETING 07/13/2017

FROM 06/01/2017 TO 06/30/2017

<u>PO NUMBER</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>ACCOUNT AMOUNT</u>	<u>ACCOUNT NUMBE</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
K20M4339	ORANGE COUNTY PUMPING INC	450.00	450.00	402998990 5645	Moiola Improvement Projects / Outside Srvs-Repairs & Mainte
K20M4380	CRANDALL'S PLUMBING INC.	250.00	250.00	402998990 5645	Moiola Improvement Projects / Outside Srvs-Repairs & Mainte
Fund 40 Total:		700.00	700.00		

FOUNTAIN VALLEY SD
PURCHASE ORDER DETAIL REPORT BY FUND
BOARD OF TRUSTEES MEETING 07/13/2017

FROM 06/01/2017 TO 06/30/2017

<u>PO NUMBER</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>ACCOUNT AMOUNT</u>	<u>ACCOUNT NUMBE</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
K20M4378	ALAN'S LAWNMOWER & GARDEN CENT	215.46	215.46	682719470 4399	Workers Comp Admin / Equipment Under \$500
	Fund 68 Total:	215.46	215.46		

FOUNTAIN VALLEY SD
PURCHASE ORDER DETAIL REPORT BY FUND
BOARD OF TRUSTEES MEETING 07/13/2017

FROM 06/01/2017 TO 06/30/2017

<u>PO</u> <u>NUMBER</u>	<u>VENDOR</u>	<u>PO</u> <u>TOTAL</u>	<u>ACCOUNT</u> <u>AMOUNT</u>	<u>ACCOUNT</u> <u>NUMBE</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
Total Account Amount:			43,599.37		

FOUNTAIN VALLEY SD
PURCHASE ORDER DETAIL REPORT - CHANGE ORDERS BY FUND
BOARD OF TRUSTEES 07/13/2017

FRO 06/01/2017 TO 06/30/2017

<u>PO</u> <u>NUMBE</u>	<u>VENDOR</u>	<u>PO</u> <u>TOTAL</u>	<u>CHANGE</u> <u>AMOUNT</u>	<u>ACCOUNT</u> <u>NUMBE</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
K20M4019	GRAINGER INC.	19,000.00	+1,500.00	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
K20M4029	SMARDEN SUPPLY COMPANY	27,500.00	+1,500.00	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
K20M4085	CALIFORNIA PEST MANAGEMENT	20,000.00	+2,000.00	012869390 5645	Maintenance / Outside Srvs-Repairs & Mainten
K20M4336	COLBI TECHNOLOGIES INC	19,250.00	+4,250.00	012869390 5899	Maintenance / Other Operating Expenses
K20R0878	CSM CONSULTING INC	11,300.00	+8,475.00	012109076 5813	E-Rate / Consultant
K20R1095	SOUTHWEST SCHOOL AND OFFICE SU	191.38	+96.57	012658155 4325	Assessment and Accountability / Office Supplies
K20R1484	HEINEMANN	5,040.46	+417.50	010011616 4310	Sch Site Instr - Newland / Instructional Supplies
K20R1642	SEHI COMPUTER PRODUCTS	7,934.75	+599.25	010142929 4399	Sch Site Instr - Fulton / Equipment Under \$500
			-626.98	010142929 5899	Sch Site Instr - Fulton / Other Operating Expenses
K20R1643	SEHI COMPUTER PRODUCTS	3,617.25	-76.13	010142929 4399	Sch Site Instr - Fulton / Equipment Under \$500
K20S8040	VERITIV	21,750.00	-877.50	011000000 9320	Revenue Limit - State Revenues / STORES
K20X0044	CHIDESTER, MARGARET A.	19,000.00	+7,000.00	012159470 5830	Personnel - Legal Services / Legal Fees
K20X0114	SCHOOL SPECIALTY	9,000.00	+4,000.00	010144949 4310	Sch Site Instr - Masuda / Instructional Supplies
K20X0525	SCHOOL SPECIALTY	2,380.00	+800.00	012723232 4325	Sch Site Admin - Cox / Office Supplies
Fund 01 Total:			+29,057.71		

FOUNTAIN VALLEY SD

PURCHASE ORDER DETAIL REPORT - CHANGE ORDERS BY FUND

BOARD OF TRUSTEES

07/13/2017

FRO 06/01/2017 TO 06/30/2017

<u>PO NUMBE</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>CHANGE AMOUNT</u>	<u>ACCOUNT NUMBE</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
K20R0792	SCHOLASTIC MAGAZINE	322.99	+162.61	120017598 4310	Child Dev Cntr Preschool Instr / Instructional Supplies
K20R1351	TOYS R US	269.20	+53.70	120017598 4310	Child Dev Cntr Preschool Instr / Instructional Supplies
Fund 12 Total:			+216.31		

FOUNTAIN VALLEY SD

PURCHASE ORDER DETAIL REPORT - CHANGE ORDERS BY FUND

BOARD OF TRUSTEES

07/13/2017

FRO 06/01/2017 TO 06/30/2017

<u>PO</u> <u>NUMBE</u>	<u>VENDOR</u>	<u>PO</u> <u>TOTAL</u>	<u>CHANGE</u> <u>AMOUNT</u>	<u>ACCOUNT</u> <u>NUMBE</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
K20R0950	S & S BAKERY INC	4,181.61	+941.61	133207380 4710	Cafeteria Fund / Food
K20X0234	P & R PAPER SUPPLY COMPANY	4,251.29	+451.29	133207380 4790	Cafeteria Fund / Food Services Supplies
K20X0235	PJ OF SOUTHERN CALIFORNIA LP	47,621.37	+7,621.37	133207380 4710	Cafeteria Fund / Food
K20X0236	PICK UP STIX	15,300.00	+3,500.00	133207380 4710	Cafeteria Fund / Food
Fund 13 Total:			+12,514.27		

FOUNTAIN VALLEY SD

PURCHASE ORDER DETAIL REPORT - CHANGE ORDERS BY FUND

BOARD OF TRUSTEES

07/13/2017

FRO 06/01/2017 TO 06/30/2017

<u>PO NUMBE</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>CHANGE AMOUNT</u>	<u>ACCOUNT NUMBE</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
K20X0166	ATKINSON ANDELSON LOYA RUDD &	40,000.00	+20,000.00	402969380 5830	Property - Legal Services / Legal Fees
Fund 40 Total:			+20,000.00		

FOUNTAIN VALLEY SD
PURCHASE ORDER DETAIL REPORT - CHANGE ORDERS BY FUND
BOARD OF TRUSTEES **07/13/2017**

FRO 06/01/2017 TO 06/30/2017

<u>PO</u> <u>NUMBE</u>	<u>VENDOR</u>	<u>PO</u> <u>TOTAL</u>	<u>CHANGE</u> <u>AMOUNT</u>	<u>ACCOUNT</u> <u>NUMBE</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
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Total Account Amount:			+61,788.29		
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FOUNTAIN VALLEY SD

Reference #:

2017 38

Adjustment of Funds

It has been resolved to make the budget adjustments as listed below per Education Code 42600.

Fund: 0101 GENERAL FUND

Object	Description	FROM	TO
1100	TEACHERS' SALARIES	78,583.00	88,447.00
2100	INSTRUCTIONAL AIDES' SALARIES		744.00
3101	STRS-CERTIFICATED POSITIONS	9,814.00	10,889.00
3202	PERS-CLASSIFIED		103.00
3313	MEDICARE-CERTIFICATED	1,131.00	1,283.00
3314	MEDICARE-CLASSIFIED		11.00
3353	ARP-CERTIFICATED		4.00
3356	OASDI-CLASSIFIED		46.00
3501	SUI-CERTIFICATED	39.00	43.00
3601	WORKERS'COMP-CERTIFICATED	1,761.00	1,962.00
3602	WORKERS'COMP-CLASSIFIED		17.00
4200	BOOKS OTHER THAN TEXTBOOKS	51.00	602.00
4300	MATERIALS & SUPPLIES	1,285.00	52,080.00
5200	TRAVEL & CONFERENCES	191.00	824.00
5500	OPERATIONS & HOUSEKEEPNG SVCS	317,500.00	
5600	RENTAL,LEASE,REPAIR & NON CAP		3,835.00
5751	Direct Cost - Field Trips	150.00	
5800	PROF/CONS SERV & OPER EXPENSE	67,147.00	65,312.00
5900	COMMUNICATIONS	19,405.00	
6400	EQUIPMENT	50,724.00	
7142	Excess Costs/County Offices	12,347.00	
7612	IFT BETWEEN GEN,&SPEC.RES.FUND		321,000.00
8000	REVENUE LIMIT SOURCES	297,031.00	295,131.00
8100	FEDERAL INCOME	13,908.00	27,169.00
8500	STATE INCOME	95,140.00	
8600	LOCAL INCOME	51.00	87,293.00
9740	RESTRICTED BALANCE		46,000.00
9780	OTHER ASSIGNMENTS		501,199.00
9789	RESERVE FOR ECONOMIC UNCERTAIN		7,759.00
9790	UNASSIGNED/UNAPPROPRIATED	1,059,248.00	520,679.00

FOUNTAIN VALLEY SD

Reference #:

2017 38

Adjustment of Funds

It has been resolved to make the budget adjustments as listed below per Education Code 42600.

Fund: 0101 GENERAL FUND

Object	Description	FROM	TO
Subfund Total:		2,025,506.00	2,032,432.00

I certify this is a true excerpt from the Minutes of a regular Board Meeting held by the FOUNTAIN VALLEY SD Board of Trustees, July 13, 2017.

AYES: _____

NOES: _____

ABSENT: _____

Secretary, Board of Trustees

The above adjustment was approved on the _____ day of _____, 200_____.

APPROVED: Superintendent of Schools, County of Orange: _____
Deputy

FOUNTAIN VALLEY SD

Reference #:

2017 39

Adjustment of Funds

It has been resolved to make the budget adjustments as listed below per Education Code 42600.

Fund: 1212 CHILD DEVELOPMENT

Object	Description	FROM	TO
1200	CERTIFICATED PUPIL SUPPORT		800.00
2100	INSTRUCTIONAL AIDES' SALARIES	10,000.00	12,500.00
2400	CLERICAL & OFFICE SALARIES	1,300.00	1,500.00
3101	STRS-CERTIFICATED POSITIONS		101.00
3202	PERS-CLASSIFIED	556.00	931.00
3313	MEDICARE-CERTIFICATED		12.00
3314	MEDICARE-CLASSIFIED	58.00	97.00
3354	ALTERNATIVE RETIRE-CLASSIFIED		25.00
3356	OASDI-CLASSIFIED	248.00	416.00
3501	SUI-CERTIFICATED		1.00
3502	SUI-CLASSIFIED	2.00	3.00
3601	WORKERS'COMP-CERTIFICATED		18.00
3602	WORKERS'COMP-CLASSIFIED	90.00	152.00
4300	MATERIALS & SUPPLIES	16,246.00	19,295.00
4400	NONCAPITALIZATION EQUIPMENT		7,129.00
4700	FOOD	5,000.00	
5200	TRAVEL & CONFERENCES		696.00
5600	RENTAL,LEASE,REPAIR & NON CAP	16,795.00	
5751	Direct Cost - Field Trips		150.00
5800	PROF/CONS SERV & OPER EXPENSE	4,417.00	1,478.00
5900	COMMUNICATIONS		50.00
6200	BUILDING AND IMPROVE OF BLDGS		33,364.00
8600	LOCAL INCOME		15,380.00
9740	RESTRICTED BALANCE	16,012.00	7,386.00
Subfund Total:		70,724.00	101,484.00

I certify this is a true excerpt from the Minutes of a regular Board Meeting held by the FOUNTAIN VALLEY SD Board of Trustees, July 13, 2017.

AYES: _____

NOES: _____

ABSENT: _____

Secretary, Board of Trustees

The above adjustment was approved on the _____ day of _____, 200____.

APPROVED: Superintendent of Schools, County of Orange: _____
Deputy

FOUNTAIN VALLEY SD

Reference #:

Adjustment of Funds

2017 40

It has been resolved to make the budget adjustments as listed below per Education Code 42600.

Fund: 1313 CAFETERIA FUND

Object	Description	FROM	TO
2200	CLASSIFIED SUPPORT	6,500.00	400.00
2400	CLERICAL & OFFICE SALARIES		11,000.00
3202	PERS-CLASSIFIED		681.00
3314	MEDICARE-CLASSIFIED		71.00
3356	OASDI-CLASSIFIED		304.00
3502	SUI-CLASSIFIED		2.00
3602	WORKERS'COMP-CLASSIFIED		111.00
4300	MATERIALS & SUPPLIES		8,376.00
4400	NONCAPITALIZATION EQUIPMENT	20,000.00	2,313.00
4700	FOOD	60,000.00	
5200	TRAVEL & CONFERENCES		400.00
5400	INSURANCE		60.00
5600	RENTAL,LEASE,REPAIR & NON CAP		1,100.00
8200	FEDERAL INCOME		10,000.00
8600	LOCAL INCOME	50,000.00	50,900.00
9740	RESTRICTED BALANCE		72,582.00
Subfund Total:		136,500.00	158,300.00

I certify this is a true excerpt from the Minutes of a regular Board Meeting held by the FOUNTAIN VALLEY SD Board of Trustees, July 13, 2017.

AYES: _____

NOES: _____

ABSENT: _____

Secretary, Board of Trustees

The above adjustment was approved on the _____ day of _____, 200____.

APPROVED: Superintendent of Schools, County of Orange: _____
Deputy

FOUNTAIN VALLEY SD

Reference #:

2017 41

Adjustment of Funds

It has been resolved to make the budget adjustments as listed below per Education Code 42600.

Fund: 2525 CAPITAL FACILITIES

Object	Description	FROM	TO
5800	PROF/CONS SERV & OPER EXPENSE	2,100.00	
8600	LOCAL INCOME	70,000.00	
9780	OTHER ASSIGNMENTS	67,900.00	
Subfund Total:		140,000.00	0.00

I certify this is a true excerpt from the Minutes of a regular Board Meeting held by the FOUNTAIN VALLEY SD Board of Trustees, July 13, 2017.

AYES: _____

NOES: _____

ABSENT: _____

Secretary, Board of Trustees

The above adjustment was approved on the _____ day of _____, 200____.

APPROVED: Superintendent of Schools, County of Orange: _____
Deputy

FOUNTAIN VALLEY SD

Reference #:

2017 42

Adjustment of Funds

It has been resolved to make the budget adjustments as listed below per Education Code 42600.

Fund: 4040 SPECIAL RESERVE/C.O.P.

Object	Description	FROM	TO
4300	MATERIALS & SUPPLIES	250.00	435.00
5600	RENTAL,LEASE,REPAIR & NON CAP		4,204.00
5800	PROF/CONS SERV & OPER EXPENSE	59,702.00	
7699	OU-ALL OTHER USES		34,825.00
8600	LOCAL INCOME	800.00	
8900	INCOMING TRANSFERS		321,000.00
9760	OTHER COMMITMENTS		340,688.00
Subfund Total:		60,752.00	701,152.00

I certify this is a true excerpt from the Minutes of a regular Board Meeting held by the FOUNTAIN VALLEY SD Board of Trustees, July 13, 2017.

AYES: _____

NOES: _____

ABSENT: _____

Secretary, Board of Trustees

The above adjustment was approved on the _____ day of _____, 200____.

APPROVED: Superintendent of Schools, County of Orange: _____
Deputy

FOUNTAIN VALLEY SD

Reference #:

2017 43

Adjustment of Funds

It has been resolved to make the budget adjustments as listed below per Education Code 42600.

Fund: 6769 INSURANCE HEALTH/WELFARE

Object	Description	FROM	TO
5800	PROF/CONS SERV & OPER EXPENSE	650.00	
5900	COMMUNICATIONS	350.00	
8600	LOCAL INCOME	50,000.00	
9790	UNASSIGNED/UNAPPROPRIATED	49,000.00	
Subfund Total:		100,000.00	0.00

I certify this is a true excerpt from the Minutes of a regular Board Meeting held by the FOUNTAIN VALLEY SD Board of Trustees, July 13, 2017.

AYES: _____

NOES: _____

ABSENT: _____

Secretary, Board of Trustees

The above adjustment was approved on the _____ day of _____, 200____.

APPROVED: Superintendent of Schools, County of Orange: _____
Deputy

FOUNTAIN VALLEY SD

Reference #:

2017 36

Transfer of Funds

It has been resolved to make the budget transfers as listed below per Education Code 42600.

Fund: 0101 GENERAL FUND

Object	Description	FROM	TO
1100	TEACHERS' SALARIES		2,521.00
2100	INSTRUCTIONAL AIDES' SALARIES		225.00
2200	CLASSIFIED SUPPORT	492.00	
2400	CLERICAL & OFFICE SALARIES		127.00
2900	OTHER CLASSIFIED SALARIES		600.00
3101	STRS-CERTIFICATED POSITIONS	65.00	215.00
3202	PERS-CLASSIFIED	68.00	18.00
3313	MEDICARE-CERTIFICATED		38.00
3314	MEDICARE-CLASSIFIED	7.00	14.00
3353	ARP-CERTIFICATED	8.00	4.00
3354	ALTERNATIVE RETIRE-CLASSIFIED		8.00
3356	OASDI-CLASSIFIED	30.00	8.00
3601	WORKERS'COMP-CERTIFICATED		60.00
3602	WORKERS'COMP-CLASSIFIED	11.00	22.00
4200	BOOKS OTHER THAN TEXTBOOKS	10,000.00	
4300	MATERIALS & SUPPLIES	76,177.00	104,031.00
4400	NONCAPITALIZATION EQUIPMENT	99,071.00	14,549.00
5200	TRAVEL & CONFERENCES	1,674.00	87,247.00
5400	INSURANCE		1,500.00
5600	RENTAL,LEASE,REPAIR & NON CAP	7,513.00	1,485.00
5800	PROF/CONS SERV & OPER EXPENSE	143,073.00	17,025.00
6100	SITES AND IMPROVEMENT OF SITES	36,000.00	
6200	BUILDING AND IMPROVE OF BLDGS		36,000.00
6400	EQUIPMENT	22,697.00	
9740	RESTRICTED BALANCE	589.00	26,958.00
9780	OTHER ASSIGNMENTS	32,915.00	
9790	UNASSIGNED/UNAPPROPRIATED	19,631.00	157,366.00
Subfund Total:		450,021.00	450,021.00

I certify this is a true excerpt from the Minutes of a regular Board Meeting held by the FOUNTAIN VALLEY SD Board of Trustees, July 13, 2017.

AYES: _____

NOES: _____

ABSENT: _____

Secretary, Board of Trustees

The above transfer was approved on the _____ day of _____, 200____.

APPROVED: Superintendent of Schools, County of Orange: _____
Deputy

FOUNTAIN VALLEY SD

Reference #:

2017 37

Transfer of Funds

It has been resolved to make the budget transfers as listed below per Education Code 42600.

Fund: 1212 CHILD DEVELOPMENT

Object	Description	FROM	TO
Subfund Total:		0.00	0.00

I certify this is a true excerpt from the Minutes of a regular Board Meeting held by the FOUNTAIN VALLEY SD Board of Trustees, July 13, 2017.

AYES: _____

NOES: _____

ABSENT: _____

Secretary, Board of Trustees

The above transfer was approved on the _____ day of _____, 200____.

APPROVED: Superintendent of Schools, County of Orange: _____
Deputy



Fountain Valley School District
BUSINESS SERVICES DIVISION

M E M O R A N D U M

TO: Board of Trustees
FROM: Christine Fullerton, Assistant Superintendent, Business Services
SUBJECT: **RESOLUTION 2018-01: AUTHORIZATION OF SIGNATURES ON REPLACEMENT WARRANTS**
DATE: June 26, 2017

Background:

Any warrant that is presented to the County Treasurer within six months after it was issued is void and said warrants are then voided and replaced by issuing another warrant. In order to eliminate the necessity of obtaining a second board approval for the same warrant, a Resolution authorizing district employees to sign is required.

Recommendation:

It is recommended that the Board of Trustees approves **RESOLUTION 2018-01:**
Authorization of Signatures on Replacement Warrants.

RESOLUTION 2018-01

AUTHORIZATION OF SIGNATURES ON REPLACEMENT WARRANTS

WHEREAS, Education Code Section 42660/85270 states that any school warrant not presented to the County Treasurer within six months after it was issued is void;

NOW, THEREFORE BE IT RESOLVED, that the following district employees are hereby authorized to sign replacement warrants within the provisions of Education Code Section 42660/85270; said warrants to replace warrants that are not presented to the County Treasurer within six months, or as otherwise provided after issuance, and thus become void:

Mark Johnson, Superintendent
Christine Fullerton, Assistant Superintendent, Business Services
Cathie Abdel, Assistant Superintendent, Personnel
Isidro Guerra, Director, Fiscal Services
Ross Hessler, Director, Human Resources

MOTION:

SECOND:

AYES:

ABSTAIN:

ABSENT:

STATE OF CALIFORNIA)
) SS.

COUNTY OF ORANGE)

I, Jim Cunneen, Clerk of the Board of Trustees of Fountain Valley School District of Orange County, California, hereby certify that the above and foregoing resolution was duly and regularly adopted by the said Board at a regular meeting thereof held on the 13th of July, 2017, and passed by a vote of said Board.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 13th day of July, 2017.

Clerk _____



Fountain Valley School District
BUSINESS SERVICES DIVISION

M E M O R A N D U M

TO: Board of Trustees
FROM: Christine Fullerton, Assistant Superintendent, Business Services
SUBJECT: **RESOLUTION 2018-02: APPOINTMENT OF CUSTODIAN
THE REVOLVING CASH FUND**
DATE: June 26, 2017

BACKGROUND

Education Code Section 42800 provides that the Governing Board may establish a Revolving Cash Fund in an amount not more than two percent (2%) of the district's estimated expenditures during the fiscal year, and not in any event, to exceed \$35,000 for an elementary school district.

RECOMMENDATION

It is recommended that the Board of Trustees adopts **RESOLUTION 2018-02** naming Christine Fullerton, Assistant Superintendent, Business Services, custodian of the Revolving Cash Fund.

kf

FOUNTAIN VALLEY SCHOOL DISTRICT

RESOLUTION 2018-02
APPOINTMENT OF CUSTODIAN OF REVOLVING CASH FUND

WHEREAS, Education Code section 42800 authorizes the Governing Board of any school district to establish a Revolving Cash Fund; and

WHEREAS, Education Code section 42800 requires that the Governing Board adopt a resolution setting forth the need for a Revolving Cash Fund and designate the officer authorized to sign checks from the Revolving Cash Fund; and

WHEREAS, the Revolving Cash Fund may be used for any lawful education purpose authorized under Education Code section 35160; and

WHEREAS, the maximum amount of the revolving cash shall not exceed the limits set forth in Education Code section 42800;

NOW, THEREFORE, BE IT RESOLVED, the Board of Trustees authorizes the Assistant Superintendent, Business Services, be appointed as custodian of said Fund and that the signature of the custodian be required on checks drawn on the Revolving Cash Fund.

SIGNATURE:

Christine Fullerton
Assistant Superintendent
Business Services

AYES: MEMBERS

NOES: MEMBERS

ABSENT: MEMBERS

STATE OF CALIFORNIA)) SS.
COUNTY OF ORANGE)

I, Jim Cunneen, Clerk of the Board of Trustees of the Fountain Valley School District of Orange County, California, hereby certify that the above and foregoing Resolution was duly and regularly adopted by the said Board at a regular meeting thereof held on the 13th day of July 2017, and passed by _____ vote of said Board.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 13th day of July 2017.

Clerk of Board of Trustees



Fountain Valley School District
BUSINESS SERVICES DIVISION

MEMORANDUM

TO: Board of Trustees
FROM: Christine Fullerton, Assistant Superintendent, Business Services
SUBJECT: **RESOLUTION 2018-03: AUTHORIZATION OF APPROVAL OF
VENDOR CLAIMS/ORDERS**
DATE: June 26, 2017

Background:

Authorization of Approval of Vendor Claims/Orders is required to approve vendor orders for payment, warrant registers as indicated, (this will also include electronic warrants within the Accounting Systems) and that all previous authorizations of signatures are rescinded.

Recommendation:

It is recommended that the Board of Trustees approves **RESOLUTION 2018-03:** Authorization of Approval of Vendor Claims/Orders.

RESOLUTION 2018-03

AUTHORIZATION OF APPROVAL OF VENDOR CLAIMS/ORDERS

FOUNTAIN VALLEY SCHOOL DISTRICT

DATE June 26, 2017

I, Jim Cunneen, Clerk of the governing Board of the above named School District of Orange County, California, hereby certify that the said Board at a regular meeting thereof, held on the 13th day of July 2017 adopted by a majority vote of said Board, a resolution that the following named persons be authorized to approve vendor payments electronically, effective the 13th day of July 2017; and that all previous authorizations for approval are rescinded. This resolution further states that when the authorization is exercised, the claims and orders have been ordered paid by said Board, and have been processed pursuant to the provisions of Education Code Sections 42630-34/85230-34.

This authorization is subject to the following provisions:

NAME TYPED

SPECIMEN SIGNATURE

Mark Johnson

Christine Fullerton

Isidro Guerra

Kim Fogarty

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of July 2017.

Clerk _____



Fountain Valley School District
BUSINESS SERVICES DIVISION

M E M O R A N D U M

TO: Board of Trustees
FROM: Christine Fullerton, Assistant Superintendent, Business Services
SUBJECT: **RESOLUTION 2018-04: AUTHORIZATION OF SIGNATURES**
DATE: July 5, 2016

Background:

Authorization of Signatures is required to sign payroll notices of employment/changes of status (NOE/CS), time sheets, vendor orders for payment, warrant registers as indicated, (this will also include electronic warrants within the Accounting Systems), and that all previous authorization of signatures are rescinded.

Recommendation:

It is recommended that the Board of Trustees approves **RESOLUTION 2018-04:** Authorization of Signatures.

RESOLUTION 2018-04: AUTHORIZATION OF SIGNATURESFOUNTAIN VALLEY SCHOOL DISTRICTDATE: June 26, 2017

I, Jim Cunneen, Clerk of the governing Board of the above named School District of Orange County, California, hereby certify that the said Board at a regular/special meeting thereof, held on the 13th day of July, 2017, adopted by a majority vote of said Board, a resolution that the following named persons be authorized to sign payroll notices of employment/changes of status (NOE/CS), Time Sheets, vendor orders for payment and warrant registers as indicated, and that all previous authorization of signatures are rescinded. This resolution further states that the authorization is subject to the following provisions:

<u>NAME TYPED</u>	<u>SPECIMEN SIGNATURE</u>	AUTHORIZED TO SIGN:			
		<u>PAYROLL</u>		<u>VENDOR PAYMENTS</u>	
		<u>NOE/CS</u>	<u>TIME SHEET</u>	<u>ORDERS</u>	<u>REGISTERS</u>
<u>Mark Johnson</u>	_____	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Christine Fullerton</u>	_____	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Isidro Guerra</u>	_____	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Kim Fogarty</u>	_____			<u>X</u>	<u>X</u>
<u>FACSIMILE SIGNATURES</u>					
<u>Mark Johnson</u>	_____	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Christine Fullerton</u>	_____	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Isidro Guerra</u>	_____	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Kim Fogarty</u>	_____			<u>X</u>	<u>X</u>

I further certify that the signatures following are those of the members of the governing Board not mentioned above.

<u>NAME TYPED</u>	<u>SIGNATURE</u>
<u>Jeanne Galindo</u>	_____
<u>Sandra Crandall</u>	_____
<u>Lisa Schultz</u>	_____
<u>Ian Collins</u>	_____
<u>Jim Cunneen</u>	_____

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of July, 2017.

Authorize Signatures

Clerk _____



Board Meeting of July 13, 2017

FOUNTAIN VALLEY SCHOOL DISTRICT
Educational Services

MEMORANDUM

TO: Board of Trustees
FROM: Steve McLaughlin, Assistant Superintendent, Educational Services
SUBJECT: ***RECORD OF EIGHTH GRADE PROMOTION, JUNE 2017***
DATE: June 28, 2017

=====

Background:

Board Policy 5127 stipulates that the names of all students who are recommended for an eighth grade Certificate of Promotion be recorded within the minutes of a Board meeting. The attached lists of eighth grade students have been submitted by the three middle school principals.

Fiscal Impact:

There is no fiscal impact.

Recommendation:

It is recommended that the Board of Trustees approves, as submitted by the principals, the names of all students recommended for an eighth grade Certificate of Promotion in the 2016/17 school year.

2016-2017

8th Grade 2016/2017

Page 1

First Name	Middle Name	Last Name	Sex	School
Syrhaan	Sean	Albuquerque	M	FULTON
Robyn	Lynne	Amundson	F	FULTON
Kristopher	Duane	Anderson	M	FULTON
Noah	Jackson	Andrade	M	FULTON
Corvin	Wolf	Anlage	M	FULTON
Anthony	Louis	Arceneaux	M	FULTON
Erin	Hailey	Arganda	F	FULTON
Adnan		Atik	M	FULTON
Hunter	Higa	Augustus	M	FULTON
Ava	Marie	Azcona	F	FULTON
Joy	J	Bahou	F	FULTON
Ethan	Landry	Baker	M	FULTON
Makenna	Katherine	Barlow	F	FULTON
Travis	J	Benavente	M	FULTON
Casey	Ann Renee	Bewley	F	FULTON
Timari	Anne	Blanke	F	FULTON
Juliette	Annelise	Bokor	F	FULTON
Nelson	Wayne	Boyack	M	FULTON
Michael	Thomas	Brown	M	FULTON
Daniel	Son	Bui	M	FULTON
Roland	Franklin	Camacho	M	FULTON
Joshua	Landen	Campbell	M	FULTON
Priscilla		Cerda	F	FULTON
Chase	Quintana	Cop	M	FULTON
Matthew	Ryan	Daley	M	FULTON
Ethan	Vu	Dang	M	FULTON
Ryan	Vu	Dang	M	FULTON
Razanne	Dawood	Dawood	F	FULTON
Hailey	Autumn	DeMaria	F	FULTON
Cody	Jack	DeSantis	M	FULTON
Jacob	Francisco	Diaz	M	FULTON
Sahteen		Dillon	F	FULTON
Alexander	Nguyen	Dinh	M	FULTON
Ashley	Thaomi	Dinh	F	FULTON
Binh	An	Do	M	FULTON
Kahlen	Khue	Do	F	FULTON
Tiffany	Thuy Tien	Do	F	FULTON
Don	Quy	Doan	M	FULTON
Emily	Grace	Doan	F	FULTON
Jordan	Khoi	Doan	M	FULTON
Thu	Minh	Doan	F	FULTON
Calvin	Jacob	Donnahoo	M	FULTON
Nicholas	Alexander	Dow	M	FULTON
Baotran	Nancy	Duong	F	FULTON
Gwenivere	Grace	English	F	FULTON
Mason	Alec	Espinoza	M	FULTON
Alexander	James	Falzon	M	FULTON
Bianca	Julissa	Fernandez	F	FULTON

2016-2017

8th Grade 2016/2017

Page 2

First Name	Middle Name	Last Name	Sex	School
Paige	Elizabeth	Fiduccia	F	FULTON
Kaia	Taylor	Fister	F	FULTON
Nancy		Flores	F	FULTON
Brian	Kazuo	Foster	M	FULTON
Andy	Tayler	Fuentes	M	FULTON
Brandon	Lanz	Garcines	M	FULTON
Dani		Ghanem	M	FULTON
Evan	Ray	Gilbert	M	FULTON
Shelby	Paige	Giuntoli	F	FULTON
Amina	Jasmine	Giwah	F	FULTON
Alexander	Jefferson	Glazier	M	FULTON
Reece	Sarah	Gomez	F	FULTON
Sebastian	Gerardo	Gonzalez	M	FULTON
Miranda	Rose	Green	F	FULTON
Hannah	Noelle	Gristchuk	F	FULTON
Jakob	B	Hanson	M	FULTON
Grace	Jenifer	Haroun	F	FULTON
Dezi	Diego	Hernandez	M	FULTON
Zackary	William	Hernandez	M	FULTON
Katie	Ngo	Ho	F	FULTON
Kenny	Khoa	Ho	M	FULTON
Kate	Nguyen	Hoang	F	FULTON
Kayla	Phuong	Hoang	F	FULTON
Tiffany	Ngoc	Hoang	F	FULTON
Jacob	William	Hospodarec	M	FULTON
Zhejiune	Jean	Hsu	F	FULTON
Anh	Thai	Hua	F	FULTON
James	Anh-Minh	Hua	M	FULTON
Oskar		Hua	M	FULTON
Tyler	Bryan	Huang	M	FULTON
Gohan	Phi-Hung	Huynh	M	FULTON
Preston	Quoc-Bao	Huynh	M	FULTON
Quyen	Dieu	Huynh	F	FULTON
Anthony	Shing	Irwin	M	FULTON
Imane		Jlelati	F	FULTON
Elise	Nicole	Johns	F	FULTON
Anne	Elizabeth	Johnson	F	FULTON
Connor	Patrick	Kazarian	M	FULTON
Catherine	Nicole	Kim	F	FULTON
Danica	Tia	Kwan	F	FULTON
Evy	Uyen	Lam	F	FULTON
Emily	Madeline	Langford	F	FULTON
Edward		Lau	M	FULTON
Andrew	Tai	Le	M	FULTON
Diane	Duyen	Le	F	FULTON
Emily	Ngoc Dung	Le	F	FULTON
Ethan	Quoc-An	Le	M	FULTON
Harry	Thanh	Le	M	FULTON

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First Name	Middle Name	Last Name	Sex	School
Hong Len	Nguyen	Le	F	FULTON
Ivy	Ai	Le	F	FULTON
Lam	Thanh	Le	F	FULTON
Neil	William	Le	M	FULTON
Phung	Kim	Le	F	FULTON
Taylor	A	Le	F	FULTON
Vincent	Vu	Le	M	FULTON
Jaelyn	Brooke	LeBaron	F	FULTON
Liliana	Elise	Leiva	F	FULTON
Jacob	William	Leutbecher	M	FULTON
Emily		Li	F	FULTON
Kyle	Yi	Lim	M	FULTON
Walter	Ryan	Loneragan	M	FULTON
Brandon	Scott	Loo	M	FULTON
Amber	My Lagrimas	Luong	F	FULTON
Albert	Dang-Quang	Ly	M	FULTON
Abigail	Elizabeth	Mack	F	FULTON
Kaila	Layne	Magill	F	FULTON
Saad		Mahmood	M	FULTON
Nhien	Moc	Mai	F	FULTON
Kaili	Belle	Manthorne	F	FULTON
Kyley	Kaylynn	Maris	F	FULTON
Daniel	Roy	Mathew	M	FULTON
Joseph	Michael	McCabe	M	FULTON
John	Kevin	McKeever	M	FULTON
Lauren	Elizabeth	Mena	F	FULTON
Braeden	Joseph	Miller	M	FULTON
Kayla	Nicole	Miller	F	FULTON
Erin	Kyungeun	Min	F	FULTON
Michael	Patrick	Mockus	M	FULTON
David	Alejandro	Molina De Leon	M	FULTON
Derek	Tanjiro	Nakagawa	M	FULTON
Kalealoa	Georgina	Nakashima	F	FULTON
Nathan	West	Navarro	M	FULTON
Makayla	Marie	Neishi	F	FULTON
Jack	Robert	Nelson	M	FULTON
Koral	Ann	Newman	F	FULTON
Simon	Thai	Nghe	M	FULTON
Caelan	Phuong Vi	Ngo	F	FULTON
Duclan	Tran	Ngo	M	FULTON
Dylan	Nguyen	Ngo	M	FULTON
Amanda	My-Lan	Nguyen	F	FULTON
Andrew	Huuquan	Nguyen	M	FULTON
Anh	Lan	Nguyen	F	FULTON
Arden	Tam	Nguyen	F	FULTON
Bao Tran	Dinh	Nguyen	F	FULTON
Beckam		Nguyen	M	FULTON
Benjamin	Tien	Nguyen	M	FULTON

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First Name	Middle Name	Last Name	Sex	School
Bryan		Nguyen	M	FULTON
Collin	Duc Chanh	Nguyen	M	FULTON
Darius	Huan	Nguyen	M	FULTON
Derek	Doan Quoc Duy	Nguyen	M	FULTON
Emily	Ha	Nguyen	F	FULTON
Emmeline	Anh-Thy	Nguyen	F	FULTON
Eryk		Nguyen	M	FULTON
Ethan	M	Nguyen	M	FULTON
Hannah	Tra	Nguyen	F	FULTON
Hillary	Vy	Nguyen	F	FULTON
Iann	Tin	Nguyen	M	FULTON
Jasmine		Nguyen	F	FULTON
Karly	Catthy	Nguyen	F	FULTON
Katelyn	Uyen	Nguyen	F	FULTON
Lucas	Van	Nguyen	M	FULTON
Nathan	Pham	Nguyen	M	FULTON
Newlyn	Dieu-Khanh	Nguyen	F	FULTON
Nicholas	Thanh	Nguyen	M	FULTON
Preston	H	Nguyen	M	FULTON
Ryan	Coby	Nguyen	M	FULTON
Ryan	Giahung	Nguyen	M	FULTON
Connor	Patrick	Nicewarner	M	FULTON
Joya	Ellen	Nordfelt	F	FULTON
Cade	M	Orgill	M	FULTON
Brandon	Derrick	Orozco Buffington	M	FULTON
Sophia	Noelle	Osmena	F	FULTON
Brooke	Linda	Pace	F	FULTON
Marley	Don	Patcheak	F	FULTON
Anjali	Sara	Patel	F	FULTON
Devan	Amit	Pathak	M	FULTON
Harlie	Suzanne	Patterson	F	FULTON
Jake	Bradley	Pedersen	M	FULTON
Treay	Collett	Perazzo	M	FULTON
Jordynn	Ruth	Peshke	F	FULTON
Andrew	Quan	Pham	M	FULTON
Eric	Minh-Quan	Pham	M	FULTON
Michelle	Kelly	Pham	F	FULTON
Rachel	Uyen	Pham	F	FULTON
Andrew	Viet	Phan	M	FULTON
Anh	Ba	Phan	M	FULTON
Ashley	Mailinh	Phan	F	FULTON
Audrey	Catly	Phan	F	FULTON
Braydon	Drake	Phan	M	FULTON
Celine	Quynh	Phan	F	FULTON
Ivy		Phan	F	FULTON
Sierra	Lynn	Pilarski	F	FULTON
Lara	Isabella	Pinedjian	F	FULTON
Ashley	Tuy	Price	F	FULTON

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First Name	Middle Name	Last Name	Sex	School
Alexandra	Rei	Regis	F	FULTON
Matthew	Paul	Richardson	M	FULTON
Jacob	Robert	Rintoul	M	FULTON
Taryn	Nicole	Robinson	F	FULTON
Simone	Elle	Robson	F	FULTON
Ryan	Andrew	Rodriguez	M	FULTON
Drew	Nevaeh	Ruzgerian	F	FULTON
Emi	Isidora	Sakai	F	FULTON
Cameron	Deon	Sanchez	M	FULTON
Kayla	Sophia	Saros	F	FULTON
Salwa		Sarpas	F	FULTON
Kurt	Alexander	Schetne	M	FULTON
Mohammed	Omar	Shehadah	M	FULTON
Jenna	Zeinab	Shehadeh	F	FULTON
Kainoa	Burl	Shintaku	M	FULTON
Annie	Lee	Siu	F	FULTON
Alexander	Wesley	Smilor	M	FULTON
Alexander	Jacob	Smith	M	FULTON
Hunter	Jack	Stenseth	M	FULTON
Michael	Aaron	Strother	M	FULTON
Aaron	James	Sun	M	FULTON
Julia	Katherine	Svartstrom	F	FULTON
Owen	Jeffrey	Swingle	M	FULTON
Andrew	Truong Duy	Tang	M	FULTON
James	Walter	Templin	M	FULTON
Maxwell	Aaron	Tillmanns	M	FULTON
Thanh	Dat	To	M	FULTON
Brian	That	Ton	M	FULTON
Camille	Thanh-Ha	Tran	F	FULTON
Dylan	Vinh-Nien	Tran	M	FULTON
Joanne	Thao	Tran	F	FULTON
Kaylee	Mai Anh	Tran	F	FULTON
Kaylie	Allison	Tran	F	FULTON
Kyle	Khang	Tran	M	FULTON
Lavie	L	Tran	F	FULTON
Malia	Moc-Nhien	Tran	F	FULTON
Maryrose	Han	Tran	F	FULTON
Matthew	Khanh-Minh	Tran	M	FULTON
Vincent	Tuan	Tran	M	FULTON
Connor	M	Trapp	M	FULTON
Kevin	Dinh	Truong	M	FULTON
Natalie	Sophia-Josephine	Tusques	F	FULTON
Gerardo		Uribe	M	FULTON
Hannah	Noelle	Vanderplas	F	FULTON
Marisa	Loraine	Villafuerte	F	FULTON
Tiffany	My Nhan	Vo	F	FULTON
Madison	Helen	Volz	F	FULTON
Skylar	June	Volz	F	FULTON

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First Name	Middle Name	Last Name	Sex	School
Jayden	Dang	Vu	M	FULTON
Mai-Linh	Thuy	Vu	F	FULTON
Megan	Elise	Vu	F	FULTON
Viet	Hoang	Vu	M	FULTON
Winston	Minh-Quang	Vu	M	FULTON
Noah	Kamuela	Walker	M	FULTON
Ava	Gwendolyn	Wallace	F	FULTON
Kailer	Samuel	Wesley	M	FULTON
Taylor	James	Williams	M	FULTON
Arianna	Nicolle	Winn	F	FULTON
Kevin	Nariaki Kim	Wong	M	FULTON
Cantor	Ashton	Wright	M	FULTON
Jhe-Hong		Wu	M	FULTON
Aidan	Joseph	Yap	M	FULTON
Chutima		Yeh	F	FULTON
Bryan	Kijoon	Yoon	M	FULTON
Brandon		Zarnesky	M	FULTON
Maya	Bleu	Zepeda	F	FULTON
Lana	Hanan	Abou-Harb	F	TALBERT
Devin	Delaney	Adamson	F	TALBERT
Seraj	Hicham	Alani	M	TALBERT
Katie		Albarran	F	TALBERT
Justin	Jay	Allen	M	TALBERT
Seth	Matthew	Allen	M	TALBERT
Paris Theresa	Huynh	Alvarez	F	TALBERT
Aaliyah		Alzaim	F	TALBERT
Yijia		An	F	TALBERT
Nolan	Kaleo	Anderson	M	TALBERT
Christian	Michael	Andres	M	TALBERT
Gaven	Jacob	Anguiano	M	TALBERT
Caden	Satoru	Aoki	M	TALBERT
Andrew	Aaron	Armijo	M	TALBERT
Aidan	Zachary	Atkinson	M	TALBERT
Jack	Ryan	Ballas	M	TALBERT
Sara	Rajab	Beik	F	TALBERT
Summer	Rae	Benda	F	TALBERT
Ava	Danielle	Bishop	F	TALBERT
Emily	Nicole	Blake	F	TALBERT
Helena	Leanne	Booij	F	TALBERT
Hunter	Nathaniel	Boyd	M	TALBERT
Ba	Van	Bui	M	TALBERT
Catherine	Nha Huong	Bui	F	TALBERT
Priscilla	Quynh Huong	Bui	F	TALBERT
Audrey	Lavonne	Camacho	F	TALBERT
Cole	Christopher	Campbell	M	TALBERT
Patrick	Joseph	Campbell	M	TALBERT
Emily	A	Cao	F	TALBERT
Summer-Marie	Irene	Caprine	F	TALBERT

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First Name	Middle Name	Last Name	Sex	School
Amelie	Angharad	Capron	F	TALBERT
Gabriela		Caro	F	TALBERT
Melissa	Evelyn	Carpenter	F	TALBERT
Janelle	Joy	Chaidez	F	TALBERT
Jesus	James	Chaidez	M	TALBERT
Raegan	M	Chase	F	TALBERT
Steven	Khac	Chau	M	TALBERT
Melanie	Lan-Nhi	Chu	F	TALBERT
Porter	Burton	Clevidence	M	TALBERT
Alison	Bette	Clifford	F	TALBERT
Kevin	Eugene	Cobb	M	TALBERT
Sean	Michael	Collins	M	TALBERT
Danielle	Taylor	Cross	F	TALBERT
Marlee	Jade Dunham	Cunningham	F	TALBERT
Liam	Frederick	Daniels	M	TALBERT
Breyden	Jacob	Daniolco	M	TALBERT
Alan	Minh	Dao	M	TALBERT
Luke	J	Davidson	M	TALBERT
Alexis	Nicole	Davis	F	TALBERT
Connor	James	DeBenon	M	TALBERT
Michael	Bryant	Dechene	M	TALBERT
Loren	Riley	Delachica-Webb	F	TALBERT
Noah		Dorado	M	TALBERT
Lillian	- - -	Drenas	F	TALBERT
Brenna	Rae	Driggs	F	TALBERT
Shane	Dunigan	Dzwilewski	M	TALBERT
Ryan	Russell	Easterday	M	TALBERT
Reagan	Mary	Ebaugh	F	TALBERT
Heather	Joy	Erickson	F	TALBERT
Isabella	Mae	Espinoza	F	TALBERT
Kendal	Taylor	Estes	F	TALBERT
Sierra	Miracle Feather	Farrow	F	TALBERT
Dylan	Joseph	Fernandes	M	TALBERT
Ellrie	Shae	Finch	F	TALBERT
Elsa	A	Futterer	F	TALBERT
Marcus	David	Garland	M	TALBERT
Jason		Giang	M	TALBERT
Lauren	Ann	Gillis	F	TALBERT
Jacob	Tyler	Gliddon	M	TALBERT
Hayley	R	Golobay	F	TALBERT
Louis	Michael	Gomez	M	TALBERT
Joseph	Manuel	Gonzalez	M	TALBERT
Daniel	William	Granado	M	TALBERT
Ellieann	Emunah	Greenfield	F	TALBERT
Alexander	James	Gregerson	M	TALBERT
Trevor	Raymond	Gregg	M	TALBERT
Bobbi	Lee	Griffin	F	TALBERT
Dylan	James	Gumbrecht	M	TALBERT

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First Name	Middle Name	Last Name	Sex	School
Brian		Guthrie	M	TALBERT
Ricardo	- - -	Gutierrez	M	TALBERT
Britney	Kimiye	Hamaguchi	F	TALBERT
Chloe	Emma	Hammarstrom	F	TALBERT
Logan	Lee	Hamrick	M	TALBERT
Casey	Lynn	Hardacre	F	TALBERT
Charlotte	Anne	Harriman	F	TALBERT
Maddison	Cheyenne	Hart	F	TALBERT
Samantha	Leigh	Harter - Jenkins	F	TALBERT
Jasen	Michael	Harviston	M	TALBERT
Emily	Grace	Heil	F	TALBERT
Chase	Hunter	Henley	M	TALBERT
Eric	Edward	Hernandez	M	TALBERT
Andrew	Steven	Hetelle	M	TALBERT
Eriq		Hilliard	M	TALBERT
Pamela	Thai	Hoac	F	TALBERT
Brianna	Michelle	Hoang	F	TALBERT
Sarah	Louise	Hobbs	F	TALBERT
Jonas	Aaron	Holdaway	M	TALBERT
Luke	Ramsey	Horton	M	TALBERT
Chloe	Rose	Huebner	F	TALBERT
Brian	Patrick	Hurley	M	TALBERT
Christian	Trung	Huynh	M	TALBERT
Lia	Kailee	Ismagil	F	TALBERT
Mia	Sachi	Iwasaki	F	TALBERT
Jeatanne	Jade	Jagger	F	TALBERT
Briana	Phumirarat	Jaiyen	F	TALBERT
Kaden	Christian	James	M	TALBERT
Taylor	Grace	Jarvis	F	TALBERT
Erin	Elizabeth	Johnson	F	TALBERT
Evan	Michael	Jones	M	TALBERT
Samantha	Kehaulani	Josephson	F	TALBERT
Kelly	Grace	Kang	F	TALBERT
Makayla	Alexis	Kaplan	F	TALBERT
Johnathan	James-Erik	Kelsey-Jansson	M	TALBERT
Thomas	Hart	Khoury	M	TALBERT
Noel	Christopher	Knebel	M	TALBERT
Jadyn	Anastasia	Knobel	F	TALBERT
Jack	W	Kosick	M	TALBERT
Izabel	Lupan	Laguna	F	TALBERT
Victoria	L	Laine	F	TALBERT
Keeley		Larson	F	TALBERT
Megan		Lawrence	F	TALBERT
Alana		Le	F	TALBERT
Caitlyn	Thuy	Le	F	TALBERT
Jaaziel		Lemus	M	TALBERT
Zoe	Uma	Letterman	F	TALBERT
Cade	Jeffrey	Liefer	M	TALBERT

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First Name	Middle Name	Last Name	Sex	School
Joseph	Edward	Lopez	M	TALBERT
Julia Grace		Ludwick	F	TALBERT
Nathan	Ross	Lundquist	M	TALBERT
Lewis		Luong	M	TALBERT
Eric	Ka	Luu	M	TALBERT
Amanda	L	MacDonald	F	TALBERT
Thomas	Alan	Madrid	M	TALBERT
Logan	Diego	Marin	M	TALBERT
Jadeyn	Winter	Martinez	F	TALBERT
Jacob	Ken	Matsumoto	M	TALBERT
Nathen	Angel	Matta	M	TALBERT
Sean	Patrick	McCarthy	M	TALBERT
Harrison	Wolfgang	McCormick	M	TALBERT
Kenneth	Ichiro	McGrath	M	TALBERT
Trevor	Daniel	McGuire	M	TALBERT
Chase	Michael	McMaster	M	TALBERT
Corey	Lee	Miller	M	TALBERT
Milena		Mirtle	F	TALBERT
Brandon	Wiley	Montiel	M	TALBERT
Jordan	Benicio	Morales	M	TALBERT
Eireann	Kyla	Morrison	F	TALBERT
Hannah	Katrien	Mueller	F	TALBERT
Amanda	Lynn	Murguia	F	TALBERT
Damien	Manley	Nelson	M	TALBERT
Bradley	Dean An	Nguyen	M	TALBERT
Darren		Nguyen	M	TALBERT
Evan	Hoang	Nguyen	M	TALBERT
Ivan	Vuong	Nguyen	M	TALBERT
Jasmine		Nguyen	F	TALBERT
Kevin	Hong	Nguyen	M	TALBERT
Alexander	Ryan	Nix	M	TALBERT
Michael	Wayne	Oatis	M	TALBERT
Riley	Suzanne	O'Brien	F	TALBERT
Brad		Okawa	M	TALBERT
Caitlin		Okawa	F	TALBERT
Ryan		Okawa	M	TALBERT
John	Steven	Orme	M	TALBERT
Devin	Alyssa	Ortiz	F	TALBERT
Caleb	Joseph Aranas	Ozorio	M	TALBERT
Kea		Palmore	F	TALBERT
Dominic	Quinn	Pardon	M	TALBERT
Lorenzo	Luis	Perdomo	M	TALBERT
Maximillian	Vincent	Periolat	M	TALBERT
Mark	Ian	Peterson	M	TALBERT
Maia	Phuong	Pham	F	TALBERT
Chloe	Jacqlyn	Piepmeyer	F	TALBERT
Gerson		Portugal	M	TALBERT
Madalyn	Marie	Rhynes	F	TALBERT

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First Name	Middle Name	Last Name	Sex	School
Sydney	Nicole	Rincon	F	TALBERT
Sarah	Nadine	Ring	F	TALBERT
Jonathan	David	Robinson-Bourne	M	TALBERT
William	D	Roulson	M	TALBERT
Chase	Cannon	Rousselo	M	TALBERT
Ryan	Davis	Sacks	M	TALBERT
Katelyn		Schutt	F	TALBERT
Kaleah	Skye	Seck	F	TALBERT
Lanie	Johana	Segura	F	TALBERT
Bradley	Lawrence	Shannon	M	TALBERT
Miranda	Patricia	Shannon	F	TALBERT
Megan	Dawn	Sherwood	F	TALBERT
Tyler	Daniel	Simut	M	TALBERT
Melodi	Sierra	Singleton	F	TALBERT
Mary	Ann	Smith	F	TALBERT
James	Hayden	Solberg	M	TALBERT
Joshua	James	Solis	M	TALBERT
Angelina	Marie	Sotelo	F	TALBERT
Zoe	Dawnielle	Soukup	F	TALBERT
Cori	Jane	Speier	F	TALBERT
Jacob	Christopher	Spizzirri	M	TALBERT
Hannah	Grace	Steiner	F	TALBERT
Alexi	Marie	Stinson	F	TALBERT
Scott	Carl	Stone	M	TALBERT
John	Carrington	Swete	M	TALBERT
Emma	Elizabeth	Teano	F	TALBERT
Gianni	Isidore	Tello	M	TALBERT
Jay		Teng	M	TALBERT
Lucas	A	Tomin	M	TALBERT
Ashley	Diemlinh	Tran	F	TALBERT
Bill	Tuan Duc	Tran	M	TALBERT
Emily		Tran	F	TALBERT
Michael	Joseph	Trgo	M	TALBERT
Jaslyn	Kanani	Valencia-Mercer	F	TALBERT
Alayna	Louise	VanHeel	F	TALBERT
Peyton	Elizabeth	Vida	F	TALBERT
Michael	Anthony	Visichio	M	TALBERT
Leanne		Vo	F	TALBERT
Markus	Jared	Voss	M	TALBERT
Cathy		Vu	F	TALBERT
Katelyn	Lakshmimonineath	Vuong	F	TALBERT
Juliette	Karina	Walsh	F	TALBERT
Botao		Wang	M	TALBERT
Aidan	Patrick Dalzell	Ward	M	TALBERT
Autumn	Nicole	Weaver	F	TALBERT
Crystal	Nicole	Weber	F	TALBERT
Kyle	James	Wellcome	M	TALBERT
Lukas	Dean	Westrup	M	TALBERT

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First Name	Middle Name	Last Name	Sex	School
Lexie	C	Wiltfong	F	TALBERT
Samantha	Rose	Worley	F	TALBERT
Dylan		Wynn	M	TALBERT
Madison	Jade	Yeager	F	TALBERT
Sierra	Lynn	Yorba	F	TALBERT
Cole	Kenichi	Yoshida	M	TALBERT
Lana	Le	Zaide	F	TALBERT
Dana	Arielle	Abascal	F	MASUDA
Paul	Nadi	Abraham	M	MASUDA
Kaia	Acacia	Adams	F	MASUDA
William	Elua Kamakani	Akiona	M	MASUDA
Raneem	Marzouk	Al-Shoubaki	F	MASUDA
Preston	Mathew	Amarillo	M	MASUDA
Lillian	Grace	Ambrose	F	MASUDA
Korinne	Keiko	Amimoto	F	MASUDA
Rayyan		Ashraf	M	MASUDA
Gavin	Warner	Atkins	M	MASUDA
Glenn	William	Atkins III	M	MASUDA
Beauty	Faaolataga	Atuatasi	F	MASUDA
Madison	Esperanza	Avalos	F	MASUDA
Remy	Janelle	Balderrama	F	MASUDA
Rhys	Dale	Basquez	M	MASUDA
Samantha	Marie	Bernal	F	MASUDA
Abdulkarim	Mohamed	Bernaz	M	MASUDA
Sabina	Isabel	Blanco	F	MASUDA
Kendell	Emily Eva	Bovaird	F	MASUDA
Mercedes	Joulie	Bracey	F	MASUDA
Caitlin	Louise	Brickner	F	MASUDA
Carlie	Ann Marie	Bugna	F	MASUDA
Don	Duy-Anh	Bui	M	MASUDA
Arianna	Paige	Cabada	F	MASUDA
Leslie		Cantoran	F	MASUDA
Isabella	Fate-Janean	Cassidy	F	MASUDA
Katharine	Sheng-heuy	Chao	F	MASUDA
Kyanna	Danielle	Chapman	F	MASUDA
Christy	H	Chau	F	MASUDA
Spencer		Chau	M	MASUDA
Cielo	Miquetzly	Chavarria	F	MASUDA
Junanna		Chen	F	MASUDA
Lucas	Nathaniel	Chis	M	MASUDA
Mihaela	Angelina	Cotociu	F	MASUDA
Donovan	Scott	Crawford	M	MASUDA
Holly	Anne	Crowder	F	MASUDA
Dahlia	May	Cunneen	F	MASUDA
Matthew	Aaron	Cunningham	M	MASUDA
Katherine	Thanh	Dang	F	MASUDA
Lina		Dang	F	MASUDA
Connor	Christopher	Dang Vu	M	MASUDA

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First Name	Middle Name	Last Name	Sex	School
Aaron	Dat	Dao	M	MASUDA
Katzumi	Lisboa	Davila	F	MASUDA
Brooke	Lynn	Deal	F	MASUDA
Nathan	Alexander	DeRushia	M	MASUDA
Joshua	Anthony	DeSantis	M	MASUDA
Kevin	Khang Minh	Diep	M	MASUDA
Emma	Linh	Do	F	MASUDA
Gia-Minh	Mathew	Do	M	MASUDA
Giatri	Nicholas	Do	M	MASUDA
Katie		Do	F	MASUDA
Uyen	Thi Phuong	Do	F	MASUDA
Cassidy		Doan	F	MASUDA
Nathalie	Van-Anh	Doan	F	MASUDA
Jack	Harley	Donohoo	M	MASUDA
Logan	Bo	Duong	M	MASUDA
Tim	Thinh	Duong	M	MASUDA
Aden	Cire	Eckenwiler	M	MASUDA
Iva	Kimiko	Erwin	F	MASUDA
Hailey	Athenea	Espinoza	F	MASUDA
Vivian		Espinoza	F	MASUDA
Christopher	Matthew	Falcon	M	MASUDA
Ehab		Fateh	M	MASUDA
Cameron	Matasaua	Fepuleai	M	MASUDA
Giancarlo	Mallari	Figueroa	M	MASUDA
Michael	Joseph	Fletcher	M	MASUDA
Madeline	Margaret Kathryn	Freeman	F	MASUDA
Evan	E	Frink	M	MASUDA
Alexa	Grace	German	F	MASUDA
Avrena	Morkos Samir	Ghatas	F	MASUDA
Andrew	Mateo	Gomez	M	MASUDA
Adriana	Lizette	Gonzalez	F	MASUDA
Abraham	Guadalupe	Gonzalez Serrato	M	MASUDA
Brayden	Andrew	Grant	M	MASUDA
Marina	Emad Sarwat	Haliem	F	MASUDA
Anas		Halwani	M	MASUDA
Mina	Ehab Sobhy	Hanna	M	MASUDA
Skyler	Emmanuelle	Hanson	F	MASUDA
Marissa	Rose	Harper	F	MASUDA
Gabriella	Alicia	Hester	F	MASUDA
Jasmin	Vi	Ho	F	MASUDA
Karen	Kieu-Nhi	Ho	F	MASUDA
Kristen	Rose Tiongson	Ho	F	MASUDA
Michelle		Ho	F	MASUDA
Sean	Huy Hoang	Ho	M	MASUDA
Bebe Khanh	Kieu	Hoang	F	MASUDA
Elizabeth	Gia Baotam	Hoang	F	MASUDA
Kylie	Diem-mi	Hoang	F	MASUDA
Sarah	Grace	Hopkins	F	MASUDA

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First Name	Middle Name	Last Name	Sex	School
Justin	Nobuyoshi	Hsieh	M	MASUDA
Anthony	Qui	Huynh	M	MASUDA
Derrick		Huynh	M	MASUDA
Joseph	Tan	Huynh	M	MASUDA
Michael	Anthony	Jamaica	M	MASUDA
Allyson	Mae	Jamka	F	MASUDA
Arisa		Jang	F	MASUDA
Sonny	Elijah	Jerome	M	MASUDA
Ellen	Ann	Johnson	F	MASUDA
Taylor	Kathryn	Johnson	F	MASUDA
Brian	Karl	Karrow	M	MASUDA
Jeremy	Scott	Keller	M	MASUDA
Youssef	Aziz	Kerols	M	MASUDA
Karim	Ayub	Khan	M	MASUDA
Marlee	Viola	Kobus-Orr	F	MASUDA
Derek	Kazuo	Kubota	M	MASUDA
Emily	Thuy Duyen	Lai	F	MASUDA
Jacqueline	Thuy-Tien	Lai	F	MASUDA
Amy	Thuy	Lam	F	MASUDA
Carissa	Mylinh	Lam	F	MASUDA
Alan	Chau	Le	M	MASUDA
Bich	Thi Ngoc	Le	F	MASUDA
Damien	Khang	Le	M	MASUDA
Hannah	Uyen-Phuong	Le	F	MASUDA
Kevin	Anh-Khoa	Le	M	MASUDA
Marilyn		Le	F	MASUDA
Rachelle	Truong	Le	F	MASUDA
Sean	Danh	Le	M	MASUDA
Ashley	Sofia	Ledezma	F	MASUDA
Cinthia	Yu Xuan	Lee	F	MASUDA
Kate	Emma	Lee	F	MASUDA
Sydney	Jisung	Lee	F	MASUDA
Wesley	Matthew	Lin	M	MASUDA
Alysia		Lu	F	MASUDA
Katerina		Lucchetti	F	MASUDA
Denee	Marie	Luna	F	MASUDA
Cassidy	Yian	Luu	F	MASUDA
Alexis	Brianna	Ly	F	MASUDA
Audrey	Uyen-Vy	Mai	F	MASUDA
Kim	Ngan	Mai	F	MASUDA
Emily	Sophary	Mao	F	MASUDA
Amari	Justine	Mapp	F	MASUDA
Alexander	Miguel	Martinez	M	MASUDA
Breanna	Rae	Martinez	F	MASUDA
Joseph	Peter	Martinez	M	MASUDA
Monique	Marissa	Medina-Cardoza	F	MASUDA
Muneeba	Imran	Memon	F	MASUDA
Emma	Gail	Mendoza	F	MASUDA

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First Name	Middle Name	Last Name	Sex	School
Rosy	Lupita	Mondragon	F	MASUDA
Isaac	Aaron	Morales	M	MASUDA
Gwendalynn	M	Moreno	F	MASUDA
Isaiah	Damian	Nava	M	MASUDA
Stella	Grace	Navarro	F	MASUDA
Kaitlyn	Quynh	Ngo	F	MASUDA
Albert		Nguyen	M	MASUDA
Alec	T	Nguyen	M	MASUDA
Alvin	Nhat Huy	Nguyen	M	MASUDA
Andrew	Khoa	Nguyen	M	MASUDA
Anton		Nguyen	M	MASUDA
Arlene	Phan	Nguyen	F	MASUDA
Audrey	Hoang Kim	Nguyen	F	MASUDA
Benjamin	Phuduc	Nguyen	M	MASUDA
Benjamin	Vu	Nguyen	M	MASUDA
Brady		Nguyen	M	MASUDA
Branden	TU	Nguyen	M	MASUDA
Bryant	The-Tung	Nguyen	M	MASUDA
Cheyenne	A	Nguyen	F	MASUDA
Derek	Duc	Nguyen	M	MASUDA
Dylan	Duy	Nguyen	M	MASUDA
Eric	Dat	Nguyen	M	MASUDA
Han	Ho Ngoc	Nguyen	F	MASUDA
Han	Ngoc	Nguyen	F	MASUDA
Henry	Hieu	Nguyen	M	MASUDA
Hillary	Huynhnh	Nguyen	F	MASUDA
Jacob	Anh	Nguyen	M	MASUDA
Jaden	Nguyen-Kha	Nguyen	M	MASUDA
Jasmine	To Kha	Nguyen	F	MASUDA
Jasmine	Truong	Nguyen	F	MASUDA
Jason	Minh Huy	Nguyen	M	MASUDA
Julia	Mai Anh	Nguyen	F	MASUDA
Katherine		Nguyen	F	MASUDA
Katie	Ngoc	Nguyen	F	MASUDA
Kayla	Cattuong	Nguyen	F	MASUDA
Kelson	Tran	Nguyen	M	MASUDA
Kyle	Nghiem	Nguyen	M	MASUDA
Nelson	Tam	Nguyen	M	MASUDA
Sandra	Hoang Kim	Nguyen	F	MASUDA
Tiffany	Thanh	Nguyen	F	MASUDA
Trisha	Pham	Nguyen	F	MASUDA
Vivian	Vu	Nguyen	F	MASUDA
Anna	Kathryne	Norris	F	MASUDA
Huy	Gia	Ong	M	MASUDA
Isabelle	Minh	Ong	F	MASUDA
Carlie	Renee	Orta	F	MASUDA
Natalie		Pacheco	F	MASUDA
Kiara	Arianna	Palomino Alcalan	F	MASUDA

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First Name	Middle Name	Last Name	Sex	School
Natalie		Papazian	F	MASUDA
Jin Seo		Park	F	MASUDA
Kate	Elaine	Payne	F	MASUDA
Kailer	Brennan	Petersen	M	MASUDA
Brandon	Bao	Pham	M	MASUDA
Emily	Thi	Pham	F	MASUDA
Emily	Thuy-Linh	Pham	F	MASUDA
Joelle	Nguyen	Pham	F	MASUDA
Kelly		Pham	F	MASUDA
Kyle	Khiem	Pham	M	MASUDA
Minh-Anh	La	Pham	F	MASUDA
Nguyen-An		Pham	F	MASUDA
Peter	Minh	Pham	M	MASUDA
Terron	Thong	Pham	M	MASUDA
Tien	Nhu	Pham	F	MASUDA
Andy		Phan	M	MASUDA
Giang	Ngoc Quynh	Phan	F	MASUDA
Hung	Tai	Phan	M	MASUDA
Minh	Anh	Phan	M	MASUDA
My Tien	Tiffany	Phan	F	MASUDA
Nhu	Ngoc Quynh	Phan	F	MASUDA
Tyler	Ngoc	Phan	M	MASUDA
Nhu	Thao	Phung	F	MASUDA
Ariana	Alejandra	Pinedo Corral	F	MASUDA
Giovanni	Regino	Ponce	M	MASUDA
Emily	Danne	Querry	F	MASUDA
Christopher	Ryan	Rawnsley	M	MASUDA
Jordan	Christopher	Rawnsley	M	MASUDA
Kristen		Reeder	F	MASUDA
Tyler	Ryan	Reese	M	MASUDA
Desi	Ramone	Rivera	M	MASUDA
Julian	Nicolas	Rodriguez	M	MASUDA
Kai	Pablo	Rodriguez	M	MASUDA
Rey	Vince	Romero	M	MASUDA
Madelyne	Rayne	Rumney	F	MASUDA
Sebastian	Petre	Rus	M	MASUDA
James	Michael	Russell	M	MASUDA
Lacy	Kaye	Ruston	F	MASUDA
Hayley	Marie	Ryder	F	MASUDA
Melissa	Marie Antonia	Salcedo	F	MASUDA
Jocelyn	Monique	Sanchez	F	MASUDA
Cassandra	Penelope	Sanchez Gomez	F	MASUDA
Madeline		Schellenberg	F	MASUDA
Peter	Allen	Sears	M	MASUDA
Anica	Chan	Sherry	F	MASUDA
Nina	David	Simaan	F	MASUDA
Anthony		Sivoraphonh Luna	M	MASUDA
Justin	Michael	Sleeth	M	MASUDA

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First Name	Middle Name	Last Name	Sex	School
Adam	Timothy	Smith	M	MASUDA
Adrianna	Rosemarie	Smith	F	MASUDA
Marlaine	Maged Hosny	Soliman	F	MASUDA
Anabell		Solis-Reyes	F	MASUDA
Jasmine	Marie	Solorzano	F	MASUDA
Kyra	Elisabeth	Spoon	F	MASUDA
Michael	Kristopher	Stiffler	M	MASUDA
Laura	Dorothea	Stoi	F	MASUDA
Savannah	Nicole	Strozier	F	MASUDA
Jialong		Sun	M	MASUDA
Kadin	Clark	Sutherland	M	MASUDA
Mona	Joan	Takuma	F	MASUDA
Mia	Isabella	Talley	F	MASUDA
Amber	Nicole	Taylor	F	MASUDA
Giang	Nam	Thai	F	MASUDA
James	Quoc	Thai	M	MASUDA
Tessa	Thuong	Than	F	MASUDA
Timothy	Duc	Thinh	M	MASUDA
Hayley	Renee	Thompson	F	MASUDA
Christopher	John	Thorne	M	MASUDA
Rachel	Katelyn	To	F	MASUDA
Thanh	Thi Tam	To	F	MASUDA
Adrik	Necxon	Torres	M	MASUDA
Alexander	Minh Vu	Tran	M	MASUDA
Benjamin	Le Nhan	Tran	M	MASUDA
Crystal	Dan Chau	Tran	F	MASUDA
Kailee	Huyen	Tran	F	MASUDA
Lisa	Kim	Tran	F	MASUDA
Mai-Vy	Vu	Tran	F	MASUDA
Vivian		Tran	F	MASUDA
Y	Thien	Tran	F	MASUDA
Carter	Allan	Trcka	M	MASUDA
Kristy	Han	Truong	F	MASUDA
Mandy	Thai-Hien	Truong	F	MASUDA
Megan	Kylie	Truong	F	MASUDA
Sarah	Christine	Tuhy	F	MASUDA
Christopher Nam	Phan	Ullman	M	MASUDA
Zane		Ulloa	M	MASUDA
Audrey		Van	F	MASUDA
Vanessa	Ann	Villegas	F	MASUDA
Annie	Dao	Vu	F	MASUDA
Nhu	Minh	Vuong	F	MASUDA
Daniel	Ryan	Waldschmidt	M	MASUDA
Kayla	Renee	Wells	F	MASUDA
Paityn	Taylor	Wilkins	F	MASUDA
Leanna	Grace	Williams-Udeh	F	MASUDA
Kevin	Sevilles	Willmer	M	MASUDA
Kennedy	Ruth	Woloshun	F	MASUDA
Laila	Bianca	Woods Booker	F	MASUDA
Zachary	James	Yeazell	M	MASUDA



FOUNTAIN VALLEY SCHOOL DISTRICT
Educational Services

MEMORANDUM

TO: Board of Trustees
FROM: Steve McLaughlin, Assistant Superintendent, Educational Services
SUBJECT: **DISTRICT FIELD TRIP LIST 2017/2018**
DATE: June 28, 2017

Background:

In accordance with Board Policy 6153, requests for school-sponsored trips involving overnight travel shall be submitted to the Superintendent or designee. The Superintendent or designee shall review the request and make a recommendation to the Board as to whether the request should be approved by the Board.

Exhibit A includes the locations of all potential overnight study trips as well as other local attractions that might possibly serve as locations for educational field trips to enrich the instructional program for Fountain Valley School District students during the 2017/2018 school year.

Fiscal Impact:

There is no fiscal impact.

Recommendation:

It is recommended that the Board of Trustees approves the District field trip list for the 2017/2018 school year.

FOUNTAIN VALLEY SCHOOL DISTRICT
Educational Services

**Field Trips to Support the
Fountain Valley School District
Curriculum**

2017/2018

Board Approved July 13, 2017

FOUNTAIN VALLEY SCHOOL DISTRICT
Educational Services

**FIELD TRIPS TO SUPPORT
THE FOUNTAIN VALLEY SCHOOL DISTRICT
CURRICULUM**

What follows is the list of Board approved field trips which support the Fountain Valley School District curriculum. The purpose of this guidebook is to enable schools to plan grade appropriate field/study trips consistent with Board Policy 6153.

It is the intent that this field trip list be shared with school staffs and Parent Teacher Associations/Organizations as they collaboratively plan opportunities to enrich the instructional program. As teachers and administrators locate and/or discover additional field trips for a particular grade level, they will be submitted to the Board for approval and added to the list for the following year.

FOUNTAIN VALLEY SCHOOL DISTRICT
Field Trips to Support the Fountain Valley School District Curriculum
2017/2018
Alphabetical Listing

Destination	Address	Telephone
Aliso & Wood Canyons Wilderness Park	28372 Alicia Pkwy., Laguna Nigel 92677	(949) 923-2200
American Way Cultural Center	2390 N American Way, Orange 92865	(714) 637-1721
Amtrak Railroad Station	1000 E. Santa Ana Blvd., Santa Ana 92701	(714) 547-8389
Amtrak Railroad Station	2150 E. Katella Ave., Anaheim 92806	(800) 872-7245
Amtrak Railroad Station	120 E Santa Fe Ave., Fullerton 92832	(714) 992-0530
Anaheim Convention Center	800 W Katella Ave., Anaheim 92802	(714) 765-8950
Anaheim Museum	241 S Anaheim Blvd., Anaheim 92805	(714) 956-8936
Angel Stadium of Anaheim	2000 E Gene Autry Way, Anaheim 92806	(714) 940-2000
APM Shipping Terminals Pacific, Ltd.	2500 Navy Way, San Pedro 90731	(310) 221-4000
Applied Energy Services (AES)	21730 Newland St., Huntington Beach 92646	(714) 374-1476
Aquarium of the Pacific	100 Aquarium Way, Long Beach 90802	(562) 590-3100
Arrowhead Ranch	480 Cottage Grove Rd., Twin Peaks 92391	(909) 337-7265
AstroCamp	26800 Saunders Meadow Road, Idyllwild 92549	(951) 659-6062
Atlantis Play Center	13630 Atlantic Way, Garden Grove 92844	(714) 892-6015
Balboa Park	1549 El Prado, San Diego 92101	(619) 239-0512
Balboa Pavilion	400 Main St., Newport Beach 92661	(949) 675-1905
Banning Residence Museum	401 E M St., Wilmington 90744	(310) 548-7777
Barnsdall Art Park	4800 Hollywood Blvd., Los Angeles 90027	(323) 644-6275
Beach City Animal Hospital	7412 Warner Ave., Huntington Beach 92647	(714) 847-3523
Biola University	13800 Biola Ave., La Mirada 90639	(562) 903-6000
Blind Children's Learning Center	18542 Vanderlip Ave., Santa Ana 92705	(714) 573-8888
Bob Baker Marionette Theater	1345 W 1 st St., Los Angeles 90026	(213) 250-9995
Bolsa Chica State Beach	Bolsa Chica, Huntington Beach	(714) 846-3460
Boomers ~ Fountain Valley	16800 Magnolia St., Fountain Valley 92708	(714) 842-1111
Boomers ~ Irvine	3405 Michelson Dr., Irvine 92612	(949) 559-8341
Bowers Kid's Museum (Kidseum)	1802 N Main St., Santa Ana 92706	(714) 480-1520
Bowers Museum	202 N Main St., Santa Ana 92706	(714) 567-3600
BP/Arco Carson Refinery	1801 E Sepulveda Blvd., Carson 90745	(310) 816-8100
Cabrillo Marine Aquarium	3720 Stephen M White Dr., Los Angeles 90731	(310) 548-7562
California Adventure	13131 Disneyland Dr., Anaheim 92802	(714) 781-4565
California Science Center	700 Exposition Park Dr., Los Angeles 90037	(323) 724-3623
California State Polytechnic University, Pomona	3801 W Temple Ave., Pomona 91768	(909) 869-7659
California State University, Fullerton	800 N State College Blvd., Fullerton 92831	(657) 278-2011

FOUNTAIN VALLEY SCHOOL DISTRICT
Field Trips to Support the Fountain Valley School District Curriculum
2017/2018
Alphabetical Listing

California State University, Long Beach	1250 Bellflower Blvd., Long Beach 90840	(562) 985-4111
Camelot Golfland	3200 E Carpenter Ave., Anaheim 92806	(714) 630-3340
Camino Real Playhouse	31776 El Camino Real, San Juan Capistrano 92675	(949) 489-8082
Catalina Flyer	400 Main St., Newport Beach 92661	(800) 830-7744
Catalina Island Marine Institute (CIMI)	1 Toyon Bay Rd., Avalon 90704	(310) 510-1622
Catalina Passenger Service	400 Main St., Newport Beach 92661	(949) 673-5245
Centennial Farm (OC Fairgrounds)	88 Fair Dr., Costa Mesa 92626	(714) 708-1619
Central Library	7111 Talbert Ave., Huntington Beach 92648	(714) 842-4481
Cerritos Center for the Performing Arts	12700 Center Ct. Dr. S, Cerritos 90703	(562) 916-8500
Chapman University	1 University Dr., Orange 92866	(714) 997-6815
Children's Museum at La Habra	301 S Euclid St., La Habra 90631	(562) 905-9793
Chinatown	Los Angeles	
Chris Carr Park	16532 Springdale St., Huntington Beach 92649	(714) 536-5486
Chuck E Cheese	15511 Edwards St., Huntington Beach 92647	(714) 891-4391
Cinemark Century Stadium 25 Theaters	1701 W Katella Ave., Orange 92867	(714) 532-9558
Court House	909 N Main St., Santa Ana 92701	(714) 834-5400
Crystal Cove State Park	8471 N Coast Hwy., Laguna Beach 92651	(949) 494-3539
Dana Point Harbor	34624 Golden Lantern St., Dana Point 92629	(949) 923-2255
Dana Point Ocean Institute	24200 Dana Point Harbor Dr., Dana Point 92629	(949) 496-2274
Discovery Science Center	2500 N Main St., Santa Ana 92705	(714) 542-2823
Disneyland	1313 Disneyland Dr., Anaheim 92802	(714) 781-4565
Disneyland Hotel	1150 Magic Way, Anaheim 92802	(714) 778-6600
Dodger Stadium	1000 Elysian Park Ave., Los Angeles 90012	(323) 224-1507
Don Wash Auditorium	11271 Stanford Ave., Garden Grove 92840	(714) 534-1103
El Camino College	16007 Crenshaw Blvd., Torrance 90506	(310) 532-3670
El Capitan Theatre	6838 Hollywood Blvd., Hollywood 90028	(818) 845-3110
El Dorado Nature Center	7550 E Spring St., Long Beach 90815	(562) 570-1745
Environmental Nature Center	1601 E 16 th St., Newport Beach 92663	(949) 645-8489
ExplorOcean	600 E Bay Ave., Newport Beach 92661	(949) 675-8915
Forrest Falls (Big Falls)	Valley of the Falls, Forest Falls 92339	
Fountain Valley Bowl	17110 Brookhurst St., Fountain Valley 92708	(714) 963-7888
Fountain Valley City Hall	10200 Slater Ave., Fountain Valley 92708	(714) 593-4400
Fountain Valley Fire Department	10200 Slater Ave., Fountain Valley 92708	(714) 593-4436

FOUNTAIN VALLEY SCHOOL DISTRICT
Field Trips to Support the Fountain Valley School District Curriculum
2017/2018
Alphabetical Listing

Fountain Valley Heritage Park-Historical Society	17641 Los Alamos St., Fountain Valley 92708	(714) 623-8180
Fountain Valley Police Department	10200 Slater Ave., Fountain Valley 92708	(714) 593-4485
Fountain Valley Skating Center	9105 Recreation Cir., Fountain Valley 92708	(714) 847-0022
Fullerton Arboretum	1900 Associated Rd., Fullerton 92831	(657) 278-3407
Fullerton High School	201 E Chapman Ave., Fullerton 92832	(714) 626-3803
Fullerton Museum Center	301 N. Pomona Ave., Fullerton 92832	(714) 738-6545
Gene Autry National Center	4700 Western Heritage Way, Los Angeles 90027	(323) 667-2000
George Key Ranch	625 Bastanchury Rd., Placentia 92870	(714) 973-3191
Getty (J. Paul) Museum	1200 Getty Center Dr., Los Angeles 90049	(310) 440-7300
GOALS	1170 N La Palma Park Way, Anaheim 92801	(714) 956-4625
Golden West College	15744 Goldenwest St., Huntington Beach 92647	(714) 892-7711
Goodyear Airship Operations	19200 Main St., Gardena 90745	(330) 796-3127
Glendale Community College Planetarium	1500 N. Verdugo Rd., Glendale 91208	(818) 551-5275
Griffith Park	4730 Crystal Springs Dr., Los Angeles 90027	(323) 913-4688
Griffith Observatory	2800 E Observatory Rd., Los Angeles	(213) 473-0800
Hart Park	701 S Glassell St., Orange 92866	(714) 744-2225
Heritage Hill Historic Park	25151 S Serrano Rd., Lake Forest 92630	(949) 923-2239
Heritage Museum of Orange County	3101 W Harvard St., Santa Ana 92704	(714) 540-0404
Heritage Park	12100 Mora Dr., Santa Fe Springs 90670	(562) 946-6476
Hollywood Bowl	2301 N Highland Ave., Los Angeles 90068	(323) 850-2000
Honda Center	2695 E Katella Ave., Anaheim 92806	(714) 704-2400
Huntington Beach City Hall	2000 Main St., Huntington Beach 92648	(714) 536-5511
Huntington Beach Fire Station	2000 Main St., Huntington Beach 92649	(714) 536-5411
Huntington Beach Hospital	17772 Beach Blvd., Huntington Beach 92647	(714) 843-5000
Huntington Beach Police Department	2000 Main St., Huntington Beach 92648	(714) 960-8843
Huntington Library and Art Gallery	1151 Oxford Rd., San Marino 91108	(626) 405-2100
IMAX Theater	65 Fortune Dr., Irvine 92618	(949) 450-4920
IMAX Theater	100 Universal City Plaza, Universal City 91608	(888) 262-4386
Inside the Outdoors (OCDE)	200 Kalmus Dr., Costa Mesa 92628	(714) 708-3885
Irvine Lanes	3415 Michelson Dr., Irvine 92612	(949) 786-9625
Irvine Museum	18881 Von Karman Ave., Irvine 92612	(949) 476-0294
Irvine Regional Park	1 Irvine Park Rd., Orange 92869	(714) 973-6835

FOUNTAIN VALLEY SCHOOL DISTRICT
Field Trips to Support the Fountain Valley School District Curriculum
2017/2018
Alphabetical Listing

Irvine Spectrum Center	71 Fortune Dr., Irvine 92618	(949) 753-5180
Jet Propulsion Laboratory	4800 Oak Grove Dr., Pasadena 91109	(818) 354-4321
John Wayne Airport	18601 Airport Way, Santa Ana 92707	(949) 252-5200
Kidspace Children's Museum	480 N Arroyo Blvd., Pasadena 91103	(626) 449-9144
Knott's Berry Farm	8039 Beach Blvd., Buena Park 90620	(714) 220-5200
La Brea Tar Pits	5801 Wilshire Blvd., Los Angeles 90036	(323) 857-6300
Laguna Art Museum	307 Cliff Dr., Laguna Beach 92651	(949) 494-8971
Laguna College of Art & Design (LCAD)	2222 Laguna Canyon Road, Laguna Beach 92651	(949) 376-6000
La Mirada Regional Park Aquatics Ctr.	13806 La Mirada Blvd., La Mirada 90638	(562) 902-3191
Lazy W Ranch	23852 Hot Spring Canyon Rd., San Juan Cap 92675	(949) 728-0141
Legoland	1 Legoland Dr., Carlsbad 92008	(760) 918-5346
Local Bakeries	Orange County	
Local Beaches	Orange County	
Local Gas/Service Stations	Orange County	
Local Grocery Stores	Orange County	
Local Hotels	Orange County	
Local Medical and Dental Offices	Orange County	
Local Museums	Orange County	
Local Parks	Orange County	
Local Pet Shops	Orange County	
Local Police and Fire Stations	Orange County, Long Beach	
Local Professional Offices	Orange County	
Local Radio Stations	Orange County	
Local Restaurants	Orange County	
Local Retail Stores	Orange County	
Local Retirement Homes	Orange County	
Local Riding Stables	Orange County	
Local Schools and High Schools	Los Angeles County, Orange County	
Local Theaters	Los Angeles County, Orange County	
Long Beach Lifeguard Headquarters	2100 E Ocean Blvd., Long Beach 90803	(562) 570-1360
Long Beach Convention Center	300 E Ocean Blvd., Long Beach 90802	(562) 436-3636
Long Beach Harbor Breeze Cruises	100 Aquarium Way, Dock #2 Long Beach 90802	(562) 432-4900
Long Beach Memorial Hospital	2801 Atlantic Ave., Long Beach 90806	(562) 933-2000

FOUNTAIN VALLEY SCHOOL DISTRICT
Field Trips to Support the Fountain Valley School District Curriculum
2017/2018
Alphabetical Listing

Long Beach Airport	4100 E Donald Douglas Dr., Long Beach 90808	(562) 570-2600
Long Beach Performing Arts Center	300 E Ocean Blvd., Long Beach 90802	(562) 436-3636
Long Beach Sportfishing	555 Pico Ave., Long Beach 90802	(562) 432-8993
Los Angeles Children's Museum	205 S Broadway, Los Angeles 90012	(213) 687-8800
Los Angeles Civic Center	200 North Spring St., Los Angeles 90012	
Los Angeles County Arboretum and Botanic Gardens	301 N Baldwin Ave., Arcadia 91007	(626) 821-3222
Los Angeles Harbor	Los Angeles	
Los Angeles International Airport	1 World Way, Los Angeles 90045	(310) 646-5252
Los Angeles Maritime Museum	Berth 84, San Pedro 90731	(310) 548-7618
Los Angeles Music Center	135 N Grand Ave., Los Angeles 90012	(213) 972-7211
Los Angeles Office of the Mayor	200 N Spring St., Los Angeles 90012	(213) 978-0600
Los Angeles Times Newspaper	202 W 1 st St., Los Angeles 90012	(213) 237-5000
Los Angeles Zoo	5333 Zoo Dr., Los Angeles 90027	(323) 644-4200
Lyon Air Museum	19300 Ike Jones Rd., Santa Ana 92707	(714) 210-4285
Magnolia Bird Farm	8990 Cerritos Ave., Anaheim 92804	(714) 527-3387
March Air Reserve Base	452 nd AMW Public Affairs, 895 Baucom Ave., SE (Bldg 317), March ARB 92518	(951) 655-4138
Marconi Automotive Museum	1302 Industrial Dr., Tustin 92780	(714) 258-3001
Mazda Motors of America	7755 Irvine Center Dr., Irvine 92623	(949) 727-1990
Mazda Motors of America	1444 McGaw Ave., Irvine 92614	(949) 852-8898
McAuliffe Middle School	4112 Cerritos Ave., Los Alamitos 90720	(714) 816-3320
McGaugh Elementary School	1698 Bolsa Ave., Seal Beach 90740	(562) 799-4560
Medieval Times Dinner & Tournament	7662 Beach Blvd., Buena Park 90620	(866) 543-9637
Mile Square Park	10401 Warner Ave., Fountain Valley 92708	(714) 962-5541
Milliken High School	2800 Snowden Ave., Long Beach 90815	(562) 425-7441
Mission San Gabriel Arcangel	428 S Mission Dr., San Gabriel 91776	(626) 457-3035
Mission San Juan Capistrano	26801 Ortega Hwy., San Juan Capistrano 92675	(949) 234-1300
Modjeska Canyon	29322 Modjeska Canyon, Silverado 92676	(714) 649-2760
Muckenthaler Cultural Center	1201 W Malvern Ave., Fullerton 92833	(714) 738-6595
Museum of Tolerance	9786 W Pico Blvd., Los Angeles 90035	(310) 553-8403
Murth Interpretive Center	2301 University Dr., Newport Beach 92660	(949) 923-2296
Natural History Museum of LA County	900 Exposition Blvd., Los Angeles 90007	(213) 763-3466

FOUNTAIN VALLEY SCHOOL DISTRICT
Field Trips to Support the Fountain Valley School District Curriculum
2017/2018
Alphabetical Listing

Newland House Museum	19820 Beach Blvd., Huntington Beach 92648	(714) 962-5777
Newport Beach Back Bay Science Ctr.	600 Shellmaker Rd., Newport Beach 92660	(949) 640-1742(F)
Newport Beach Marine Department	100 Civic Center Dr., Newport Beach 92660	(949) 644-3309
Newport Dunes Waterfront Resort	1131 Back Bay Dr., Newport Beach 92660	(949) 729-3863
Newport Harbor Art Museum	850 San Clemente Dr., Newport Beach 92660	(949) 759-1122
Newport Sports Museum	100 Newport Ctr.Dr. Ste.100, Newport Beach 92660	(949) 721-9333
Norton Simon Museum	411 W Colorado Blvd., Pasadena 91105	(626) 449-6840
Oak Canyon Nature Center	6700 E Walnut Canyon Rd., Anaheim 92807	(714) 998-8380
Olvera Street	125 Paseo De La Plaza, Los Angeles 90012	(213) 628-1274
Orange Coast College	2701 Fairview Rd., Costa Mesa 92626	(714) 432-5072
Orange Coast Daily Pilot	1375 Sunflower Avd., Costa Mesa 92626	(714) 966-4600
Orange County Department of Education	200 Kalmus Dr., Costa Mesa 92626	(714) 966-4000
Orange County Fair & Event Center	88 Fair Dr., Costa Mesa 92626	(714) 708-1500
Orange County Humane Society	21632 Newland St., Huntington Beach 92646	(714) 536-8480
Orange County Museum of Art	850 San Clemente Dr., Newport Beach 92660	(949) 759-1122
Orange County Sanitation District	10844 Ellis Ave., Fountain Valley 92708	(714) 962-2411
Orange County Transit Authority	550 S Main St., Orange 92868	(714) 560-6282
Orange County Water District	18700 Ward St., Fountain Valley 92708	(714) 378-3200
Orange Empire Railway Museum	2201 S A St., Perris 92570	(951) 943-3020
Pacific Marine Mammal Center	20612 Laguna Canyon Rd., Laguna Beach 92651	(949) 494-3050
Pali Institute	30778 California 18, Running Springs 92382	(909) 867-5743
Pantages Theater	6233 Hollywood Blvd., Los Angeles 90028	(323) 468-1770
Peters Canyon Regional Park	8548 Peters Canyon Trail, North Tustin 92705	(714) 973-6611
Pickwick Center	1001 Riverside Dr., Burbank 91506	(818) 845-5300
Pinecrest/Arrowhead Ranch	1140 Pine Crest Rd., Twin Peaks 92391	(909) 337-7265
Pirate's Dinner Adventure	7600 Beach Blvd., Buena Park 90620	(714) 690-1497
Polly's Pies	9791 Adams Ave., Huntington Beach 92646	(714) 964-4424
Port of Long Beach	4801 Airport Plaza Dr., Long Beach 90815	(562) 283-7000
Port of Los Angeles	425 South Palos Verdes St., San Pedro 90731	(310) 732-7678
Prado Wetlands	18700 Ward St., Fountain Valley 92708	(714) 378-2000
Prentice Park	1801 E Chestnut Ave., Santa Ana 92701	(714) 647-6575
Press-Telegram	727 Pine Ave., Long Beach 90844	(562) 435-1161
Pretend City Children's Museum	29 Hubble, Irvine 92618	(949) 428-3900

FOUNTAIN VALLEY SCHOOL DISTRICT
Field Trips to Support the Fountain Valley School District Curriculum
2017/2018
Alphabetical Listing

Pumpkin Patch	300 E Yorba Linda Blvd., Placentia 92870	(714) 970-9800
Queen Mary	1126 Queens Hwy., Long Beach 90802	(877)342-0738
Radio Stations	Los Angeles County, Orange County	
Rainbow Environmental Services	17121 Nichols Ln., Huntington Beach 92647	(714) 847-3581
Ralph B Clark Regional Park	8800 Rosecrans Ave., Buena Park 90621	(714) 973-3170
Rancho Los Alamitos	6400 E Bixby Hill Rd., Long Beach 90815	(562) 431-3541
Rancho Los Cerritos	4600 Virginia Rd., Long Beach 90807	(562) 570-1755
Recreation Park	4900 E 7 th St., Long Beach 90804	(562) 570-1670
Redondo Beach Performing Arts Center	1935 Manhattan Beach Blvd., Redondo Beach 90270	(310) 318-0610
Reserve at Rancho Mission Viejo	2881 Ortega Hwy., San Juan Capistrano 92693	(949) 489-9778
Richard Nixon Library and Birthplace	18001 Yorba Linda Blvd., Yorba Linda 92886	(714) 983-9120
Riley's Farm	12261 Oak Glen Rd., Yucaipa 92399	(909) 797-7534
Rose Bowl	1001 Rose Bowl Dr., Pasadena 91103	(626) 577-3100
San Diego Zoo	2920 Zoo Dr., San Diego 92101	(619) 231-1515
San Diego Zoo Safari Park	15500 San Pasqual Valley Rd., Escondido 92027	(760) 747-8702
San Pedro Harbor	PO Box 470, San Pedro 90733	(310) 831-6245
Santa Ana College Planetarium	120 Civic Center Drive, Santa Ana 92701	(714) 547-9645
Santa Ana Lawn Bowling Club	510 East Memory Ln., Santa Ana 92705	(714) 550-7769
Santa Ana River Lakes	3900-4034 E La Palma Ave., Anaheim 92807	(714) 632-7830
Santa Ana Zoo at Prentice Park	1801 E Chestnut Ave., Santa Ana 92701	(714) 647-6575
Santana Regional Park	598 Santana Way, Corona 92881	(951) 736-2241
Schools, Private and Public, Junior Colleges, Colleges, Universities	Orange County, Los Angeles County	
Schools First Federal Credit Union	18651 Brookhurst St., Fountain Valley 92708	(800) 462-8328
Scooter's Jungle	25 Journey, Aliso Viejo 92656	(949) 349-9090
Sea & Sage Audubon Society	25 Riparian View, Irvine 92612	(949) 261-7963
Sea World	500 Sea World Dr., San Diego 92109	(800) 257-4268
Seegerstrom Center for the Arts	600 Town Center Dr., Costa Mesa 92626	(714) 556-2787
Sepulveda Basin Wildlife Reserve	6350 Woodley Ave., Van Nuys 91406	(818) 756-9710
Sherman Library and Gardens	2647 East Coast Hwy., Corona Del Mar 92625	(949) 673-2261
Sherman Indian Museum	9010 Magnolia Ave., Riverside 92503	(951) 276-6325
Shipley Nature Center	17851 Goldenwest St., Huntington Beach 92647	(714) 842-4772
Silverado Canyon	Silverado 92676	

FOUNTAIN VALLEY SCHOOL DISTRICT
Field Trips to Support the Fountain Valley School District Curriculum
2017/2018
Alphabetical Listing

Sky High Sports	2970 Airway Ave., Costa Mesa 92626	(714) 437-5867
South Coast Plaza	3333 Bristol St., Costa Mesa 92626	(714) 435-2000
South Coast Repertory	655 Town Center Dr., Costa Mesa 92626	(714) 708-5555
Southwest College Founders Library	1600 W Imperial Hwy., Los Angeles 90047	(323) 241-5235
Super Sports Golf and Recreation Ctr.	2190 N Canal St., Orange 92865	(714) 282-8880
Tanaka Farms LLC	5380 University Dr., Irvine 92612	(949) 653-2100
TeWinkle Park	970 Arlington Dr., Costa Mesa 92626	(714) 754-5300
Television Studios: ABC, CBS, KCOP, KHJ, KOCE, KTLA, KTTV, NBC	Burbank, Hollywood, Huntington Beach, Los Angeles	
The Aerospace Corporation	2310 E El Segundo Blvd., El Segundo 90245	(310) 336-5000
Tidepools	Corona del Mar, Crystal Cove, Dana Point, Laguna, Long Beach, San Pedro	
Tiger Woods Learning Center	1 Tiger Woods Way, Anaheim 92801	(714) 765-8000
Travel Town Museum	5200 Zoo Dr., Los Angeles 90027	(323) 662-9678
Triangle Square Cinema	1870 Harbor Blvd., Costa Mesa 92627	(949) 650-4300
Tucker Wildlife Sanctuary	29322 Modjeska Canyon Rd., Modjeska Canyon 92676	(714) 649-2760
United States Post Office	6771 Warner Ave., Huntington Beach 92647	(800) 275-8777
United States Post Office	3101 W Sunflower Ave., Santa Ana 92799	(714) 662-6474
Universal Studios	100 Universal City Plaza, Universal City 91608	(800) 864-8377
UCI Irvine Medical Center	101 The City Dr. S, Orange 92868	(714) 456-7890
University of California, Irvine	Irvine 92697	(949) 824-5011
University of California, Los Angeles	Los Angeles 90095	(310) 825-4321
University of Southern California	University Park Campus, Los Angeles 90089	(213) 740-1111
Valley View Bowling Center	12141 Valley View St., Garden Grove 92845	(714) 898-2507
Village Nursery	10500 Garfield Ave., Huntington Beach 92646	(714) 963-5372
Waterfront Beach Resort	21100 Pacific Coast Hwy., Huntington Beach 92648	(714) 845-8000
Watts Tower	1727 E 107 th St., Los Angeles 90002	(213) 847-4646
Wells Fargo History Museum	333 S Grand Ave., Los Angeles 90071	(213) 253-7166
Westminster Lanes	6471 Westminster Blvd., Westminster 92683	(714) 893-5005
Westminster Mall	1025 Westminster Mall, Westminster 92683	(714) 898-2559
Whale Watching Excursions	Balboa, Dana Point, Seal Beach. All local Southern California locations	
White's Point/Point Fermin	807 Paseo Del Mar, Los Angeles 90731	(310) 241-0684

FOUNTAIN VALLEY SCHOOL DISTRICT
Field Trips to Support the Fountain Valley School District Curriculum
2017/2018
Alphabetical Listing

Whiting Ranch Wilderness Park	Trabuco Canyon 92679	(949) 923-2245
Whitney High School	16800 Shoemaker Ave., Cerritos 90703	(562) 229-7745
Wilshire Ebell Theatre	4401 W 8 th St., Los Angeles 90005	(323) 939-1128
Wrightwood/Big Pines	22214 Big Pines Hwy., Valyermo 93563	(818) 242-7494
Yakult U.S.A. Inc.	17235 Newhope St., Fountain Valley 92708	(714) 434-6500 x4
Youth Science Center	16949 Wedgeworth Dr., Hacienda Heights 91745	(626) 854-9825
ZOOMARS Petting Zoo	31791 Los Rios St., San Juan Capistrano 92675	(949) 831-6550



Fountain Valley School District
Educational Services

MEMORANDUM

TO: Board of Trustees
FROM: Steve McLaughlin, Assistant Superintendent, Educational Services
SUBJECT: **EDUCATIONAL SERVICES APPROVED INDEPENDENT
CONTRACTOR LIST**
DATE: July 10, 2017

Background:

Historically, independent contractors are submitted to the Board of Trustees each month for approval. Typically, these independent contractors are being used each year by one or more schools or the District Office. Therefore, the Educational Services division is requesting the approval of a compiled list of the frequently used independent contractors to be annually reviewed and approved by the Board of Trustees. This is a similar process FVSD uses regarding field trip approvals.

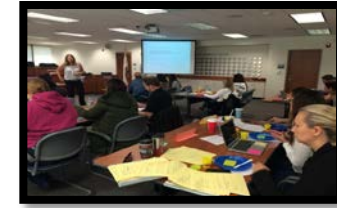
The attached independent contractor list includes independent contractors approved by the Board of Trustees within the last three years, with cost information updated for the 2017/2018 school year. All independent contractors on the list provide highly valued professional development to support the Fountain Valley School District standards-based core academic program. Independent contractors not on the approved list will be submitted to the Board of Trustees for approval and then added to the list for reauthorization in subsequent years.

Fiscal Impact:

Fees for independent contractor services will be funded from either Educational Services or school site budgets, as appropriate. Specific budget information will be reflected in the issued purchase order, and all contracts will be reviewed by administrative staff and signed accordingly.

Recommendation:

It is recommended that the Board of Trustees approves the attached Independent Contractor list for the 2017/2018 school year.



Educational Services Independent Contractor List ~ 2017/2018

Vendor Name	Description of Services	Vendor #	Website	Cost
Eagle Software	Aeries student data management system software	V2002016	http://www.aeries.com	Up to \$1,000/half day
Marcia Fries	Fountas and Pinnel assessment training	V2005803		\$100/hour Up to \$600/daily rate
Evan Grandon	Fountas and Pinnel assessment training	V2005804		\$100/hour Up to \$600/daily rate
Heinemann ~ Carol Jago	Middle School English language development	V2004881	http://www.heinemann.com	\$3,375/daily rate
Teri Malpass	CGI Instruction for TK-5 teachers	V2005737		\$100/hour Up to \$1,500/daily rate Up to \$1,000/evening rate
The Great Books Foundation	Shared Inquiry Essentials Course	V2002697	http://www.greatbooks.org	\$4,750/course
Irvine Math Project (IMP) ~ UCI	Middle School Math	V2005065	http://sites.uci.edu/irvinemathproject	Up to \$2,000/daily rate
The History Project ~ UCI	Middle School History/Social Science	V2001283	http://historyproject.uci.edu	Up to \$2,100/daily rate
OCDE	Middle School Science NGSS	V2001129	http://www.ocde.us	Up to \$600/day
Growing Educators	Elementary Reading	V2005875	http://www.growingeducators.com	Up to \$850/half day Up to \$1,900/full day
Momentum in Teaching	Elementary Reading	V2005634	http://momentuminteaching.com	Up to \$850/half day Up to \$1,700 /full day



Fountain Valley School District
Educational Services

MEMORANDUM

TO: Board of Trustees
FROM: Steve McLaughlin, Assistant Superintendent, Educational Services
SUBJECT: **APPROVAL OF SINGLE YEAR WITH ANNUAL RENEWAL
CONTRACT BETWEEN FOUNTAIN VALLEY SCHOOL
DISTRICT AND MIND RESEARCH INSTITUTE TO PROVIDE ST
MATH TO THE DISTRICT'S EIGHT SCHOOLS**
DATE: July 10, 2017

Background:

Currently, ST Math is active at eight school sites within the District. Initial funding and set up for the first seven sites was covered by a series of grants received from Hyundai over a number of years. The final site, Tamura, was mainly funded using supplemental monies as outlined in the 2014-2015 LCAP. Ongoing license fees vary by site and are based on the number of student users. Prior to 2014-2015, license fees were paid for by the school sites using either Title 1 funds or donations. Beginning in 2014-2015, approximately \$10,000 of supplemental funding was used to pay one-half of the annual renewal fees at five sites.

All schools will continue to have a July 1st annual service/renewal date, with the District paying one-half of the fees at the elementary sites and the elementary school sites paying the other half, using either site Title 1 instructional or donation funds. Masuda Middle School will continue to pay their license fee in full.

Fiscal Impact:

The District will continue to cover one-half of the cost of the licensing fees for the seven elementary schools, with funds allocated in the District's Local Control Accountability Plan to support student success.

Recommendation:

It is recommended that the Board of Trustees approves the contract between Fountain Valley School District and Mind Research Institute to continue to provide ST Math to the District's eight schools.



Quote

111 Academy Drive, Suite 100
Irvine, CA 92617
949-345-8700
866-569-7014
www.mindresearch.org

Page 1 of 2
Date 03/20/2017
Quote # 1424986
Expires 07/01/2017
Education Consultant: Huy Pham
E-mail: hpham@mindresearch.net
Phone: 424-261-2345

Bill To

ACCOUNTS PAYABLE
FOUNTAIN VALLEY SCHOOL DIST
10055 SLATER AVE
FOUNTAIN VLY CA 92708

Ship To

ACCOUNTS PAYABLE
FOUNTAIN VALLEY SCHOOL DIST
10055 SLATER AVE
FOUNTAIN VLY CA 92708

Qty	Item		Rate	Amount
	Description	07/01/2017 - 06/30/2018		
	ST Math Annual Service/Renewal Fee Includes:			
	• Renewal of ST Math Gen5 Software License			
	• Ongoing Minor Software Updates			
	• Self-Guided Online Courses (Asynchronous via Web Browser)			
	• Just-in-Time Live Webinars (Instructor-Lead via WebEx)			
	• Technical Support during Standard Business Hours via Email, Chat or Phone			
	• Weekly School Progress Reports Delivered via Email			
1	Annual Service/Renewal Fee (Secondary Offerings)	07/01/2017 - 06/30/2018	\$3,500.00	\$3,500.00
	ST Math Annual Service/Renewal For:			
	• KAZUO MASUDA MIDDLE SCHOOL			
4	Annual Service/Renewal Fee - \$4,000	07/01/2017 - 06/30/2018	\$4,000.00	\$16,000.00
	ST Math Annual Service/Renewal For:			
	• ISOJIRO OKA ELEMENTARY SCHOOL			
	• ROBERT GISLER ELEM SCHOOL			
	• URBAIN PLAVAN ELEM SCHOOL			
	• WILLIAM T NEWLAND ELEM SCHOOL			
3	Annual Service/Renewal Fee - \$5,000	07/01/2017 - 06/30/2018	\$5,000.00	\$15,000.00
	ST Math Annual Service/Renewal For:			
	• HISAMATSU TAMURA ELEM SCHOOL			
	• ROCH COURREGES ELEM SCHOOL			
	• JAMES H COX ELEMENTARY SCHOOL			
1	Annual Service/Renewal - Fluency Site License Renewal - Unlimited Fluency at ST Math School	07/01/2017 - 06/30/2018	\$200.00	\$200.00
	Renewal - Unlimited Fluency for JAMES H COX ELEM			

Please submit purchase orders:
By email: purchaseorders@mindresearch.org
By Fax: 1-866-569-7014
You can view our technical requirements [here](#).
Thank you for being an ST Math partner!

Thank you for being an ST Math partner! By submitting payment for quoted services, you agree to MIND Research Institute's Terms of Use as described at <http://www.mindresearch.org/misc/terms/>.

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111 Academy Drive, Suite 100
Irvine, CA 92617
949-345-8700
866-569-7014
www.mindresearch.org

Quote

Page 2 of 2

Date	03/20/2017
Quote #	1424986
Expires	07/01/2017
Education Consultant:	Huy Pham
E-mail:	hpham@mindresearch.net
Phone:	424-261-2345

Subtotal	\$34,700.00
Tax Total (%)	\$0.00
Total	\$34,700.00

Please submit purchase orders:
By email: purchaseorders@mindresearch.org
By Fax: 1-866-569-7014
You can view our technical requirements [here](#).
Thank you for being an ST Math partner!

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Fountain Valley School District
Educational Services

M E M O R A N D U M

TO: Board of Trustees
FROM: Steve McLaughlin, Assistant Superintendent, Educational Services
SUBJECT: **APPROVAL OF THREE YEAR CONTRACT BETWEEN
FOUNTAIN VALLEY SCHOOL DISTRICT AND TURNITIN, LLC
TO PROVIDE WRITING-TO-LEARN PRODUCTS TO THE
DISTRICT'S THREE MIDDLE SCHOOLS**
DATE: July 10, 2017

Background:

Turnitin provides the world's most widely adopted writing-to-learn products, used by more than 15,000 institutions in 140 countries. Turnitin's Feedback Studio is their platform that allows for online submission of student writing, with rubric grading, commenting, and checks for plagiarism. Using Turnitin's Feedback Studio component will help support original writing, formative feedback and evaluation for Fountain Valley School District middle school students and teachers.

Fiscal Impact:

The District will cover the three-year cost of the contract, that includes training and professional development for the three middle schools, with funds allocated in the District's Local Control Accountability Plan to support student success.

Recommendation:

It is recommended that the Board of Trustees approves the three-year contract between Fountain Valley School District and Turnitin, LLC to provide writing-to-learn products to the District's three middle schools.



June 27, 2017

Fountain Valley School District

Turnitin® Feedback Studio ("Turnitin"), including its associated components, is a single-source product developed and sold by Turnitin, LLC, based in Oakland, CA. Our product is a unique service that is not offered by any other vendor or reseller in a similar format. The product may be procured only from Turnitin, LLC, at the address listed below. Turnitin is an item for which competition is precluded due to patent (SYSTEMS AND METHODS FOR FACILITATING ORIGINALITY ANALYSIS - USPTO 8,296,661).

The Turnitin service provides a plagiarism-prevention tool that allows academic institutions to easily determine if students are writing and submitting original work. Utilizing our unique technology, Turnitin searches the Internet, as well as our proprietary databases of papers and digital texts for sources of potential plagiarism. The service then generates a custom Originality Report that highlights and provides links to any textual matches found on the Internet, in our database of previously submitted papers, and/or in the proprietary databases of subscription-based publication material from content aggregators with whom we have partnered.

To find potential plagiarism, Turnitin has developed its own search technology (in use for over 15 years). Turnitin's proprietary crawler, called Walker, is different than many other solutions that rely on search engines such as Yahoo or Bing's Search API but cannot scale because of cost or request limitations. Walker has been built from the start to be horizontally scalable, smart about recrawling, lean on storage, and flexible about what can be done with data. Some of the key features you can expect from Walker:

- Broad, scalable, focused crawl of the web.
- Prioritized (re)crawl, and how often.
- Persistent, query-friendly store of the crawl frontier allowing for useful, rapid reporting.
- Smart crawling that will avoid junk (ex. crawler traps).
- Crawling non-HTML file types.
- Support for selectively crawling JavaScript based sites.

Turnitin's patented and proprietary technology compares submitted papers to:

- A database of previously submitted student papers—more than 734 million submissions (as of April 2017)
- A database of subscription-based electronically published content that covers over 165 million articles from mainstream to specialized sources on virtually every popular, business and professional topic, including:
 - CrossRef, which provides over 54 million articles and documents from publishers including: Wiley-Blackwell, Elsevier, American Institute of Physics, IEEE, Cambridge University Press, British Medical Journal and the New England Journal of Medicine.
 - EBSCO, the world's foremost premium research database service, which provides over 3 million articles from 41,000 titles from more than 300 of their database collections that they sell to libraries, universities, corporations, governments and professionals.
 - Sage e-Reference, the publisher of over 60 electronic encyclopedias for the social sciences, public policy, law, business and medicine.
 - Emerald, the world's leading publisher of management research
 - ABC-CLIO, the publisher of educational and reference materials for history and social studies.
 - Pearson, McGraw-Hill, and Wiley, representing thousands of college and secondary textbooks across all disciplines.
 - Acumen PI coursework.info, the leading provider of high school and college level coursework materials across the disciplines.

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- o An archived copy of past web pages no longer available on the Internet.

Turnitin generates an Originality Report that includes multiple views and features:

- Reports are available within minutes after submission (usually much less than two minutes).
- Direct-source comparisons of matched words to matched documents (highlighted with or without color coding) numbered and aligned side-by-side.
- Pattern-recognition matching of both word-for-word and paraphrased text.
- Ability to exclude matching material within quotes, within the bibliography, or any individual source.
- Ability to view all underlying matched words that have been obscured by overlapping matches
- Accepted submission formats include: Word®, PowerPoint®, WordPerfect®, OpenOffice, Rich Text Format (RTF), HTML, Text, Postscript, PDF, Hangul, Excel, and Google Docs.
- Option to refresh an Originality Report to include matches to any updated content in the database.
- Automatic exclusion of submissions by the same author to the same assignment.
- Ability to detect translated plagiarism by matching content that has been translated from English into another language. Languages include French, Spanish, German, Dutch, Swedish, Portuguese, Turkish, Czech, Danish, Finnish, Greek, Hungarian, Italian, Polish and Romanian.

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- Turnitin's Online Grading is a time-saving, paperless alternative to traditional pen and paper grading, making it easy for instructors to give students the valuable, time sensitive feedback that is so essential for building quality writing skills. Key components include: pre-loaded and customizable marks and comments; voice comments; customizable and sharable rubrics; the ability to associate on-paper comments with rubric criterion, automatic checking of grammar, spelling, mechanics, usage and style using ETS® e-rater® technology.
- PeerMark online peer reviewing gives instructors the ability to create peer review assignments that students use to evaluate and learn from one another's work. Key components include: automatic paper distribution; option to allow for anonymous reviews.

Turnitin is accessible via a web-based interface and is hosted in Turnitin's secure datacenters.

Turnitin can be integrated with most standard course management or learning management systems such as Blackboard (including former WebCT and ANGEL), Moodle, Canvas, Brightspace (formerly "Desire2Learn"), and Sakai. Turnitin also offers an LTI tool (Learning Tools Interoperability) that further enhances integrations. These integrations make Turnitin seem like a natural extension of the web application an institution already has in place.

Annual subscription fees include unlimited access to free videos and documentation for educators and students to learn how to use Turnitin. If you need additional information about our services, please contact us at 510-764-7600 or visit our website at <http://www.turnitin.com>. Thank you for your interest in Turnitin.

Sincerely,



*

Chris Caren
Chief Executive Officer
Turnitin, LLC, developers of Turnitin®
Phone: +1-510-764-7600

* Laura DiPiano for Chris Caren

Turnitin is a service of Turnitin, LLC
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www.turnitin.com • sales@turnitin.com • +1 510-764-7600



Quotation

Company Address Turnitin, LLC
2101 Webster St., Suite 1800
Oakland, 94612
US

Created Date 6/27/2017 12:23 PM

Quote Number Quote-Q-88862-1

Expiration Date 7/31/2017

Prepared By Erika Dunn-Baker

Phone (510) 764-7833

Email eleon@turnitin.com

Contact Name Steve McLaughlin
Phone 7148433285
Email mclaughlins@fvsd.us
Fax

Bill To Name Fountain Valley Elementary School
District

Bill To 10055 Slater Ave
Fountain Valley, CA 92708
United States

Additional To Name Fountain Valley Elementary School District

Additional To 10055 Slater Ave
Fountain Valley, CA 92708
United States

Quote To Name Fountain Valley Elementary School
District

Quote To 10055 Slater Ave
Fountain Valley, CA 92708-4712
United States

2017-2018 School Year

Product Name	Product Description	Qty	List Price	Percent Discount	Annual Price	Start Date	End Date	Total
Turnitin FBS	Turnitin FBS: Originality Checking and Feedback	2,200.00	USD 4.50	18.00	3.69	8/1/2017	7/31/2018	USD 8,118.00
Turnitin FBS Campus Fee	Turnitin FBS Campus Fee	3.00	USD 695.00		695.00	8/1/2017	7/31/2018	USD 2,085.00
Select Package - K12	Package includes: Account setup and administrator walk-through (1-hour), strategic planning call (1-hour), 2 online training session (2-hour), 2 1-hour online office hours, curated support materials, access to standard support, and choice of: Additional Office Hours (4, 1-hour virtual sessions), or customized Training Material Set.	1.00	USD 2,700.00		2,700.00	8/1/2017	7/31/2018	USD 2,700.00
2017-2018 School Year TOTAL:								USD 12,903.00

2018-2019 School Year

Product Name	Product Description	Qty	List Price	Percent Discount	Annual Price	Start Date	End Date	Total
Turnitin FBS	Turnitin FBS: Originality Checking and Feedback	2,200.00	USD 4.50	14.00	3.87	8/1/2018	7/31/2019	USD 8,514.00
Turnitin FBS Campus Fee	Turnitin FBS Campus Fee	3.00	USD 695.00		695.00	8/1/2018	7/31/2019	USD 2,085.00
Online Training Session	Year 2 Customized live online training on single service. Session length: 2-hours. Recording available 12-months.	1.00	USD 500.00		250.00	8/1/2017	7/31/2019	USD 500.00
2018-2019 School Year TOTAL:								USD 11,099.00

2019-2020 School Year

Product Name	Product Description	Qty	List Price	Percent Discount	Annual Price	Start Date	End Date	Total
Turnitin FBS	Turnitin FBS: Originality Checking and Feedback	2,200.00	USD 4.50	10.00	4.05	8/1/2019	7/31/2020	USD 8,910.00
Turnitin FBS Campus Fee	Turnitin FBS Campus Fee	3.00	USD 695.00		695.00	8/1/2019	7/31/2020	USD 2,085.00
Online Training Session	Year 3 Customized live online training on single service. Session length: 2-hours. Recording available 12-months.	1.00	USD 500.00		166.67	8/1/2017	7/31/2020	USD 500.00
2019-2020 School Year TOTAL:								USD 11,495.00

Sales Tax	USD 0.00
TOTAL	USD 35,497.00

Please Note:

Products sold to certain states are subject to tax. Turnitin charges sales tax in these states: AZ, IL, IN, MA, MI, NM, NY, OH, SD, TX, UT, WA, PA.

Fee does not include applicable tax. Invoice will reflect applicable tax (state and local)

The sales tax ultimately charged will be calculated when you are invoiced and will reflect applicable state and local taxes.

No sales tax is charged when providing a valid exemption certificate. Please email certificate to ar@turnitin.com.

Order Instructions:

To purchase or renew your Turnitin license, please fax your purchase order and a copy of this quote to Turnitin, LLC, at: (510) 764-7612

or mail payment and a copy of this quote to:

Turnitin, LLC
Dept.34258
PO Box 39000
San Francisco, CA 94139

You may also contact us with your credit card information at (866) 816-5046 x239 or x240 By accepting this quote, you agree to our general terms and conditions that are located at this URL: <http://go.turnitin.com/reg>.

Training: On-site or online trainings must be completed within twelve (12) months of the start of Turnitin/iThenticate service, or the expiration of the Term in which Training was licensed whichever is earlier ("Training Term Expiry"). Link to Training Terms and Conditions.



Fountain Valley School District
BUSINESS SERVICES DIVISION

M E M O R A N D U M

TO: Board of Trustees
FROM: Christine Fullerton, Assistant Superintendent Business Services
Isidro Guerra, Director, Fiscal Services
SUBJECT: **Approve District Use of CMAS Contract and Any Extensions for Copiers and Related Maintenance and Print Services to Meet the Needs of the District**
DATE: June 30, 2017

Background:

The District needs to replace 18 existing copiers and add one at our Maintenance and Operations facility and a color copier at the District Office. The District would like to award a contract to Xerox Corporation pursuant to the California Multiple Award Schedules (CMAS) contract 3-17-36-0030B as amended by supplements 1 and 2. We advise the Board that pursuant to CMAS instructions, the District will utilize SoCal Office Technologies, which is an authorized reseller approved by the Department of General Services (DGS).

Fiscal Impact:

There are no ongoing costs to utilize CMAS contracts.

Recommendation:

It is recommended that the Board of Trustees approves the District's use of CMAS contract 3-17-36-0030B and to delegate to the Assistant Superintendent of Business Services the authority to execute any related documents.

January 12, 2017

David Farrell
Xerox Corporation
2485 Natomas Park Drive, Ste. 250
Sacramento, CA 95833

Subject: Project Oversight Corporation's California Multiple Award Schedule (CMAS)

CMAS Contract No.: 3-17-36-0030B
CMAS Contract Term: January 12, 2017 through December 31, 2021
Base GSA Schedule No.: GS-03F-137DA

The State of California is pleased to accept your firm's offer to establish a California Multiple Award Schedule (CMAS) contract, which we have assigned the CMAS contract number and term identified above. This contract number must be shown on each invoice rendered. Additionally, this letter shall not be construed as a commitment to purchase any or all of the State's requirements from your firm. Prior approval is required from the State for all news releases regarding this contract.

It is your firm's responsibility to furnish, upon request, a copy of this CMAS contract to State and local government agencies. A complete CMAS contract includes the following: **1)** this acceptance letter, **2)** CMAS cover pages (which includes the signature page, ordering instructions and special provisions, and any attachments or exhibits as prepared by the CMAS Unit), **3)** CMAS terms and conditions, **4)** Federal GSA terms and conditions, and **5)** product/service listing and prices. The CMAS Unit strongly recommends that government agencies place orders with Contractors who provide ALL of the contract elements described above.

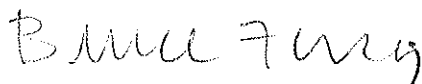
To manage this contract, Contractors are directed to the "CMAS Contract Management and Information Guide", which can be accessed at www.dgs.ca.gov/pd/programs/leveraged/cmas.aspx, then select the "For Suppliers/Contractors" link. This guide covers topics such as CMAS Quarterly Reports, amendments, extensions, renewals, Contractor's change of address or contact person, company name change requests, and marketing your CMAS contract.

It is the Contractor's responsibility to submit on a timely basis detailed CMAS Quarterly Reports (along with any applicable incentive fees).

THE NEXT QUARTERLY REPORT DUE FOR THIS CONTRACT IS Q1-2017 (JAN-MAR)
DUE BY APR 15, 2017.

The "Approved CMAS Contractor" logo is only available to CMAS contract holders for display at conferences or on other marketing material. A login and password is required to download the logo. Go to <http://www.dgs.ca.gov/pd/Resources/FormsResourcesLibrary.aspx>, then select "Reference Material"; click on "CMAS Logos" under the heading "Marketing Tools". At the prompt, enter the login: "cmassupplier" and the password: "cmas010194".

Should you have any questions regarding this contract, please contact me at 916/375-4395. Thank you for your continued cooperation and support of the CMAS Program.



BRUCE FONG, Program Analyst
California Multiple Award Schedules Unit

State of California

MULTIPLE AWARD SCHEDULE

Xerox Corporation

CONTRACT NUMBER:	3-17-36-0030B
SUPPLEMENT NO.:	N/A
CMAS CONTRACT TERM:	1/12/2017 through 12/31/2021
CONTRACT CATEGORY:	Information Technology Goods & Services
APPLICABLE TERMS & CONDITIONS:	September 8, 2014
MAXIMUM ORDER LIMIT:	\$500,000
FOR USE BY:	State & Local Government Agencies
BASE GSA SCHEDULE NO.:	GS-03F-137DA
BASE SCHEDULE HOLDER:	Xerox Corporation

This contract provides for the purchase and warranty of hardware and software, installation, maintenance, software maintenance as a product, training and Federal Lease to Own Purchase (LTOP). (See page 2 for the specific brands and restrictions applicable to this contract.)

NOTICE: Products and/or services on this CMAS may be available on a Mandatory Statewide Contracts. If this is the case, the use of this CMAS is restricted unless the State agency has an approved exemption as explained in the Statewide Contract User Instructions. Information regarding Statewide Contracts can be obtained at the website: <http://www.documents.dgs.ca.gov/pd/contracts/contractindexlisting.pdf>. This requirement is not applicable to local government entities.

ANY REFERENCE TO A SPECIFIC MANUFACTURER'S OR PUBLISHER'S WARRANTY OR TERMS AND CONDITIONS AS SHOWN IN THE BASE XEROX CORPORATION GSA SCHEDULE ARE NOT APPLICABLE TO THIS CMAS CONTRACT.

The most current Ordering Instructions and Special Provisions and CMAS Terms and Conditions, products and/or services and pricing are included herein. All purchase orders issued under this contract incorporate the following Ordering Instructions and Special Provisions and CMAS Terms and Conditions dated September 8, 2014.



BRUCE FONG, Program Analyst, California Multiple Award Schedules Unit

Effective Date: **1/12/2017**

**CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)
XEROX CORPORATION
CMAS NO. 3-17-36-0030B**

Agency non-compliance with the requirements of this contract may result in the loss of delegated authority to use the CMAS program. Contractor non-compliance with the requirements of this contract may result in contract termination.

CMAS PRODUCT & SERVICE CODES

The CMAS Product & Service Codes listed below are for marketing purposes only. Review this CMAS contract and the base contract identified below for the products and/or services available on this contract.

Brand-Xerox
Copier-Accessories
Copier-Color
Copier-Digital
Copier-Digital Duplicator
Copier-Equip
Printing-Equipment
Copier-Scan/Copy/Print
Printer
Printer-Accessories
Printer-Color
Toner-Printer

AVAILABLE PRODUCTS AND/OR SERVICES

Only products from the manufacturer(s) listed below are available within the scope of this contract:

Xerox

The ordering agency must verify all products and/or services are currently available on the base GSA schedule at the GSA eLibrary. Access the GSA eLibrary at www.gsaelibrary.gsa.gov.

EXCLUDED PRODUCTS AND/OR SERVICES

Services such as software maintenance as a service, repair, personal services and public works services with a requirement for State contractor licensing are not available under this contract.

CMAS BASE CONTRACT

This CMAS contract is based on some or all of the products and/or services and prices from GSA Schedule No. GS-03F-137DA (Xerox Corporation) with a GSA term of 10/1/2016 through 9/30/2021. The term of this CMAS contract incorporates an extension of three months beyond the expiration of the base GSA contract, and is shown in the "CMAS Term Dates" on page 1.

ISSUE PURCHASE ORDER TO

Agency purchase orders must be mailed to the following address, or faxed to (972) 880-1475:

Xerox Corporation
1303 Ridgeview Drive
Lewisville, TX 75057
Attn: Purchase Order

Agencies with questions regarding products and/or services may contact the contractor as follows:

Contact: Michelle Yoshino
Phone: (714) 262-8854
E-mail: michelle.yoshino@xerox.com

CALIFORNIA SELLER'S PERMIT

Xerox Corporation's California Seller's Permit No. is 98040852. Prior to placing an order with this company, agencies should verify that this permit is still valid at the following website: www.boe.ca.gov.

CONTRACT PRICES

The maximum prices allowed for the products and/or services available in this CMAS contract are those set forth in the base contract identified on page 2 of this contract.

The ordering agency is encouraged to seek prices lower than those on this CMAS contract. When responding to an agency's Request for Offer (RFO), the contractor can offer lower prices to be competitive.

WARRANTY

For warranties, see the federal GSA schedule and the CMAS Terms and Conditions, General Provisions, CMAS Warranty.

DELIVERY

1-60 days after receipt of order, or as negotiated between agency and contractor and included in the purchase order, or as otherwise stipulated in the contract.

SHIPPING INSTRUCTIONS

F.O.B. (Free On Board) Destination. Seller pays the freight charges.

PURCHASING AUTHORITY DOLLAR THRESHOLD

No CMAS order may be executed by a State agency that exceeds that agency's CMAS purchasing authority threshold or the CMAS maximum order limit, whichever is less.

**CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)
XEROX CORPORATION
CMAS NO. 3-17-36-0030B**

HOW TO USE CMAS CONTRACTS

Agencies must adhere to the detailed requirements in the State Contracting Manual (SCM) when using CMAS contracts. The requirements for the following bullets are in the SCM, Volume 2, Chapter 6 (for non-IT) and the SCM, Volume 3, Chapter 6 (for IT):

- Develop a Request for Offer, which includes a Scope of Work (SOW), and Bidder Declaration form. For information on the Bidder Declaration requirements, see the SCM, Volume 2, Section 3.5.7 and Volume 3, Section 3.4.7.
- Search for potential CMAS contractors at www.dgs.ca.gov/pd/Programs/Leveraged/CMAS.aspx, select "Find a CMAS Contract".
- Solicit offers from a minimum of 3 CMAS contractors including one small business and/or DVBE, if available, who are authorized to sell the products and/or services needed.
- If soliciting offers from a certified DVBE, include the Disabled Veteran Business Enterprise Declarations form (Std. 843) in the Request for Offer. This declaration must be completed and returned by the DVBE prime contractor and/or any DVBE subcontractors. (See the SCM Volumes 2 and 3, Chapter 3).
- This is not a bid transaction, so the small business preference, DVBE participation goals, protest language, intents to award, evaluation criteria, advertising, etc., are not applicable.
- If less than 3 offers are received, State agencies must document their file with the reasons why the other suppliers solicited did not respond with an offer.
- Assess the offers received using best value methodology, with cost as one of the criteria.
- Issue a Purchase Order to the selected contractor.
- For CMAS transactions under \$5,000 only one offer is required if the State agency can establish and document that the price is fair and reasonable.

Local governments set their own order limits, and are not bound by the order limits on the cover page of this contract.

SPLITTING ORDERS

Splitting orders to avoid any monetary limitations is prohibited.

Do not circumvent normal procurement methods by splitting purchases into a series of delegated purchase orders (PCC § 10329).

Splitting a project into small projects to avoid either fiscal or procedural controls is prohibited (SAM 4819.34).

MINIMUM ORDER LIMITATION

There is no minimum dollar value limitation on orders placed under this contract.

ORDERING PROCEDURES

1. Order Form

State agencies shall use a Contract/Delegation Purchase Order (Std. 65) for purchases and services.

Local governments shall, in lieu of the State's Purchase Order (Std. 65), use their own purchase order document.

Electronic copies of the State Standard Forms can be found at the Office of State Publishing website. The site provides information on the various forms and use with the Adobe Acrobat Reader. Beyond the Reader capabilities, Adobe Acrobat advanced features may be utilized if you have Adobe Business Tools or Adobe Acrobat 4.0 installed on your computer. Direct link to the Standard Form 65:
<http://www.dgs.ca.gov/dgs/ProgramsServices/Forms/FMC/Search.aspx>

2. Purchase Orders

State and Local Government agencies are required to send a copy of each CMAS purchase order to:

Department of General Services
Procurement Division, Data Management Unit
PO Box 989052, MS #2-203
West Sacramento, CA 95798-9052
(or via Interagency Mail Service #Z-1)

The agency is required to complete and distribute the order form. For services, the agency shall modify the information contained on the order to include the service period (start and end date), and the monthly cost (or other intermittent cost), and any other information pertinent to the services being provided. The cost for each line item should be included in the order, not just system totals.

The contractor must immediately reject orders that are not accurate. Discrepancies are to be negotiated and incorporated into the order prior to the products and services being delivered.

3. Service and Delivery after Contract Expiration

The purchase order must be issued before the CMAS contract end term expires. However, delivery of the products or completion of the services may be after the contract end term expires (unless otherwise specifically stated in the contract), but must be as provided for in the contract and as specified in the purchase order.

**CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)
XEROX CORPORATION
CMAS NO. 3-17-36-0030B**

4. Multiple Contracts on STD. 65 Order Form

Agencies may include multiple CMAS contracts from the same contractor on a single Std. 65 Contract/Delegation Purchase Order. For guidelines, see the SCM, Volumes 2 & 3, Chapter 6.B4.1.

5. Amendments to Agency's Purchase Orders

Agency purchase orders cannot be amended if the CMAS contract has expired.

The SCM, Volumes 2 & 3, Chapter 6.A5.0 provides the following direction regarding amendments to all types of CMAS purchase orders:

Original orders, which include options for changes (e.g., quantity or time), that were evaluated and considered in the selection for award during the RFO process, may be amended consistent with the terms of the original order, provided that the original order allowed for amendments. If the original order did not evaluate options, then amendments are not allowed unless an NCB is approved for those amendments.

Amendments unique to non-IT services are covered in the SCM, Volume 2, Chapter 6.B2.9 as follows:

If the original contract permitted amendments, but did not specify the changes (e.g., quantity and/or time), it may be amended. This only applies to the first amendment. The time shall not exceed one year, or add not more than 30% of the original order value and may not exceed \$250,000. If the original contract did not have language permitting amendments, the NCB process must be followed.

Also, see the SCM, Volumes 2 & 3, Chapter 8, Topic 6, for more information on amending purchase orders.

CONTRACTOR OWNERSHIP INFORMATION

Xerox Corporation is a large business enterprise.

SMALL BUSINESS MUST BE CONSIDERED

Prior to placing orders under the CMAS program, State agencies shall whenever practicable first consider offers from small businesses that have established CMAS contracts [GC Section 14846(b)]. NOTE: The Department of General Services auditors will request substantiation of compliance with this requirement when agency files are reviewed.

The following website lists CMAS Small Business and Disabled Veteran Partners:
www.dgs.ca.gov/pd/Programs/Leveraged/CMAS.aspx
then select "Find a CMAS Contractor".

In response to our commitment to increase participation by small businesses, the Department of General Services **waives the administrative fee (a fee currently charged to customer agencies to support the CMAS program) for orders to certified small business enterprises.**

See the current fees in the DGS Price Book at:
<http://www.dgs.ca.gov/ofs/Pricebook.aspx>

SMALL BUSINESS/DVBE - TRACKING

State agencies are able to claim subcontracting dollars towards their small business or DVBE goals whenever the Contractor subcontracts a commercially useful function to a certified small business or DVBE. The Contractor will provide the ordering agency with the name of the small business or DVBE used and the dollar amount the ordering agency can apply towards its small business or DVBE goal.

SMALL BUSINESS/DVBE - SUBCONTRACTING

1. The amount an ordering agency can claim towards achieving its small business or DVBE goals is the dollar amount of the subcontract award made by the Contractor to each small business or DVBE.
2. The Contractor will provide an ordering agency with the following information at the time the order is quoted:
 - a. The Contractor will state that, as the prime Contractor, it shall be responsible for the overall execution of the fulfillment of the order.
 - b. The Contractor will indicate to the ordering agency how the order meets the small business or DVBE goal, as follows:
 - List the name of each company that is certified by the Office of Small Business and DVBE Certification that it intends to subcontract a commercially useful function to; and
 - Include the small business or DVBE certification number of each company listed, and attach a copy of each certification; and
 - Indicate the dollar amount of each subcontract with a small business or DVBE that may be claimed by the ordering agency towards the small business or DVBE goal; and
 - Indicate what commercially useful function the small business or DVBE subcontractor will be providing towards fulfillment of the order.
3. The ordering agency's purchase order must be addressed to the prime Contractor, and the purchase order must reference the information provided by the prime Contractor as outlined above.

**CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)
XEROX CORPORATION
CMAS NO. 3-17-36-0030B**

NEW EQUIPMENT REQUIRED

The State will procure new equipment. All equipment must be new (or warranted as newly manufactured) and the latest model in current production. Used, shopworn, demonstrator, prototype, or discontinued models are not acceptable.

Where Federal Energy Management Program (FEMP) standards are available, all State agencies shall purchase only those products that meet the recommended standards. All products displaying the Energy Star label meet the FEMP standards.

SPECIAL MANUFACTURED GOODS

Any contract for goods to be manufactured by the contractor specifically for the State and not suitable for sale to others may require progress payments.

For Non-IT goods contracts, see the CMAS contract Non-IT Commodities Terms & Conditions, Provision 69, Progress Payments.

PRODUCT INSTALLATION

The contractor is fully responsible for all installation services performed under the CMAS contract. Product installations must be performed by manufacturer authorized personnel and meet manufacturer documented specifications.

The prime contractor, as well as any subcontractors, must hold any certifications and/or licenses required for the project.

TRADE-IN EQUIPMENT

Trade-ins at open market price may be considered. The product description and trade-in allowance must be identified on the purchase order.

Agencies are required to adhere to SAM 3520 through 3520.6, Disposal of Personal Property and Surplus Personal Property, as applicable, when trade-ins are considered. A Property Survey Report, Std. 152, must be submitted for approval prior to disposition of any State-owned personal property, including general office furniture regardless of the acquisition value, or if the property was recorded or capitalized for accounting purposes.

INTEGRATED SERVICES

Agencies are prohibited from using CMAS and/or Masters for large-scale information technology system integration projects except when specifically approved by the California Department of Technology.

ELECTRONIC WASTE RECYCLING

The Electronic Waste Recycling Act of 2003 requires retailers to collect a recycling fee from consumers on covered electronic devices starting January 1, 2005. California Public Resources Code, Section 42463(f) defines a "covered electronic device" as a video display device containing a screen greater than four inches measured diagonally. See the code identified above for more information and exceptions to this definition.

The Integrated Waste Management Board is implementing this new legislation, and the Board of Equalization is responsible for collecting these recycling fees from retailers. See the following two websites for more information on this topic:

www.ciwmb.ca.gov/Electronics/Act2003/

www.boe.ca.gov/sptaxprog/ewaste.htm

The electronic waste recycling fee must be shown as a line item on the agency purchase order before the Contractor can include it on their invoice.

PRODUCTIVE USE REQUIREMENTS

The customer in-use requirement applies to all procurements of information technology equipment and software, per the SCM, Volume 3, Chapter 2, Section 2.B6.2.

Each equipment or software component must be in current operation for a paying customer and the paying customer must be external to the contractor's organization (not owned by the contractor and not owning the contractor).

To substantiate compliance with the Productive Use Requirements, the contractor must provide upon request the name and address of a customer installation and the name and telephone number of a contact person.

The elapsed time such equipment or software must have been in operation is based upon the importance of the equipment or software for system operation and its cost. The following designates product categories and the required period of time for equipment or software operation prior to approval of the replacement item on CMAS.

**CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)
XEROX CORPORATION
CMAS NO. 3-17-36-0030B**

Category 1 - Critical Software: Critical software is software that is required to control the overall operation of a computer system or peripheral equipment. Included in this category are operating systems, data base management systems, language interpreters, assemblers and compilers, communications software, and other essential system software.

<u>Cost</u>	<u>Prior Operation</u>
More than \$100,000	8 months
\$10,000 up to \$100,000	4 months
Less than \$10,000	1 month

Category 2 - All Information Technology Equipment and Non-Critical Software: Information technology equipment is defined in SAM Section 4819.2.

<u>Cost</u>	<u>Prior Operation</u>
More than \$100,000	6 months
\$10,000 up to \$100,000	4 months
Less than \$10,000	1 month

OPEN MARKET/INCIDENTAL, NON-SCHEDULE ITEMS

The only time that open market/incidental, non-schedule items may be included in a CMAS order is when they fall under the parameters of the Not Specifically Priced (NSP) Items provision. If the NSP provision is not included in the schedule, or the products and/or services required do not qualify under the parameters of the NSP provision, the products and/or services must be procured separate from CMAS.

NOT SPECIFICALLY PRICED (NSP) ITEMS

Contractors must be authorized providers of the hardware, software and/or services they offer under the Not Specifically Priced (NSP) Items provision.

Agency and contractor use of the NSP provision is subject to the following requirements:

1. Purchase orders containing only NSP items are prohibited.
2. A purchase order containing NSP items may be issued only if it results in the lowest overall alternative to the State.
3. NSP items shall be clearly identified in the order. Any product or service already specifically priced and included in the contract may not be identified as an NSP item.
4. Maximum Order Limitation: For orders \$250,000, or less, the total dollar value of all NSP items included in a purchase order shall not exceed \$5,000. For orders exceeding \$250,000, and at the option of the contractor, the total dollar value of all NSP items in a purchase order shall not exceed 5% of the total cost of the order, or \$25,000 whichever is lower.

5. An NSP item included in an order issued against a contract is subject to all of the terms and conditions set forth in the contract.
6. Trade-ins, upgrades, involving the swapping of boards, are permissible, where the contract makes specific provisions for this action. In those instances where it is permitted, the purchase order must include the replacement item and a notation that the purchase involves the swapping of a board.

The following NSP items ARE SPECIFICALLY EXCLUDED from any order issued under this contract:

1. Items not intended for use in directly supporting the priced items included in the same order. An NSP item must be subordinate to the specifically priced item that it is supporting. For example, a cable, which is not otherwise specifically priced in the contract, is subordinate to a specifically priced printer or facsimile machine, and is eligible to be an NSP item subject to that cable meeting the remaining NSP requirements. However, a printer or facsimile machine, which is not otherwise specifically priced in the contract, is not subordinate to a specifically priced cable, and is not eligible to be an NSP item.
2. Supply type items, except for the minimum amount necessary to provide initial support to the priced items included in the same order.
3. Items that do not meet the Productive Use Requirements for information technology products, per the SCM, Volume 3, Chapter 2, Section 2.B6.2.
4. Any other item or class of items specifically excluded from the scope of this contract.
5. Public Works components NOT incidental to the total purchase order amount.
6. Products or services the contractor is NOT factory authorized or otherwise certified or trained to provide.
7. Follow-on consultant services that were previously recommended or suggested by the same contractor.

The contractor is required to reject purchase orders containing NSP items that do not conform to the above requirements. The contractor will promptly notify the agency issuing the non-conforming order of its non-acceptance and the reasons for its non-acceptance.

**CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)
XEROX CORPORATION
CMAS NO. 3-17-36-0030B**

**STATE AND LOCAL GOVERNMENTS CAN USE
CMAS**

State and local government agency use of CMAS contracts is optional. A local government is any city, county, city and county, district, or other local governmental body or corporation, including UC, CSU, K-12 schools and community colleges empowered to expend public funds. While the State makes this contract available, each local government agency should make its own determination whether the CMAS program is consistent with their procurement policies and regulations.

UPDATES AND/OR CHANGES

A CMAS amendment is not required for updates and/or changes once the update and/or change becomes effective for the federal GSA schedule, except as follows:

- A CMAS amendment is required when the contract is based on products and/or services from another contractor's multiple award contract and the contractor wants to add a new manufacturer's products and/or services.
- A CMAS amendment is required for new federal contract terms and conditions that constitute a material difference from existing contract terms and conditions. A material change has a potentially significant effect on the delivery, quantity or quality of items provided, the amount paid to the contractor or on the cost to the State.
- A CMAS amendment is required for changes to contracts that require California Prison Industry Authority (CALPIA) approval.

A CMAS amendment is required to update and/or change terms and conditions and/or products and services based on a non-federal GSA multiple award contract.

**SELF-DELETING FEDERAL GSA TERMS AND
CONDITIONS**

Instructions, or terms and conditions that appear in the Special Items or other provisions of the federal GSA and apply to the purchase, license, or rental (as applicable) of products or services by the U.S. Government in the United States, and/or to any overseas location shall be self-deleting. (Example: "Examinations of Records" provision).

Federal regulations and standards, such as Federal Acquisition Regulation (FAR), Federal Information Resources Management Regulation (FIRMR), Federal Information Processing Standards (FIPS), General Services Administration Regulation (GSAR), or Federal Installment Payment Agreement (FIPA) shall be self-deleting. Federal blanket orders and small order procedures are not applicable.

ORDER OF PRECEDENCE

The CMAS Terms and Conditions shall prevail if there is a conflict between the terms and conditions of the contractor's federal GSA, (or other multiple award contract), packaging, invoices, catalogs, brochures, technical data sheets or other documents (see CMAS Terms and Conditions, CONFLICT OF TERMS).

APPLICABLE CODES, POLICIES AND GUIDELINES

All California codes, policies, and guidelines are applicable. THE USE OF CMAS DOES NOT REDUCE OR RELIEVE STATE AGENCIES OF THEIR RESPONSIBILITY TO MEET STATEWIDE REQUIREMENTS REGARDING CONTRACTING OR THE PROCUREMENT OF GOODS OR SERVICES. Most procurement and contract codes, policies, and guidelines are incorporated into CMAS contracts. Nonetheless, there is no guarantee that every possible requirement that pertains to all the different and unique State processes has been included.

STATEWIDE PROCUREMENT REQUIREMENTS

Agencies must carefully review and adhere to all statewide procurement requirements in the SCM, Volumes 2 and 3, such as:

- Automated Accounting System requirements of State Administrative Manual (SAM) Section 7260-62
- Productive Use Requirements, per the SCM, Volume 3, Chapter 2, Section 2.B6.2.
- SAM Sections 4819.41 and 4832 certifications for information technology procurements and compliance with policies.
- Services may not be paid for in advance.
- Agencies are required to file with the Department of Fair Employment and Housing (DFEH) a Contract Award Report Std. 16 for each order over \$5,000 within 10 days of award, including supplements that exceed \$5,000.
- Pursuant to Public Contract Code Section 10359 State agencies are to report all Consulting Services Contract activity for the preceding fiscal year to DGS and the six legislative committees and individuals that are listed on the annual memorandum from DGS.
- Pursuant to Unemployment Insurance Code Section 1088.8, State and local government agencies must report to the Employment Development Department (EDD) all payments for services that equal \$600 or more to independent sole proprietor contractors. See the Contractor's Std. 204, Payee Data Record, to determine sole proprietorship. For inquiries regarding this subject, contact EDD at (916) 651-6945 for technical questions or (888) 745-3886 for information and forms.
- Annual small business and disabled veteran reports.

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- Post evaluation reports. Public Contract Code 10369 requires State agencies to prepare post evaluations on form Std. 4 for all completed non-IT consulting services contracts of more than \$5,000. Copies of negative evaluations for non-IT consulting services only must be sent to the DGS, Office of Legal Services. The Bureau of State Audits requires State agencies annually to certify compliance with these requirements.

**ETHNICITY/RACE/GENDER REPORTING
REQUIREMENT**

Effective January 1, 2007, in accordance with Public Contract Code 10111, State agencies are to capture information on ethnicity, race, and gender of business owners (not subcontractors) for all awarded contracts, including CAL-Card transactions. Each department is required to independently report this information to the Governor and the Legislature on an annual basis.

Agencies are responsible for developing their own guidelines and forms for collecting and reporting this information.

Contractor participation is voluntary.

PAYMENTS AND INVOICES

1. Payment Terms

Payment terms for this contract are net 45 days.

Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code Section 927 et. seq. Unless expressly exempted by statute, the Act requires State agencies to pay properly submitted, undisputed invoices not more than 45 days after (i) the date of acceptance of goods or performance of services; or (ii) receipt of an undisputed invoice, whichever is later.

2. Payee Data Record (Std. 204)

Each State accounting office must have a copy of the Contractor's Payee Data Record (Std. 204) in order to process payment of invoices. Contractors are required to provide a copy of their Std. 204 upon request from an agency customer. Agencies should forward a copy of the Std. 204 to their accounting office. Without the Std. 204, payment may be unnecessarily delayed.

3. DGS Administrative and Incentive Fees

Orders from State Agencies:

The Department of General Services (DGS) will bill each State agency directly an administrative fee for use of CMAS contracts.

The administrative fee should NOT be included in the order total, nor remitted before an invoice is received from DGS. This administrative fee is waived for CMAS purchase orders issued to California certified small businesses.

See the current administrative fees in the DGS Price Book at:
<http://www.dgs.ca.gov/ofs/Pricebook.aspx>.

Orders from Local Government Agencies:

Effective for CMAS orders dated 1/1/2010 or later, CMAS contractors, who are not California certified small businesses, are required to remit to the DGS an incentive fee equal to 1% of the total of all local government agency orders (excluding sales tax and freight) placed against their CMAS contract(s). This incentive fee is in lieu of local government agencies being billed the above referenced DGS administrative fee.

This incentive fee is waived for CMAS purchase orders issued to California certified small businesses.

The check covering this fee shall be made payable to the Department of General Services, CMAS Unit, and mailed to the CMAS Unit along with the applicable Quarterly Report. See the provision in this contract entitled "Contractor Quarterly Report Process" for information on when and where to send these checks and reports.

4. Contractor Invoices

Unless otherwise stipulated, the contractor must send their invoices to the agency address set forth in the purchase order. Invoices shall be submitted in triplicate and shall include the following:

- Contract number
- Agency purchase order number
- Agency Bill Code
- Line item number
- Unit price
- Extended line item price
- Invoice total

State sales tax and/or use tax shall be itemized separately and added to each invoice as applicable.

The company name on the CMAS contract, purchase order and invoice must match or the State Controller's Office will not approve payment.

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5. Advance Payments

Advance payment is allowed for services only under limited, narrowly defined circumstances, e.g., between specific departments and certain types of non-profit organizations, or when paying another government agency (GC 11256 – 11263 and 11019).

It is NOT acceptable to pay in advance, except software maintenance and license fees, which are considered a subscription, may be paid in advance if a provision addressing payment in advance is included in the purchase order.

Warranty upgrades and extensions may also be paid for in advance, one time.

6. Credit Card

Xerox Corporation accepts the State of California credit card (CAL-Card).

A Purchasing Authority Purchase Order (Std. 65) is required even when the ordering department chooses to pay the contractor via the CAL-Card. Also, the DGS administrative fee is applicable for all CMAS orders to suppliers not California certified as a small business.

7. Lease/Purchase Analysis

State agencies must complete a Lease/Purchase Analysis (LPA) to determine best value when contemplating a lease/rental, and retain a copy for future audit purposes (SAM 3700). Approval by the Department of General Services is not required.

8. Leasing

Except for Federal Lease to Own Purchase (LTOP) and hardware rental provisions with no residual value owed at end term (\$1 residual value is acceptable), Federal GSA Lease provisions are NOT available through CMAS because the rates and contract terms and conditions are not acceptable or applicable to the State.

SEAT Management financing options are NOT available through this contract.

As an alternative, agencies may consider financing through the State's financial marketplace GS \$Mart™. All terms and conditions and lenders are pre-approved for easy financing. The GS \$Mart™ Internet address is www.dgs.ca.gov/pd/programs/statefinancialmarketplace.aspx. Buyers may contact the GS \$Mart™ Administrator, Patrick Mullen by phone at (916) 375-4617 or via e-mail at patrick.mullen@dgs.ca.gov for further information.

9. Maintenance Tax

The Board of Equalization has ruled that in accordance with Section 1655 of the Sales and Use Tax Regulations of the Business Taxes Law Guide, that whenever optional maintenance contracts include consumable supplies, such supplies are subject to sales tax.

Generally, the State has two options:

1. For contracts that provide for maintenance services (i.e., the furnishing of labor and parts necessary to maintain equipment), the charges for the provision of maintenance services are not taxable.
2. For contracts that provide for maintenance services and consumable supply items (e.g., toner, developer, and staples), the provision of the consumable supplies is considered a taxable sale of tangible personal property. Therefore, State agencies awarding optional maintenance contracts are responsible for paying the applicable sales tax on the consumable supplies utilized during the performance period of the maintenance contract.

The contractor will be required to itemize the taxed consumables for State accounting purposes.

CONTRACTOR QUARTERLY REPORT PROCESS

Contractors are required to submit a detailed CMAS Business Activity Report on a quarterly basis to the CMAS Unit. See Attachment B for a copy of this form and instructions.

This report shall be mailed to:

Department of General Services
Procurement Division – CMAS Unit
Attention: Quarterly Report Processing
PO Box 989052, MS #2-202
West Sacramento, CA 95798-9052

Reports that include checks for incentive fees or that exceed a total of 5 pages must be mailed and shall not be faxed or e-mailed. All other reports may be faxed or e-mailed to the attention of Quarterly Report Processing as follows:

CMAS Unit Fax Number: (916) 375-4663
CMAS Unit E-Mail: cmas@dgs.ca.gov

For the full instructions on completing and submitting CMAS Quarterly Business Activity Reports, and a soft copy of a blank quarterly report form, go to www.dgs.ca.gov/pd/Programs/Leveraged/CMAS.aspx, and then select "For Suppliers/Contractors".

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Important things to remember regarding CMAS Quarterly Business Activity Reports (referred to as "reports" below):

- A report is required for each CMAS contract each quarter, even when no new purchase orders are received in the quarter.
- A separate report is required for each CMAS contract.
- Each purchase order must be reported only once in the quarter identified by the purchase order date, regardless of when the services were performed, the products were delivered, the invoice was sent, or the payment was received.
- Purchase orders from State and local government agencies must be separated on the report, as shown in the instructions.
- Contractors must report the sales activity for all resellers listed on their CMAS contract.
- Any report that does not follow the required format or excludes required information will be deemed incomplete and returned to the contractor for corrections.
- Taxes and freight must not be included in the report.
- For CMAS orders dated 1/1/2010 or later, contractors are no longer required to attach copies of purchase orders to their reports. This changed requirement will begin on Q1-2010 reports, which are due 4/15/2010.
- For CMAS orders dated 1/1/2010 or later, contractors who are not California certified small businesses must attach to their quarterly report a check covering the required incentive fee for all CMAS sales to local government agencies (see more information below). This new requirement will start on Q1-2010 reports, which are due 4/15/2010.
- New contracts, contract renewals or extensions, and contract modifications will be approved only if the contractor has submitted all required quarterly reports and incentive fees.

CMAS Quarterly Business Activity Reports are due in the CMAS Unit within two weeks after the end of each quarter as shown below:

Quarter 1	Jan 1 to Mar 31	Due Apr 15
Quarter 2	Apr 1 to Jun 30	Due Jul 15
Quarter 3	Jul 1 to Sep 30	Due Oct 15
Quarter 4	Oct 1 to Dec 31	Due Jan 15

CONTRACTOR QUARTERLY INCENTIVE FEES

CMAS contractors who are not California certified small businesses must remit to the DGS an incentive fee equal to 1% of the total of all local government agency orders (excluding sales tax and freight) placed against their CMAS contract(s). This incentive fee is in lieu of local government agencies being billed the above referenced DGS administrative fee.

CMAS contractors cannot charge local government agencies an additional 1% charge on a separate line item to cover the incentive fee. The contractor must include the 1% incentive fee in the price of the products or services offered, and the line item prices must not exceed the applicable GSA prices.

A local government agency is any city, county, district, or other local governmental body, including the California State University (CSU) and University of California (UC) systems, K-12 public schools and community colleges empowered to expend public funds.

This incentive fee is waived for CMAS purchase orders issued to California certified small businesses.

The check covering this fee shall be made payable to the Department of General Services, CMAS Unit, and mailed to the CMAS Unit along with the applicable Quarterly Report. See the provision in this contract entitled "Contractor Quarterly Report Process" for information on when and where to send these checks and reports.

CONTRACTOR PROVIDES COPY OF THE CONTRACT AND SUPPLEMENTS

CMAS contractors are required to provide the entire contract that consists of the following:

- Cover pages with DGS logo and CMAS analyst's signature, and Ordering Instructions and Special Provisions.
- California CMAS Terms and Conditions.
- Federal GSA Terms and Conditions.
- Federal GSA products, services, and price list.
- Supplements, if applicable.

It is important for the agency to confirm that the required products, services, and prices are included in the contract and are at or below contract rates. To streamline substantiation that the needed items are in the contract, the agencies should ask the contractor to identify the specific pages from the contract that include the required products, services, and prices. Agencies should save these pages for their file documentation.

CONTRACTORS ACTING AS FISCAL AGENTS ARE PROHIBITED

When a subcontractor ultimately provides all of the products or performs all of the services that a contractor has agreed to provide, and the prime contractor only handles the invoicing of expenditures, then the prime contractor's role becomes that of a fiscal agent because it is merely administrative in nature, and does not provide a Commercially Useful Function (CUF). It is unacceptable to use fiscal agents in this manner because the agency is paying unnecessary administrative costs.

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AGENCY RESPONSIBILITY

Agencies must contact contractors to obtain copies of the contracts and compare them for a best value purchasing decision.

Each agency is responsible for its own contracting program and purchasing decisions, including use of the CMAS program and associated outcomes.

This responsibility includes, but is not necessarily limited to, ensuring the necessity of the services, securing appropriate funding, complying with laws and policies, preparing the purchase order in a manner that safeguards the State's interests, obtaining required approvals, and documenting compliance with Government Code 19130.b (3) for outsourcing services.

It is the responsibility of each agency to consult as applicable with their legal staff and contracting offices for advice depending upon the scope or complexity of the purchase order.

If you do not have legal services available to you within your agency, the DGS Office of Legal Services is available to provide services on a contractual basis.

CONFLICT OF INTEREST

Agencies must evaluate the proposed purchase order to determine if there are any potential conflict of interest issues. See the attached CMAS Terms and Conditions, Conflict of Interest, for more information.

FEDERAL DEBARMENT

When federal funds are being expended, the agency is required to obtain (retain in file) a signed "Federal Debarment" certification from the contractor before the purchase order is issued.

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 29 CFR Part 98, Section 98.510, Participants; responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211).

LIQUIDATED DAMAGES FOR LATE DELIVERY

The value of the liquidated damages cannot be a penalty, must be mutually agreed upon by agency and contractor and included in the purchase order to be applicable.

ACCEPTANCE TESTING CRITERIA

If the agency wants to include acceptance testing for all newly installed technology systems, and individual equipment, and machines which are added or field modified (modification of a machine from one model to another) after a successful performance period, the test criteria must be included in the purchase order to be applicable.

AMERICANS WITH DISABILITY ACT (ADA)

Section 504 of the Rehabilitation Act of 1973 as amended; Title VI and VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act, 42 USC 12101; California Code of Regulations, Title 2, Title 22; California Government Code, Sections 11135, et seq.; and other federal and State laws, and Executive Orders prohibit discrimination. All programs, activities, employment opportunities, and services must be made available to all persons, including persons with disabilities. See Attachment A for Procurement Division's ADA Compliance Policy of Nondiscrimination on the Basis of Disability.

Individual government agencies are responsible for self-compliance with ADA regulations.

Contractor sponsored events must provide reasonable accommodations for persons with disabilities.

DGS PROCUREMENT DIVISION CONTACT AND PHONE NUMBER

Department of General Services
Procurement Division, CMAS Unit
707 Third Street, 2nd Floor, MS 202
West Sacramento, CA 95605-2811

Phone # (916) 375-4363
Fax # (916) 375-4663

ATTACHMENT A

ADA NOTICE

Procurement Division (State Department of General Services)
AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE
POLICY OF NONDISCRIMINATION ON THE BASIS OF DISABILITY

To meet and carry out compliance with the nondiscrimination requirements of the Americans With Disabilities Act (ADA), it is the policy of the Procurement Division (within the State Department of General Services) to make every effort to ensure that its programs, activities, and services are available to all persons, including persons with disabilities.

For persons with a disability needing a reasonable accommodation to participate in the Procurement process, or for persons having questions regarding reasonable accommodations for the Procurement process, please contact the Procurement Division at (916) 375-4400 (main office); the Procurement Division TTY/TDD (telephone device for the deaf) or California Relay Service numbers which are listed below. You may also contact directly the Procurement Division contact person who is handling this procurement.

IMPORTANT: TO ENSURE THAT WE CAN MEET YOUR NEED, IT IS BEST THAT WE RECEIVE YOUR REQUEST AT LEAST 10 WORKING DAYS BEFORE THE SCHEDULED EVENT (i.e., MEETING, CONFERENCE, WORKSHOP, etc.) OR DEADLINE DUE-DATE FOR PROCUREMENT DOCUMENTS.

The Procurement Division TTY telephone numbers are:

Sacramento Office: (916) 376-1891
Fullerton Office: (714) 773-2093

The California Relay Service Telephone Numbers are:

Voice 1-800-735-2922 or 1-888-877-5379
TTY: 1-800-735-2929 or 1-888-877-5378
Speech-to-Speech: 1-800-854-7784

ATTACHMENT B

CMAS QUARTERLY BUSINESS ACTIVITY REPORT

Contractor Name: _____ Reporting Calendar Year: _____ Revision ☐

Contract Number: _____ Reporting Quarter: ☐ Q1 (Jan-Mar) ☐ Q2 (Apr-Jun) ☐ Q3 (Jul-Sep) ☐ Q4 (Oct-Dec) ☐

For Questions Regarding This Report Contact:

Name: _____

Phone Number: _____

E-mail: _____

Check Here if No New Orders for This Quarter ☐

STATE AGENCY PURCHASES

State Agency Name	Purchase Order Number	Purchase Order Date	Agency Billing Code	Total Dollars Per Purchase Order	Agency Contact	Agency Address	Phone Number

Total State Agency Dollars Reported for Quarter: \$ _____

LOCAL GOVERNMENT AGENCY PURCHASES

Local Government Agency Name	Purchase Order Number	Purchase Order Date	Total Dollars Per Purchase Order	Agency Contact	Agency Address	Phone Number

Total Local Government Agency Dollars for Quarter: \$ _____ 1% Remitted to DGS (does not apply to CA certified S/BS): \$ _____

Total of State and Local Government Agency Dollars Reported for this Quarter: \$ _____

Instructions for completing the CMAS Quarterly Business Activity Report

1. Complete the top of the form with the appropriate information for your company.
2. **Agency Name** - Identify the State agency or Local Government agency that issued the order.
3. **Purchase Order Number** - Identify the purchase order number (and amendment number if applicable) on the order form. This is not your invoice number. This is the number the State agency or Local Government agency assigns to the order.
4. **Purchase Order Date** - Identify the date the purchase order was issued, as shown on the order. This is not the date you received, accepted, or invoiced the order.
5. **Agency Billing Code** - Identify the State agency billing code. This is a five-digit number identified on the upper right hand corner of the Std. 65 purchase order form. You must identify this number on all purchases made by State of California agencies. Billing codes are not applicable to Local Government agencies.
6. **Total Dollars Per PO** - Identify the total dollars of the order excluding tax and freight. Tax must NOT be included in the quarterly report, even if the agency includes tax on the purchase order. The total dollars per order should indicate the entire purchase order amount (less tax and freight) regardless of when you invoice order, perform services, deliver product, or receive payment.
7. **Agency Contact** - Identify the ordering agency's contact person on the purchase order.
8. **Agency Address** - Identify the ordering agency's address on the purchase order.
9. **Phone Number** - Identify the phone number for the ordering agency's contact person.
10. **Total State Sales & Total Local Sales** - Separately identify the total State dollars and/or Local Government agency dollars (pre-tax) for all orders placed in quarter.
11. **1% Remitted to DGS** - Identify 1% of the total Local Government agency dollars reported for the quarter. This is the amount to be remitted to DGS by contractors who are not California certified small businesses.
12. **Grand Total** - Identify the total of all State and Local Government agency dollars reported for the quarter.

Notes:

- A report is required for each CMAS contract, each quarter, even when there are no new orders for the quarter.
 - Quarterly reports are due two weeks after the end of the quarter.

CALIFORNIA MULTIPLE AWARD SCHEDULES (CMAS) GENERAL PROVISIONS - INFORMATION TECHNOLOGY

1. **DEFINITIONS:** Unless otherwise specified in the Statement of Work the following terms shall be given the meaning shown, unless context requires otherwise.

- a) **"Acceptance Tests"** means those tests performed during the Performance Period which are intended to determine compliance of Equipment and Software with the specifications and all other Attachments incorporated herein by reference and to determine the reliability of the Equipment.
- b) **"Application Program"** means a computer program which is intended to be executed for the purpose of performing useful work for the user of the information being processed. Application programs are developed or otherwise acquired by the user of the Hardware/Software system, but they may be supplied by the Contractor.
- c) **"Attachment"** means a mechanical, electrical, or electronic interconnection to the Contractor-supplied Machine or System of Equipment, manufactured by other than the original Equipment manufacturer, that is not connected by the Contractor.
- d) **"Business entity"** means any individual, business, partnership, joint venture, corporation, S-corporation, limited liability company, sole proprietorship, joint stock company, consortium, or other private legal entity recognized by statute.
- e) **"Buyer"** means the State's authorized contracting official.
- f) **"Commercial Hardware"** means Hardware developed or regularly used that: (i) has been sold, leased, or licensed to the general public; (ii) has been offered for sale, lease, or license to the general public; (iii) has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this Contract; or (iv) satisfies criterion expressed in (i), (ii), or (iii) above and would require only minor modifications to meet the requirements of this Contract.
- g) **"Commercial Software"** means Software developed or regularly used that: (i) has been sold, leased, or licensed to the general public; (ii) has been offered for sale, lease, or license to the general public; (iii) has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this Contract; or (iv) satisfies a criterion expressed in (i), (ii), or (iii) above and would require only minor modifications to meet the requirements of this Contract.
- h) **"Contract"** means this Contract or agreement (including any purchase order), by whatever name known or in whatever format used.
- i) **"Custom Software"** means Software that does not meet the definition of Commercial Software.
- j) **"Contractor"** means the Business Entity with whom the State enters into this Contract. Contractor shall be synonymous with "supplier", "vendor" or other similar term.
- k) **"Data Processing Subsystem"** means a complement of Contractor-furnished individual Machines, including the necessary controlling elements (or the functional equivalent), Operating Software and Software, if any, which are acquired to operate as an integrated group, and which are interconnected entirely by Contractor-supplied power and/or signal cables; e.g., direct access controller and drives, a cluster of terminals with their controller, etc.
- l) **"Data Processing System (System)"** means the total complement of Contractor-furnished Machines, including one or more central processors (or instruction processors), Operating Software which are acquired to operate as an integrated group.
- m) **"Deliverables"** means Goods, Software, Information Technology, telecommunications technology, Hardware, and other items (e.g. reports) to be delivered pursuant to this Contract, including any such items furnished incident to the provision of services.
- n) **"Designated CPU(s)"** means for each product, if applicable, the central processing unit of the computers or the server unit, including any associated peripheral units. If no specific "Designated CPU(s)" are specified on the Contract, the term shall mean any and all CPUs located at the site specified therein.
- o) **"Documentation"** means manuals and other printed materials necessary or useful to the State in its use or maintenance of the Equipment or Software provided hereunder. Manuals and other printed materials customized for the State hereunder constitute Work Product if such materials are required by the Statement of Work.
- p) **"Equipment"** is an all-inclusive term which refers either to individual Machines or to a complete Data Processing System or subsystem, including its Hardware and Operating Software (if any).
- q) **"Equipment Failure"** is a malfunction in the Equipment, excluding all external factors, which prevents the accomplishment of the Equipment's intended function(s). If microcode or Operating Software residing in the Equipment is necessary for the proper operation of the Equipment, a failure of such microcode or Operating Software which prevents the accomplishment of the Equipment's intended functions shall be deemed to be an Equipment Failure.
- r) **"Facility Readiness Date"** means the date specified in the Statement of Work by which the State must have the site prepared and available for Equipment delivery and installation.

CALIFORNIA MULTIPLE AWARD SCHEDULES (CMAS) GENERAL PROVISIONS - INFORMATION TECHNOLOGY

- s) **"Goods"** means all types of tangible personal property, including but not limited to materials, supplies, and Equipment (including computer and telecommunications Equipment).
- t) **"Hardware"** usually refers to computer Equipment and is contrasted with Software. See also Equipment.
- u) **"Installation Date"** means the date specified in the Statement of Work by which the Contractor must have the ordered Equipment ready (certified) for use by the State.
- v) **"Information Technology"** includes, but is not limited to, all electronic technology systems and services, automated information handling, System design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications which include voice, video, and data communications, requisite System controls, simulation, electronic commerce, and all related interactions between people and Machines.
- w) **"Machine"** means an individual unit of a Data Processing System or subsystem, separately identified by a type and/or model number, comprised of but not limited to mechanical, electro-mechanical, and electronic parts, microcode, and special features installed thereon and including any necessary Software, e.g., central processing unit, memory module, tape unit, card reader, etc.
- x) **"Machine Alteration"** means any change to a Contractor-supplied Machine which is not made by the Contractor, and which results in the Machine deviating from its physical, mechanical, electrical, or electronic (including microcode) design, whether or not additional devices or parts are employed in making such change.
- y) **"Maintenance Diagnostic Routines"** means the diagnostic programs customarily used by the Contractor to test Equipment for proper functioning and reliability.
- z) **"Manufacturing Materials"** means parts, tools, dies, jigs, fixtures, plans, drawings, and information produced or acquired, or rights acquired, specifically to fulfill obligations set forth herein.
- aa) **"Mean Time Between Failure (MTBF)"** means the average expected or observed time between consecutive failures in a System or component.
- bb) **"Mean Time to Repair (MTTR)"** means the average expected or observed time required to repair a System or component and return it to normal operation.
- cc) **"Operating Software"** means those routines, whether or not identified as Program Products, that reside in the Equipment and are required for the Equipment to perform its intended function(s), and which interface the operator, other Contractor-supplied programs, and user programs to the Equipment.
- dd) **"Operational Use Time"** means for performance measurement purposes, that time during which Equipment is in actual operation by the State. For maintenance Operational Use Time purposes, that time during which Equipment is in actual operation and is not synonymous with power on time.
- ee) **"Period of Maintenance Coverage"** means the period of time, as selected by the State, during which maintenance services are provided by the Contractor for a fixed monthly charge, as opposed to an hourly charge for services rendered. The Period of Maintenance Coverage consists of the Principal Period of Maintenance and any additional hours of coverage per day, and/or increased coverage for weekends and holidays.
- ff) **"Preventive Maintenance"** means that maintenance, performed on a scheduled basis by the Contractor, which is designed to keep the Equipment in proper operating condition.
- gg) **"Principal Period of Maintenance"** means any nine consecutive hours per day (usually between the hours of 7:00 a.m. and 6:00 p.m.) as selected by the State, including an official meal period not to exceed one hour, Monday through Friday, excluding holidays observed at the installation.
- hh) **"Programming Aids"** means Contractor-supplied programs and routines executable on the Contractor's Equipment which assists a programmer in the development of applications including language processors, sorts, communications modules, data base management systems, and utility routines, (tape-to-disk routines, disk-to-print routines, etc.).
- ii) **"Program Product"** means programs, routines, subroutines, and related items which are proprietary to the Contractor and which are licensed to the State for its use, usually on the basis of separately stated charges and appropriate contractual provisions.
- jj) **"Remedial Maintenance"** means that maintenance performed by the Contractor which results from Equipment (including Operating Software) failure, and which is performed as required, i.e., on an unscheduled basis.
- kk) **"Software"** means an all-inclusive term which refers to any computer programs, routines, or subroutines supplied by the Contractor, including Operating Software, Programming Aids, Application Programs, and Program Products.
- ll) **"Software Failure"** means a malfunction in the Contractor-supplied Software, other than Operating Software, which prevents the accomplishment of work, even though the Equipment (including its Operating Software) may still be capable of operating properly. For Operating Software failure, see definition of Equipment Failure.
- mm) **"State"** means the government of the State of California, its employees and authorized representatives,

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including without limitation any department, agency, or other unit of the government of the State of California.

nn) **"System"** means the complete collection of Hardware, Software and services as described in this Contract, integrated and functioning together, and performing in accordance with this Contract.

oo) **"U.S. Intellectual Property Rights"** means intellectual property rights enforceable in the United States of America, including without limitation rights in trade secrets, copyrights, and U.S. patents.

2. **CONTRACT FORMATION:** If this Contract results from a Letter of Offer, then Contractor's offer is deemed a firm offer and this Contract document is the State's acceptance of that offer.

3. **COMPLETE INTEGRATION:** This Contract, including any documents incorporated herein by express reference, is intended to be a complete integration and there are no prior or contemporaneous different or additional agreements pertaining to the subject matter of the Contract.

4. **SEVERABILITY:** The Contractor and the State agree that if any provision of this Contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Contract shall remain in full force and effect. Either party having knowledge of such term or provision shall promptly inform the other of the presumed non-applicability of such provision.

5. **INDEPENDENT CONTRACTOR:** Contractor and the agents and employees of Contractor, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the State.

6. **APPLICABLE LAW:** This Contract shall be governed by and shall be interpreted in accordance with the laws of the State of California; venue of any action brought with regard to this Contract shall be in Sacramento County, Sacramento, California. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Contract.

7. **COMPLIANCE WITH STATUTES AND REGULATIONS:**

- a) The State and the Contractor warrants and certifies that in the performance of this Contract, it will comply with all applicable statutes, rules, regulations and orders of the United States and the State of California. The Contractor agrees to indemnify the State against any loss, cost, damage or liability by reason of the Contractor's violation of this provision.
- b) The State will notify Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and

c) The Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of General Services will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.

d) If this Contract is in excess of \$554,000, it is subject to the requirements of the World Trade Organization (WTO) Government Procurement Agreement (GPA).

e) To the extent that this Contract falls within the scope of Government Code Section 11135, Contractor hereby agrees to respond to and resolve any complaint brought to its attention, regarding accessibility of its products or services.

8. **CONTRACTOR'S POWER AND AUTHORITY:** The Contractor warrants that it has full power and authority to grant the rights herein granted and will hold the State harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty. Further, Contractor avers that it will not enter into any arrangement with any third party which might abridge any rights of the State under this Contract.

a) The State will notify Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and

b) The Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of General Services will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.

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9. CMAS -- ASSIGNMENT:

- a) This Contract shall not be assignable by the Contractor in whole or in part without the written consent of the State. The State's consent shall not be unreasonably withheld or delayed. For the purpose of this paragraph, State will not unreasonably prohibit Contractor from freely assigning its right to payment, provided that Contractor remains responsible for its obligations hereunder.
- b) Should the State desire financing of the assets provided hereunder through GS\$Mart, the State's financial marketplace, the Contractor agrees to assign to a State-designated lender its right to receive payment from the State for the assets in exchange for payment by the lender of the cash purchase price for the assets. Upon notice to do so from the State-designated lender at any time prior to payment by the State for the assets, the Contractor will execute and deliver to the State-designated lender an assignment agreement and any additional documents necessary for the State selected financing plan. The State-designated lender will pay the Contractor according to the terms of the Contractor's invoice upon acceptance of the assets by the State.

10. **WAIVER OF RIGHTS:** Any action or inaction by the State or the failure of the State on any occasion, to enforce any right or provision of the Contract, shall not be construed to be a waiver by the State of its rights hereunder and shall not prevent the State from enforcing such provision or right on any future occasion. The rights and remedies of the State herein are cumulative and are in addition to any other rights or remedies that the State may have at law or in equity.

11. **CMAS -- ORDER OF PRECEDENCE:** In the event of any inconsistency between the articles, attachments, specifications or provisions which constitute this Contract, the following order of precedence shall apply:

- a) These General Provisions -- Information Technology (In the instances provided herein where the paragraph begins: "Unless otherwise specified in the Statement of Work" provisions specified in the Statement of Work replacing these paragraphs shall take precedence over the paragraph referenced in these General Provisions);
- b) Contract form, i.e., Purchase Order STD 65, Standard Agreement STD 213, etc., and any amendments thereto;
- c) Other Special Provisions;
- d) Federal GSA (or other multiple award) terms and conditions;
- e) Statement of work, including any specifications incorporated by reference herein; and
- f) All other attachments incorporated in the Contract by reference.

12. PACKING AND SHIPMENT:

- a) All Goods are to be packed in suitable containers for protection in shipment and storage, and in accordance with applicable specifications. Each container of a multiple container shipment shall be identified to:
 - i) show the number of the container and the total number of containers in the shipment; and
 - ii) the number of the container in which the packing sheet has been enclosed.
- b) All shipments by Contractor or its subcontractors must include packing sheets identifying: the State's Contract number; item number; quantity and unit of measure; part number and description of the Goods shipped; and appropriate evidence of inspection, if required. Goods for different Contracts shall be listed on separate packing sheets.
- c) Shipments must be made as specified in this Contract, as it may be amended, or otherwise directed in writing by the State's Transportation Management Unit within the Department of General Services, Procurement Division.

13. **TRANSPORTATION COSTS AND OTHER FEES OR EXPENSES:** No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by the State unless expressly included and itemized in the Contract.

- a) The Contractor must strictly follow Contract requirements regarding Free on Board (F.O.B.), freight terms and routing instructions. The State may permit use of an alternate carrier at no additional cost to the State with advance written authorization of the Buyer.
- b) If "prepay and add" is selected, supporting freight bills are required when over \$50, unless an exact freight charge is approved by the Transportation Management Unit within the Department of General Services Procurement Division and a waiver is granted.
- c) On "F.O.B. Shipping Point" transactions, should any shipments under the Contract be received by the State in a damaged condition and any related freight loss and damage claims filed against the carrier or carriers be wholly or partially declined by the carrier or carriers with the inference that damage was the result of the act of the shipper such as inadequate packaging or loading or some inherent defect in the Equipment and/or material, Contractor, on request of the State, shall at Contractor's own expense assist the State in establishing carrier liability by supplying evidence that the Equipment and/or material was properly constructed, manufactured, packaged, and secured to withstand normal transportation conditions.

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14. DELIVERY: The Contractor shall strictly adhere to the delivery and completion schedules specified in this Contract. Time, if stated as a number of days, shall mean calendar days unless otherwise specified. The quantities specified herein are the only quantities required. If the Contractor delivers in excess of the quantities specified herein, the State shall not be required to make any payment for the excess Deliverables, and may return them to Contractor at Contractor's expense or utilize any other rights available to the State at law or in equity.

15. SUBSTITUTIONS: Substitution of Deliverables may not be tendered without advance written consent of the Buyer. Contractor shall not use any specification in lieu of those contained in the Contract without written consent of the Buyer.

16. INSPECTION, ACCEPTANCE AND REJECTION: Unless otherwise specified in the Statement of Work:

- a) When acquiring Commercial Hardware or Commercial Software, the State shall rely on Contractor's existing quality assurance system as a substitute for State inspection and testing. For all other acquisitions, Contractor and its subcontractors will provide and maintain a quality assurance system acceptable to the State covering Deliverables and services under this Contract and will tender to the State only those Deliverables that have been inspected and found to conform to this Contract's requirements. The Contractor will keep records evidencing inspections and their result, and will make these records available to the State during Contract performance and for three years after final payment. The Contractor shall permit the State to review procedures, practices, processes, and related documents to determine the acceptability of Contractor's quality assurance System or other similar business practices related to performance of the Contract.
- b) All Deliverables may be subject to inspection and test by the State or its authorized representatives.
- c) The Contractor and its subcontractors shall provide all reasonable facilities for the safety and convenience of inspectors at no additional cost to the State. The Contractor shall furnish to inspectors all information and data as may be reasonably required to perform their inspection.
- d) Subject to subsection 16 (a) above, all Deliverables may be subject to final inspection, test and acceptance by the State at destination, notwithstanding any payment or inspection at source.
- e) The State shall give written notice of rejection of Deliverables delivered or services performed hereunder within a reasonable time after receipt of such Deliverables or performance of such services. Such notice of rejection will state the respects in which the

Deliverables do not substantially conform to their specifications. If the State does not provide such notice of rejection within fifteen (15) days of delivery for purchases of Commercial Hardware or Commercial Software or thirty (30) days of delivery for all other purchases, such Deliverables and services will be deemed to have been accepted. Acceptance by the State will be final and irreversible, except as it relates to latent defects, fraud, and gross mistakes amounting to fraud. Acceptance shall not be construed to waive any warranty rights that the State might have at law or by express reservation in this Contract with respect to any nonconformity.

17. SAMPLES:

- a) Samples of items may be required by the State for inspection and specification testing and must be furnished free of expense to the State. The samples furnished must be identical in all respects to the products offered and/or specified in the Contract.
- b) Samples, if not destroyed by tests, may, upon request made at the time the sample is furnished, be returned at Contractor's expense.

18. CMAS -- WARRANTY: The following warranty language is in addition to the warranty language provided in the federal GSA Multiple Award Schedule or other base Contract used to establish this CMAS Contract. When there is a conflict between the language, the following warranty language overrides.

- a) Unless otherwise specified in the Statement of Work, the warranties in this subsection a) begin upon delivery of the goods or services in question and end one (1) year thereafter. The Contractor warrants that (i) Deliverables and services furnished hereunder will substantially conform to the requirements of this Contract (including without limitation all descriptions, specifications, and drawings identified in the Statement of Work), and (ii) the Deliverables will be—free from material defects in materials and workmanship. Where the parties have agreed to design specifications (such as a Detailed Design Document) and incorporated the same or equivalent in the Statement of Work directly or by reference, the Contractor will warrant that its Deliverables provide all material functionality required thereby. In addition to the other warranties set forth herein, where the Contract calls for delivery of Commercial Software, the Contractor warrants that such Software will perform in accordance with its license and accompanying Documentation. The State's approval of designs or specifications furnished by Contractor shall not relieve the Contractor of its obligations under this warranty.
- b) The Contractor warrants that Deliverables furnished hereunder (i) will be free, at the time of delivery, of

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harmful code (i.e. computer viruses, worms, trap doors, time bombs, disabling code, or any similar malicious mechanism designed to interfere with the intended operation of, or cause damage to, computers, data, or Software); and (ii) will not infringe or violate any U.S. Intellectual Property Right. Without limiting the generality of the foregoing, if the State believes that harmful code may be present in any Commercial Software delivered hereunder, the Contractor will, upon the State's request, provide a new or clean install of the Software.

- c) Unless otherwise specified in the Statement of Work:
 - (i) The Contractor does not warrant that any Software provided hereunder is error-free or that it will run without immaterial interruption.
 - (ii) The Contractor does not warrant and will have no responsibility for a claim to the extent that it arises directly from (A) a modification made by the State, unless such modification is approved or directed by the Contractor, (B) use of Software in combination with or on products other than as specified by Contractor, or (C) misuse by the State.
 - (iii) Where the Contractor resells Commercial Hardware or Commercial Software it purchased from a third party, Contractor, to the extent it is legally able to do so, will pass through an such third party warranties to the State and will reasonably cooperate in enforcing them. Such warranty pass-through will not relieve the Contractor from Contractor's warranty obligations set forth above.
- d) All warranties, including special warranties specified elsewhere herein, shall inure to the State, its successors, assigns, customer agencies, and governmental users of the Deliverables or services.
- e) Except as may be specifically provided in the Statement of Work or elsewhere in this Contract, for any breach of the warranties provided in this Section, the State's exclusive remedy and Contractor's sole obligation will be limited to:
 - i) re-performance, repair, or replacement of the nonconforming Deliverable (including without limitation an infringing Deliverable) or service; or
 - ii) should the State in its sole discretion consent, refund of all amounts paid by the State for the nonconforming Deliverable or service and payment to the State of any additional amounts necessary to equal the State's Cost to Cover. "Cost to Cover" means the cost, properly mitigated, of procuring Deliverables or services of equivalent capability, function, and performance. The payment obligation in subsection e)(ii) above will not exceed the limits on Contractor's liability set forth in the Section entitled "Limitation of Liability."

- f) EXCEPT FOR THE EXPRESS WARRANTIES SPECIFIED IN THIS SECTION, CONTRACTOR MAKES NO WARRANTIES EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

19. SAFETY AND ACCIDENT PREVENTION: In performing work under this Contract on State premises, the Contractor shall conform to any specific safety requirements contained in the Contract or as required by law or regulation. The Contractor shall take any additional precautions as the State may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of this Contract in accordance with the default provisions hereof.

20. INSURANCE: The Contractor shall maintain all commercial general liability insurance, workers' compensation insurance and any other insurance required under the Contract. The Contractor shall furnish insurance certificate(s) evidencing required insurance coverage acceptable to the State, including endorsements showing the State as an "additional insured" if required under Contract. Any required endorsements requested by the State must be separately provided; merely referring to such coverage on the certificates(s) is insufficient for this purpose. When performing work on state owned or controlled property, Contractor shall provide a waiver of subrogation in favor of the State for its workers' compensation policy.

21. TERMINATION FOR NON-APPROPRIATION OF FUNDS:

- a) If the term of this Contract extends into fiscal years subsequent to that in which it is approved, such continuation of the Contract is contingent on the appropriation of funds for such purpose by the Legislature. If funds to effect such continued payment are not appropriated, the Contractor agrees to take back any affected Deliverables furnished under this Contract, terminate any services supplied to the State under this Contract, and relieve the State of any further obligation therefor.
- b) The State agrees that if it appears likely that subsection a) above will be invoked, the State and Contractor shall agree to take all reasonable steps to prioritize work and Deliverables and minimize the incurrence of costs prior to the expiration of funding for this Contract.
- c) THE STATE AGREES THAT IF PARAGRAPH a) ABOVE IS INVOKED, COMMERCIAL HARDWARE AND SOFTWARE THAT HAS NOT BEEN PAID FOR SHALL BE RETURNED TO THE CONTRACTOR IN SUBSTANTIALLY THE SAME CONDITION IN WHICH DELIVERED TO THE STATE, SUBJECT TO NORMAL WEAR AND TEAR. THE STATE FURTHER AGREES TO PAY FOR PACKING, CRATING,

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TRANSPORTATION TO CONTRACTOR'S NEAREST FACILITY AND FOR REIMBURSEMENT TO THE CONTRACTOR FOR EXPENSES INCURRED FOR THEIR ASSISTANCE IN SUCH PACKING AND CRATING.

22. TERMINATION FOR THE CONVENIENCE OF THE STATE:

- a) The State may terminate performance of work under this Contract for its convenience in whole or, from time to time, in part, if the Department of General Services, Deputy Director Procurement Division, or designee, determines that a termination is in the State's interest. The Department of General Services, Deputy Director, Procurement Division, or designee, shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date thereof.
- b) After receipt of a Notice of Termination, and except as directed by the State, the Contractor shall immediately proceed with the following obligations, as applicable, regardless of any delay in determining or adjusting any amounts due under this clause. The Contractor shall:
 - (i) Stop work as specified in the Notice of Termination.
 - (ii) Place no further subcontracts for materials, services, or facilities, except as necessary to complete the continuing portion of the Contract.
 - (iii) Terminate all subcontracts to the extent they relate to the work terminated.
 - (iv) Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts;
- c) After termination, the Contractor shall submit a final termination settlement proposal to the State in the form and with the information prescribed by the State. The Contractor shall submit the proposal promptly, but no later than 90 days after the effective date of termination, unless a different time is provided in the Statement of Work or in the Notice of Termination.
- d) The Contractor and the State may agree upon the whole or any part of the amount to be paid as requested under subsection (c) above.
- e) Unless otherwise set forth in the Statement of Work, if the Contractor and the State fail to agree on the amount to be paid because of the termination for convenience, the State will pay the Contractor the following amounts; provided that in no event will total payments exceed the amount payable to the Contractor if the Contract had been fully performed:
 - (i) The Contract price for Deliverables or services accepted or retained by the State and not previously paid for, adjusted for any savings on freight and other charges; and
 - (ii) The total of:
 - A) The reasonable costs incurred in the performance of the work terminated, including initial costs and preparatory expenses allocable thereto, but excluding any cost attributable to Deliverables or services paid or to be paid;
 - B) The reasonable cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the Contract; and
 - C) Reasonable storage, transportation, demobilization, unamortized overhead and capital costs, and other costs reasonably incurred by the Contractor in winding down and terminating its work.
- f) The Contractor will use generally accepted accounting principles, or accounting principles otherwise agreed to in writing by the parties, and sound business practices in determining all costs claimed, agreed to, or determined under this clause.

23. TERMINATION FOR DEFAULT:

- a) The State may, subject to the clause titled "Force Majeure" and to sub-section d) below, by written notice of default to the Contractor, terminate this Contract in whole or in part if the Contractor fails to:
 - i) Deliver the Deliverables or perform the services within the time specified in the Contract or any amendment thereto;
 - ii) Make progress, so that the lack of progress endangers performance of this Contract; or
 - iii) Perform any of the other provisions of this Contract.
- b) The State's right to terminate this Contract under sub-section a) above, may be exercised only if the failure constitutes a material breach of this Contract and if the Contractor does not cure such failure within the time frame stated in the State's cure notice, which in no event will be less than fifteen (15) days, unless the Statement of Work calls for a different period.
- c) If the State terminates this Contract in whole or in part pursuant to this Section, it may acquire, under terms and in the manner the Buyer considers appropriate, Deliverables or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those Deliverables and services, including without limitation costs third party vendors charge for Manufacturing Materials (but subject to the clause entitled "Limitation of Liability"). However, the Contractor shall continue the work not terminated.
- d) If the Contract is terminated for default, the State may require the Contractor to transfer title, or in the case of licensed Software, license, and deliver to the State, as directed by the Buyer, any:

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- (i) completed Deliverables,
- (ii) partially completed Deliverables, and,
- (iii) subject to provisions of sub-section e) below, Manufacturing Materials related to the terminated portion of this Contract. Nothing in this sub-section d) will be construed to grant the State rights to Deliverables that it would not have received had this Contract been fully performed. Upon direction of the Buyer, the Contractor shall also protect and preserve property in its possession in which the State has an interest.

- e) The State shall pay Contract price for completed Deliverables delivered and accepted and items the State requires the Contractor to transfer under section (d) above. Unless the Statement of Work calls for different procedures or requires no-charge delivery of materials, the Contractor and Buyer shall attempt to agree on the amount of payment for Manufacturing Materials and other materials delivered and accepted by the State for the protection and preservation of the property; provided that where the Contractor has billed the State for any such materials, no additional charge will apply. Failure to agree will constitute a dispute under the Disputes clause. The State may withhold from these amounts any sum it determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.
- f) If, after termination, it is determined by a final decision that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the State.
- g) Both parties, State and Contractor, upon any termination for default, have a duty to mitigate the damages suffered by it.
- h) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this Contract, and are subject to the clause titled "Limitation of Liability."

24. FORCE MAJEURE: Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include, but are not limited to:

- a) Acts of God or of the public enemy, and
- b) Acts of the federal or State government in either its sovereign or contractual capacity.

If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform.

25. RIGHTS AND REMEDIES OF STATE FOR DEFAULT:

- a) In the event any Deliverables furnished or services provided by the Contractor in the performance of the Contract should fail to conform to the requirements herein, or to the sample submitted by the Contractor, the State may reject the same, and it shall become the duty of the Contractor to reclaim and remove the item promptly or to correct the performance of services, without expense to the State, and immediately replace all such rejected items with others conforming to the Contract.
- b) In addition to any other rights and remedies the State may have, the State may require the Contractor, at Contractor's expense, to ship Deliverables via air freight or expedited routing to avoid or minimize actual or potential delay if the delay is the fault of the Contractor.
- c) In the event of the termination of the Contract, either in whole or in part, by reason of default or breach by the Contractor, any loss or damage sustained by the State in procuring any items which the Contractor agreed to supply shall be borne and paid for by the Contractor (but subject to the clause entitled "Limitation of Liability").
- d) The State reserves the right to offset the reasonable cost of all damages caused to the State against any outstanding invoices or amounts owed to Contractor or to make a claim against the Contractor therefore.

26. LIMITATION OF LIABILITY:

- a) Except as may be otherwise approved by the Department of General Services Deputy Director, Procurement Division or their designee, Contractor's liability for damages to the State for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to the Purchase Price. For purposes of this sub-section a), "Purchase Price" will mean the aggregate Contract price; except that, with respect to a Contract under which multiple purchase orders will be issued (e.g., a Master Agreement or Multiple Award Schedule Contract), "Purchase Price" will mean the total price of the purchase order for the Deliverable(s) or service(s) that gave rise to the loss, such that Contractor will have a separate limitation of liability for each purchase order.
- b) The foregoing limitation of liability shall not apply (i) to any liability under the General Provisions entitled "Compliance with Statutes and Regulations"; (ii) to liability under the General Provisions entitled "Patent, Copyright, and Trade Secret Indemnity" or to any other liability (including without limitation indemnification obligations) for infringement of third party intellectual property rights; (iii) to claims arising under provisions herein calling for indemnification for third party claims against the State for death, bodily injury to persons or damage to real or tangible personal property caused by

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Contractor's negligence or willful misconduct; or (iv) to costs or attorney's fees that the State becomes entitled to recover as a prevailing party in any action.

- c) The State's liability for damages for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to the Purchase Price, as that term is defined in subsection a) above. Nothing herein shall be construed to waive or limit the State's sovereign immunity or any other immunity from suit provided by law.
- d) In no event will either the Contractor or the State be liable for consequential, incidental, indirect, special, or punitive damages, even if notification has been given as to the possibility of such damages, except (i) to the extent that Contractor's liability for such damages is specifically set forth in the Statement of Work or (ii) to the extent that Contractor's liability for such damages arises out of sub-section b)(i), b)(ii), or b)(iv) above.

27. CONTRACTOR'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY:

- a) The Contractor shall be liable for damages arising out of injury to the person and/or damage to the property of the State, employees of the State, persons designated by the State for training, or any other person(s) other than agents or employees of the Contractor, designated by the State for any purpose, prior to, during, or subsequent to delivery, installation, acceptance, and use of the Deliverables either at the Contractor's site or at the State's place of business, provided that the injury or damage was caused by the fault or negligence of the Contractor.
- b) The Contractor shall not be liable for damages arising out of or caused by an alteration or an Attachment not made or installed by the Contractor, or for damage to alterations or Attachments that may result from the normal operation and maintenance of the Deliverables provided by the Contractor during the Contract.

28. INDEMNIFICATION: The Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all third party claims, costs (including without limitation reasonable attorneys' fees), and losses due to the injury or death of any individual, or the loss or damage to any real or tangible personal property, resulting from the willful misconduct or negligent acts or omissions of the Contractor or any of its affiliates, agents, subcontractors, employees, suppliers, or laborers furnishing or supplying work, services, materials, or supplies in connection with the performance of this Contract. Such defense and payment will be conditional upon the following:

- a) The State will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and

- b) The Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of General Services will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.

29. INVOICES: Unless otherwise specified, invoices shall be sent to the address set forth herein. Invoices shall be submitted in triplicate and shall include the Contract number; release order number (if applicable); item number; unit price, extended item price and invoice total amount. State sales tax and/or use tax shall be itemized separately and added to each invoice as applicable.

30. REQUIRED PAYMENT DATE: Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code Section 927 et. seq. Unless expressly exempted by statute, the Act requires State agencies to pay properly submitted, undisputed invoices not more than 45 days after (i) the date of acceptance of Deliverables or performance of services; or (ii) receipt of an undisputed invoice, whichever is later.

31. TAXES: Unless otherwise required by law, the State of California is exempt from Federal excise taxes. The State will only pay for any State or local sales or use taxes on the services rendered or Goods supplied to the State pursuant to this Contract.

32. NEWLY MANUFACTURED GOODS: All Goods furnished under this Contract shall be newly manufactured Goods or certified as new and warranted as new by the manufacturer; used or reconditioned Goods are prohibited, unless otherwise specified.

33. CONTRACT MODIFICATION: No amendment or variation of the terms of this Contract shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the Contract is binding on any of the parties.

34. CONFIDENTIALITY OF DATA: All financial, statistical, personal, technical and other data and information relating to

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the State's operation which are designated confidential by the State and made available to the Contractor in order to carry out this Contract, or which become available to the Contractor in carrying out this Contract, shall be protected by the Contractor from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to the State. The identification of all such confidential data and information as well as the State's procedural requirements for protection of such data and information from unauthorized use and disclosure shall be provided by the State in writing to the Contractor. If the methods and procedures employed by the Contractor for the protection of the Contractor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used, with the written consent of the State, to carry out the intent of this paragraph. The Contractor shall not be required under the provisions of this paragraph to keep confidential any data or information which is or becomes publicly available, is already rightfully in the Contractor's possession without obligation of confidentiality, is independently developed by the Contractor outside the scope of this Contract, or is rightfully obtained from third parties.

- 35. NEWS RELEASES:** Unless otherwise exempted, news releases, endorsements, advertising, and social media content pertaining to this Contract shall not be made without prior written approval of the Department of General Services.

36. DOCUMENTATION

- a) The Contractor agrees to provide to the State, at no charge, all Documentation as described within the Statement of Work, and updated versions thereof, which are necessary or useful to the State in its use of the Equipment or Software provided hereunder. The Contractor agrees to provide additional Documentation at prices not in excess of charges made by the Contractor to its other customers for similar Documentation.
- b) If the Contractor is unable to perform maintenance or the State desires to perform its own maintenance on Equipment purchased under this Contract then upon written notice by the State the Contractor will provide at Contractor's then current rates and fees adequate and reasonable assistance including relevant Documentation to allow the State to maintain the Equipment based on Contractor's methodology. The Contractor agrees that the State may reproduce such Documentation for its own use in maintaining the Equipment. If the Contractor is unable to perform maintenance, the Contractor agrees to license any other Contractor that the State may have hired to maintain the Equipment to use the above noted Documentation. The State agrees to include the

Contractor's copyright notice on any such Documentation reproduced, in accordance with copyright instructions to be provided by the Contractor.

37. RIGHTS IN WORK PRODUCT:

- a) All inventions, discoveries, intellectual property, technical communications and records originated or prepared by the Contractor pursuant to this Contract including papers, reports, charts, computer programs, and other Documentation or improvements thereto, and including Contractor's administrative communications and records relating to this Contract (collectively, the "Work Product"), shall be Contractor's exclusive property. The provisions of this sub-section a) may be revised in a Statement of Work.
- b) Software and other materials developed or otherwise obtained by or for Contractor or its affiliates independently of this Contract or applicable purchase order ("Pre-Existing Materials") do not constitute Work Product. If the Contractor creates derivative works of Pre-Existing Materials, the elements of such derivative works created pursuant to this Contract constitute Work Product, but other elements do not. Nothing in this Section 37 will be construed to interfere with Contractor's or its affiliates' ownership of Pre-Existing Materials.
- c) The State will have Government Purpose Rights to the Work Product as Deliverable or delivered to the State hereunder. "Government Purpose Rights" are the unlimited, irrevocable, worldwide, perpetual, royalty-free, non-exclusive rights and licenses to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work Product. "Government Purpose Rights" also include the right to release or disclose the Work Product outside the State for any State government purpose and to authorize recipients to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work Product for any State government purpose. Such recipients of the Work Product may include, without limitation, State Contractors, California local governments, the U.S. federal government, and the State and local governments of other states. "Government Purpose Rights" do not include any rights to use, modify, reproduce, perform, release, display, create derivative works from, or disclose the Work Product for any commercial purpose.
- d) The ideas, concepts, know-how, or techniques relating to data processing, developed during the course of this Contract by the Contractor or jointly by the Contractor and the State may be used by either party without obligation of notice or accounting.
- e) This Contract shall not preclude the Contractor from developing materials outside this Contract that are

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competitive, irrespective of their similarity to materials which might be delivered to the State pursuant to this Contract.

38. SOFTWARE LICENSE: Unless otherwise specified in the Statement of Work, the Contractor hereby grants to the State and the State accepts from the Contractor, subject to the terms and conditions of this Contract, a perpetual, irrevocable, royalty-free, non-exclusive, license to use the Software Products in this Contract (hereinafter referred to as "Software Products").

- a) The State may use the Software Products in the conduct of its own business, and any division thereof
- b) The license granted above authorized the State to use the Software Products in machine-readable form on the Computer System located at the site(s) specified in the Statement of Work. Said Computer System and its associated units (collectively referred to as CPU) are as designated in the Statement of Work. If the designated CPU is inoperative due to malfunction, the license herein granted shall be temporarily extended to authorize the State to use the Software Products, in machine-readable form, on any other State CPU until the designated CPU is returned to operation.
- c) By prior written notice, the State may redesignate the CPU in which the Software Products are to be used provided that the redesignated CPU is substantially similar in size and scale at no additional cost. The redesignation shall not be limited to the original site and will be effective upon the date specified in the notice of redesignation.
- d) Acceptance of Commercial Software (including third party Software) and Custom Software will be governed by the terms and conditions of this Contract.

39. PROTECTION OF PROPRIETARY SOFTWARE AND OTHER PROPRIETARY DATA: The State agrees that all material appropriately marked or identified in writing as proprietary, and furnished hereunder are provided for State's exclusive use for the purposes of this Contract only. All such proprietary data shall remain the property of the Contractor. The State agrees to take all reasonable steps to insure that such proprietary data are not disclosed to others, without prior written consent of the Contractor, subject to the California Public Records Act. The State will insure, prior to disposing of any media, that any licensed materials contained thereon have been erased or otherwise destroyed. The State agrees that it will take appropriate action by instruction, agreement or otherwise with its employees or other persons permitted access to licensed software and other proprietary data to satisfy its obligations under this Contract with respect to use, copying, modification, protection and security of proprietary software and other proprietary data.

40. RIGHT TO COPY OR MODIFY:

- a) Any Software Product provided by the Contractor in machine-readable form may be copied, in whole or in part, in printed or machine-readable form for use by the State with the designated CPU, to perform one-time benchmark tests, for archival or emergency restart purposes, to replace a worn copy, to understand the contents of such machine-readable material, or to modify the Software Product as provided below; provided, however, that no more than the number of printed copies and machine-readable copies as specified in the Statement of Work will be in existence under this Contract at any time without prior consent of the Contractor. Such consent shall not be unreasonably withheld by the Contractor. The original, and any copies of the Software Product, in whole or in part, which are made hereunder shall be the property of the Contractor.
- b) The State may modify any non-personal computer Software Product, in machine-readable form, for its own use and merge it into other program material. Any portion of the Software Product included in any merged program material shall be used only on the designated CPUs and shall be subject to the terms and conditions of the Contract.

41. FUTURE RELEASES: Unless otherwise specifically provided in the Contract, or the Statement of Work, if improved versions, e.g., patches, bug fixes, updates or releases, of any Software Product are developed by the contractor, and are made available to other licensees, they will be made available to the State at no additional cost only if such are made available to other licensees at no additional cost. If the Contractor offers new versions or upgrades to the Software Product, they shall be made available to the State at the State's option at a price not greater than the Contract price plus a price increase proportionate to the increase from the list price of the original version to that of the new version, if any. If the Software Product has no list price, such price increase will be proportionate to the increase in average price from the original to the new version, if any, as estimated by the Contractor in good faith.

42. ENCRYPTION/CPU ID AUTHORIZATION CODES:

- a) When Encryption/CPU Identification (ID) authorization codes are required to operate the Software Products, the Contractor will provide all codes to the State with delivery of the Software.
- b) In case of an inoperative CPU, the Contractor will provide a temporary encryption/CPU ID authorization code to the State for use on a temporarily authorized CPU until the designated CPU is returned to operation.
- c) When changes in designated CPUs occur, the State will notify the Contractor via telephone and/or facsimile/e-mail of such change. Upon receipt of such notice, the Contractor will issue via telephone and/or facsimile/e-

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mail to the State within 24 hours, a temporary encryption ID authorization code for use on the newly designated CPU until such time as permanent code is assigned.

43. PATENT, COPYRIGHT AND TRADE SECRET INDEMNITY:

- a) Contractor will indemnify, defend, and save harmless the State, its officers, agents, and employees, from any and all third party claims, costs (including without limitation reasonable attorneys' fees), and losses for infringement or violation of any U.S. Intellectual Property Right by any product or service provided hereunder. With respect to claims arising from computer Hardware or Software manufactured by a third party and sold by Contractor as a reseller, Contractor will pass through to the State such indemnity rights as it receives from such third party ("Third Party Obligation") and will cooperate in enforcing them; provided that if the third party manufacturer fails to honor the Third Party Obligation, Contractor will provide the State with indemnity protection equal to that called for by the Third Party Obligation, but in no event greater than that called for in the first sentence of this Section. The provisions of the preceding sentence apply only to third party computer Hardware or Software sold as a distinct unit and accepted by the State.

Unless a Third Party Obligation provides otherwise, the defense and payment obligations set forth in this Section will be conditional upon the following:

- i) The State will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
 - ii) The Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (a) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (b) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of General Services will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (c) the State will reasonably cooperate in the defense and in any related settlement negotiations.
- b) Should the Deliverables, or the operation thereof, become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement or violation of a U.S. Intellectual Property Right, the State shall permit the Contractor at its option and expense either to procure for the State the right to continue using

the Deliverables, or to replace or modify the same so that they become non-infringing. If none of these options can reasonably be taken, or if the use of such Deliverables by the State shall be prevented by injunction, the Contractor agrees to take back such Deliverables and make every reasonable effort to assist the State in procuring substitute Deliverables. If, in the sole opinion of the State, the return of such infringing Deliverables makes the retention of other Deliverables acquired from the Contractor under this Contract impractical, the State shall then have the option of terminating such Contracts, or applicable portions thereof, without penalty or termination charge. The Contractor agrees to take back such Deliverables and refund any sums the State has paid Contractor less any reasonable amount for use or damage.

- c) The Contractor shall have no liability to the State under any provision of this clause with respect to any claim of patent, copyright or trade secret infringement which is based upon:
- (i) The combination or utilization of Deliverables furnished hereunder with Equipment, Software or devices not made or furnished by the Contractor; or,
 - (ii) The operation of Equipment furnished by the Contractor under the control of any Operating Software other than, or in addition to, the current version of Contractor-supplied Operating Software; or
 - (iii) The modification initiated by the State, or a third party at the State's direction, of any Deliverable furnished hereunder; or
 - (iv) The combination or utilization of Software furnished hereunder with non-Contractor supplied Software.
- d) The Contractor certifies that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this Contract for the acquisition, operation or maintenance of computer Software in violation of copyright laws.

44. DISPUTES:

- a) The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, the Contractor shall submit to the Department Director or designee a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to or involving this Contract. Contractor's written demand shall be fully supported by factual information, and if such demand involves a cost adjustment to the Contract, Contractor shall include with the demand a written statement signed by an authorized person indicating that the demand is made in good faith, that the supporting data are accurate and complete and that the amount requested accurately

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reflects the Contract adjustment for which Contractor believes the State is liable. The contracting Department Director or designee shall have 30 days after receipt of Contractor's written demand invoking this Section "Disputes" to render a written decision. If a written decision is not rendered within 30 days after receipt of contractor's demand, it shall be deemed a decision adverse to the Contractor's contention. If the Contractor is not satisfied with the decision of the Department Director or designee, the Contractor may appeal the decision, in writing, within 15 days of its issuance (or the expiration of the 30 day period in the event no decision is rendered by the contracting department), to the Department of General Services, Deputy Director, Procurement Division, who shall have 45 days to render a final decision. If the Contractor does not appeal the decision of the contracting Department Director or designee, the decision shall be conclusive and binding regarding the dispute and the Contractor shall be barred from commencing an action in court, or with the Victims Compensation Government Claims Board, for failure to exhaust Contractor's administrative remedies.

- b) Pending the final resolution of any dispute arising under, related to or involving this Contract, Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of Goods or providing of services in accordance with the State's instructions regarding this Contract. Contractor's failure to diligently proceed in accordance with the State's instructions regarding this Contract shall be considered a material breach of this Contract.
- c) Any final decision of the State shall be expressly identified as such, shall be in writing, and shall be signed by the Deputy Director, Procurement Division if an appeal was made. If the Deputy Director, Procurement Division fails to render a final decision within 45 days after receipt of Contractor's demand, it shall be deemed a final decision adverse to Contractor's contentions. The State's final decision shall be conclusive and binding regarding the dispute unless Contractor commences an action in a court of competent jurisdiction to contest such decision within 90 days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.
- d) For disputes involving purchases made by the Department of General Services, Procurement Division, the Contractor shall submit to the Department Director or designee a written demand for a final decision, which shall be fully supported in the manner described in the subsection a above. The Department Director or designee shall have 30 days to render a final decision. If a final decision is not rendered within 30 days after receipt of the Contractor's demand, it shall be deemed a final decision adverse to the Contractor's contention.

The final decision shall be conclusive and binding regarding the dispute unless the Contractor commences an action in a court of competent jurisdiction to contest such decision within 90 days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later. The dates of decision and appeal in this section may be modified by mutual consent, as applicable, excepting the time to commence an action in a court of competent jurisdiction.

45. STOP WORK:

- a) The State may, at any time, by written Stop Work Order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this Contract for a period up to 45 days after the Stop Work Order is delivered to the Contractor, and for any further period to which the parties may agree. The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this clause. Upon receipt of the Stop Work Order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the Stop Work Order during the period of work stoppage. Within a period of 45 days after a Stop Work Order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the State shall either:
 - (i) Cancel the Stop Work Order; or
 - (ii) Terminate the work covered by the Stop Work Order as provided for in the termination for default or the termination for convenience clause of this Contract.
- b) If a Stop Work Order issued under this clause is canceled or the period of the Stop Work Order or any extension thereof expires, the Contractor shall resume work. The State shall make an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall be modified, in writing, accordingly, if:
 - (i) The Stop Work Order results in an increase in the time required for, or in the Contractor's cost properly allocable to the performance of any part of this Contract; and
 - (ii) The Contractor asserts its right to an equitable adjustment within 60 days after the end of the period of work stoppage; provided, that if the State decides the facts justify the action, the State may receive and act upon a proposal submitted at any time before final payment under this Contract.
- c) If a Stop Work Order is not canceled and the work covered by the Stop Work Order is terminated in accordance with the provision entitled Termination for the Convenience of the State, the State shall allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.

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- d) The State shall not be liable to the Contractor for loss of profits because of a Stop Work Order issued under this clause.
- 46. EXAMINATION AND AUDIT:** Contractor agrees that the State, or its designated representative shall have the right to review and copy any records and supporting documentation pertaining to performance of this Contract. The Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. The Contractor agrees to allow the auditor(s) access to such records during normal business hours and in such a manner so as to not interfere unreasonably with normal business activities and to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Contract. The State shall provide reasonable advance written notice of such audit(s) to the Contractor.
- 47. FOLLOW-ON CONTRACTS:**
- a) If the Contractor or its affiliates provides Technical Consulting and Direction (as defined below), the Contractor and its affiliates:
- (i) will not be awarded a subsequent Contract to supply the service or system, or any significant component thereof, that is used for or in connection with any subject of such Technical Consulting and Direction; and
 - (ii) will not act as consultant to any person or entity that does receive a Contract described in subsection (i). This prohibition will continue for one (1) year after termination of this Contract or completion of the Technical Consulting and Direction, whichever comes later.
- b) "Technical Consulting and Direction" means services for which the Contractor received compensation from the State and includes:
- (i) development of or assistance in the development of work statements, specifications, solicitations, or feasibility studies;
 - (ii) development or design of test requirements;
 - (iii) evaluation of test data;
 - (iv) direction of or evaluation of another Contractor;
 - (v) provision of formal recommendations regarding the acquisition of Information Technology products or services; or
 - (vi) provisions of formal recommendations regarding any of the above. For purposes of this Section, "affiliates" are employees, directors, partners, joint venture participants, parent corporations, subsidiaries, or any other entity controlled by, controlling, or under common control with the Contractor. Control exists when an entity owns or directs more than fifty percent (50%) of the outstanding shares or securities representing the right to vote for the election of directors or other managing authority.
- c) To the extent permissible by law, the Director of the Department of General Services, or designee, may waive the restrictions set forth in this Section by written notice to the Contractor if the Director determines their application would not be in the State's best interest. Except as prohibited by law, the restrictions of this Section will not apply:
- (i) to follow-on advice given by vendors of commercial off-the-shelf products, including Software and Hardware, on the operation, integration, repair, or maintenance of such products after sale; or
 - (ii) where the State has entered into a master agreement for Software or services and the scope of work at the time of Contract execution expressly calls for future recommendations among the Contractor's own products.
- d) The restrictions set forth in this Section are in addition to conflict of interest restrictions imposed on public Contractors by California law ("Conflict Laws"). In the event of any inconsistency, such Conflict Laws override the provisions of this Section, even if enacted after execution of this Contract.
- 48. PRIORITY HIRING CONSIDERATIONS:** If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with PCC Section 10353.
- 49. COVENANT AGAINST GRATUITIES:** The Contractor warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the State with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the State shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the State in procuring on the open market any items which Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the State provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity.
- 50. NONDISCRIMINATION CLAUSE:**
- a) During the performance of this Contract, the Contractor and its subcontractors shall not unlawfully discriminate,

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harass or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, and denial of family care leave. The Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. The Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Contract by reference and made a part hereof as if set forth in full. The Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

- b) The Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Contract.

51. NATIONAL LABOR RELATIONS BOARD CERTIFICATION:

The Contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of the National Labor Relations Board. This provision is required by, and shall be construed in accordance with, PCC Section 10296.

52. ASSIGNMENT OF ANTITRUST ACTIONS:

Pursuant to Government Code Sections 4552, 4553, and 4554, the following provisions are incorporated herein:

- a) In submitting an offer to the State, the supplier offers and agrees that if the offer is accepted, it will assign to the State all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. 15) or under the Cartwright Act (Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of Goods, material or other items, or services by the supplier for sale to the State pursuant to the solicitation. Such assignment shall be made and become effective at the time the State tenders final payment to the supplier.
- b) If the State receives, either through judgment or settlement, a monetary recovery for a cause of action

assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the State any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the State as part of the offer price, less the expenses incurred in obtaining that portion of the recovery.

- c) Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and
 - (i) the assignee has not been injured thereby, or
 - (ii) the assignee declines to file a court action for the cause of action.

53. DRUG-FREE WORKPLACE CERTIFICATION:

The Contractor certifies under penalty of perjury under the laws of the State of California that the Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

- a) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
- b) Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
 - (i) the dangers of drug abuse in the workplace;
 - (ii) the person's or organization's policy of maintaining a drug-free workplace;
 - (iii) any available counseling, rehabilitation and employee assistance programs; and,
 - (iv) penalties that may be imposed upon employees for drug abuse violations.
- c) Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed or resulting Contract:
 - (i) will receive a copy of the company's drug-free policy statement; and,
 - (ii) will agree to abide by the terms of the company's statement as a condition of employment on the Contract.

54. FOUR-DIGIT DATE COMPLIANCE:

Contractor warrants that it will provide only Four-Digit Date Compliant (as defined below) Deliverables and/or services to the State. "Four Digit Date Compliant" Deliverables and services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating

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to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Contract and does not limit the generality of warranty obligations set forth elsewhere herein.

55. SWEATFREE CODE OF CONDUCT:

- a) Contractor declares under penalty of perjury that no equipment, materials, or supplies furnished to the State pursuant to the Contract have been produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. Contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov and Public Contract Code Section 6108.
- b) Contractor agrees to cooperate fully in providing reasonable access to its records, documents, agents or employees, or premises if reasonably required by authorized officials of the State, the Department of Industrial Relations, or the Department of Justice to determine Contractor's compliance with the requirements under paragraph (a).

56. **RECYCLED CONTENT REQUIREMENTS:** The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of postconsumer material as defined in the Public Contract Code (PCC) Section 12200-12209, in products, materials, goods, or supplies offered or sold to the State that fall under any of the statutory categories regardless of whether the product meets the requirements of Section 12209. The certification shall be provided by the contractor, even if the product or good contains no postconsumer recycled material, and even if the postconsumer content is unknown. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (PCC 12205 (b)(2)). A state agency contracting officer may waive the certification requirements if the percentage of postconsumer material in the products, materials, goods, or supplies can be verified in a written advertisement, including, but not limited to, a product label, a catalog, or a manufacturer or vendor Internet web site. Contractors are to use, to the maximum extent economically feasible in the performance of the contract work, recycled content products (PCC 12203(d)).

57. **CHILD SUPPORT COMPLIANCE ACT:** For any Contract in excess of \$100,000, the Contractor acknowledges in accordance with PCC Section 7110, that:

- a) The Contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable State and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
- b) The Contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

58. **AMERICAN WITH DISABILITIES ACT:** The Contractor assures the State that the Contractor complies with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

59. **ELECTRONIC WASTE RECYCLING ACT OF 2003:** The Contractor certifies that it complies with the applicable requirements of the Electronic Waste Recycling Act of 2003, Chapter 8.5, Part 3 of Division 30, commencing with Section 42460 of the Public Resources Code. The Contractor shall maintain documentation and provide reasonable access to its records and documents that evidence compliance.

60. **USE TAX COLLECTION:** In accordance with PCC Section 10295.1, the Contractor certifies that it complies with the requirements of Section 7101 of the Revenue and Taxation Code. Contractor further certifies that it will immediately advise the State of any change in its retailer's seller's permit or certification of registration or applicable affiliate's seller's permit or certificate of registration as described in subdivision (a) of PCC Section 10295.1.

61. **EXPATRIATE CORPORATIONS:** Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of PCC Sections 10286 and 10286.1, and is eligible to Contract with the State.

62. **DOMESTIC PARTNERS:** For Contracts over \$100,000 executed or amended after January 1, 2007, the Contractor certifies that the Contractor is in compliance with Public Contract Code Section 10295.3.

63. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

- a) If for this Contract the Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the

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awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)

- b) If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

64. **LOSS LEADER:** It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 12104.5(b).)

ADDITIONAL CMAS TERMS AND CONDITIONS

65. **CMAS -- CONTRACTOR'S LICENSE REQUIREMENTS:**

Contracts that include installation or the wording "Furnish and Install" require at the time of Contract award that Contractors possess a valid California State Contractor's License. If sub-Contractors are used, they must also possess a valid California State Contractor's License. All businesses which construct or alter any building, highway, road, parking facility, railroad, excavation, or other structure in California must be licensed by the California State License Board (CSLB) if the total cost (labor and materials) of the project is \$500.00 or more. Failure to be licensed or to keep the license current and in good standing shall be grounds for Contract revocation.

66. **CMAS -- PUBLIC WORKS REQUIREMENTS (LABOR/INSTALLATION):**

- a) Prior to the commencement of performance, the Contractor must obtain and provide to the State, a payment bond, on Standard Form 807, when the Contract involves a public works expenditure (labor/installation costs) in excess of \$5,000. Such bond shall be in a sum not less than one hundred percent (100%) of the Contract price.
- b) In accordance with the provisions of Section 1773 of the California Labor Code, the Contractor shall, conform and stipulates to the general prevailing rate of wages, including employer benefits as defined in Section 1773.1

of the California Labor Code, applicable to the classes of labor to be used for public works such as at the delivery site for the assembly and installation of the equipment or materials under the purchase order. Pursuant to Section 1770 of the California Labor Code, the Department of Industrial Relations has ascertained the general prevailing rate of wages in the county in which the work is to be done, to be as listed in the booklet entitled General Prevailing Wage Rates. The booklet is compiled monthly and copies of the same are available from the Department of Industrial Relations, Prevailing Wage Unit at www.dir.ca.gov (select Statistics & Research) or (415) 703-4774. The booklet is required to be posted at the job site.

- c) The Contractor hereby certifies by signing this Contract that:

- i) Contractor has met or will comply with the standards of affirmative compliance with the Non-Discrimination Clause Requirements included herein;
- ii) Contractor is aware of the provisions of Section 3700 of the Labor Code that require every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that Code, and Contractor will comply with such provisions before commencing the performance of the work of the purchase order.

- d) Laws to be Observed

- i) Labor

Pursuant to Section 1775 of the California Labor Code the Contractor shall, as a penalty to the State or Political subdivision on whose behalf the purchase order is made or awarded, forfeit not more than fifty (\$50.00) for each calendar day, or portions thereof, for each worker paid by him or subcontractor under him, less than the prevailing wage so stipulated; and in addition, the Contractor further agrees to pay to each workman the difference between the actual amount paid for each calendar day, or portions thereof, and the stipulated prevailing wage rate for the same. This provision shall not apply to properly indentured apprentices.

Pursuant to Sections 1810-1815 of the California Labor Code, inclusive, it is further agreed that the maximum hours a worker is to be employed is limited to eight hours a day and forty hours a week and the Contractor shall forfeit, as a penalty to the State, twenty-five (\$25) for each worker employed in the execution of the purchase order for each calendar day during which a workman is required or permitted to labor more than eight hours in any calendar day or more than forty hours in any calendar week, in

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violation of California Labor Code Sections 1810-1815, inclusive.

ii) **Worker's Compensation Insurance**

The Contractor will be required to secure the payment of compensation to its employees in accordance with the provisions of Labor Code Section 3700.

iii) **Travel and Subsistence Payments**

Travel and subsistence payments shall be paid to each worker needed to execute the work, as such travel and subsistence payments are defined in the applicable collective bargaining agreements filed in accordance with Labor Code Section 1773.8.

iv) **Apprentices**

Special attention is directed to Sections 1777.5, 1777.6, and 1777.7 of the California Labor Code and Title 8, California Administrative Code Section 200 et seq. Each Contractor and/or subcontractor must, prior to commencement of the public works Contract/purchase order, contact the Division of Apprenticeship Standards, 525 Golden Gate Avenue, San Francisco, CA, or one of its branch offices to insure compliance and complete understanding of the law regarding apprentices and specifically the required ratio thereunder. Responsibility for compliance with this section lies with the prime Contractor.

v) **Payroll**

The Contractor shall keep an accurate payroll record showing the name, social security account, and work classification specific and straight time and overtime hours worked by each employee. A certified copy of the employee's payroll record shall be available for inspection as specified in Section 1776 of the California Labor Code.

67. CMAS -- TERMINATION OF CMAS CONTRACT:

- a) The State may terminate this CMAS Contract at any time upon 30 days prior written notice.
- b) If the Contractor's GSA Multiple Award Schedule is terminated within the term of the CMAS Contract, the CMAS Contract shall also be considered terminated on the same date.
- c) Prior to the expiration of this CMAS Contract, this Contract may be terminated for the convenience of both parties by mutual consent.
- d) This provision shall not relieve the Contractor of the obligation to perform under any purchase order or other similar ordering document executed prior to the termination becoming effective.

68. CMAS -- CONTRACT AMOUNT: There is no guarantee of minimum purchase of Contractor's products or services by the State.

69. CMAS -- Debarment Certification (Federally Funded Contracts): When Federal funds are being expended, the prospective recipient of Federal assistance funds is required to certify to the Buyer, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

70. CMAS -- PURCHASE ORDERS FUNDED IN WHOLE OR PART BY THE FEDERAL GOVERNMENT: All Contracts (including individual orders), except for State construction projects, which are funded in whole or in part by the federal government may be canceled with 30 day notice, and are subject to the following:

- a) It is mutually understood between the parties that this Contract (order) may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the Contract (order) were executed after that determination was made.
- b) This Contract (order) is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the fiscal year during which the order was generated for the purposes of this program. In addition, this Contract (order) is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress that may affect the provisions, terms or funding of this Contract (order) in any manner.
- c) It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this Contract (order) shall be amended to reflect any reduction in funds. The department has the option to void the Contract (order) under the 30-day cancellation clause or to amend the Contract to reflect any reduction of funds.

71. CMAS -- CONFLICT OF INTEREST:

- a) Current State Employees (Public Contract Code Section 10410):
 - i) No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any State agency, unless the employment, activity or enterprise is required as a condition of regular State employment.
 - ii) No officer or employee shall Contract on his or her own behalf as an independent Contractor with any State agency to provide Goods or services.
- b) Former State Employees (Public Contract Code Section 10411):
 - i) For the two-year period from the date he or she left State employment, no former State officer or

CALIFORNIA MULTIPLE AWARD SCHEDULES (CMAS) GENERAL PROVISIONS - INFORMATION TECHNOLOGY

employee may enter into a Contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the Contract while employed in any capacity by any State agency.

- ii) For the twelve-month period from the date he or she left State employment, no former State officer or employee may enter into a Contract with any State agency if he or she was employed by that State agency in a policy-making position in the same general subject area as the proposed Contract within the twelve-month period prior to his or her leaving State service.

72. CMAS -- SUBCONTRACTING REQUIREMENTS:

Any subcontractor that the CMAS supplier chooses to use in fulfilling the requirements of this Contract (order), and which is expected to receive more than ten (10) percent of value of the Contract/purchase order, must also meet all Contractual, administrative, and technical requirements of the Contract (order), as applicable.

73. CMAS -- RENTAL AGREEMENTS:

The State does not agree to:

- Indemnify a Contractor;
- Assume responsibility for matters beyond its control;
- Agree to make payments in advance;
- Accept any other provision creating a contingent liability against the State; or
- Agree to obtain insurance to protect the Contractor.

The State's responsibility for repairs and liability for damage or loss is restricted to that made necessary by or resulting from the negligent act or omission of the State or its officers, employees, or agents.

If the Contractor maintains the equipment, the Contractor must keep the equipment in good working order and make all necessary repairs and adjustments without qualification. The State may terminate for default or cease paying rent should the Contractor fail to maintain the equipment properly.

Personal property taxes are not generally reimbursed when leasing equipment (SAM 8736).

- 74. CMAS -- LEASE (Lease \$Mart TM):** If an agency desires to lease through Lease \$Mart TM, the Contractor agrees to sell to lessor the assets at the same price as they agree to sell to the State.

- 75. CMAS -- PROGRESS PAYMENTS & RISK ASSESSMENT:** In accordance with PCC 12112 agencies are required to withhold not less than 10 percent of the Contract price until final delivery and acceptance of the Goods or services, for any Contract that provides for progress payments in a

Contract for IT Goods or services to be manufactured or performed by a Contractor especially for the State and not suitable for sale to others in the ordinary course of the Contractor's business.

Interim Risk Assessment guidelines and financial protection measures are detailed in PCC 12112 for agencies to use to determine their applicability to agency projects.

- 76. CMAS -- QUARTERLY REPORTS:** Contractors are required to submit quarterly business activity reports, as specified in this Contract, even when there is no activity. A separate report is required for each Contract, as differentiated by alpha suffix.

- 77. CMAS -- CONTRACTOR EVALUATION:** In accordance with PCC 10367 and 10369, performance of the Contractor under orders issued against this Contract will be evaluated. The ordering agency shall complete a written evaluation, and if the Contractor did not satisfactorily perform the work specified, a copy of the evaluation will be sent to the DGS, Office of Legal Services.

CALIFORNIA MULTIPLE AWARD SCHEDULES (CMAS) STATE MODEL CLOUD COMPUTING SERVICES SPECIAL PROVISIONS (Software as a Service)

THESE SPECIAL PROVISIONS ARE ONLY TO BE USED FOR SOFTWARE AS A SERVICE (SaaS), AS DEFINED BELOW. THESE SPECIAL PROVISIONS ARE TO BE ATTACHED TO THE GENERAL PROVISIONS – INFORMATION TECHNOLOGY AND ACCOMPANIED BY, AT MINIMUM, A STATEMENT OF WORK (SOW) AND SERVICE LEVEL AGREEMENT (SLA). STATE AGENCIES MUST FIRST:

- A. CLASSIFY THEIR DATA PURSUANT TO THE CALIFORNIA STATE ADMINISTRATIVE MANUAL (SAM) 5305.5;
- B. CONSIDER THE FACTORS TO BE TAKEN INTO ACCOUNT WHEN SELECTING A PARTICULAR TECHNOLOGICAL APPROACH, IN ACCORDANCE WITH SAM 4981.1, 4983 AND 4983.1 AND THEN;
- C. MODIFY THESE SPECIAL PROVISIONS THROUGH THE SOW AND/OR SLA TO MEET THE NEEDS OF EACH ACQUISITION.

1. Definitions

- a) "Cloud Software as a Service (SaaS)" - The capability provided to the consumer is to use applications made available by the provider running on a cloud infrastructure. The applications are accessible from various client devices through a thin client interface such as a web browser (e.g., web-based email). The consumer does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage, or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.
- b) "Cloud Platform as a Service (PaaS)" - The capability provided to the consumer is to deploy onto the cloud infrastructure consumer-created or acquired applications created using programming languages and tools supported by the provider. The consumer does not manage or control the underlying cloud infrastructure including network, servers, operating systems, or storage, but has control over the deployed applications and possibly application hosting environment configurations.
- c) "Cloud Infrastructure as a Service (IaaS)" - The capability provided to the consumer is to provision processing, storage, networks, and other fundamental computing resources where the consumer is able to deploy and run arbitrary software, which can include operating systems and applications. The consumer does not manage or control the underlying cloud infrastructure but has control over operating systems; storage, deployed applications, and possibly limited control of select networking components (e.g., host firewalls).
- d) "Data" - means any information, formulae, algorithms, or other content that the State, the State's employees, agents and end users upload, create or modify using the SaaS pursuant to this Contract. Data also includes user identification information and metadata which may contain Data or from which the State's Data may be ascertainable.
- e) "Data Breach" - means any access, destruction, loss, theft, use, modification or disclosure of Data by an unauthorized party or that is in violation of Contract terms and/or applicable state or federal law.
- f) "Recovery Point Objective (RPO)" - means the point in time to which Data can be recovered and/or systems restored when service is restored after an interruption. The Recovery Point Objective is expressed as a length of time between the interruption and the most proximate backup of Data immediately preceding the interruption. The RPO is detailed in the SLA.
- g) "Recovery Time Objective (RTO)" - means the period of time within which information technology services, systems, applications and functions must be recovered following an unplanned interruption. The RTO is detailed in the SLA.

2. Terms

SaaS AVAILABILITY: Unless otherwise stated in the Statement of Work,

- a) The SaaS shall be available twenty-four (24) hours per day, 365 days per year (excluding agreed-upon maintenance downtime).
- b) If SaaS monthly availability averages less than 99.9% (excluding agreed-upon maintenance downtime), the State shall be entitled to recover damages, apply credits or use other contractual remedies as set forth in the Statement of Work.
- c) If SaaS monthly availability averages less than 99.9% (excluding agreed-upon maintenance downtime), for three (3) or more months in a rolling twelve-month period, the State may terminate the contract for material breach in accordance with the Termination for Default provision in the General Provisions – Information Technology.
- d) Contractor shall provide advance written notice to the State in the manner set forth in the Statement of Work of any major upgrades or changes that will affect the SaaS availability.

3. **DATA AVAILABILITY:** Unless otherwise stated in the Statement of Work,

- a) The Data shall be available twenty-four (24) hours per day, 365 days per year (excluding agreed-upon maintenance downtime).
- b) If Data monthly availability averages less than 99.9% (excluding agreed-upon maintenance downtime), the State shall be entitled to recover damages, apply credits or use other contractual remedies as set forth in the Statement of Work if the State is unable to access the Data as a result of:
 - 1) Acts or omission of Contractor;
 - 2) Acts or omissions of third parties working on behalf of Contractor;

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- 3) Network compromise, network intrusion, hacks, introduction of viruses, disabling devices, malware and other forms of attack that can disrupt access to Contractor's server, to the extent such attack would have been prevented by Contractor taking reasonable industry standard precautions;
 - 4) Power outages or other telecommunications or Internet failures, to the extent such outages were within Contractor's direct or express control.
- c) If Data monthly availability averages less than 99.9% (excluding agreed-upon maintenance downtime), for three (3) or more months in a rolling twelve-month period, the State may terminate the contract for material breach in accordance with the Termination for Default provision in the General Provisions – Information Technology.
4. **SaaS and DATA SECURITY:**
- a) In addition to the Compliance with Statutes and Regulations provision set forth in the General Provisions – Information Technology, Contractor shall certify to the State:
 - 1) The sufficiency of its security standards, tools, technologies and procedures in providing SaaS under this Contract;
 - 2) Compliance with the following:
 - i. The California Information Practices Act (Civil Code Sections 1798 et seq.);
 - ii. Security provisions of the California State Administrative Manual (Chapters 5100 and 5300) and the California Statewide Information Management Manual (Sections 58C, 58D, 66B, 5305A, 5310A and B, 5325A and B, 5330A, B and C, 5340A, B and C, 5360B);
 - iii. Undergo an annual Statement on Standards for Attestation Engagements (SSAE) No. 16 Service Organization Control (SOC) 2 Type II audit. Audit results and Contractor's plan to correct any negative findings shall be made available to the State upon request; and
 - iv. Privacy provisions of the Federal Privacy Act of 1974;
 - 3) Compliance with applicable industry standards and guidelines, including but not limited to relevant security provisions of the Payment Card Industry (PCI) Data Security Standard (PCIDSS) including the PCIDSS Cloud Computing Guidelines.
 - b) Contractor shall implement and maintain all appropriate administrative, physical, technical and procedural safeguards in accordance with section a) above at all times during the term of this Contract to secure such Data from Data Breach, protect the Data and the SaaS from hacks, introduction of viruses, disabling devices, malware and other forms of malicious or inadvertent acts that can disrupt the State's access to its Data.
 - c) Contractor shall allow the State reasonable access to SaaS security logs, latency statistics, and other related SaaS security data that affect this Contract and the State's Data, at no cost to the State.
 - d) Contractor assumes responsibility for the security and confidentiality of the Data under its control.
 - e) No Data shall be copied, modified, destroyed or deleted by Contractor other than for normal operation or maintenance of SaaS during the Contract period without prior written notice to and written approval by the State.
 - f) Remote access to Data from outside the continental United States, including remote access to Data by authorized SaaS support staff in identified support centers, is prohibited unless approved in advance by the State Chief Information Security Officer.
- 5) **ENCRYPTION:** Confidential, sensitive or personal information shall be encrypted in accordance with California State Administrative Manual 5350.1 and California Statewide Information Management Manual 5305-A.
- 6) **DATA LOCATION:** Unless otherwise stated in the Statement of Work and approved in advance by the State Chief Information Security Officer, the physical location of Contractor's data center where the Data is stored shall be within the continental United States.
- 7) **RIGHTS TO DATA:** The parties agree that as between them, all rights, including all intellectual property rights, in and to Data shall remain the exclusive property of the State, and Contractor has a limited, non-exclusive license to access and use the Data as provided to Contractor solely for performing its obligations under the Contract. Nothing herein shall be construed to confer any license or right to the Data, including user tracking and exception Data within the system, by implication, estoppel or otherwise, under copyright or other intellectual property rights, to any third party. Unauthorized use of Data by Contractor or third parties is prohibited. For the purposes of this requirement, the phrase "unauthorized use" means the data mining or processing of data, stored or transmitted by the service, for unrelated commercial purposes, advertising or advertising-related purposes, or for any other purpose other than security or service delivery analysis that is not explicitly authorized.

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8) TRANSITION PERIOD:

- a) For ninety (90) days prior to the expiration date of this Contract, or upon notice of termination of this Contract, Contractor shall assist the State in extracting and/or transitioning all Data in the format determined by the State ("Transition Period").
- b) The Transition Period may be modified in the SOW or as agreed upon in writing by the parties in a contract amendment.
- c) During the Transition Period, SaaS and Data access shall continue to be made available to the State without alteration.
- d) Contractor agrees to compensate the State for damages or losses the State incurs as a result of Contractor's failure to comply with this section in accordance with the Limitation of Liability provision set forth in the General Provisions - Information Technology.
- e) Unless otherwise stated in the SOW, the Contractor shall permanently destroy or render inaccessible any portion of the Data in Contractor's and/or subcontractor's possession or control following the expiration of all obligations in this section. Within thirty (30) days, Contractor shall issue a written statement to the State confirming the destruction or inaccessibility of the State's Data.
- f) The State at its option, may purchase additional transition services as agreed upon in the SOW.

9) DATA BREACH: Unless otherwise stated in the Statement of Work,

- a) Upon discovery or reasonable belief of any Data Breach, Contractor shall notify the State by the fastest means available and also in writing, with additional notification provided to the Chief Information Security Officer or designee of the contracting agency. Contractor shall provide such notification within forty-eight (48) hours after Contractor reasonably believes there has been such a Data Breach. Contractor's notification shall identify:
 - 1) The nature of the Data Breach;
 - 2) The Data accessed, used or disclosed;
 - 3) The person(s) who accessed, used, disclosed and/or received Data (if known);
 - 4) What Contractor has done or will do to quarantine and mitigate the Data Breach; and
 - 5) What corrective action Contractor has taken or will take to prevent future Data Breaches.
- b) Contractor will provide daily updates, or more frequently if required by the State, regarding findings and actions performed by Contractor until the Data Breach has been effectively resolved to the State's satisfaction.
- c) Contractor shall quarantine the Data Breach, ensure secure access to Data, and repair SaaS as needed in accordance with the SLA. Failure to do so may result in the State exercising its options for assessing damages or other remedies under this Contract.
- d) Notwithstanding anything to the contrary in the General Provisions - Information Technology, in performing services under this Contract, and to the extent authorized by the State in the Statement of Work, Contractor may be permitted by the State to use systems, or may be granted access to the State systems, which store, transmit or process State owned, licensed or maintained computerized Data consisting of personal information, as defined by Civil Code Section 1798.29 (g). If the Contractor causes or knowingly experiences a breach of the security of such Data, Contractor shall immediately report any breach of security of such system to the State following discovery or notification of the breach in the security of such Data. The State's Chief Information Security Officer, or designee, shall determine whether notification to the individuals whose Data has been lost or breached is appropriate. If personal information of any resident of California was, or is reasonably believed to have been acquired by an unauthorized person as a result of a security breach of such system and Data that is not due to the fault of the State or any person or entity under the control of the State, Contractor shall bear any and all costs associated with the State's notification obligations and other obligations set forth in Civil Code Section 1798.29 (d) as well as the cost of credit monitoring, subject to the dollar limitation, if any, agreed to by the State and Contractor in the applicable Statement of Work. These costs may include, but are not limited to staff time, material costs, postage, media announcements, and other identifiable costs associated with the breach of the security of such personal information.
- e) Contractor shall conduct an investigation of the Data Breach and shall share the report of the investigation with the State. The State and/or its authorized agents shall have the right to lead (if required by law) or participate in the investigation. Contractor shall cooperate fully with the State, its agents and law enforcement.

10) DISASTER RECOVERY/BUSINESS CONTINUITY: Unless otherwise stated in the Statement of Work,

- a) In the event of disaster or catastrophic failure that results in significant Data loss or extended loss of access to Data, Contractor shall notify the State by the fastest means available and also in writing, with additional notification provided to the Chief Information Security Officer or designee of the contracting agency. Contractor shall provide such notification within twenty-four (24) hours after Contractor reasonably believes there has been such a disaster or catastrophic failure. In the notification, Contractor shall inform the State of:
 - 1) The scale and quantity of the Data loss;
 - 2) What Contractor has done or will do to recover the Data and mitigate any deleterious effect of the Data loss; and
 - 3) What corrective action Contractor has taken or will take to prevent future Data loss.
 - 4) If Contractor fails to respond immediately and remedy the failure, the State may exercise its options for assessing damages or other remedies under this Contract.

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- b) Contractor shall restore continuity of SaaS, restore Data in accordance with the RPO and RTO as set forth in the SLA, restore accessibility of Data, and repair SaaS as needed to meet the performance requirements stated in the SLA. Failure to do so may result in the State exercising its options for assessing damages or other remedies under this Contract.
 - c) Contractor shall conduct an investigation of the disaster or catastrophic failure and shall share the report of the investigation with the State. The State and/or its authorized agents shall have the right to lead (if required by law) or participate in the investigation. Contractor shall cooperate fully with the State, its agents and law enforcement.
- 11) EXAMINATION AND AUDIT:** In addition to the Examination and Audit provision set forth in the General Provisions - Information Technology, unless otherwise stated in the Statement of Work:
- a) Upon advance written request, Contractor agrees that the State or its designated representative shall have access to Contractor's SaaS, operational documentation, records and databases, including online inspections, that relate to the SaaS purchased by the State.
 - b) The online inspection shall allow the State, its authorized agents, or a mutually acceptable third party to test that controls are in place and working as intended. Tests may include, but not be limited to, the following:
 - 1) Operating system/network vulnerability scans,
 - 2) Web application vulnerability scans,
 - 3) Database application vulnerability scans, and
 - 4) Any other scans to be performed by the State or representatives on behalf of the State.
 - c) After any significant Data loss or Data Breach or as a result of any disaster or catastrophic failure, Contractor will at its expense have an independent, industry-recognized, State-approved third party perform an information security audit. The audit results shall be shared with the State within seven (7) days of Contractor's receipt of such results. Upon Contractor receiving the results of the audit, Contractor will provide the State with written evidence of planned remediation within thirty (30) days and promptly modify its security measures in order to meet its obligations under this Contract.
- 12) DISCOVERY:** Contractor shall promptly notify the State upon receipt of any requests which in any way might reasonably require access to the Data of the State or the State's use of the SaaS. Contractor shall notify the State by the fastest means available and also in writing, with additional notification provided to the Chief Information Security Officer or designee of the contracting agency, unless prohibited by law from providing such notification. Contractor shall provide such notification within forty-eight (48) hours after Contractor receives the request. Contractor shall not respond to subpoenas, service of process, Public Records Act requests, and other legal requests directed at Contractor regarding this Contract without first notifying the State unless prohibited by law from providing such notification. Contractor agrees to provide its intended responses to the State with adequate time for the State to review, revise and, if necessary, seek a protective order in a court of competent jurisdiction. Contractor shall not respond to legal requests directed at the State unless authorized in writing to do so by the State.



Quick Tips & Important Things to Remember as a CMAS Contract Holder

General Information

- Upon receiving a new CMAS contract, contractor should review the information about their contract at the CMAS website shown below and report any errors to the CMAS Unit.
 - To assist with the management of your CMAS contract, use the "CMAS Contract Management & Information Guide", which can be accessed at <http://www.dgs.ca.gov/pd/Programs/Leveraged/CMAS.aspx> then select "For Suppliers/Contractors".
 - Ensure your sales representatives read and know your CMAS contract.
 - If there is a change to your address, phone or fax number, or contact person, notify the CMAS Unit utilizing Exhibit E in the "CMAS Contract Management & Information Guide".
 - Notify the CMAS Unit if there is a change in your small business or DVBE status so your contract can be modified.
 - Contractors who are not a California certified small business pay a 1% incentive fee for CMAS sales to local government agencies.
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Press Releases

Prior approval is required from the State for all press releases regarding CMAS contracts.

Contract Extensions and Renewals

- If the base GSA contract has been extended for one year or less, submit a letter requesting the same extension for your CMAS contract and attach documentation of the GSA contract extension.
 - If the base GSA contract has been renewed for more than one year, submit a renewal application 60 days prior to the expiration of your CMAS contract. Renewals have same the requirements as new contracts, so see the "CMAS Contract Application" for information.
 - Determine if the base GSA contract was extended or renewed by searching the GSA e-Library at: www.gsaelibrary.gsa.gov.
-

eProcurement

Suppliers must register via the DGS eProcurement System, Cal eProcure. Training for suppliers on registering their business with the eProcurement System is available at: www.dgs.ca.gov/pd/Home.aspx, then select the tab titled "Cal eProcure" and scroll down. You may also receive assistance by contacting vendor@fiscal.ca.gov or (855) 421-6355.

Contact the CMAS Unit

- Phone: (916) 375-4365
 - Email: cmas@dgs.ca.gov
 - Website: www.dgs.ca.gov/pd/Programs/Leveraged/Cmas.aspx
-

CMAS Quarterly Reports



(Give to Contractor Staff Who Will Prepare Quarterly Reports)

- Quarterly reports must be on the most current form, which is dated 1/1/2010.
- To access the current quarterly report form and instructions, go to www.dgs.ca.gov/pd/programs/leveraged/cmas.aspx, then select "For Suppliers/Contractors".
- Quarterly reports and applicable incentive fees are due within two weeks after the end of March, June, September, and December of each calendar year.
- More information on quarterly reports can be found in the "CMAS Contract Management & Information Guide." To access the current guide, go to www.dgs.ca.gov/pd/programs/leveraged/cmas.aspx, then select "For Suppliers/Contractors".
- Mail quarterly reports and applicable incentive fee payments to:

Department of General Services
Procurement Division – CMAS Unit
Attn: Quarterly Report Processing
PO Box 989052, MS #202
West Sacramento, CA 95798-9052

Rev 10/10/2012

State of California

MULTIPLE AWARD SCHEDULE

Xerox Corporation

CONTRACT NUMBER:	3-17-36-0030B
SUPPLEMENT NO.:	1
CMAS CONTRACT TERM:	1/12/2017 through 11/30/2021
CONTRACT CATEGORY:	Information Technology Goods & Services
APPLICABLE TERMS & CONDITIONS:	September 8, 2014
MAXIMUM ORDER LIMIT:	\$500,000
FOR USE BY:	State & Local Government Agencies
BASE GSA SCHEDULE NO.:	GS-03F-137DA
BASE SCHEDULE HOLDER:	Xerox Corporation

This contract provides for the purchase and warranty of hardware and software, installation, maintenance, software maintenance as a product, managed print services, training and Federal Lease to Own Purchase (LTOP). (See page 2 for the specific brands and restrictions applicable to this contract.)

The purpose of this contract supplement is to incorporate the following changes:

- 1) Revise the list of product/service codes as shown on page 2. Add Software, Service-Hardware Maintenance and IT Service-Managed Print SRVC. Delete Printing-Equipment, Copier-Scan/Copy/Print, Printer-Accessories and Toner-Printer.
- 2) Revise the Excluded Products and/or Services provisions on page 2.
- 3) Incorporate the Specific Manufacturer's terms provision below:

ANY REFERENCE TO A SPECIFIC MANUFACTURER'S OR PUBLISHER'S WARRANTY OR TERMS AND CONDITIONS AS SHOWN IN THE BASE XEROX CORPORATION GSA SCHEDULE ARE NOT APPLICABLE TO THIS CMAS CONTRACT.

All other terms and conditions and provisions of the contract remain unchanged.

Original Signature on File

BRUCE FONG, Program Analyst, California Multiple Award Schedules Unit

Effective Date: **4/12/2017**

**CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)
XEROX CORPORATION
CMAS NO. 3-17-36-0030B, SUPPLEMENT No. 1**

Agency non-compliance with the requirements of this contract may result in the loss of delegated authority to use the CMAS program. Contractor non-compliance with the requirements of this contract may result in contract termination.

CMAS PRODUCT & SERVICE CODES

The CMAS Product & Service Codes listed below are for marketing purposes only. Review this CMAS contract and the base contract identified below for the products and/or services available on this contract.

Brand-Xerox
Copier-Accessories
Copier-Color
Copier-Digital
Copier-Digital Duplicator
Copier-Equip
Printer
Printer-Color
Software
Service-Hardware Maintenance
IT Service-Managed Print Svc.

AVAILABLE PRODUCTS AND/OR SERVICES

Only products from the manufacturer(s) listed below are available within the scope of this contract:

Xerox

The ordering agency must verify all products and/or services are currently available on the base GSA schedule at the GSA eLibrary. Access the GSA eLibrary at www.gsaelibrary.gsa.gov.

EXCLUDED PRODUCTS AND/OR SERVICES

SINS 51-505 Document Management Services, 51-58A Operating Lease Plan For Copiers, and 51-58B Operating Lease Plan – (All Other Products) are not available under this contract

CMAS BASE CONTRACT

This CMAS contract is based on some or all of the products and/or services and prices from GSA Schedule No. GS-03F-137DA (Xerox Corporation) with a GSA term of 10/1/2016 through 8/22/2021. The term of this CMAS contract incorporates an extension of three months beyond the expiration of the base GSA contract, and is shown in the "CMAS Term Dates" on page 1.

ISSUE PURCHASE ORDER TO

Agency purchase orders must be mailed to the following address, or faxed to **(972) 880-1475**:

**Xerox Corporation
1303 Ridgeview Drive
Lewisville, TX 75057
Attn: Purchase Order**

Agencies with questions regarding products and/or services may contact the contractor as follows:

**Contact: Michelle Yoshino
Phone: (714) 262-8854
E-mail: michelle.yoshino@xerox.com**

State of California

MULTIPLE AWARD SCHEDULE

Xerox Corporation

CONTRACT NUMBER:	3-17-36-0030B
SUPPLEMENT NO.:	2
CMAS CONTRACT TERM:	1/12/2017 through 11/30/2021
CONTRACT CATEGORY:	Information Technology Goods & Services
APPLICABLE TERMS & CONDITIONS:	September 8, 2014
MAXIMUM ORDER LIMIT:	\$500,000
FOR USE BY:	State & Local Government Agencies
BASE GSA SCHEDULE NO.:	GS-03F-137DA
BASE SCHEDULE HOLDER:	Xerox Corporation

This contract provides for the purchase and warranty of hardware and software, installation, maintenance, software maintenance as a product, managed print services, training and Federal Lease to Own Purchase (LTOP). (See page 2 for the specific brands and restrictions applicable to this contract.)

The purpose of this contract supplement is to incorporate the following changes:

- 1) Revise the Issue Purchase Order To provision to include ordering instructions for orders placed with Xerox Corporation and Authorized Dealers as shown on page 2.
- 2) Incorporate Attachment C listing the Xerox Authorized Dealers.

All other terms and conditions and provisions of the contract remain unchanged.

Original Signature on File

BRUCE FONG, Program Analyst, California Multiple Award Schedules Unit

Effective Date: **5/10/2017**

**CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)
XEROX CORPORATION
CMAS NO. 3-17-36-0030B, SUPPLEMENT No. 2**

ISSUE PURCHASE ORDER TO

Orders may be placed with Xerox Corporation or with an Authorized Dealer as indicated below:

Orders placed with Xerox Corporation.

SUBMIT ORDERS TO:

Xerox Corporation
1303 Ridgeview Drive,
Lewisville, TX 75057

Contact: Michelle Yoshino
Phone: 714/262-8854
Fax No.: 714/565-1168
E-mail: michelle.yoshino@xerox.com

Orders placed with an Authorized Dealer must be addressed as shown below and payment must be made payable to Xerox Corporation as shown on the invoice.

Xerox Corporation
c/o Authorized Dealer
Authorized Dealer's Address

**AUTHORIZED RESELLERS ARE RESPONSIBLE FOR
SENDING A COPY OF ALL PURCHASE ORDERS TO
XEROX CORPORATION FOR CMAS QUARTERLY
REPORTING REQUIREMENTS.**

See Attachment C for the list of Xerox Authorized Dealers.

ATTACHMENT C

AUTHORIZED DEALER	FIRST NAME	LAST NAME	PHYSICAL ADDRESS	CITY	ST	ZIP	TELEPHONE	EMAIL
XEROX COPRORATION	Criss	Speake	2485 Natomas Park, Suite 250	Sacramento	CA	95833	916-317-5684	criss.speake@xerox.com
XEROX COPRORATION	Ken	Vandre	2485 Natomas Park, Suite 250	Sacramento	CA	95833	916-561-6371	ken.vandre@xerox.com
XEROX COPRORATION	Kyle	Smith	700 South Flower Street, Suite 700	Los Angeles	CA	90017	866-750-3931	kyle.smith@xerox.com
XEROX COPRORATION	Kyle	Smith	1010 South Pioneer Blvd, Suite 200	Santa Fe Springs	CA	90670	866-750-3931	kyle.smith@xerox.com
XEROX COPRORATION	Kyle	Smith	5901 De Sota Avenue	Woodland Hills	CA	91367	866-750-3931	kyle.smith@xerox.com
XEROX COPRORATION	Kyle	Smith	404 Camino Del Rio South, 6th Flr	San Diego	CA	92108	866-750-3931	kyle.smith@xerox.com
XEROX COPRORATION	Kyle	Smith	1851 East First Street, Suite 300	Santa Ana	CA	92705	866-750-3931	kyle.smith@xerox.com
XEROX COPRORATION	Kyle	Smith	3916 State Street	Santa Barbara	CA	93105	866-750-3931	kyle.smith@xerox.com
XEROX COPRORATION	Kyle	Smith	1300 East Shaw Avenue, Suite 101	Fresno	CA	93710	866-750-3931	kyle.smith@xerox.com
XEROX COPRORATION	Kyle	Smith	201 Spear Street, 13th Flr	San Francisco	CA	94105	866-750-3931	kyle.smith@xerox.com
XEROX COPRORATION	Kyle	Smith	1600 South Main Street, Suite 190	Walnut Creek	CA	94596	866-750-3931	kyle.smith@xerox.com
XEROX COPRORATION	Kyle	Smith	475 14th Street, 12th Flr	Oakland	CA	94612	866-750-3931	kyle.smith@xerox.com
XEROX COPRORATION	Kyle	Smith	2665 North First Street, Suite 200	San Jose	CA	95134	866-750-3931	kyle.smith@xerox.com
Advanced Business Systems-ABC	Payne	Joe	19478 Dearborn Street	Chatsworth	CA	91311	818-886-7710	ipayne@mwbbiz.com
Advanced Business Systems-ABC	Payne	Joe	2716 Ocean Park Blvd, #2015	Santa Monica	CA	90405	310-3956790	ipayne@mwbbiz.com
Advanced Xerographics	Ray	Burt	307 South Main Street	Ukiah	CA	95482	707-462-5339	rayburt@pacbell.com
Astro Business Technology-AST	Paul	Thompson	7500 National Drive	Livermore	CA	94550	925-447-4100	pthompson@astrot.com
Central Valley Document Solutions	Robert & James	Hagerson	2027 W. Sunnyside	Visalia	CA	93277	559-827-4618	rob@intelligenids.com
Converging Technologies	Gene	Irttenkauf	1160 North Dutton Ave., Suite 100	Santa Rosa	CA	95401	707-522-6317	gi@xeroxworks.com
Copier Company	Ted	Darnall	525 N. Main	Yreka	CA	96097	530-842-4346	ted@xerox4u.net
Copier Headquarters	Dan	Strull	31320 Via Colinas, #103	Westlake Village	CA	91362	818-874-1200	dstrull@copierhqs.com
Copier Headquarters II	Dan	Strull	7320 Hollister Avenue	Goleta	CA	93117	805-532-9977	dstrull@copierhqs.com
Copy Doctor, Inc.	Anthony	Moore	5757 Wilshire Blvd., #502	Los Angeles	CA	90036	323-936-5600	amoore@copydoctor.com
Copy Solutions, Inc	Roger Zhao	Winston Chu	1055 Corporate Center Dr., Suite 580	Monterey Park	CA	91754	323-307-0900	roger.z@copysolution.com
DLXMerced	Tom	Milslead	1574 West 18th St., Suite 250	Merced	CA	95340	209-384-8979	milslead@dlxmerced.com
Docucopy	Patrick	Collins	5757 Wilshire Blvd., #480	Los Angeles	CA	90036	323-930-3984	patrick@docucopy.net
Document Consulting Services	Brett Butler	Ted Swick	840 Apollo St., Suite 220	El Segundo	CA	90245	310-563-1771	bbutler@documentconsulting.net
Document Consulting Services II	Brett Butler	Ted Swick	14546 Hamlin St., Suite 100	Van Nuys	CA	91411	310-563-1771	bbutler@documentconsulting.net
Document Solutions Company	Erik	Smith	351 California St., #810	San Francisco	CA	94104	415-981-9116	esmith@xeroxagents.com
Docustation	Aaron	Tilch	3034 H St., Suite C	Eureka	CA	95501	707-443-1598	docustation@sbcglobal.net
Docustation, II	Aaron	Tilch	2711 Henderson Road, #A	Redding	CA	96002	530-226-5237	docustation@sbcglobal.net
Four Copies - Fresno	Tom	Milslead	5250 Claremont Avenue	Stockton	CA	95207	877-522-5587	milslead@dlxmerced.com
Four Copies	Tom	Milslead	5250 Claremont Avenue, #242	Stockton	CA	95207	877-522-5587	milslead@dlxmerced.com
Future Business Systems, Inc.	Diana	Hemminghaus	340 James Way, Suite 160	Pismo Beach	CA	93449	805-773-5992	diana@futurexerox.com
Image Source	Brad	Craft	17072 Silica Dr., Suite 102	Victorville	CA	92392	760-241-8044	bcraft@imagesourceusa.com

ATTACHMENT C

Image Source	Brad	Craft	27349 Jefferson, #110	Temecula	CA	92590	915-296-2150	bcraft@imagesourceusa.com
Image Source	Brad	Craft	77-530 Enfield Lane, Bldg 1, 1st Flr	Palm Desert	CA	92211	760-345-6889	bcraft@imagesourceusa.com
Image Source	Brad	Craft	650 East Hospitality Lane, Suite 500	San Bernardino	CA	92408	909-890-4040	bcraft@imagesourceusa.com
Image Source	Brad	Craft	555 Anton Blvd., Suite 120	Costa Mesa	CA	92626	714-460-7776	bcraft@imagesourceusa.com
Image Source	Brad	Craft	Wilshire Blvd., Suite 720	Los Angeles	CA	90036	323-930-3984	bcraft@imagesourceusa.com
Image Source	Brad	Craft	613 S. Main St.	Barslow	CA	92311	661-948-0888	bcraft@imagesourceusa.com
Image Source	Brad	Craft	380 N. 8th St., Suite 14	El Centro	CA	92243	760-345-6889	bcraft@imagesourceusa.com
Inland Business Systems	Jim	Koppert	1500 North Market Boulevard	Sacramento	CA	95834	707-448-7742	jkoppert@ibs-team.com
Intelligent Document Solutions	Robert Hagerson	Tim DuBois	5251 Office Park Drive, #360	Bakersfield	CA	93309	661-321-0010	rob@intelligenids.com
LHPT, Inc. DBA Jett Xerographix	Bob	Leone	7700 Edgewater Dr., #505	Oakland	CA	94621	510-562-9910	bleone@mrcopy.com
Lucas Business Systems, Inc - LUC	Tim	Keating	3555 Deer Park Drive, Suite 180	Stockton	CA	95219	209-466-3786	tkeating@lucassystems.com
Lucas Business Systems, Inc - LUC	Tim	Keating	524 Kansas Avenue	Modesto	CA	95351	209-529-3610	tkeating@lucassystems.com
Mother Lode Document Systems	Tom	Ditty	557 S. Highway 49, Suite 4	Jackson	CA	95642	209-223-9300	thomasd@amadorca.net
Mr. Copy I	Bob	Leone	5657 Copley Drive	San Diego	CA	92111	858-573-6300	bleone@mrcopy.com
Mr. Copy II	Bob	Leone	4840 Rancho Del Mar Trail	San Diego	CA	92130	858-573-6301	bleone@mrcopy.com
Mr. Copy III	Bob	Leone	17700 Castleton St., Suite 155	City of Industry	CA	91748	626-839-2750	bleone@mrcopy.com
Mr. Copy of Orange County, Inc.	Bob	Leone	15265 Alton Parkway, Suite 100	Irvine	CA	92618	949-450-4861	bleone@mrcopy.com
Mr. Copy - San Jose	Bob	Leone	3065 Olcott Street	Santa Clara	CA	95054	408-844-8000	bleone@mrcopy.com
SoCal Office Technologies	David	Riener	5700 Warland Drive	Cypress	CA	90630	800-769-2679	ipayne@mwbbiz.com
SoCal Office Technologies	David	Riener	14397 Armagosa Road	Victorville	CA	92392	800-769-2680	ipayne@mwbbiz.com
SoCal Office Technologies	David	Riener	15060 Ventura Blvd., #100	Sherman Oaks	CA	91403	800-769-2681	ipayne@mwbbiz.com
SoCal Office Technologies	David	Riener	707 Wilshire Blvd., Suite 3650	Los Angeles	CA	90017	800-769-2682	ipayne@mwbbiz.com
SoCal Office Technologies	David	Riener	8577 Haven Avenue, #110	Rancho Cucamonga	CA	91730	800-769-2683	ipayne@mwbbiz.com
SoCal Office Technologies	David	Riener	9444 Famham St., Suite 350	San Diego	CA	92123	858-565-6261	ipayne@mwbbiz.com
Pacific Office Solutions - POS	David	Riener	10750 Thommint Road	San Diego	CA	92127	858-521-1090	ipayne@mwbbiz.com
Pro Office Technology - Auburn	Scott	Kolenic	13620 Lincoln Way, Suite 275	Auburn	CA	92127	530-889-9515	ipayne@mwbbiz.com
Q Document Solutions	Joel	Hackett	444 W. Ocean Blvd., #1100	Long Beach	CA	90802	562-435-2769	skolenic@proofficetech.com
Sierra Office Solutions	Jack	Cruikshank	312 N. Main Street	Bishop	CA	93514	760-873-7730	jack@sierraofficesupply.com
Success Concepts International, Inc.	Dennis	Leighton	5 Harris Court, Bldg O	Monterey	CA	93940	831-655-7710	xeroddennis@comcast.net
XL Business Systems	David	Berman	10837 Washington Blvd.	Culver City	CA	90232	310-839-5444	davidberman@xlrx.com



Fountain Valley School District
BUSINESS SERVICES DIVISION

M E M O R A N D U M

TO: Board of Trustees
FROM: Christine Fullerton, Assistant Superintendent, Business Services
Isidro Guerra, Director, Fiscal Services
SUBJECT: **Approve Agreement with Vavrinek, Trine, Day & Co., LLP for Year-End Close Consulting Services**
DATE: July 3, 2017

Background:

The District is in the process of closing the books for the 2016-17 fiscal year and has recently experienced the loss of its Accountant. Recruitment for this position is underway with an anticipated hire date of late August. Given the importance and the critical timing of the year-end close process, we have reached out to Vavrinek, Trine & Day (VTD) to provide assistance to the District during this timeframe.

Fiscal Impact:

The fees associated with this agreement are based on the number of hours and the VTD staff assigned to the engagement. Fees are estimated not to exceed \$10,000.

Recommendation:

It is recommended that the Board of Trustees approve the consulting services agreement and authorize the Superintendent or designee to sign all required documents.



Vavrinek, Trine, Day & Co., LLP
Certified Public Accountants & Consultants

VALUE THE DIFFERENCE

June 30, 2017

Ms. Christine Fullerton
Assistant Superintendent
Fountain Valley Unified School District
10055 Slater Avenue
Fountain Valley, CA 92708

Dear Ms. Fullerton:

Thank you for the request for our firm to assist the District with a transition of positions in the accounting department. The standards to which VTD will conform are intended to better serve the public interest and to maintain a high degree of integrity, objectivity and independence for both audit work and for non-audit work with government audit clients.

The standard for non-audit services for government audit clients is based on two overarching principles:

- Auditors (VTD) should not perform management functions or make management decisions; and
- Auditors (VTD) should not audit their own work or provide non-audit services in situations where the amounts or services involved are significant / material to the subject matter of the audit.

In lieu of these principles, our available resources and considering your needs, our firm suggests the following way that we can assist you during the next year. We will provide you with professional accounting assistance within the engagement scope and on the terms stated below.

OBJECTIVE OF ENGAGEMENT

The District has a vacancy in the accounting department as of June 2017 and requests assistance with transitioning the books from cash to accrual. VTD can also provide support to the District in on-going staff training in accounting for attendance, associated student body and fund-raising, categorical resources, multi-year projections, cash flow, accruals and generally accepted accounting procedures as requested.

SCOPE OF SERVICES

The work will be non-audit services as defined by Governmental Auditing Standards issued by the Comptroller General of the United States. Our work will not constitute an audit or review of transactions and should not be relied upon as such.

The District is responsible for the appropriate recording and reporting of financial transactions and management decisions. Accordingly, all work will be conducted at your direction or the Director, Fiscal Services, to insure that the work meets the District's objectives. Either the CBO or the Director will be responsible for review and approval of any work product directly prepared by VTD, including any adjustments to the accounting records that may be proposed by VTD, or reports drafted by VTD during the engagement.

10681 Foothill Blvd. Suite 300 Rancho Cucamonga, CA 91730 Tel: 909.466.4410 Fax: 909.466.4431 www.vtdcpa.com
FRESNO • LAGUNA HILLS • PLEASANTON • RANCHO CUCAMONGA • PALO ALTO • PHOENIX
RIVERSIDE • SACRAMENTO • SAN DIEGO

Governmental Auditing Standards require that the District be responsible for the substantive outcomes of VTD work and be in a position in fact and appearance to make an informed judgment on the results of the non-audit services and that the Fountain Valley Unified School District

- Designates a knowledgeable management level individual to be responsible and accountable for overseeing the non-audit services.
- Establishes and monitors the performance of the non-audit services to ensure that it meets managements objectives.
- Makes any decisions that involve management functions related to the non-audit services and accepts full responsibility for such decisions.
- Evaluates the adequacy of the services performed and any findings that result.
- Informs the board of this engagement.

DELIVERABLES

Specific services to be provided follow. Any additional services requested, other than routine advice and training will require an amendment of this agreement.

VTD will work with the Director, Fiscal Services and the Chief Business Official to assist in the completion of financial reports required by other government entities, mostly by the California Department of Education.

During the course of our engagement, you may request that we provide services outside the defined scope of this agreement. For us to consider such services, we require you provide a request in writing to us via the engagement partner. Should we agree to provide the additional services outlined in your written request, we will discuss with you the terms of those services and document those terms in an appropriate form, which may include an amended or separate engagement letter.

STAFFING

The Partner in charge of the engagement will be Caroline Larson. Every effort will be made to delegate work to our accounting staff to minimize the expense to the District and/or meet District deadlines.

Vavrinek, Trine, Day & Co., LLP has owners that are not licensed as certified public accountants as permitted under Section 5079 of the California Business and Professions Code. It is not anticipated that any of the non-licensee owners will be performing audit services for the agency.

FEES

Fees will be based on the hours worked. Invoices will be submitted monthly and are due upon receipt.

VTD Staff	Hourly Rate July 1, 2017 through December 31, 2018
Partner / Principal	\$210
Consultant / Manager	\$180
Supervisor	\$150
Senior Accountant	\$130
SBS Staff Accountant	\$110
Paraprofessional	\$75

In addition to such payment for personal services, VTD shall be reimbursed for such travel as may be necessary, including expenses for hotels, meals and mileage computed at the Internal Revenue Service (IRS) approved rate per mile.

TERMINATION OF ENGAGEMENT

The engagement may be terminated by either party without cause.

INDEPENDENT CONTRACTOR

We are an independent contractor as defined by Federal and State taxing authorities.

INSURANCE

We maintain current worker compensation and liability insurance policies.

If this letter correctly sets forth your understanding of the terms and objectives of the engagement, please so indicate by signing in the space provided below.

Sincerely,



Caroline A. Larson

VAVRINEK, TRINE, DAY & CO., LLP.

Date: June 30, 2017

Superintendent or Designee

**FOUNTAIN VALLEY UNIFIED SCHOOL
DISTRICT**

Date:



Fountain Valley School District
BUSINESS SERVICES DIVISION

M E M O R A N D U M

TO: Board of Trustees
FROM: Christine Fullerton, Assistant Superintendent Business Services
Isidro Guerra, Director, Fiscal Services
SUBJECT: **Adoption of Resolution 2018-06 Temporary Inter-Fund Transfers from Fund 40**
DATE: July 13, 2017

Background:

Due to the timing of when State Apportionments are received throughout the 2017-18 school year, it may be necessary for cash flow purposes that the District completes a temporary transfer from Fund 40 into any fund with a negative balance. The amount of this borrowing is not to exceed \$4,000,000. In accordance with Education Code 42603, any transfer shall be repaid by the close of the fiscal year or in the following fiscal year if the transfer takes place within the final 120 calendar days of a fiscal year end.

Recommendation:

It is recommended that the Board of Trustees adopts **RESOLUTION 2018-06**, the temporary inter-fund transfer of funds from Fund 40.

RESOLUTION NO. 2018-06
of the
BOARD OF TRUSTEES
FOUNTAIN VALLEY SCHOOL DISTRICT

**RESOLUTION TO ESTABLISH TEMPORARY INTERFUND TRANSFERS OF
SPECIAL OR RESTRICTED FUND MONIES**

WHEREAS, the governing board of any school may direct that moneys held in any fund or account may be temporarily transferred to another fund or account of the district for payment of obligations as authorized by education code section 42603; and

WHEREAS, the transfer shall be accounted for as temporary borrowing between funds or accounts and shall not be available for appropriation or be considered income to the borrowing fund or account; and

WHEREAS, no more than 75 percent of the maximum of monies held in any fund or account during a current fiscal year may be transferred; and

WHEREAS, amounts transferred shall be repaid either in the same fiscal year, or in the following fiscal year if the transfer takes place within the final 120 calendar days of a fiscal year;

NOW THEREFORE, BE IT RESOLVED, that the Governing Board of the Fountain Valley School District, in accordance with the provisions of Education Code Section 42603 authorizes the Administration to make temporary transfers to cover payment of obligations from any fund or account.

PASSED AND ADOPTED this 13th day of July, 2017.

Ayes: _____

Noes: _____

Absent: _____

Abstain: _____

Clerk of the Board of Trustees
Fountain Valley School District



Fountain Valley School District
BUSINESS SERVICES DIVISION

M E M O R A N D U M

TO: Board of Trustees
FROM: Christine Fullerton, Assistant Superintendent Business Services
Isidro Guerra, Director, Fiscal Services
SUBJECT: **Approval of Lease Addendums for Modular Classrooms**
DATE: June 30, 2017

Background:

The District leases seven modular classrooms from Mobile Modular Management Corporation under three separate operating leases. The following lease addendums extend the terms of these leases thru June 30, 2018. The monthly rental rate has increased to \$550 for each unit from a range of \$448 to \$539 per unit for the oldest to the newest units in 2016-17, respectively.

Recommendation:

It is recommended that the Board of Trustees approves the lease addendums extending the term of these leases through June 30, 2018 and authorizes the Superintendent or his designee to sign all documents.



Mobile Modular Management Corporation

11450 Mission Blvd Mira Loma CA 91752
Ph (951)360-5100 Fax (951)360-6622
www.MobileModularRents.com

Contract Addendum

Date: 7/1/2017

Customer : Fountain Valley SD
Billing Address: 10055 Slatten Ave
City/State/Zip: Fountain Valley CA 92708

Attn: Isidro Guerra
Phone : 714-843-3249
Fax:
E-mail: guerrai@fvsd.us

Project Name : Fulton Middle School
Site Address : 8778 El Lago St.
City/State/Zip: Fountain Valley CA 92708

This will serve as an addendum to the contract agreement entered into between **Fountain Valley SD** (Lessee) and MOBILE MODULAR MANAGEMENT CORPORATION (Lessor).

ALL OTHER TERMS AND CONDITIONS TO REMAIN THE SAME.

Please sign and return an acknowledgement copy to our office as soon as possible. Thank you.

Renewal Information

Contract No.	Building ID	Item Description	Addendum Start Date	Addendum Stop Date	Term	Rental Rate
578969	40566	Classroom, 24x40 DSA	7/1/2017	6/30/2018	12	\$ 6,600.00
578970	40581	Classroom, 24x40 DSA	7/1/2017	6/30/2018	12	\$ 6,600.00

- Rental rates do not include any applicable taxes or Personal Property Expense (PPE).
- Return delivery and preparing equipment for return will be quoted at time of return.
- This contract agreement defines a month as 30 calendar days. Bill Frequency for this contract is Monthly

Additional Contract Addendum Notes:

Mobile Modular Management Corporation

Printed Name

Title

Signature

Date

Fountain Valley SD

Printed Name

Title

Signature

Date

Please call (951)360-5156 with any questions or comments and ask for Karina Olvera
Thank you for contacting Mobile Modular.

Karina Olvera

****Note:** Contract addendum valid only when executed, offer expires 30 days from addendum date if not executed.



Mobile Modular Management Corporation

11450 Mission Blvd Mira Loma CA 91752
Ph (951)360-5100 Fax (951)360-6622
www.MobileModularRents.com

Contract Addendum

Date: 6/1/2017

Customer : Fountain Valley SD
Billing Address: 10055 Slatten Ave
City/State/Zip: Fountain Valley CA 92708

Attn: Isidro Guerra
Phone : 714-843-3249
Fax:
E-mail: guerrai@fvsvd.us

Project Name : Kazuo Masuda Middle School
Site Address : 17415 Los Jardines
City/State/Zip: Fountain Valley CA 92701

This will serve as an addendum to the contract agreement entered into between **Fountain Valley SD** (Lessee) and MOBILE MODULAR MANAGEMENT CORPORATION (Lessor).

ALL OTHER TERMS AND CONDITIONS TO REMAIN THE SAME.

Please sign and return an acknowledgement copy to our office as soon as possible. Thank you.

Renewal Information

Contract No.	Building ID	Item Description	Addendum Start Date	Addendum Stop Date	Term	Rental Rate
525364	41576	Classroom, 24x40 DSA	7/1/2017	6/30/2018	12	\$ 6,600.00
525365	41577	Classroom, 24x40 DSA	7/1/2017	6/30/2018	12	\$ 6,600.00
582481	40321	Classroom, 24x40 DSA	7/1/2017	6/30/2018	12	\$ 6,600.00
582611	40427	Classroom, 24x40 DSA	7/1/2017	6/30/2018	12	\$ 6,600.00

- Rental rates do not include any applicable taxes or Personal Property Expense (PPE).
- Return delivery and preparing equipment for return will be quoted at time of return.
- This contract agreement defines a month as 30 calendar days. Bill Frequency for this contract is Monthly

Additional Contract Addendum Notes:

Mobile Modular Management Corporation

Fountain Valley SD

Printed Name

Printed Name

Title

Title

Signature

Signature

Date

Date

**Please call (951)360-5156 with any questions or comments and ask for
Thank you for contacting Mobile Modular.**

Karina Olvera

****Note:** Contract addendum valid only when executed, offer expires 30 days from addendum date if not executed.



Mobile Modular Management Corporation

11450 Mission Blvd Mira Loma CA 91752
Ph (951)360-5100 Fax (951)360-6622
www.MobileModularRents.com

Contract Addendum

Date: 7/1/2017

Customer : Fountain Valley SD
Billing Address: 10055 Slatten Ave
City/State/Zip: Fountain Valley CA 92708

Attn: Isidro Guerra
Phone : 714-843-3249
Fax:
E-mail: guerrai@fvsd.us

Project Name : Tamura School
Site Address : 17340 Santa Suzanne Street
City/State/Zip: Fountain Valley CA 92708

This will serve as an addendum to the contract agreement entered into between **Fountain Valley SD** (Lessee) and MOBILE MODULAR MANAGEMENT CORPORATION (Lessor).

ALL OTHER TERMS AND CONDITIONS TO REMAIN THE SAME.

Please sign and return an acknowledgement copy to our office as soon as possible. Thank you.

Renewal Information

Contract No.	Building ID	Item Description	Addendum Start Date	Addendum Stop Date	Term	Rental Rate
220022205	30627	Classroom, 24x40 DSA	7/1/2017	6/30/2018	12	\$ 6,600.00

- Rental rates do not include any applicable taxes or Personal Property Expense (PPE).
- Return delivery and preparing equipment for return will be quoted at time of return.
- This contract agreement defines a month as 30 calendar days. Bill Frequency for this contract is Monthly

Additional Contract Addendum Notes:

Mobile Modular Management Corporation

Printed Name

Title

Signature

Date

Fountain Valley SD

Printed Name

Title

Signature

Date

Please call (951)360-5156 with any questions or comments and ask for Karina Olvera
Thank you for contacting Mobile Modular.

Karina Olvera

****Note:** Contract addendum valid only when executed, offer expires 30 days from addendum date if not executed.



Fountain Valley School District
BUSINESS SERVICES DIVISION

M E M O R A N D U M

TO: Board of Trustees
FROM: Christine Fullerton, Assistant Superintendent Business Services
Isidro Guerra, Director, Fiscal Services
SUBJECT: **Approval of Orange County Department of Education Sungard Contracts**
DATE: July 3, 2017

Background:

Business-Plus System Support Agreement #42950 Amendment #1

The Orange County Department of Education (OCDE) provides professional services for the operation of the Sungard Business-PLUS system, including on-going training, support services and software enhancements. Services include basic financial /budget, school site finance, stores inventory and fixed assets systems. The cost of this agreement for the 2017-18 school year is \$51,769, a 5% increase over the prior year.

Human Resources Application Agreement #39389 Amendment #4

The Orange County Department of Education (OCDE) provides system as well as software support for the District's Sungard Human Resources System package. This contract is renewed annually. The cost for the 2017-18 school year is \$27,674. This is a decrease of \$1,500 over the prior year.

Recommendation

It is recommended that the Board approves Agreement Number 42950 – Amendment #1, “Sungard Business-Plus System Support” and Agreement 39389 – Amendment #4 “Human Resources Application” with the Orange County Department of Education and authorizes the Superintendent or designee to sign all documents.

AMENDMENT #1
FOUNTAIN VALLEY SCHOOL DISTRICT
SUNGARD BUSINESS-PLUS SYSTEM SUPPORT
IMPLEMENTATION AND SOFTWARE SUPPORT SERVICE AGREEMENT

The AGREEMENT entered into February 3, 2016, by and between the Orange County Superintendent of Schools, 200 Kalmus Drive, Costa Mesa, California 92626, hereinafter referred to as SUPERINTENDENT, and Fountain Valley School District, 10055 Slater Avenue, California 92708, hereinafter referred to as DISTRICT, is hereby amended as follows:

1.0 Section 5.0 PAYMENT shall be amended to read: DISTRICT agrees to pay SUPERINTENDENT the sum of Fifty-one thousand seven hundred sixty-nine dollars (\$51,769.00) for annual software support service fees for fiscal year 2017-2018. Annual software support service fees due for each fiscal year shall be paid by DISTRICT on or before August 1st of that fiscal year upon receipt of an itemized invoice from SUPERINTENDENT. SUPERINTENDENT shall evaluate software support service charges annually, for possible upward or downward adjustments, based on SUPERINTENDENT'S actual costs to support SunGard Bi-Tech software. SUPERINTENDENT will provide DISTRICT written notice of the annual software support service fees due for the renewal period ninety (90) days prior to the end of each renewal period.

2017 - 2018 Annual Software Support Service Fees

Basic Financial/Budget	\$ 37,440.00
School Site Finance	\$ 5,510.00

1 Stores Inventory \$ 4,409.00

2 Fixed Assets \$ 4,409.00

3 \$ 51,769.00

4 2.0 Except as expressly herein amended, said AGREEMENT of FEBRUARY
5 3, 2016, shall in all respects be and remain in full force and
6 effect.

7 IN WITNESS WHEREOF, the Parties hereto set their hands.

8 DISTRICT: FOUNTAIN VALLEY SCHOOL
DISTRICT

ORANGE COUNTY SUPERINTENDENT
OF SCHOOLS

9 BY: _____
10 Authorized Signature

BY:  _____
Authorized Signature

11 PRINTED NAME: _____

PRINTED NAME: Patricia McCaughey

12 TITLE: _____

TITLE: Administrator

13 DATE: _____

DATE: June 26, 2017

14 FVSD- (42950)Amend#1-BiTech- IFAS-Sungard Bus Plus 2017-18
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2 AMENDMENT #4
3 FOUNTAIN VALLEY SCHOOL DISTRICT
4 HUMAN RESOURCES APPLICATION
5 IMPLEMENTATION AND SOFTWARE SUPPORT SERVICE AGREEMENT

6 The AGREEMENT entered into April 26th, 2013, by and between the
7 Orange County Superintendent of Schools, 200 Kalmus Drive, Costa
8 Mesa, California 92628, hereinafter referred to as SUPERINTENDENT,
9 and Fountain Valley School District, 10055 Slater Avenue, California
10 92708, hereinafter referred to as DISTRICT, is hereby further amended
11 as follows:

12 1.0 Section 5.0 PAYMENT shall be amended to read: DISTRICT agrees to
13 pay SUPERINTENDENT the sum of Twenty-seven thousand six hundred
14 seventy-four dollars (\$27,674.00) for SUPERINTENDENT'S Human
15 Resources Application annual software support service fees for fiscal
16 year 2017-2018. Annual software support service fees due for each
17 fiscal year shall be paid by DISTRICT on or before August 1st of that
18 fiscal year upon receipt of an itemized invoice from SUPERINTENDENT.
19 Annual Human Resources Application software support service fees will
20 be evaluated annually for possible upward or downward adjustments.
21 SUPERINTENDENT will provide DISTRICT written notice of the annual
22 Human Resources Application software support service fees due for the
23 renewal period ninety (90) days prior to the end of each renewal
24 period. Renewal fees shall be based on the actual costs incurred by
25 SUPERINTENDENT to support the Human Resources Application software.

2.0 Except as expressly herein amended, including any amendments thereto, said AGREEMENT shall in all respects be and remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto set their hands.

DISTRICT: FOUNTAIN VALLEY SCHOOL
DISTRICT

ORANGE COUNTY SUPERINTENDENT
OF SCHOOLS

BY: _____
Authorized Signature

BY:  _____
Authorized Signature

PRINT NAME: _____

PRINT NAME: Patricia McCaughey

TITLE: _____

TITLE: Administrator

DATE: _____

DATE: June 26, 2017

FVSD- (39389) Amend#4-HR Application 2017-18
Zip 6



Fountain Valley School District
BUSINESS SERVICES DIVISION

M E M O R A N D U M

TO: Board of Trustees
FROM: Christine Fullerton, Assistant Superintendent Business Services
Isidro Guerra, Director, Fiscal Services
SUBJECT: **Agreement with Revenue Enhancement Group, Inc. for Assessment Refund Services**
DATE: June 30, 2017

Background:

The District has worked with the Revenue Enhancement Group since 2012 to obtain refunds on direct assessment charges for municipal services, allowing the District to lower operating costs. Revenue Enhancement Group reviews and validates direct assessment charges on the District's property tax bill in areas such as sewer, street lighting, sanitation and mosquito abatement and acts on the District's behalf, as necessary, to recover overpayments.

The term of this agreement is from July 26, 2017 to July 25, 2018. This is a contingency fee agreement where the District will pay Revenue Enhancement Group 30% of any savings, refunds or credits recovered.

Recommendation:

It is recommended that the Board of Trustees approves Agreement 9705HA with Revenue Enhancement Group, Inc., for the period of one year, beginning July 26, 2017 and ending July 25, 2018, and authorizes the Superintendent or designee to sign all documents.

**Revenue Enhancement Group
AGREEMENT FOR ASSESSMENT REFUND SERVICES**

Client: Fountain Valley School District

Agreement #: 9705HA

1. AUTHORIZATION

A. Examination of Records. Fountain Valley School District ("Client") hereby authorizes Revenue Enhancement Group, Inc. ("REG") to examine the direct assessment charges (also known as special assessments, benefit assessments, or non ad valorem charges, hereinafter "charges") appearing on the property tax bills for any and all parcels within California.

B. Obtaining Savings, Refunds and Credits. Client hereby authorizes REG to obtain savings, refunds, and credits for any of the above charges on any and all of Client's parcels in California as far back as the statute allows. These services described generally as "assessment refund services".

- "Savings" means an adjustment or correction resulting in a reduced charge.
- "Refunds" means a payment from a taxing entity to Client, resulting from an overpayment of a charge.
- "Credits" means an offset granted by a taxing entity against any other past, current or future charge, in lieu of a direct refund.

2. CONTINGENCY FEES

A. Calculation. This is a contingency fee agreement. Client agrees to pay REG a contingency fee equal to thirty percent (30%) of any savings, refunds, or credits, subject to the time limitations below. All savings, refunds or credits shall be determined on a per-parcel basis. If REG does not obtain any savings, refunds, or credits, then Client shall not pay for services rendered by REG.

B. Payment. Client agrees to pay said contingency fee: 1) within 30 days of receipt of a refund payment, and/or 2) within 30 days of notice of a credit, and/or 3) within 30 days of receipt of a tax bill reflecting a savings. After 30 days, Client shall be in default, and the late payment shall be assessed a penalty of ten percent (10%) per annum.

3. TERM OF AGREEMENT

The term of the agreement is twelve months from the date your agreement current agreement expires which is 7/25/17.

4. SHARED INFORMATION

A. Non-compete Clause. Client agrees not to compete with REG, with respect to its own parcels or any other properties, during the period described in Paragraph 3. Client agrees that REG shall be the exclusive provider of assessment refund services during this period, and any refunds, credits and savings obtained by or for Client shall be subject to this agreement.

B. Necessary Documentation. Client agrees to provide REG with any and all necessary letters of authorization, and any and all supporting documentation which it can reasonably produce to enable REG to obtain savings, refunds or credits on behalf of Client, within a reasonable time as required to submit claims within the applicable statutory periods. In the event that Client fails or refuses to provide said letters and documentation, Client agrees to pay REG damages in an amount equal to the contingency fee otherwise due if REG had obtained savings, refunds or credits on behalf of Client.

5. MISCELLANEOUS PROVISIONS

A. No Guarantees. REG makes no guarantees regarding the likelihood of obtaining a savings, refund or credit. REG does not guarantee that it can identify all potential savings, refund, or credit opportunities. REG is not a law firm, and does not represent Client in a legal capacity.

B. Legal Fees and Applicable Law. In the event that either party must seek legal counsel to enforce any provision contained herein, the non-prevailing party shall reimburse the prevailing party for all reasonable attorney fees, costs, and any and all miscellaneous expenses incurred in connection therewith. The laws of the State of California shall govern the construction and interpretation of this entire agreement.

C. Severability. If any provision of this agreement, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this agreement to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this end the provisions of this agreement are severable.

D. Hold Harmless Agreement. Client agrees to indemnify, release and hold harmless REG from any claims arising from any inaccurate information or documentation that Client provides to REG.

In witness hereof, Client and REG have executed this agreement on the dates listed below.

Revenue Enhancement Group, Inc.

Fountain Valley School District

/s/ 

/s/ _____

Robert Lockhart
Chief Executive Officer

By: _____

Title: _____

Date: 6/26/2017

Date: _____



Fountain Valley School District
BUSINESS SERVICES DIVISION

M E M O R A N D U M

TO: Board of Trustees
FROM: Christine Fullerton, Assistant Superintendent Business Services
Isidro Guerra, Director, Fiscal Services
SUBJECT: **Agreement for Special Services with School Services of California**
DATE: June 20, 2017

Background:

Each year the District contracts with School Services of California (SSC) for fiscal services. SSC provides districts throughout the state with valuable information and insight into budgeting, finance and general practices. Included in the annual agreement with SSC is one copy of the booklet *Analysis of the Governor's Proposals for the State Budget and K-12 Education*. Twelve (12) hours of annual contract service are also included in the membership fee. Participation at School Services workshops are offered at a discounted rate to members.

The term of this agreement is from August 1, 2017 to July 31, 2018. The annual membership fee is \$3,660 which is unchanged from the previous year. If approved, monthly payments will be scheduled in the amount of \$305.

Recommendation:

It is recommended that the Board of Trustees approves the Agreement for Special Services with School Services of California, Inc., for the period of one year, beginning August 1, 2017 and ending July 31, 2018, and authorizes the Superintendent or designee to sign all documents.

AGREEMENT FOR SPECIAL SERVICES
Fiscal and Management Information Services

This is an agreement between the **FOUNTAIN VALLEY SCHOOL DISTRICT**, hereinafter referred to as "Client," and **SCHOOL SERVICES OF CALIFORNIA, INC.**, hereinafter referred to as "Consultant," entered into as of August 1, 2017.

RECITALS

WHEREAS, the Client needs assistance regarding issues of school finance, legislation, school budgeting, general fiscal issues, and the state-mandated program cost claims process; and

WHEREAS, the Consultant, is professionally and specially trained and competent to provide these services; and

WHEREAS, the authority for entering into this Agreement is contained in Section 53060 of the Government Code and such other provisions of California law as may be applicable;

NOW, THEREFORE, the parties to this Agreement do hereby mutually agree as follows:

1. Consultant agrees to perform such duties relating to issues of school finance, including:
 - a. Delivery of "one copy" of each edition of the *Fiscal Report* containing information on issues of school finance, budgets, or practices that impact school district fiscal policies, and one copy of the *Analysis of the Governor's Proposals for the State Budget and K-12 Education*
 - b. Unlimited access to the Consultant's online workshops, which include:
 - i. Fiscal Aspects of Negotiations
 - ii. Associate Student Body
 - c. The option of receiving information on Consultant's website regarding major school finance and policy issues
 - d. An analysis of all major school finance/fiscal legislation and reports on its legislative/executive branch progress
 - e. Preliminary school district revenue calculation using the online tools available on the Consultant's website for use in determining the projected revenue funding level soon after the budget is adopted based on the major annual school finance legislation
 - f. Participation at the Consultant's school finance conferences and workshops at the Consultant's client rate

- g. Counsel the Client on new mandates and information relating to the local mandate reimbursement process for all applicable legislation already adopted that contains a reimbursement appropriation, and maintain liaison with the State Controller, the Commission on State Mandates, and the State Department of Finance
- 2. The Consultant shall provide the Client with services as requested to a total of twelve (12) direct service hours during the 12-month period of this Agreement at no additional cost beyond the annual fee. The hours of service may be used as the Client directs on fiscal and mandate service issues, including: mandate counseling, analysis of specific district revenue or expenditure issues, analysis of specific legislative or regulatory issues, including a “quick query” service to provide telephone response to specific fiscal or mandate questions of the Client.

Services for which the base service hours may not be used, include: Client specific economy, efficiency, or management consulting services, including, but not limited to efficiency or management studies, demographic or school facility studies, special education studies, fiscal health analysis, and/or an in-depth budget review, direct collective bargaining or factfinding assistance; fiscal analysis for purposes of collective bargaining, legislative representation or advocacy; appearance as an expert witness; provision of depositions or declarations for district legal issues; major customized research projects or studies; or, on-site speeches or presentations.

- 3. The Client agrees to pay to Consultant for services rendered under this Agreement:
 - a. \$3,660 annually, plus expenses, or payable at \$305 per month, plus expenses, upon receipt of a billing from Consultant
 - b. For all requested services in excess of twelve (12) direct service hours as indicated in Item 2 above in the 12-month period, the applicable hourly rate for the person(s) performing the services shall apply
 - c. “Hours” are defined as hours of direct service to the Client, as well as reasonable travel time to and from the Client’s site
 - d. “Expenses” are defined as actual, out-of-pocket expenses, such as travel, meals, shipping, and duplication of materials
- 4. This Agreement shall be for the period of one year, beginning August 1, 2017, and terminating July 31, 2018. This Agreement may be terminated prior to July 31, 2018 by either party on thirty (30) days’ written notice. In the event that the Client elects to terminate services at the end of the Agreement, the Client shall give a 30-day written notice of nonrenewal. Consultant will provide continuing services for 90 days after the expiration date of the Agreement or until the client provides

written notice. The Client is responsible for these accrued charges and SSC may bill these additional days. In the case of cancellation, the Client shall be liable for any costs accrued to the date of cancellation.

5. It is expressly understood and agreed to by both parties that Consultant, while carrying out and complying with any of the terms and conditions of this Agreement, is an independent contractor and is not an employee of the Client.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as indicated below:

BY: _____

DATE: _____

Print Name

Job Title

Fountain Valley School District

BY:



ROBERT D. MIAYSHIRO

Vice President

School Services of California, Inc.

DATE: June 15, 2017

ADDENDUM A TO SPECIAL SERVICES AGREEMENT

As a client of School Services of California, Inc., you have the option of purchasing either or both of our **CADIE** and **SABRE** reports at the client rate. The following information describes the **CADIE** and **SABRE** reports, and the form at the bottom of the page to order the reports.

The **Comparative Analysis of District Income and Expenditures (CADIE)** is a comprehensive computer-generated report comparing your district's revenues and expenditures to those of 40 other districts (two reports with 20 districts in each) of your choice throughout the state. Well over 300 comparisons are made using SACS and CBEDS data.

The **CADIE** includes comparative graphic data expenditures by ADA, tabular information showing per ADA and percentage distribution of district revenues and expenditures, staffing levels, and tables that show—on an ADA and percentage basis—how your district spent its dollars for the prior three years. The report is comprehensive, yet easy to use.

The **Salary And Benefits Report (SABRE)** is generated from the CDE's Certificated Teachers Salary and Benefit data (Form J-90) and provides up to 38 side-by-side comparisons of your district with those of 40 other districts (two reports with 20 districts in each) of your choice on certificated salaries, health and welfare benefits, and work days.

The **SABRE** includes ten graphical displays and 27 comparison tables with side-by-side analysis for certificated non-management. It also includes the actual salary and benefit schedules and other selected data important for compensation evaluation in an easy-to-read format.

The analytical uses of the **CADIE** and **SABRE** reports are unlimited. If these products are needed for negotiations, they may be fully reimbursable as part of your mandated cost claim if you have chosen to file mandate claims for this year.

Please check the appropriate items below:

<input type="checkbox"/> CADIE Only	\$400	<input type="checkbox"/> Use the same districts as last year	<input type="checkbox"/> Current year 2015-16
<input type="checkbox"/> SABRE Only	\$250	<input type="checkbox"/> Use districts of similar type and size	<input type="checkbox"/> Next year 2016-17
<input type="checkbox"/> CADIE & SABRE	\$600	<input type="checkbox"/> Call me to discuss comparative group	
		<input type="checkbox"/> Please use similar unduplicated pupil percentage districts	

*Reports are a year behind as the data is released by the CDE.

**Next year: SABRE will be released in December 2017, CADIE will be released in May 2018

District Name: _____

Contact Name: _____

Address (no P.O. boxes please): _____

Telephone with extension: _____

Email Address: _____

Signature: _____

Print Name: _____ Date: _____

By completing this Addendum A and submitting with our contract, the above Client agrees to pay for these reports upon receipt of the products and appropriate billing.



SO: 2017-18/B18-01
Fountain Valley School District
Superintendent's Office

M E M O R A N D U M

TO: Board of Trustees
FROM: Mark Johnson, Ed.D., Superintendent
SUBJECT: **Williams Uniform Complaint Quarterly Report**
(Quarter #4: April 1 – June 30, 2017)
DATE: July 10, 2017

Background:

Education Code mandates that a school district shall report summarized data on the nature and resolution of all Williams Uniform Complaints on a quarterly basis to the county superintendent of schools. This report shall be publicly agendaized at a regular board meeting. Complaints and written responses shall be available as public records.

The Williams Litigation Settlement mandates that the district shall use certain procedures to investigate and resolve specific complaints that fall within three specific categories.

- **Instructional materials**
- **Teacher vacancy or misassignment**
- **Facilities**

Williams Quarterly Report: April 1 through June 30, 2017

The District received no complaints in any of the categories.

Recommendation:

It is recommended that the Board of Trustees receives and approves the Williams Quarterly Report for the fourth quarter of the 2016-17 year and approves its submittal to the Orange County Department of Education.



2016-17 Quarterly Report Williams Legislation Uniform Complaints

Print Form

District: Fountain Valley School District

District Contact: Mark Johnson, Ed.D.

Title: Superintendent

- ☐ Quarter #1 July 1 - September 30, 2016
☐ Quarter #2 October 1 - December 31, 2016
☐ Quarter #3 January 1 - March 31, 2017
☒ Quarter #4 April 1 - June 30, 2017

Report due by October 28, 2016

Report due by January 27, 2017

Report due by April 28, 2017

Report due by July 28, 2017

Check the box that applies:

- ☒ No complaints were filed with any school in the district during the quarter indicated above.
- ☐ Complaints were filed with schools in the district during the quarter indicated above. The following chart summarizes the nature and resolution of the complaints.

Type of Complaint	Total # of Complaints	# Resolved	# Unresolved
Textbooks and Instructional Materials			
Teacher Vacancies or Misassignments			
Facility Conditions			
TOTALS			

Name of Superintendent: Mark Johnson, Ed.D.

Signature of Superintendent:

Date: 7/13/2017

Please submit to:

Thea Savas
Senior Administrative Assistant
200 Kalmus Drive, B-1009
P.O. Box 9050, Costa Mesa, CA 92628-9050

Phone: (714) 966-4336; Email: tsavas@ocde.us; Fax: (714) 327-1371



SO 2017-18/B18-02
Fountain Valley School District
Superintendent's Office

M E M O R A N D U M

TO: Board of Trustees
FROM: Mark Johnson, Ed.D., Superintendent
SUBJECT: **RETAINER AGREEMENT FOR LEGAL SERVICES IN 2017-18
SCHOOL YEAR WITH THE LAW OFFICES OF MARGARET A.
CHIDESTER & ASSOCIATES**
DATE: July 10, 2017

Background:

The Law Offices of Margaret A. Chidester & Associates will be retained for the purpose of providing specific legal services pertaining to District business and related matters as may be specifically directed by the Superintendent/designee, including but not limited to, labor, employment, personnel, pupil personnel, special education, instructional compliance, contractual, business transactional, real property and governance issues.

Recommendation:

It is recommended that the Board of Trustees approves the retainer agreement for legal services in 2017-18 with the Law Offices of Margaret A. Chidester & Associates.

**RETAINER AGREEMENT
BETWEEN FOUNTAIN VALLEY SCHOOL DISTRICT
AND THE LAW OFFICES OF MARGARET A. CHIDESTER & ASSOCIATES**

THIS AGREEMENT is made and entered into effective July 1, 2017 by and between the FOUNTAIN VALLEY SCHOOL DISTRICT of Orange County, California, "District," and the LAW OFFICES OF MARGARET A. CHIDESTER & ASSOCIATES, "Attorneys."

W I T N E S S E T H

WHEREAS, the District desires to obtain from Attorneys certain legal services; and

WHEREAS, the governing board has determined that it is in the best interest of the District to appoint Attorneys to represent the District in the matters specified herein;

In consideration of these mutual promises, the parties agree as follows:

1. **Services**: The District retains Attorneys for the purpose of providing legal services pertaining to District business and related matters as may be specifically directed by the Governing Board and the Superintendent or designees, including, but not limited to, labor negotiations, employment, personnel, pupil personnel, investigation of complaints, instructional compliance, contractual, business, finance, transactional, real property, governance and litigation issues, or such other legal issues as may be specifically assigned by the Superintendent/designee.

Upon specific direction of the Board, the Superintendent, or designees, Attorneys will interpret relevant statutes, constitutional provisions and case law as deemed necessary by the District; prepare, review, and comment on legal documents in correspondence; render legal opinions as appropriate and requested; advise and represent the District in any court or

administrative proceeding, provide other legal advice and legal services as requested; work with the District staff and Board in the development of policy; and attend meetings as necessary and requested.

In rendering services, Attorneys shall comply with all federal, state, and local laws, regulations, and rulings to the extent that such laws are applicable to the Firm in its capacity as the District's legal representative.

2. **Rates and Payment:** The District shall not be required to pay in advance for any retained services. The District shall pay Attorneys for services at the rates set forth in Exhibit "A", attached and incorporated by this reference.

3. **Costs:** The District shall pay and reimburse Attorneys for any actual and necessary costs and expenses incurred in the course of providing services, including actual charges that Attorneys directly incur such as filing fees, reproduction of documents, messenger and delivery services, postage, travel expenses, mileage for travel at the fixed IRS rate, lodging, court reporting costs, hearing officer and arbitrator fees, and consultant services.

Attorneys will supply all necessary equipment, tools, supplies, offices, personnel, transportation, support services, and insurance required to perform legal services under this Agreement.

4. **Statements:** Attorneys shall present statements for services rendered during the preceding month. The District shall pay upon presentation or within forty-five (45) days thereafter. Invoices not paid within 45 days of the date issued may be assessed a late charge of 1.5% per month. Statement shall include (1) a detailed, confidential account of the legal matters, strategies, and work on behalf of the District, and (2) a summary invoice containing only amounts, dates, and general descriptions of legal

services provided that is suitable for the Superintendent to transmit to the District's accounts payable staff. These invoices shall be sent directly to the attention of the Superintendent unless we are otherwise directed in writing by the Superintendent or the governing Board.

5. **Conflicts:** The District acknowledges that Attorneys presently represent and in the future will represent other districts, charter schools, and education agencies that may, from time to time, have transactions with the District. The District consents to such continued and future representation without the need for any further consent from the District, provided that Attorneys shall promptly notify the District in writing of any direct conflict and of the District's options in such case.

Attorneys shall not represent any person or entity in any action against the District or in any investment matter before the District.

6. **Indemnification:** Except as provided below, the District will indemnify, defend and hold harmless Attorneys from and against all claims, suits or causes of action arising out of the services rendered herein. The District will provide legal representation for Attorneys in any litigation relating to such services if Attorneys are sued, deposed, or otherwise required to provide information or testimony concerning services provided under this contract. ***This provision does not apply to any actions resulting from Attorneys' negligence, willful and/or malicious conduct in the course of rendering services.***

The indemnity provisions of this section shall survive the expiration or termination of this Agreement.

7. **Electronic Communication, Confidentiality and Publicity:** The District authorizes Attorneys to communicate with the District and the District's representatives via electronic mail when such

communication is desirable for timely communications, efficiency of transmission, or to avoid the need for re-creating documents.

Attorneys shall make reasonable efforts to label electronic communications as confidential and privileged. The District acknowledges that electronic communications may be intercepted and that confidentiality cannot be guaranteed. If e-mail is intercepted or confidentiality is otherwise compromised, the District will hold Attorneys harmless for any resulting injury.

The District will not modify any document transmitted to the District electronically by Attorneys, except as expressly authorized by Attorneys.

Both parties agree not to knowingly transmit any materials to the other party in violation of the copyright of another or of any other applicable law.

Attorneys shall retain all confidential information in the strictest confidence and shall neither use it nor disclose it to anyone without prior written consent of the District. The District may seek to enjoin any unauthorized disclosure. Attorneys shall not issue public announcements concerning the District without the District's prior written consent.

8. Files and Ownership of Documents. When legal services conclude, or periodically as individual matters conclude, Attorneys will, upon the District's request, deliver closed files to the District at the District's cost, along with any funds or property of the District's in Attorneys' possession. Attorneys will retain closed files for a period of up to two (2) years. If the District does not request delivery of the file before the end of the one (1) year period from closure of the file, Attorneys shall have no further obligation to retain files and may, at Attorneys' discretion, destroy them without further notice.

9. Assignment. This Agreement is not assignable without the written consent of the District.

10. **Independent Contractor.** Attorneys, while engaged in performing the terms of this Agreement, are an independent contractor and are not employees of the District.

11. **Insurance.** Attorneys shall maintain workers' compensation insurance, general liability insurance, and legal malpractice coverage in force at all times at their sole expense in amounts deemed sufficient under current industry standards to protect the interests of the District under this Agreement. Attorneys shall, on request, provide the District with certificates of insurance evidencing compliance with coverage requirements of this Agreement.

12. **Nondiscrimination.** Attorneys shall not, in the performance of this Agreement, unlawfully discriminate against any employee, applicant for employment, or District student or employee because of race, religion, color, national origin, ancestry, disability, medical condition, marital status, age (over 40), sex, gender, gender identity or sexual orientation.

13. **Audit.** The District shall have audit access to its accounts with Attorneys on request during the term of this Agreement. Attorneys shall cooperate with such auditors or investigators authorized to audit District activities and provide information regarding District legal matters that the District may need to defend itself against legal challenges.

14. **Governing Law.** This Agreement shall be governed by the laws of the state of California.

15. **Authority.** The parties hold the positions set forth below their signatures and are authorized to execute this Agreement on behalf of their respective parties and to bind their respective parties hereto.

16. **Term.** This Agreement is effective July 1, 2017. It may be extended or modified by mutual agreement.

This Agreement is terminable by either party upon thirty (30) days written notice.

FOUNTAIN VALLEY SCHOOL DISTRICT

Date: _____, 2017

BY: _____

LAW OFFICES OF MARGARET A.
CHIDESTER & ASSOCIATES

Date: April 27, 2017

BY: Margaret A. Chidester
Margaret A. Chidester

EXHIBIT "A"

Rates are guaranteed through June 30, 2018.

PARTNERS	\$290 per hour
SENIOR ATTORNEYS	\$270 per hour
OTHER ATTORNEYS	\$250 per hour
LAW CLERKS/PARALEGALS	\$145 per hour

COSTS

PHOTOCOPIES AND FAXES	\$0.25 per page
COLOR COPIES	\$0.50 per page
POSTAGE	actual charges
MILEAGE	IRS authorized rate
TELEPHONES	no charge



Fountain Valley School District
Educational Services

M E M O R A N D U M

TO: Board of Trustees
FROM: Steve McLaughlin, Assistant Superintendent, Educational Services
SUBJECT: **CONTRACT FOR PROFESSIONAL DEVELOPMENT SERVICES
WITH ELENA MACDONALD**
DATE: July 10, 2017

Background:

To support the ongoing commitment of offering high level performing arts experiences throughout the district, TK-8 music teachers will receive professional development by ways of in-class model lessons, coaching, selection of music, organizing ensembles, and directing choir performances. Training will take place starting August 1, 2017 and run through June 30, 2018, both within the instructional day as well as afterschool.

Professional development services will be provided by Elena MacDonald, an accomplished vocal music director, with vast experiences leading student performances from kindergarten through high school.

Fiscal Impact:

All expenses associated with the trainings will be covered with funds allocated in the Educator Effectiveness Grant to provide ongoing teacher professional development.

Recommendation:

It is recommended that the Board of Trustees approves the contract for professional development services with Elena MacDonald.

CONSULTING AGREEMENT

THIS AGREEMENT IS MADE AND ENTERED INTO THIS 1st DAY OF August, 2017 BETWEEN Elena MacDonald, HEREINAFTER REFERRED TO AS "CONSULTANT" AND THE FOUNTAIN VALLEY SCHOOL DISTRICT, HEREINAFTER REFERRED TO AS "DISTRICT".

WHEREAS, THE DISTRICT IS IN NEED OF SPECIAL SERVICES AND ADVICE IN FINANCIAL, ECONOMIC, ACCOUNTING, ENGINEERING OR ADMINISTRATIVE MATTERS; AND

WHEREAS, SUCH SERVICES AND ADVICE ARE NOT AVAILABLE AT NO COST FROM PUBLIC AGENCIES; AND

WHEREAS, CONSULTANT IS SPECIALLY TRAINED, EXPERIENCE AND COMPETENT TO PROVIDE THE SPECIAL SERVICES AND ADVICE REQUIRED; AND

WHEREAS, SUCH SERVICES ARE NEEDED ON A LIMITED BASIS:

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1. SERVICES TO BE PROVIDED BY CONSULTANT:

TK-8 teachers will receive professional development by ways of in-class model lessons, coaching, selection of music, organizing ensembles, and directing choir performances. Training will take place starting August 1, 2017 and run through June 30, 2018, both within the instructional day as well as afterschool.

2. THE CONSULTANT WILL COMMENCE PROVIDING SERVICES UNDER THIS AGREEMENT ON August 1, 2017 AND WILL DILIGENTLY PERFORM AS REQUIRED AND COMPLETE PERFORMANCE BY June 30, 2018. THE CONSULTANT WILL PERFORM SAID SERVICES AS AN INDEPENDENT CALLING AND NOT AS AN EMPLOYEE OF THE DISTRICT. CONSULTANT SHALL BE UNDER THE CONTROL OF THE DISTRICT AS TO THE RESULT TO BE ACCOMPLISHED AND NOT AS TO THE MEANS OR MANNER BY WHICH SUCH RESULT IS TO BE ACCOMPLISHED.

3. THE DISTRICT WILL PREPARE AND FURNISH TO THE CONSULTANT UPON REQUEST SUCH INFORMATION AS IS REASONABLY NECESSARY TO THE PERFORMANCE OF THE CONSULTANT TO THIS AGREEMENT.

4. THE DISTRICT SHALL PAY THE CONSULTANT **NOT TO EXCEED \$25,000** FOR A TOTAL CONTRACT PRICE OF **NOT TO EXCEED TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$25,000)** FOR SERVICES RENDERED PURSUANT TO THIS AGREEMENT.

5. THE DISTRICT MAY AT ANY TIME FOR ANY REASON TERMINATE THIS AGREEMENT AND COMPENSATE CONSULTANT ONLY FOR SERVICES RENDERED TO THE DATE OF TERMINATION. WRITTEN NOTICE BY THE DISTRICT SUPERINTENDENT SHALL BE SUFFICIENT TO STOP FURTHER PERFORMANCE OF SERVICES BY CONSULTANT. THE NOTICE SHALL BE DEEMED GIVEN WHEN RECEIVED OR NO LATER THAN THREE (3) DAYS AFTER THE DAY OF MAILING, WHICHEVER IS SOONER.

6. CONSULTANT AGREES TO AND SHALL HOLD HARMLESS AND INDEMNIFY THE DISTRICT, ITS OFFICERS, AGENTS AND EMPLOYEES FROM EVERY CLAIM OR DEMAND MADE AND EVERY LIABILITY OR LOSS, DAMAGE OR EXPENSE OF ANY NATURE WHATSOEVER, WHICH MAY BE INCURRED BY REASON OF: (A) LIABILITY FOR DAMAGES FOR DEATH OR BODILY INJURY TO PERSON, INJURY TO PROPERTY, OR ANY OTHER LOSS, DAMAGE OR EXPENSE SUSTAINED BY THE CONSULTANT OR ANY PERSON, FIRM OR CORPORATION EMPLOYED BY THE CONSULTANT UPON OR IN CONNECTION WITH THE SERVICES CALLED FOR IN THIS AGREEMENT EXCEPT FOR LIABILITY FOR DAMAGES REFERRED TO ABOVE WHICH RESULT FROM THE SOLE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE DISTRICT, ITS OFFICERS, EMPLOYEES OR AGENTS; (B) ANY INJURY TO OR DEATH OF PERSONS OR DAMAGE TO PROPERTY SUSTAINED BY ANY PERSONS, FIRM OR CORPORATION, INCLUDING THE DISTRICT, ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE SERVICES COVERED BY THIS AGREEMENT, WHETHER SAID INJURY OR DAMAGE OCCURS EITHER ON OR OFF SCHOOL DISTRICT PROPERTY, EXCEPT FOR LIABILITY FOR DAMAGES WHICH RESULT FROM THE SOLE NEGLIGENCE OR WILLFULL MISCONDUCT OF THE DISTRICT, ITS OFFICERS, EMPLOYEES OR AGENTS. THE CONSULTANT, AT CONSULTANT'S EXPENSE, COST AND RISK, SHALL DEFEND ANY AND ALL ACTIONS, SUITS OR OTHER PROCEEDING THAT MAY BE BROUGHT OR INSTITUTED AGAINST THE DISTRICT, ITS OFFICERS, AGENTS OR EMPLOYEES ON ANY SUCH CLAIM, DEMAND OR LIABILITY AND SHALL PAY OR SATISFY ANY JUDGEMENT THAT MAY BE RENDERED AGAINST THE DISTRICT, ITS OFFICERS, AGENTS OR EMPLOYEES IN ANY ACTION, SUIT OR OTHER PROCEEDINGS AS A RESULT THEREOF.

7. THIS AGREEMENT IS NOT ASSIGNABLE WITHOUT WRITTEN CONSENT OF THE PARTIES HERETO.

8. CONSULTANT SHALL COMPLY WITH ALL APPLICABLE FEDERAL, STATE AND LOCAL LAWS, REGULATIONS AND ORDINANCES INCLUDING WORKER'S COMPENSATION.

9. CONSULTANT, IF AN EMPLOYEE OF ANOTHER PUBLIC AGENCY, CERTIFIES THAT CONSULTANT WILL NOT RECEIVE SALARY OR REMUNERATION, OTHER THAN VACATION PAY, AS AN EMPLOYEE OF ANOTHER PUBLIC AGENCY FOR THE ACTUAL TIME IN WHICH SERVICES ARE ACTUALLY BEING PERFORMED PURSUANT TO THIS AGREEMENT.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE CAUSED THIS AGREEMENT TO BE EXECUTED.

(MUST BE SIGNED PRIOR TO DISTRICT SIGNATURE)
CONSULTANT:

(CONSULTANT SIGNATURE)

(ADDRESS)

(CITY, STATE, ZIP CODE)

(DATE)

(BOARD APPROVAL REQUIRED PRIOR TO SIGNATURE)

FOUNTAIN VALLEY SCHOOL DISTRICT:

BY _____

DIRECTOR, BUSINESS SERVICES

(DATE)

July 13, 2017

(DATE OF BOARD APPROVAL)

DISTRIBUTION: Forward three (3) copies of contract (signed by Consultant) to Business Services for signature. Only one (1) copy of fully executed contract will be returned to Consultant.



Fountain Valley School District
Support Services

M E M O R A N D U M

TO: Board of Trustees
FROM: Cara Robinson, Director, Support Services
SUBJECT: Board Item – Special Ed Settlement Agreement
DATE: July 10, 2017

Background:

According to the Special Education Settlement Agreement signed on July 7, 2017 between Parents and the Fountain Valley School District, the Parties acknowledge that the Agreement shall cover the educational services provided to or on behalf of the student. Term of settlement agreement is May 1, 2016 through June 30, 2018.

Fiscal Impact:

\$22,500.00

Recommendation:

It is recommended that the Board of Trustees approves this settlement agreement

2017/2018

WEST ORANGE COUNTY CONSORTIUM FOR SPECIAL EDUCATION
CONFIDENTIAL MEMO

To: FVSD Board Members

From: Rachel Rios, Fiscal Manager
West Orange County Consortium for Special Education

Date: July 3, 2017

Subject: **Non-Public Agency/School Contracts**

Board Meeting Date: July 13, 2017

Under current consortium budget agreements, any unfunded cost of NPS/NPA placement is a cost to the general fund of the resident district. It is recommended that the following non-public school/agency contracts be approved and that the West Orange county Consortium for Special Education be authorized to receive invoices and process payment.

Student's Name	Non-Public School/Agency	100% Contract	Effective Dates
N/A	Cornerstone Therapies W18107	N/A	July 1, 2017 to June 30, 2018
	Cornerstone Therapies W18108	\$2,970.00	July 1, 2017 to December 31, 2017
N/A	Del Sol School W18109	N/A	July 1, 2017 to June 30, 2018
	Del Sol School W18110	\$67,783.00	July 1, 2017 to June 30, 2018
N/A	Olive Crest Academy W18111	N/A	July 1, 2017 to June 30, 2018
	Olive Crest Academy W18112	\$47,079.53	July 1, 2017 to June 30, 2018
	Olive Crest Academy W18113	\$49,196.51	July 1, 2017 to June 30, 2018
	Olive Crest Academy W18114	\$73,014.51	July 1, 2017 to June 30, 2018
N/A	Port View Preparatory, Inc. W18115	N/A	July 1, 2017 to June 30, 2018
	Port View Preparatory, Inc. W18116	\$97,847.50	July 1, 2017 to June 30, 2018

Approved by the FVSD Board of Trustees
July 13, 2017

Dr. Mark Johnson
Superintendent

Date:

*NONPUBLIC, NONSECTARIAN
SCHOOL/AGENCY SERVICES*

MASTER CONTRACT

W18107

CORNERSTONE THERAPIES

FOUNTAIN VALLEY SCHOOL DISTRICT

2017-2018

GENERAL AGREEMENT FOR NONSECTARIAN, NONPUBLIC SCHOOL AND AGENCY SERVICES

District FOUNTAIN VALLEY SCHOOL DISTRICT

Contract Year 2017-2018

Nonpublic School

X Nonpublic Agency

Type of Contract:

 X Master Contract for fiscal year with Individual Service Agreements (ISA) to be approved throughout the term of this contract.

Individual Master Contract for a specific student incorporating the Individual Service Agreement (ISA) into the terms of this Individual Master Contract specific to a single student.

Interim Contract: an extension of the previous fiscal years approved contracts and rates. The sole purpose of this Interim Contract is to provide for ongoing funding at the prior year's rates for ninety (90) days at the discretion of the LEA and CONTRACTOR. Expiration Date: _____

When this section is included as part of any Master Contract, the changes specified above shall amend Section 4 – Term of Master Contract.

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2017-2018

CONTRACT NUMBER:
W18107

LEA: FOUNTAIN VALLEY SCHOOL DISTRICT

NONPUBLIC SCHOOL/AGENCY/RELATED SERVICES PROVIDER:

NONPUBLIC, NONSECTARIAN SCHOOL/AGENCY SERVICES
MASTER CONTRACT

AUTHORIZATION FOR MASTER CONTRACT AND GENERAL PROVISIONS

1. MASTER CONTRACT

This Master Contract is entered into this 13th day of July, 2017, between the Fountain Valley School District (hereinafter referred to as "District" or local educational agency "LEA") and Cornerstone Therapies (hereinafter referred to as "CONTRACTOR") for the purpose of providing special education and/or related services to District students with exceptional needs under the authorization of California Education Code sections 56157, 56361 and 56365 et seq. and Title 5 of the California Code of Regulations section 3000 et seq., AB490 (Chapter 862, Statutes of 2003) and AB1858 (Chapter 914, Statutes of 2004). It is understood that this agreement does not commit the District to pay for special education and/or related services provided to any District student, or CONTRACTOR to provide such special education and/or related services, unless and until an authorized LEA representative approves the provision of special education and/or related services by CONTRACTOR.

Upon acceptance of a student, LEA shall submit to CONTRACTOR an Individual Services Agreement (hereinafter referred to as "ISA"). Unless otherwise agreed in writing, the ISA shall acknowledge CONTRACTOR's obligation to provide all services specified in the student's Individualized Education Plan (hereinafter referred to as "IEP"). The ISA shall be executed within ninety (90) days of an LEA student's enrollment. LEA and CONTRACTOR shall enter into an ISA for each LEA student served by CONTRACTOR.

Unless placement is made pursuant to an Office of Administrative Hearings (hereinafter referred to as "OAH") order, a lawfully executed agreement between LEA and parent, authorized by LEA for a transfer student pursuant to California Education Code section 56325, or otherwise authorized by LEA without a signed IEP, LEA is not responsible for the costs associated with nonpublic school placement until the date on which an IEP team meeting is convened, the IEP team determines that a nonpublic school placement is appropriate, and the IEP is signed by the LEA student's parent.

2. CERTIFICATIONS AND LICENSES

CONTRACTOR shall be certified by the California Department of Education (hereinafter referred to as "CDE") as a nonpublic, nonsectarian school/agency. All nonpublic school and nonpublic agency services shall be provided consistent with the area of certification specified by CDE Certification and as defined in California Education Code, section 56366 et seq. and within the professional scope of practice of each provider's license, certification and/or credential. In addition to meeting the certification requirements of the State of California, a CONTRACTOR that operates a program outside of this State shall be certified or licensed by that state to provide, respectively, special education and related services and designated instruction and related services to pupils under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

If CONTRACTOR is a licensed children's institution (hereinafter referred to as "LCI"), CONTRACTOR shall be licensed by the state, or other public agency having delegated authority by contract with the state to license, to provide nonmedical care to children, including, but not limited to, individuals with exceptional needs. The LCI must also comply with all licensing requirements relevant to the protection of the child, and have a special permit, if necessary, to meet the needs of each child so placed. If the CONTRACTOR operates a program outside of California and provides services to LEA students in such out-of-state program, CONTRACTOR must obtain all required licenses from the appropriate licensing agency in both California and in the state where the LCI is located.

A current copy of CONTRACTOR's licenses and nonpublic school/agency certifications, or a validly issued waiver of any such certification, must be provided to LEA on or before the date this Master Contract is executed by CONTRACTOR. CONTRACTOR must immediately (and under no circumstances longer than three (3) calendar days) notify LEA if any such licenses, certifications or waivers are expired, suspended, revoked, rescinded, or subject to a pending administrative or legal complaint or lawsuit, or otherwise nullified during the effective period of this Master Contract. If any such licenses, certifications or waivers are expired, suspended, revoked, rescinded, or otherwise nullified during the effective period of this Master Contract, this Master Contract shall terminate as of the date of such action.

Total student enrollment shall be limited to capacity as stated on CDE certification. Total student enrollment shall be limited to capacity as stated in Section 24 of the Master Contract.

3. COMPLIANCE WITH LAWS, STATUTES, REGULATIONS

During the term of this Master Contract, CONTRACTOR shall comply with all applicable federal, state, and local statutes, laws, ordinances, rules, policies, and regulations including but not limited to the provision of special education and/or related services, facilities for individuals with exceptional needs, pupil enrollment, attendance and transfer, corporal punishment, pupil discipline, and positive behavioral interventions.

CONTRACTOR acknowledges and understands that LEA may report to the CDE any violations of the provisions of this Master Contract, and that this may result in the suspension and/or revocation of CDE nonpublic school/agency certification pursuant to California Education Code section 56366.4(a).

4. TERM OF MASTER CONTRACT

The term of this Master Contract shall be from July 1, 2017 to June 30, 2018 (Title 5 California Code of Regulations section 3062(a)) unless otherwise stated. Neither the CONTRACTOR nor the LEA is required to renew this Master Contract in subsequent contract years. However, the parties acknowledge that any subsequent Master Contract is to be renegotiated prior to June 30, 2017. In the event a Master Contract is not renegotiated by June 30th, an interim contract may be made available as mutually agreed upon for up to 90 days from July 1 of the new fiscal year. (Title 5, California Code of Regulations, Section 3062(d).) No Master Contract will be offered unless and until all of the contracting requirements have been satisfied. The offer of a Master Contract to a CONTRACTOR is at the sole discretion of the LEA. Requests for renegotiation of any rate, including but not limited to, related services for the subsequent contract year, are to be submitted in writing to Orange County Department of Education, Special Education Division, 200 Kalmus Drive, P.O. Box 9050, Costa Mesa, CA 92628-9050 prior to January 31, 2018.

5. INTEGRATION/CONTINUANCE OF CONTRACT FOLLOWING EXPIRATION OR TERMINATION

This Master Contract includes each Individual Services Agreement which is incorporated herein by this reference. This Master Contract supersedes any prior or contemporaneous written or oral understanding or agreement. This Master Contract may be amended only by written amendment executed by both parties.

CONTRACTOR shall provide the LEA with all information as requested in writing to secure a Master Contract or a renewal.

At a minimum, such information shall include copies of teacher credentials and clearance, insurance documentation and CDE certification. The LEA may require additional information as applicable. If the application packet is not completed and returned to the LEA, no Master Contract will be issued. If CONTRACTOR does not return the Master Contract to the LEA duly signed by an authorized representative within ninety (90) calendar days of issuance by LEA, the new contract rates will not take effect until the newly executed Master Contract is received by the LEA and will not be retroactive to the first day of the new Master Contract's effective date. If CONTRACTOR fails to execute the new Master Contract within such ninety day period, all payments shall cease until such time as the new Master Contract is signed. (California Education Code sections 56366(c)(1) and (2).) In the event that this Master Contract expires or terminates, CONTRACTOR and LEA shall continue to be bound to all of the terms and conditions of the most recent executed Master Contract between CONTRACTOR and LEA for so long as CONTRACTOR is servicing authorized LEA students at the direction of the LEA.

6. INDIVIDUAL SERVICES AGREEMENT

This Master Contract shall include an ISA developed for each LEA student for whom CONTRACTOR is to provide special education and/or related services. An ISA shall only be issued for LEA students enrolled with the approval of the LEA pursuant to Education Code section 56366(a)(2)(A). An ISA may be effective for more than one contract year provided that there is a concurrent Master Contract in effect. In the event that this Master Contract expires or terminates, CONTRACTOR shall continue to be bound to all of the terms and conditions of the most recent executed ISAs between CONTRACTOR and LEA for so long as CONTRACTOR is servicing authorized LEA students.

Any and all changes to a LEA student's educational placement/program provided under this Master Contract and/or an ISA shall be made solely on the basis of a revision to the LEA student's IEP. At any time during the term of this Master Contract, a LEA student's parent, CONTRACTOR, or LEA may request a review of a LEA student's IEP subject to all procedural safeguards required by law.

Unless otherwise provided in this Master Contract, the CONTRACTOR shall provide all services specified in the IEP unless the CONTRACTOR and the LEA agree otherwise in the ISA (California Education Code sections 56366(a)(5) and 3062(e)). In the event the CONTRACTOR is unable to provide a specific service at any time during the life of the ISA, the CONTRACTOR shall notify the LEA in writing within five (5) business days of the last date a service was provided.

If a parent or LEA contests the termination of an ISA by initiating a due process proceeding with the OAH, CONTRACTOR shall abide by the "stay-put" requirement of state and federal law unless the parent agrees otherwise. CONTRACTOR shall abide by the "stay-put" requirement of state and federal law when placement in an interim alternative educational setting is made by the LEA or OAH consistent with 20 U.S.C. section 1415(k)(1). CONTRACTOR shall adhere to all the LEA requirements concerning changes in placement.

Disagreements between the LEA and CONTRACTOR concerning the formulation of an ISA or the Master Contract may be appealed to the County Superintendent of Schools of the County where the LEA is located, or the State Superintendent of Public Instruction pursuant to the provisions of California Education Code section 56366(c)(2). Nothing herein shall limit LEA or CONTRACTOR from engaging in alternative dispute resolution. CONTRACTOR disagrees with the language of Education Code section 56366(c)(2), and nothing herein shall constitute a waiver by CONTRACTOR of its rights to challenge that provision.

7. DEFINITIONS

The following definitions shall apply for purposes of this contract:

- a. The term "CONTRACTOR" means a nonpublic, nonsectarian school/agency certified by the California Department of Education and identified in Paragraph 1 above.
- b. The term "authorized LEA representative" means a LEA administrator designated to be responsible for nonpublic school/agencies.
- c. The term "credential" means a valid credential, life diploma, permit, or document in special education or pupil personnel services issued by, or under the jurisdiction of, the State Board of Education if issued prior to 1970 or the California Commission on Teacher Credentialing, which entitles the holder thereof to perform services for which certification qualifications are required as defined in Title 5 of the California Code of Regulations section 3001(g).
- d. The term "qualified" means that a person holds a certificate, permit or other document equivalent to that which staff in a public school are required to hold to provide special education and designated instruction and services, and has met federal and state certification, licensing, registration, or other comparable requirements which apply to the area in which he or she is providing special education or related services, including those requirements set forth in Title 5 of the California Code of Regulations sections 3064 and 3065, or, in the absence of such requirements, the state-education-agency-approved or recognized requirements, and adheres to the standards of professional practice established in federal and state law or regulation, including the standards contained in the California Business and Professions Code. Nothing in this definition shall be construed as restricting the activities of services of a graduate needing direct hours leading to licensure, or of a student teacher or intern leading to a graduate degree at an accredited or approved college or university, as authorized by state laws or regulations.
- e. The term "license" means a valid nonexpired document issued by a licensing agency within the Department of Consumer Affairs or other state licensing office authorized to grant licenses and authorizing the bearer of the document to provide certain professional services, including but not limited to mental health and board and care services at a residential placement, or refer to themselves using a specified professional title. If a license is not available through an appropriate state licensing agency, a certificate of registration with the appropriate professional organization at the national or state level which has standards established for the certificate that are equivalent to a license, shall be deemed to be a license as defined in Title 5 of the California Code of Regulations section 3001(r).
- f. Parent means a biological or adoptive parent unless the biological or adoptive parent does not have legal authority to make educational decisions for the child, a guardian generally authorized to act as the child's parent or authorized to make educational decisions for the child, an individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative with whom the child lives, or an individual who is

legally responsible for the child's welfare, a surrogate parent, a foster parent if the authority of the biological or adoptive parent to make educational decisions on the child's behalf has been specifically limited by court order in accordance with Code of Federal Regulations 300.30(b)(1) or (2). Parent does not include the state or any political subdivision of government or the nonpublic school or agency under contract with the LEA for the provision of special education or designated instruction and services for a child. (California Education Code section 56028).

- g. The term "days" means calendar days unless otherwise specified.
- h. The phrase "billable day" means a school day in which instructional minutes meet or exceed those in comparable LEA programs.
- i. The phrase "billable day of attendance" means a school day as defined in California Education Code Section 46307, in which a LEA student is in attendance and in which instructional minutes meet or exceed those in comparable LEA programs unless otherwise stipulated in an IEP or ISA.
- j. It is understood that the term "Master Contract" also means "Agreement" and is referred to as such in this document.

ADMINISTRATION OF CONTRACT

8. NOTICES

All notices provided for by this Master Contract shall be in writing. Notices shall be mailed by first class mail deposited with the United States Postal Service or delivered by hand and shall be effective as of the date of receipt by addressee. E-mail notifications may be used provided that a hard copy is also mailed by first class mail deposited with the United States Postal Service or delivered by hand and shall be effective as of the date of receipt by addressee via first class mail or hand delivery.

All notices mailed to the LEA shall be addressed to the person and address as indicated on the signature page of the Master Contract. Notices to CONTRACTOR shall be addressed as indicated on signature page of this Master Contract.

9. MAINTENANCE OF RECORDS

All records shall be maintained by CONTRACTOR as required by state and federal laws and regulations. Notwithstanding the foregoing sentence, CONTRACTOR shall maintain all records for at least five (5) years after the termination of this Master Contract. For purposes of this Master Contract, "records" shall include, but not be limited to student records as defined by California Education Code section 49061(b) including electronically stored information; cost data records as set forth in Title 5 of the California Code of Regulations section 3061; registers and roll books of teachers and/or daily service providers; daily service logs and notes and other documents used to record the provision of related services including supervision; daily service logs and notes used to record the provision of services provided through additional instructional assistants, NPA behavior intervention aides, and bus aides; absence verification records (parent/doctor notes, telephone logs, and related documents) if the CONTRACTOR is funded for excused absences, however, such records are not required if positive attendance is required; bus rosters; staff lists specifying credentials held and documents evidencing other staff qualifications, social security numbers, dates of hire, and dates of termination; records of employee training and certification, staff time sheets; non-paid staff and volunteer sign-in sheets; transportation and other related services subcontracts; school calendars; bell/class schedules when applicable; liability and worker's compensation insurance policies; state nonpublic school and/or agency certifications by-laws; lists of current board

of directors/trustees, if incorporated; documents evidencing financial expenditures; federal/state payroll quarterly reports; and bank statements and canceled checks or facsimile thereof.

CONTRACTOR shall maintain LEA student records in a secure location to ensure confidentiality and prevent unauthorized access. CONTRACTOR shall maintain a current list of the names and positions of CONTRACTOR's employees who have access to confidential records. CONTRACTOR shall maintain an access log for each LEA student's record which lists all persons, agencies, or organizations requesting or receiving information from the record. Such log shall be maintained as required by California Education Code section 49064 and include the name, title, agency/organization affiliation, and date/time of access for each individual requesting or receiving information from the LEA student's record. Such log needs to record access to the LEA student's records by: (a) the LEA student's parent; (b) an individual to whom written consent has been executed by the LEA student's parent; or (c) employees of LEA or CONTRACTOR having a legitimate educational interest in requesting or receiving information from the record. CONTRACTOR/LEA shall maintain copies of any written parental concerns granting access to student records. For purposes of this paragraph, "employees of LEA or CONTRACTOR" do not include subcontractors. CONTRACTOR shall grant parents access to student records, and comply with parents' requests for copies of student records, as required by state and federal laws and regulations. CONTRACTOR agrees, in the event of school or agency closure, to forward all records within five (5) business days to LEA. These shall include, but not limited to, current transcripts, IEP/ISPs, and reports. CONTRACTOR acknowledges and agrees that all student records maintained by CONTRACTOR as required by state and federal laws and regulations are the property of LEA and must be returned to LEA without dissemination to any other entity.

10. SEVERABILITY CLAUSE

If any provision of this Master Contract is held, in whole or in part, to be unenforceable for any reason, the remainder of that provision and of the entire Agreement shall be severable and remain in effect.

11. SUCCESSORS IN INTEREST

This contract binds CONTRACTOR's successors and assignees. CONTRACTOR shall notify the LEA of any change of ownership or corporate control.

12. VENUE AND GOVERNING LAW

The laws of the State of California shall govern the terms and conditions of this Master Contract with venue in Orange County.

13. MODIFICATIONS AND AMENDMENTS REQUIRED TO CONFORM TO LEGAL AND ADMINISTRATIVE GUIDELINES

This Master Contract may be modified or amended to conform to administrative and statutory guidelines issued by any state, federal or local governmental agency. The party seeking such modification shall provide thirty (30) days' notice of any such changes or modifications made to conform to administrative or statutory guidelines and a copy of the statute or regulation upon which the modification or changes are based. If the parties cannot agree on such modifications or amendments, this Master Contract may be terminated in accordance with Paragraph 14.

14. TERMINATION

This Master Contract or an Individual Service Agreement may be terminated for cause. The cause shall not be the availability of a public class initiated during the period of the Master Contract or ISA

unless the parent agrees to the transfer of the student to the public school program at an IEP team meeting. To terminate the Master Contract for cause, either party shall give twenty (20) days prior written notice to the other party (California Education Code section 56366(a)(4)). At the time of termination, CONTRACTOR shall provide to the LEA any and all documents CONTRACTOR is required to maintain under this Master Contract. ISAs are void upon termination of this Master Contract, except as specified above in Paragraph 5. CONTRACTOR or the LEA may also terminate an individual ISA for cause. To terminate the ISA, either party shall also give twenty (20) days prior written notice to the other.

15. INSURANCE

CONTRACTOR shall, at his, her, or its sole cost and expense, maintain in full force and effect, during the term of this Agreement, the following insurance coverage from a California licensed and/or admitted insurer with an A minus (A-), VII, or better rating from A.M. Best, sufficient to cover any claims, damages, liabilities, costs and expenses (including counsel fees) arising out of or in connection with CONTRACTOR'S fulfillment of any of its obligations under this Agreement:

- A. **Commercial General Liability Insurance**, including both bodily injury and property damage, with minimum limits as follows:

\$1,000,000 per occurrence
\$2,000,000 general aggregate
\$1,000,000 personal & advertising injury
\$ 5,000 medical expenses

- B. **Sexual Abuse & Molestation** coverage with the following minimum limits:

\$1,000,000 per occurrence
\$2,000,000 general aggregate

- C. **Auto Liability Insurance**. To the extent vehicles are used to transport students, such vehicles shall have liability coverage of not less than \$1 million combined single limit.

If CONTRACTOR uses a vehicle to travel to/from school sites, between schools and/or to/from students' homes or other locations as an approved service location by the LEA, CONTRACTOR must comply with State of California auto insurance requirements.

- D. **Workers' Compensation and Employers Liability Insurance** in a form and amount covering CONTRACTOR'S full liability under the California Workers' Compensation Insurance and Safety Act and in accordance with applicable state and federal laws.

Part A – Statutory Limits
Part B - \$1,000,000/\$1,000,000/\$1,000,000 Employers Liability

- E. **Errors & Omissions (E & O)/Malpractice (Professional Liability)** coverage with the following minimum limits:

\$1,000,000 per occurrence
\$2,000,000 general aggregate

- F. CONTRACTOR, upon execution of this Master Contract and periodically thereafter upon request, shall furnish the LEA with certificates of insurance and endorsements evidencing such coverage. The certificate of insurance shall include a thirty (30) day

non-renewal, cancellation or modification notice provision. The Commercial General Liability and Automobile Liability policy shall name WOCCE/Member Districts as additional insured's on all insurance policies and premiums shall be paid by CONTRACTOR and shall be deemed included in CONTRACTOR's obligations under this contract at no additional charge.

- G. Unless CONTRACTOR is insured under the California Private Schools Self Insurance Group (CAPS SIG) or a similar self-insurance group, any deductibles or self-insured retentions above \$100,000 must be declared to and approved by the LEA. At its option, the LEA may require the CONTRACTOR, at the CONTRACTOR's sole cost, to: (a) cause its insurer to reduce to levels specified by the LEA or eliminate such deductibles or self-insured retentions with respect to the LEA, its officials and employees or (b) procure a bond guaranteeing payment of losses and related investigation.
- H. For any claims related to the services provided by CONTRACTOR, the CONTRACTOR's insurance coverage shall be primary insurance as respects the LEA, its subsidiaries, officials and employees. Any insurance or self-insurance maintained by the LEA, its subsidiaries, officials and employees shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
- I. All Certificates of Insurance shall reference the contract number, name of the school or agency submitting the certificate, and the location of the school or agency submitting the certificate on the certificate.

If the LEA or CONTRACTOR determines that changes in insurance coverage obligations under this section is necessary, either party may reopen negotiations to modify the insurance obligations.

16. INDEMNIFICATION AND HOLD HARMLESS

To the fullest extent allowed by law, CONTRACTOR shall defend, indemnify and hold harmless LEA and its directors, officers, agents, employees and guests against any claim or demand arising from any actual or alleged act, error, or omission by CONTRACTOR or its directors, officers, agents, employees, volunteers or guests arising from CONTRACTOR's duties and obligations described in this Agreement or imposed by law.

To the fullest extent allowed by law, LEA shall defend, indemnify and hold harmless CONTRACTOR and its directors, officers, agents, employees and guests against any claim or demand arising from any actual or alleged act, error, or omission by LEA or its directors, officers, agents, employees, volunteers or guests arising from LEA's duties and obligations described in this Agreement or imposed by law.

17. INDEPENDENT CONTRACTOR

Nothing herein contained shall be construed to imply a joint venture, co-principal, partnership, principal-agent, employer-employee, or co-employer relationship between the LEA and CONTRACTOR. CONTRACTOR shall provide all services under this Agreement as an independent contractor, and neither party shall have the authority to bind or make any commitment on behalf of the other. Nothing contained in this Agreement shall be deemed to create any association, partnership, joint venture or relationship of principal and agent, master and servant, or employer and employee between the parties or any affiliates of the parties, or between the LEA and any individual assigned by CONTRACTOR to perform any services for the LEA.

If the LEA is held to be a partner, joint venturer, co-principal, employer or co-employer of CONTRACTOR based on any acts or omissions of CONTRACTOR, CONTRACTOR shall

indemnify and hold harmless the LEA from and against any and all claims for loss, liability, or damages arising from that holding, as well as any expenses, costs, taxes, penalties and interest charges incurred by the LEA as a result of that holding. If CONTRACTOR is held to be a partner, joint venturer, co-principal, employer, or co-employer of the LEA based on any acts or omissions of LEA, LEA shall indemnify and hold harmless the CONTRACTOR from and against any and all claims for loss, liability, or damages arising from that holding, as well as any expenses, costs, taxes, penalties and interest charges incurred by the LEA as a result of that holding..

18. SUBCONTRACTING

CONTRACTOR shall not enter into any subcontracting relationship without first obtaining the written approval of the LEA. CONTRACTOR's written notification shall include the specific special education and/or related service to be subcontracted, including the corresponding hourly rate or fee. In the event LEA determines that it can provide the subcontracted service(s) at a lower rate, LEA may elect to provide such service(s). If LEA elects to provide such service(s), LEA shall provide written notification to CONTRACTOR within five (5) days of receipt of CONTRACTOR's original notice and CONTRACTOR shall not subcontract for said service(s).

CONTRACTOR shall incorporate all of the provisions of this Master Contract in all subcontracts, unless written approval for any change is first obtained by the LEA. Furthermore, when CONTRACTOR enters into subcontracts for the provision of special education and/or related services (including without limitation transportation) for any LEA student, CONTRACTOR shall cause each subcontractor to procure and maintain insurance during the term of each subcontract. Such subcontractor's insurance shall comply with the provisions of Section 15. Each subcontractor shall furnish the LEA with original endorsements and certificates of insurance effecting coverage required by Section 15. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. LEA may request that the certificates and endorsements be completed on forms provided by the LEA. All certificates and endorsements are to be received and approved by the LEA before the subcontractor's work commences. The Commercial General Liability and Automobile Liability policies shall name the LEA and the LEA/District Board of Education as additional insured. If LEA does not approve the subcontractor's insurance, the LEA shall provide CONTRACTOR notice within fifteen (15) days.

As an alternative to the LEA's forms, a subcontractor's insurer may provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by this Master Contract. All Certificates of Insurance shall reference the LEA contract number, name of the school or agency submitting the certificate, indication if nonpublic school or nonpublic agency, and the location of the school or agency submitting the certificate. In addition, all sub-contractors must meet the requirements as contained in Section 45 (Clearance Requirements) and Section 46 (Staff Qualifications) of this Master Contract.

19. CONFLICTS OF INTEREST

CONTRACTOR shall provide to the LEA a copy of its current bylaws and a current list of its Board of Directors (or Trustees), if it is incorporated. This can be provided via e-mail to the SELPA Director of the LEA. CONTRACTOR and any member of its Board of Directors (or Trustees) shall avoid any relationship with the LEA that constitutes or may constitute a conflict of interest pursuant to California Education Code section 56042 including, but not limited to, employment with LEA, provision of private party assessments and/or reports, and attendance at IEP team meetings acting as a student's advocate. Pursuant to California Education Code section 56042, an attorney or advocate for a parent of an individual with exceptional needs shall not recommend placement at CONTRACTOR's facility if the attorney or advocate is employed or contracted by the CONTRACTOR, or will receive a benefit from the CONTRACTOR, or otherwise has a conflict of interest.

Unless CONTRACTOR and the LEA otherwise agree in writing, the LEA shall neither execute an ISA with CONTRACTOR nor amend an existing ISA for a LEA student when a recommendation for special education and/or related services is based in whole or in part on assessment(s) or reports provided by CONTRACTOR to the LEA student without prior written authorization by LEA. This paragraph shall apply to CONTRACTOR regardless of when an assessment is performed or a report is prepared (i.e., before or after the LEA student is enrolled in CONTRACTOR's school/agency) or whether an assessment of the LEA student is performed or a report is prepared in the normal course of the services provided to the LEA student by CONTRACTOR. To avoid a conflict of interest, and in order to ensure the appropriateness of an Independent Educational Evaluation (hereinafter referred to as "IEE") and its recommendations, the District may, in its discretion, not fund an IEE by an evaluator who provides ongoing service(s) or is sought to provide service(s) to the student for whom the IEE is requested. Likewise, the LEA may, in its discretion, not fund services through the evaluator whose IEE the District agrees to fund. When no other appropriate assessor is available, the LEA may request and if CONTRACTOR agrees, the CONTRACTOR may provide an IEE.

When the CONTRACTOR is a nonpublic agency, the CONTRACTOR acknowledges that its authorized representative has read and understands Education Code section 56366.3 which provides, in relevant part, that no special education and/or related services provided by CONTRACTOR shall be paid for by the LEA if provided by an individual who was an employee of the LEA within the three hundred and sixty five (365) days prior to executing this Master Contract. This provision does not apply to any person who is able to provide designated instruction and services during the extended school year because he or she is otherwise employed for up to ten months of the school year by the LEA.

20. NON-DISCRIMINATION

CONTRACTOR shall not unlawfully discriminate on the basis of race, religion, sex, national origin, age, sexual orientation, disability or any other classification protected by federal or state law, in employment or operation of its programs.

EDUCATIONAL PROGRAM

21. FREE AND APPROPRIATE PUBLIC EDUCATION

LEA shall provide CONTRACTOR with a copy of the IEP including the Individualized Transition Plan (hereinafter referred to as "ITP") of each LEA student served by CONTRACTOR. CONTRACTOR shall provide to each LEA student special education and/or related services (including transition services) within the nonpublic school or nonpublic agency consistent with the LEA student's IEP and as specified in the ISA. If CONTRACTOR is a nonpublic school, CONTRACTOR shall not accept a LEA student if it cannot provide or ensure the provision of the services outlined in the student's IEP.

Unless otherwise agreed to between CONTRACTOR and LEA, CONTRACTOR shall be responsible for the provision of all appropriate supplies, equipment, and/or facilities for LEA students, as specified in the LEA student's IEP and ISA. LEA shall provide low incidence equipment for eligible students with low incidence disabilities when specified in the student's IEP and ISA. Such equipment remains the property of the LEA and shall be returned to the LEA when the IEP team determines the equipment is no longer needed or when the student is no longer enrolled in the nonpublic school. CONTRACTOR shall make no charge of any kind to parents for special education and/or related services as specified in the LEA student's IEP and ISA (including, but not limited to, screenings, assessments, or interviews that occur prior to or as a condition of the LEA student's enrollment under the terms of this Master Contract). CONTRACTOR may charge a LEA student's parent(s) for services and/or activities not necessary for the LEA student to receive a free

appropriate public education after: (a) verification that any such charge or fee is not a “pupil fee” under Education Code section 49010 et. seq.; (b) written notification to the LEA student’s parent(s) of the cost and voluntary nature of the services and/or activities; and (c) receipt by the LEA of the written notification and a written acknowledgment signed by the LEA student’s parent(s) of the cost and voluntary nature of the services and/or activities. CONTRACTOR shall adhere to all LEA guidelines as well as all California state laws, regulations and guidelines prohibiting pupil fees, deposits or other charges.

Voluntary services and/or activities not necessary for the LEA student to receive a free appropriate public education shall not interfere with the LEA student’s receipt of special education and/or related services as specified in the LEA student’s IEP and ISA unless the LEA, CONTRACTOR and parent agree otherwise in writing.

22. GENERAL PROGRAM OF INSTRUCTION

All nonpublic school and nonpublic agency services shall be provided consistent with the area of certification specified by CDE Certification and as defined in California Education Code section 56366 et seq.

When CONTRACTOR is a nonpublic school, CONTRACTOR’s general program of instruction shall: (a) be consistent with LEA’s standards regarding the particular course of study and curriculum; (b) include curriculum that addresses mathematics, literacy and the use of educational, assistive technology and transition services; (c) be consistent with CDE’s standards regarding the particular course of study and curriculum; (d) provide the services as specified in the LEA student’s IEP and ISA. LEA students shall have access to: (a) State Board of Education (SBE) - adopted standards-based, core curriculum and the same instructional materials for kindergarten and grades 1 to 8, inclusive; and provide standards – aligned core curriculum and instructional materials for grades 9 to 12, inclusive, used by a local education agency (LEA), that contracts with the nonpublic school; (b) college preparation courses; (c) extracurricular activities, such as art, sports, music and academic clubs; (d) career preparation and vocational training, consistent with transition plans pursuant to state and federal law and; (e) supplemental assistance, including individual academic tutoring, psychological counseling, and career and college counseling. CONTRACTOR’s general program of instruction shall be described in writing and a copy provided to LEA prior to the effective date of this Master Contract.

When CONTRACTOR serves LEA students in grades nine through twelve inclusive, LEA shall provide to CONTRACTOR a specific list of the course requirements to be satisfied by the CONTRACTOR leading toward graduation or completion of LEA’s diploma requirements including the graduation requirements for pupils in foster care or pupils who are homeless as set forth in Education Code section 51225.1. CONTRACTOR shall not award a high school diploma to LEA students who have not successfully completed all of the LEA’s graduation requirements, including, but not limited to, passing the California High School Exit Exam in accordance with state law.

When CONTRACTOR is a nonpublic agency and/or related services provider, CONTRACTOR’s general program of instruction and/or services shall be consistent with LEA and CDE guidelines and certification, and provided as specified in the LEA student’s IEP and ISA. The nonpublic agency providing Behavior Intervention services shall develop a written treatment plan that specifies the nature of their nonpublic agency service for each student within thirty (30) days of enrollment and shall be provided in writing to the LEA. School-based services may not be unilaterally converted by CONTRACTOR to a substitute program or provided at a location not specifically authorized by the IEP team. Except for services provided by a contractor that is a licensed children’s institution, all services not provided in the school setting require the presence of a parent, guardian or adult caregiver during the delivery of services, provided such guardian or caregiver have a signed authorization by the parent or legal guardian to authorize emergency services as requested. LCI

contractors shall ensure that appropriate and qualified residential or clinical staff is present during the provision of services under this Master Contract. CONTRACTOR shall immediately notify LEA in writing if no parent, guardian or adult caregiver is present. CONTRACTOR shall provide to the LEA a written description of the services and location provided prior to the effective date of this Master Contract. Contractors providing Behavior Intervention services must have a trained behaviorist or trained equivalent on staff consistent with the requirements set forth in Education Code section 56520 et seq. It is understood that Behavior Intervention services are limited per CDE Certification and do not constitute as an instructional program.

When CONTRACTOR is a nonpublic agency, CONTRACTOR shall not provide transportation nor subcontract for transportation services.

23. INSTRUCTIONAL MINUTES

When CONTRACTOR is a nonpublic school, the total number of instructional minutes per school day provided by CONTRACTOR shall be at least equivalent to the number of instructional minutes per school day provided to LEA students at like grade level, attending LEA schools and shall be specified in the LEA student's ISA developed in accordance with the LEA student's IEP.

For LEA students in grades kindergarten through 12, unless otherwise specified in the LEA student's IEP and ISA, the number of instructional minutes, excluding breakfast, recess, lunch, and passing time, shall be consistent with Education Code sections 46100 et. seq.

The total number of annual instructional minutes shall be at least equivalent to the total number of annual instructional minutes provided to LEA students attending LEA schools in like grade levels unless otherwise specified in the LEA student's IEP.

When CONTRACTOR is a nonpublic agency and/or related services provider, the total number of minutes per school day provided by CONTRACTOR shall be specified in the LEA student's ISA developed in accordance with the LEA student's IEP.

24. CLASS SIZE

When CONTRACTOR is a nonpublic school, CONTRACTOR shall ensure that class size shall not exceed a ratio of one teacher per twelve (12) students unless CONTRACTOR and the LEA agree otherwise, in writing.

In the event a nonpublic school is unable to fill a vacant teaching position responsible for direct instruction to students, and the vacancy has direct impact on the California Department of Education Certification of that school, the nonpublic school shall develop a plan to assure appropriate coverage of students by first utilizing existing certificated staff. The nonpublic school and the LEA may agree to one 30 school day period per contract year where class size may be increased to assure coverage by an appropriately credentialed teacher. Such an agreement shall be in writing and signed by both parties. This provision does not apply to a nonpublic agency.

CONTRACTOR providing special education instruction for individuals with exceptional needs between the ages of three and five years, inclusive, shall also comply with the appropriate instructional adult to child ratios pursuant to California Education Code sections 56440 et seq.

25. CALENDARS

When CONTRACTOR is a nonpublic school, CONTRACTOR shall submit to the LEA a school calendar with the total number of billable days not to exceed 180 days, plus up to twenty (20) extended school year billable days unless otherwise specified in the LEA student's IEP/IFSP and

ISA. Billable days shall include only those days that are included on the submitted and approved school calendar, and/or required by the IEP (developed by the LEA) for each student. CONTRACTOR shall not be allowed to change its school calendar and/or amend the number of billable days without the prior written approval of the LEA. Nothing in this Master Contract shall be interpreted to require the LEA to accept any requests for calendar changes.

Unless otherwise specified by the students' IEP, educational services shall occur at the school site. A student shall only be eligible for extended school year services if such are recommended by his/her IEP Team and the provision of such is specifically included in the ISA. Extended school year shall consist of twenty (20) instructional days, unless otherwise agreed upon by the IEP Team convened by the LEA. Any days of extended school year in excess of twenty (20) billable days must be mutually agreed to, in writing, prior to the start of the extended school year.

Student must have actually been in attendance during the regular school year and/or during extended school year and actually received services on a billable day of attendance in order for CONTRACTOR to be eligible for payment. It is specifically understood that services may not be provided on weekends/holidays and other times when school is not in session, unless agreed to by the LEA, in writing, in advance of the delivery of any nonpublic school service. Any instructional days provided without this written agreement shall be at the sole financial responsibility of the CONTRACTOR.

CONTRACTOR shall observe the same legal holidays as the LEA and shall identify the dates of observance on its school calendar submitted to the LEA. Those holidays are Labor Day, Veteran's Day, Thanksgiving Day, Christmas Day, New Year's Day, Dr. Martin Luther King, Jr. Day, President's Day, Memorial Day and Independence Day. With the approval of the LEA, CONTRACTOR may revise the date upon which CONTRACTOR closes in observance of any of the holidays observed by LEA.

When CONTRACTOR is a nonpublic agency, CONTRACTOR shall be provided with a LEA-developed/approved calendar prior to the initiation of services. CONTRACTOR herein agrees to observe holidays as specified in the LEA-developed/approved calendar. CONTRACTOR shall provide services pursuant to the LEA-developed/approved calendar; or as specified in the LEA student's IEP and ISA. Unless otherwise specified in the LEA student's ISA, CONTRACTOR shall provide related services to LEA students on only those days that the LEA student's school of attendance is in session and the LEA student attends school. CONTRACTOR shall bill only for services provided on billable days of attendance as indicated on the LEA calendar unless CONTRACTOR and the LEA agree otherwise, in writing. Student must have actually been in attendance and/or received services on a billable day of attendance in order for CONTRACTOR to be eligible for payment. It is specifically understood that services may not be provided on weekends/holidays and other times when school is not in session, unless agreed to by the LEA, in writing, in advance of the delivery of any nonpublic agency service provided by CONTRACTOR. Any instructional days provided without this written agreement shall be at the sole financial responsibility of the CONTRACTOR.

26. DATA REPORTING

CONTRACTOR shall agree to provide to the LEA, all data related to students who are served by the CONTRACTOR. This shall include any and all data related to any section of this Master Contract. The specific format of the data to be provided shall be determined between the LEA and CONTRACTOR. CONTRACTOR shall not enter into a contract with a third party for the purpose of providing cloud-based services including but not limited digital storage, management and retrieval of pupil records or to provide digital educational software that authorizes such third party to access, store, and use pupil records, unless CONTRACTOR has obtained prior written authorization from LEA in compliance with Education Code section 49073.1.

The LEA may provide the CONTRACTOR with approved forms and/or format for such data, including but not limited to, invoicing, attendance reports, and progress reports. The LEA may approve use of CONTRACTOR-provided forms at LEAs discretion.

27. LEAST RESTRICTIVE ENVIRONMENT/DUAL ENROLLMENT

CONTRACTOR and the LEA shall both follow policies and procedures that support Least Restrictive Environment (“LRE”) options (and/or dual enrollment options if available and appropriate) for students to have access to the general curriculum and to be educated with their nondisabled peers to the maximum extent appropriate.

LRE placement options shall be addressed at all IEP team meetings regarding students for whom ISAs have been or may be executed. This shall include IEP team consideration of supplementary aids and services and goals and objectives necessary for placement in the LRE and necessary to enable students to transition to less restrictive settings.

When an IEP team has determined that a student should be transitioned into the public school setting, CONTRACTOR shall assist the LEA in implementing the IEP team’s recommendations and/or activities to support the transition.

28. STATEWIDE ACHIEVEMENT TESTING AND HIGH SCHOOL EXIT EXAMINATION

When CONTRACTOR is a nonpublic school, CONTRACTOR shall, in accordance with Education Code section 60640 et. seq. administer all Statewide assessments within the California Assessment of Student Performance and Progress (“CAASP”), Desired Results Developmental Profile (“DRDP”), California Alternative Assessment (“CAA”), achievement and abilities tests (using LEA-authorized assessment instruments), the Fitness Gram, the California English Language Development Test (“CELDT”), and the English Language Proficiency Assessments for California (“ELPAC”), as appropriate to the student, and mandated by LEA pursuant to LEA guidelines as well as state and federal laws and regulations.

When CONTRACTOR is a nonpublic school, CONTRACTOR is subject to the alternative accountability system developed pursuant to Education Code section 52052, in the same manner as public schools and each LEA student placed with CONTRACTOR by the LEA shall be tested by qualified staff of CONTRACTOR in accordance with that accountability program. LEA shall provide test administration training to CONTRACTOR’s qualified staff; CONTRACTOR shall attend LEA test training and comply with completion of all coding requirements as required by LEA. Contractor shall report the test results to the CDE as required by Education Code section 56366(a)(8)(A).

Where CONTRACTOR is a nonpublic school, CONTRACTOR shall administer all statewide achievement tests and the California High School Exit Examination as mandated by the LEA and pursuant to the LEA guidelines, as well as state and federal laws and regulations.

29. DISTRICT MANDATED ATTENDANCE AT MEETINGS

CONTRACTOR shall attend District mandated meetings when legal mandates, and/or LEA policy and procedures are reviewed, including but not limited to the areas of: curriculum, high school graduation, standards-based instruction, behavior intervention, cultural and linguistic needs of students with disabilities, dual enrollment responsibilities, LRE responsibilities, transition services,

and standardized testing. The LEA shall provide CONTRACTOR with reasonable advanced notice of mandated meetings. Attendance at such meetings shall not constitute a billable service hour(s).

30. POSITIVE BEHAVIOR INTERVENTIONS

CONTRACTOR shall comply with the requirements of Education Code section 56520 et seq. and applicable provisions of Title 5 of the California Code of Regulations regarding positive behavior interventions including, but not limited to: the completion of functional behavioral assessments; the development, implementation, monitoring, supervision, modification, and evaluation of behavior intervention plans; and emergency interventions. CONTRACTOR shall notify the parent/guardian residential care provider (if appropriate) and LEA within one (1) school day of any behavior incident including when an emergency intervention is used or serious property damage occurs as well as provide LEA with a copy of the behavioral emergency report. It is understood that the LEA may require additional requirements for staff qualifications beyond what is required in Title 5 of the California Code of Regulations sections 3064 and 3065. Such requirements will be provided in writing to CONTRACTOR prior to entering into an ISA for a LEA student. Failure to maintain adherence to staff qualification requirements shall constitute sufficient cause for contract termination. CONTRACTOR shall provide the LEA with all training protocols for behavior intervention staff who do not possess a license, credential or recognized certification as part of their Master Contract application. CONTRACTOR shall provide certification that all behavior aides who do not possess a license, credential or recognized certification have completed required training protocols within ten days of the start of providing behavior intervention services to a LEA student. Failure to do so shall constitute sufficient cause for termination.

CONTRACTOR shall designate an individual employed, contracted, and/or otherwise hired by CONTRACTOR as a "behavior intervention case manager." CONTRACTOR shall maintain a written policy in compliance with Education Code section 56520 et seq. and applicable provisions of Title 5 of the California Code of Regulations regarding emergency interventions and behavioral emergency reports. Evidence of such training shall be submitted to the LEA at the beginning of the school year and within fourteen (14) days of any new hire. CONTRACTOR shall ensure that all of its staff members are trained annually in crisis intervention and emergency procedures as related to appropriate behavior management strategies.

CONTRACTOR shall not authorize, order, consent to, or pay for any of the following prohibited interventions, or any other intervention similar to or like the following: (a) any intervention that is designed to, or likely to, cause physical pain, including but not limited to, electric shock; (b) releasing noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the LEA student's face; (c) any intervention which denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities; (d) any intervention which is designed to subject, used to subject, or likely to subject the LEA student to verbal abuse, ridicule, or humiliation, or which can be expected to cause excessive emotional trauma; (e) restrictive interventions which employ a device, material, or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment or similar techniques may be used as a limited emergency intervention by CONTRACTOR's trained and qualified personnel as allowable by applicable law and regulations; (f) locked seclusion except as allowable by applicable law and regulations; (g) any intervention that precludes adequate supervision of the LEA student; and (h) any intervention which deprives the LEA student of one or more of his or her senses, pursuant to Education Code section 56521.2.

31. STUDENT DISCIPLINE

CONTRACTOR shall maintain and abide by a written policy for student discipline that is consistent with state and federal law and regulations.

When CONTRACTOR seeks to remove a LEA student from his/her current educational placement for disciplinary reasons, CONTRACTOR shall immediately submit a written discipline report to the LEA and a manifestation IEP team meeting shall be scheduled. Written discipline reports shall include, but not be limited to: the LEA student's name; the time, date, and description of the misconduct; the disciplinary action taken by CONTRACTOR; and the rationale for such disciplinary action. A copy of the LEA student's behavior plan, if any, shall be submitted with the written discipline report. CONTRACTOR and LEA agree to participate in a manifestation determination at an IEP meeting no later than the tenth (10th) day of suspension. CONTRACTOR shall notify and invite LEA representatives to the IEP team meeting where the manifestation determination will be made.

32. IEP TEAM MEETINGS

An IEP team meeting shall be convened at least annually to evaluate: (1) the educational progress of each student placed with CONTRACTOR, including all state assessment results pursuant to the requirements of Education Code section 52052; (2) whether or not the needs of the student continue to be best met at the nonpublic school and/or by the nonpublic agency; and (3) whether changes to the student's IEP are necessary, including whether the student may be transitioned to a public school setting. (California Education Code sections 56366(a)(2)(B)(i) and (ii).) If an LEA student is enrolled in the nonpublic school pursuant to a lawfully executed agreement between the LEA and parent, it shall be the responsibility of the LEA to notify CONTRACTOR in writing (1) when or whether an IEP meeting will be held, (2) whether placement in the nonpublic school should be documented as part of an IEP, and (3) the start date and, if known, the end date for services to be provided by CONTRACTOR to LEA student.

If a LEA student is to be transferred from a nonpublic school setting into a regular class setting in a public school for any part of the school day, the IEP team shall document, if appropriate, a description of activities provided to integrate the student into the regular education program, including the nature of each activity as well as the time spent on the activity each day or week and a description of the activities provided to support the transition of the student from the special education program into the regular education program. Each LEA student shall be allowed to provide confidential input to any representative of his or her IEP team. Except as otherwise provided in the Master Contract, CONTRACTOR and the LEA shall participate in all IEP team meetings regarding LEA students for whom ISAs have been or may be executed. At any time during the term of this Master Contract, a parent, the CONTRACTOR or the LEA may request a review of the student's IEP, subject to all procedural safeguards required by law, including reasonable notice given to, and participation of, the CONTRACTOR in the meeting. Every effort shall be made to schedule IEP team meetings at a time and place that is mutually convenient to the parent(s), the CONTRACTOR and the LEA. CONTRACTOR shall provide to the LEA any and all assessments (including testing protocols) and written assessment reports created by CONTRACTOR and any of its agents or subcontractors, upon request.

If the CONTRACTOR or LEA is unable to convince the parent or guardian that he or she should attend the IEP, CONTRACTOR shall maintain a written record of its attempts to arrange a mutually agreed-upon time and place. The CONTRACTOR and LEA shall also take any action necessary to ensure that the parent or guardian understands the proceedings at a meeting, including arranging for an interpreter.

Changes in any LEA student's educational program, including instruction, services, or instructional setting, provided under this Master Contract may only be made on the basis of revisions to the student's IEP. In the event that the CONTRACTOR believes the student requires a change of placement, the CONTRACTOR may request a review of the student's IEP for the purposes of considering a change in the student's placement. Student is entitled to remain in the last agreed upon

and implemented placement unless parent agrees otherwise or unless an interim alternative educational placement is deemed lawful and appropriate by the LEA or OAH.

33. SURROGATE PARENTS

CONTRACTOR shall comply with state and federal laws and regulations regarding assigning surrogate parents to LEA students.

34. DUE PROCESS PROCEEDINGS

CONTRACTOR shall fully participate in special education due process proceedings including mediations and hearings, as requested by the LEA. CONTRACTOR shall also fully participate in the investigation of any complaint filed with the State of California, the Office for Civil Rights, or any other state and/or federal governmental body or agency. Full participation shall include, but in no way be limited to, cooperating with LEA representatives to provide complete answers raised by any investigator and/or the immediate provision of any and all documentation that pertains to the operation of CONTRACTOR's program and/or the implementation of a particular student's IEP/IFSP.

35. COMPLAINT PROCEDURES

CONTRACTOR shall maintain and adhere to its own written procedures for responding to parent complaints. These procedures shall include annually notifying and providing parents of LEA students with appropriate information (including complaint forms) for the following: (1) Uniform Complaint Procedures pursuant to Title 5 of the California Code of Regulations section 4600 et seq.; (2) Nondiscrimination policies pursuant to Title 5 of the California Code of Regulations section 4960 (a); (3) Sexual Harassment Policies pursuant to California Education Code 231.5(a)(b)(c); (4) Student Grievance Procedure pursuant to Title IX 106.8 (a)(d) and 106.9 (a); and (5) Notice of Privacy Practices in compliance with Health Insurance Portability and Accountability Act (HIPPA). CONTRACTOR shall include verification of these procedures to the LEA.

36. LEA STUDENT PROGRESS REPORTS/REPORT CARDS AND ASSESSMENTS

Unless the LEA requests in writing that progress reports be provided on a monthly basis, CONTRACTOR shall provide to parents at least four written progress reports/report cards. At a minimum, progress reports shall include progress over time towards IEP goals and objectives. A copy of the progress reports/report cards shall be maintained at the CONTRACTOR's place of business and shall be submitted to the LEA and LEA student's parent(s).

CONTRACTOR shall also provide an LEA representative access to supporting documentation used to determine progress on any goal or objective, including but not limited to log sheets, observation notes, data sheets, pre-/post-tests, rubrics and other similar data collection used to determine progress or lack of progress on approved goals, objectives, transition plans or behavior support plans. The LEA may request copies of such data at any time within five (5) years of the date of service. CONTRACTOR agrees to maintain the information for at least five (5) years and also shall provide this data supporting progress within five (5) business days of request. Additional time may be granted as needed by the LEA.

CONTRACTOR shall complete academic or other assessment of the LEA student one month prior to the LEA student's annual or triennial review IEP team meeting for the purpose of reporting the LEA student's present levels of performance at the IEP team meeting as required by state and federal laws and regulations and pursuant to LEA policies, procedures, and/or practices. Contractor shall provide sufficient copies of its reports, documents, and projected goals to share with members of the IEP

team five (5) business days prior to the IEP meeting. CONTRACTOR shall maintain supporting documentation such as test protocols and data collection, which shall be made available to LEA within five (5) business days of request.

CONTRACTOR is responsible for all assessment costs regarding the updating of goals and objectives, progress reporting and the development of present levels of performance. All assessments shall be provided by the LEA unless the LEA specifies in writing a request that CONTRACTOR perform such additional assessment. Any assessment costs may be added to the ISA and/or approved separately by the LEA at the LEA's sole discretion.

It is understood that all billable hours must be in direct services to pupils as specified in the ISA. For nonpublic agency services, supervision provided by a qualified individual as specified in Title 5 of the California Code of Regulations section 3065, shall be determined as appropriate and included in the ISA. Supervision means the direct observation of services, data review, case conferencing and program design consistent with professional standards for each professional's license, certification, or credential.

CONTRACTOR shall not charge the LEA student's parent(s) or LEA for the provision of progress reports, report cards, and/or any assessments, interviews, or meetings, unless the LEA agrees in writing prior to the completion of any work. It is understood that all billable hours have limits to those specified on the ISA consistent with the IEP. It is understood that copies of data collection notes, forms, charts and other such data are part of the pupil's record and shall be made available to the LEA upon written request.

37. TRANSCRIPTS

When CONTRACTOR is a nonpublic school, CONTRACTOR shall prepare transcripts at the close of each semester, or upon LEA student transfer, for LEA students in grades nine through twelve inclusive. CONTRACTOR shall submit all transcripts to the LEA Director of Special Education for evaluation of progress toward completion of diploma requirements as specified by LEA.

38. LEA STUDENT CHANGE OF RESIDENCE

Upon enrollment, CONTRACTOR shall notify parents in writing of their obligation to notify CONTRACTOR of the LEA student's change of residence. CONTRACTOR shall maintain, and provide upon request by LEA, documentation of such notice to parents. Within five (5) school days after CONTRACTOR becomes aware of a LEA student's change of residence, CONTRACTOR shall notify the LEA, in writing, of the LEA student's change of residence.

If CONTRACTOR had knowledge or should reasonably have had knowledge of the LEA student's change of residence boundaries and CONTRACTOR fails to follow the procedures specified in this provision, the LEA shall not be responsible for the costs of services delivered after the LEA student's change of residence.

39. WITHDRAWAL OF LEA STUDENT FROM PROGRAM

CONTRACTOR shall immediately report, by telephone and e-mail, to the LEA Representative responsible for overseeing nonpublic schools and nonpublic agencies, and any other required representative from the California Department of Education, when a LEA student is withdrawn from school and/or services. CONTRACTOR shall confirm such telephone call in writing via e-mail or other written notification to the LEA Director of Special Education and submit to the LEA and the Department of Education, if required, within five (5) business days of the withdrawal. CONTRACTOR shall assist LEA to verify and clear potential dropouts three (3) times per year, as

required by the 2001 Elementary and Secondary Education Act (No Child Left Behind; NCLB), as documentation of graduation rate is one of the indicators of Adequate Yearly Progress (AYP).

40. PARENT ACCESS

CONTRACTOR shall provide for reasonable parental access to LEA students and all facilities including, but not limited to, the instructional setting, recreational activity areas, meeting rooms and LEA student living quarters. CONTRACTOR shall comply with any known court orders regarding parental visits and access to LEA students.

CONTRACTOR, if operating a program with a residential component, shall cooperate with a parent's reasonable request for LEA student visits in their home during, but not limited to, holidays and weekends. CONTRACTOR shall ensure that parents obtain prior written authorization for therapeutic visits from the CONTRACTOR and the LEA.

41. SERVICES AND SUPERVISION AND PROFESSIONAL CONDUCT

If CONTRACTOR provides services on a LEA public school campus, CONTRACTOR shall comply with Penal Code section 627.1 et seq., as well as all other LEA and campus-specific policies and procedures regarding visitors to/on school campuses. CONTRACTOR shall be responsible for the purchase and provision of the supplies and assessment tools necessary to implement the provision of CONTRACTOR services on LEA public school campuses.

It is understood that the public school credentialed classroom teacher is responsible for the educational program.

It is understood that all employees, subcontractors and volunteers of any certified nonpublic school or agency shall adhere to customary professional standards when providing services. All practices shall be within the scope of professional responsibility as defined in the professional code of conduct for each profession. Reports regarding student progress shall be consistent with the provision of the Master Contract.

CONTRACTOR, if providing services in a student's home as specified in the ISA, shall assure that at least one parent of the child or an adult caregiver with written and signed authorization to make decisions in an emergency is present during the provision of services. The names of any adult caregiver other than the parent shall be provided to the LEA prior to the start of any home based services, including written and signed authorization in emergency situations. The parent shall inform the LEA of any changes of caregivers and provide written authorization for emergency situations. The adult caregiver cannot also be an employee or volunteer associated with the nonpublic school/nonpublic agency service provider. All problems and/or concerns reported to parents, both verbal and written shall also be provided to the LEA.

42. LICENSED CHILDREN'S INSTITUTION CONTRACTORS

If CONTRACTOR is a licensed children's institution, CONTRACTOR shall adhere to all legal requirements regarding educational placements for LCI students as stated in Education Code sections 56366(a)(2)(C) and 56366.9, Health and Safety Code section 1501.1 (AB1858, AB490 (Chapter 862, Statutes of 2003)) and any other applicable laws and/or regulations, including LEA guidelines or procedures. An LCI shall not require that a pupil be placed in its nonpublic school as a condition of being placed in its residential facility.

If CONTRACTOR is a nonpublic, nonsectarian school that is owned, operated by, or associated with a residential treatment center (hereinafter referred to as "NPS/RTC"), CONTRACTOR shall adhere to all legal requirements under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. section 1400 et seq. including the federal regulations 34 C.F.R section 300 et seq. and Education Code section 56000 et seq. including Title 5 of the California Code of Regulations section 3000 et seq.

In addition to meeting the certification requirements of the State of California, a CONTRACTOR that operates a program outside of this State shall be certified or licensed by that state to provide, respectively, special education and related services and designated instruction and related services to pupils under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

If CONTRACTOR is a nonpublic, nonsectarian school that is owned, operated by, or associated with a LCI, CONTRACTOR shall provide to the LEA, on a quarterly basis, a list of all LEA students, including those identified as eligible for special education. For those identified special education students, the list shall include: 1) special education eligibility at the time of enrollment; and 2) the educational placement and services specified in each student's IEP at the time of enrollment.

Unless placement is made pursuant to an Office of Administrative Hearings order or a lawfully executed agreement between the LEA and parent, the LEA is not responsible for the costs associated with nonpublic school placement until the date on which an IEP team meeting is convened, the IEP team determines that a nonpublic school placement is appropriate, and the IEP is signed by the LEA student's parent or another adult with educational decision-making rights.

43. STATE MEAL MANDATE

When CONTRACTOR is a nonpublic school, CONTRACTOR and LEA shall satisfy the State Meal Mandate under California Education Code sections 49530, 49530.5 and 49550.

44. MONITORING

CONTRACTOR shall allow representatives from the LEA access to its facilities for the purpose of monitoring each LEA student's instructional program. LEA shall have access to observe each LEA student at work, observe the instructional setting, interview CONTRACTOR, and review each LEA student's records and progress. Such access shall include unannounced monitoring visits. When making site visits, LEA shall initially report to CONTRACTOR's site administrative office. CONTRACTOR shall be invited to participate in the review of each student's progress.

If CONTRACTOR is also an LCI, the LEA or its SELPA shall annually evaluate whether CONTRACTOR is in compliance with Education Code section 56366.9 and Health and Safety Code section 1501.1(b).

The State Superintendent of Public Instruction ("Superintendent") shall monitor CONTRACTOR'S facilities, the educational environment, and the quality of the educational program, including the teaching staff, the credentials authorizing service, the standards-based core curriculum being employed, and the standard focused instructional materials used on a three-year cycle, as follows: (1) CONTRACTOR shall complete a self-review in year one; (2) the Superintendent shall conduct an onsite review in year two; and (3) the Superintendent shall conduct a follow-up visit in year three.

CONTRACTOR shall fully participate in any LEA and CDE compliance review, including any On-Site and Self Review and if applicable, District Validation Review. This review will address programmatic aspects of the nonpublic school/agency, compliance with relevant state and federal regulations, and Master Contract compliance. CONTRACTOR shall complete and submit a Nonpublic School/Agency Self-Review Assessment submitted as specified by the LEA.

CONTRACTOR shall conduct any follow-up or corrective action procedures requested by LEA or CDE related to such compliance review.

CONTRACTOR understands that the LEA reserves the right to institute a program audit with or without cause. The program audit may include, but is not limited to, a review of core compliance areas of health and safety; curriculum/instruction; related services; and contractual, legal, and procedural compliance.

When CONTRACTOR is a nonpublic school, CONTRACTOR shall collect all applicable data and prepare the applicable portion of a School Accountability Report Card in accordance with California Education Code Section 33126.

PERSONNEL

45. CLEARANCE REQUIREMENTS

CONTRACTOR shall comply with the requirements of California Education Code section 44237, 35021.1 and 35021.2 including, but not limited to: obtaining clearance from both the California Department of Justice (hereinafter referred to as "CDOJ") and clearance from the Federal Bureau of Investigation (hereinafter referred to as "FBI") for all of CONTRACTOR's employees and volunteers who will have or likely may have any direct contact with LEA students. CONTRACTOR hereby agrees that CONTRACTOR's employees and volunteers who will have or likely may have direct contact with LEA students shall not come in contact with LEA students until both CDOJ and FBI clearance are ascertained. CONTRACTOR shall further certify in writing to the LEA that none of its employees, volunteers, or subcontractors who will have or likely may have any direct contact with LEA students have been convicted of a violent or serious felony as those terms are defined in California Education Code section 44237(h), unless despite the employee's conviction of a violent or serious felony, he or she has met the criteria to be eligible for employment pursuant to California Education Code section 44237(i) or (j). Clearance certification shall be submitted to the LEA. In addition, CONTRACTOR shall make a request for subsequent arrest service from the CDOJ as required by California Penal Code section 11105.2.

46. STAFF QUALIFICATIONS

CONTRACTOR shall ensure that all individuals employed, contracted, and/or otherwise hired by CONTRACTOR to provide classroom and/or individualized instruction or provide related services hold a license, certificate, permit, or other document equivalent to that which staff in a public school are required to hold to render the service consistent with Education Code section 56366.1(n)(1) and are qualified pursuant to Title 34 of the Code of Federal Regulations sections 200.56 and 200.58, and Title 5 of the California Code of Regulations sections 3001(r), 3051, 3064 and 3065. Such qualified staff may only provide related services within the scope of their professional license, certification or credential and ethical standards set by each profession and not assume responsibility or authority for another related services provider or special education teacher's scope of practice.

Only those nonpublic, nonsectarian schools or agencies located outside of California that employ staff who hold a current valid credential or license to render special education and related services as required by that state shall be eligible to be certified.

CONTRACTOR shall comply with personnel standards and qualifications regarding instructional aides and teacher assistants respectively pursuant to Federal requirements and California Education Code sections 45340 et seq. and 45350 et seq. Specifically, all paraprofessionals, including, but not limited to instructional aides and teacher assistants, employed, contracted, and/or otherwise hired by

CONTRACTOR to provide classroom and/or individualized instruction or related services, shall possess a high school diploma (or higher) degree; or met a rigorous standard of quality and can demonstrate, through a formal state or local assessment (i) knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or (ii) knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness, as appropriate. CONTRACTOR shall comply with all laws and regulations governing the licensed professions, including but not limited to, the provisions with respect to supervision.

In addition to meeting the certification requirements of the State of California, a CONTRACTOR that operates a program outside of this state and serving a student by this LEA shall be certified or licensed by that state to provide special education and related services and designated instruction and related services to pupils under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

47. VERIFICATION OF LICENSES, CREDENTIALS AND OTHER DOCUMENTS

CONTRACTOR shall submit to the LEA a staff list, and copies of all current and required licenses, certifications, credentials, permits and/or other documents which entitle the holder to provide special education and/or related services by CONTRACTOR and all individuals employed, contracted, and/or otherwise hired or sub-contracted by CONTRACTOR. The LEA may file all licenses, certifications, credentials, permits or other documents with the office of the County Superintendent of Schools. CONTRACTOR shall notify the LEA in writing within thirty (30) days when personnel changes occur which may affect the provision of special education and/or related services to LEA students. CONTRACTOR shall provide the LEA with the verified dates of fingerprint clearance, Department of Justice clearance and Tuberculosis Test clearance for all employees, approved subcontractors and/or volunteers prior to such individuals starting to work with any student.

CONTRACTOR shall monitor the status of licenses, certifications, credentials, permits and/or other documents for CONTRACTOR and all individuals employed, contracted, and/or otherwise hired by CONTRACTOR. CONTRACTOR shall immediately, and in no circumstances longer than five (5) business days, provide to the LEA updated information regarding the status of licenses, certifications, credentials, permits and/or other documents of any known changes.

48. STAFF ABSENCE

When CONTRACTOR is a nonpublic school and CONTRACTOR's classroom teacher is absent, CONTRACTOR shall provide an appropriately credentialed substitute teacher in the absent teacher's classroom in accordance with California Education Code section 56061. CONTRACTOR shall provide to the LEA documentation of substitute coverage. Substitute teachers shall remain with their assigned class during all instructional time. The LEA shall not be responsible for any payment for instruction and/or services when an appropriately credentialed substitute teacher is not provided in accordance with California Education Code section 56061.

When CONTRACTOR is a nonpublic agency and/or related services provider, and CONTRACTOR's service provider is absent, CONTRACTOR shall provide a qualified (as defined in section seven (7) of this agreement and as determined by the LEA) substitute, unless the LEA provides appropriate coverage in lieu of CONTRACTOR's service providers. It is understood that the parent of a student shall not be deemed to be a qualified substitute for his/her student. The LEA will not pay for services unless a qualified substitute is provided and/or CONTRACTOR provides documentation evidencing the provision of "make-up" services by a qualified service provider within thirty (30) calendar days from the date on which the services should have been provided. CONTRACTOR shall not "bank" or "carry over" make up service hours under any circumstances, unless otherwise agreed to in writing by CONTRACTOR and an authorized LEA representative.

49. STAFF PROFESSIONAL BEHAVIOR WHEN PROVIDING SERVICES AT SCHOOL OR SCHOOL RELATED EVENTS OR AT SCHOOL FACILITY AND/OR IN THE HOME

It is understood that all employees, subcontractors, and volunteers of any certified nonpublic school or nonpublic agency shall adhere to the customary professional and ethical standards when providing services. All practices shall only be within the scope of professional responsibility as defined in the professional code of conduct for each profession as well as any LEA professional standards as specified in Board policies and/or regulations when made available to the CONTRACTOR. Reports regarding student progress shall be consistent with the provision of this Master Contract.

For services provided on a public school campus, sign in/out procedures shall be followed by nonpublic agency providers working in a public school classroom along with all other procedures for being on campus consistent with school and LEA policy. It is understood that the public school credentialed classroom teacher is responsible for the instructional program, and all nonpublic agency service providers shall work collaboratively with the classroom teacher, who shall remain in charge of the instructional program.

For services provided in a pupil's home as specified in the IEP, CONTRACTOR must assure that the parent or an LEA-approved responsible adult is present during the provision of services. All problems and/or concerns reported to parents, both verbal and written shall also be provided to the LEA.

HEALTH AND SAFETY MANDATES

50. HEALTH AND SAFETY

CONTRACTOR shall comply with all applicable federal, state, and local laws, regulations, ordinances, policies, and procedures regarding student and employee health and safety. CONTRACTOR shall comply with the requirements of California Education Code sections 35021 et seq., 49406, and Health and Safety Code section 121525 regarding the examination of CONTRACTOR's employees and volunteers for tuberculosis. CONTRACTOR shall provide to the LEA documentation for each individual volunteering, employed, contracted, and/or otherwise hired by CONTRACTOR of such compliance before an individual comes in contact with an LEA student.

CONTRACTOR shall comply with OSHA Blood Borne Pathogens Standards, 29 Code of Federal Regulations (CFR) section 1910.1030, when providing medical treatment or assistance to a student. CONTRACTOR further agrees to provide annual training regarding universal health care precautions and to post required notices in areas designated in the California Health and Safety Code.

51. FACILITIES AND FACILITIES MODIFICATIONS

CONTRACTOR shall provide special education and/or related services to LEA students in facilities that comply with all applicable federal, state, and local laws, regulations, and ordinances related, but not limited to: disability access; fire, health, sanitation, and building standards and safety; fire warning systems; zoning permits; and occupancy capacity. When CONTRACTOR is a nonpublic school, CONTRACTOR shall conduct fire drills as required by Title 5 California Code of Regulations section 550. CONTRACTOR shall be responsible for any structural changes and/or

modifications to CONTRACTOR's facilities is required to comply with applicable federal, state, and local laws, regulations, and ordinances.

52. ADMINISTRATION OF MEDICATION

Unless otherwise set forth in the student's ISA, CONTRACTOR shall comply with the requirements of California Education Code section 49423 and Title 5 of the California Code of Regulations section 600 et seq. when CONTRACTOR serves a LEA student that is required to take prescription and/or over-the-counter medication during the school day. CONTRACTOR may designate personnel to assist the LEA student with the administration of such medication after the LEA student's parent(s) provides to CONTRACTOR: (a) a written statement from a physician detailing the type, administration method, amount, and time schedules by which such medication shall be taken; and (b) a written statement from the LEA student's parent(s) granting CONTRACTOR permission to administer medication(s) as specified in the physician's statement. CONTRACTOR shall maintain, and provide to the LEA upon request, copies of such written statements. CONTRACTOR shall maintain a written log for each LEA student to whom medication is administered. Such written log shall specify the LEA student's name; the type of medication; the date, time, and amount of each administration; and the name of CONTRACTOR's employee who administered the medication. CONTRACTOR maintains full responsibility for assuring appropriate staff training in the administration of such medication consistent with student's physician's written orders. Any change in medication type, administration method, amount or schedule must be authorized by both a licensed physician and parent.

53. INCIDENT/ACCIDENT REPORTING

CONTRACTOR shall submit within 24 hours by fax and mail, or electronically, any accident or incident report to the LEA, including any behavior incident or behavior emergency intervention. LEA may specify procedures to be implemented by CONTRACTOR or forms to be submitted by CONTRACTOR related to accident or incident reporting.

54. CHILD ABUSE REPORTING

CONTRACTOR hereby agrees to annually train all staff members, including volunteers, so that they are familiar with and agree to adhere to its own child and dependent adult abuse reporting obligations and procedures as specified in California Penal Code section 11164 et seq. To protect the privacy rights of all parties involved (i.e. reporter, child and alleged abuser), reports will remain confidential as required by law and professional ethical mandates. A written statement acknowledging the legal requirements of such reporting and verification of staff adherence to such reporting shall be submitted to the LEA.

55. SEXUAL HARASSMENT/DISCRIMINATION

CONTRACTOR shall have a Sexual and Gender Identity Harassment Policy that clearly describes the kinds of conduct that constitutes sexual harassment and that is prohibited by the CONTRACTOR's policy, as well as federal and state law. The policy should include procedures to make complaints without fear of retaliation, and for prompt and objective investigations of all sexual harassment complaints. CONTRACTOR further agrees to provide annual training to all employees regarding the laws concerning sexual harassment and related procedures.

56. REPORTING OF MISSING CHILDREN

CONTRACTOR assures the LEA that all staff members, including volunteers, are familiar with and agree to adhere to requirements for reporting missing children as specified in California Education Code section 49370. A written statement acknowledging the legal requirements of such reporting and verification of staff adherence to such reporting shall be properly submitted to the LEA. The written statement shall be submitted as specified by the LEA.

FINANCIAL

57. ENROLLMENT, CONTRACTING, SERVICE TRACKING, ATTENDANCE REPORTING, AND BILLING PROCEDURES

CONTRACTOR shall assure that the nonpublic school or nonpublic agency has the necessary financial resources to provide an appropriate education for the children enrolled and will distribute those resources in such a manner to implement the IEP and ISA for each and every child.

CONTRACTOR shall provide all records requested by LEA concerning enrollment, contracting, attendance reporting, service tracking and billing, including requirements of electronic billing. CONTRACTOR shall be paid for the provision of special education and/or related services specified in the LEA student's IEP and ISA which are provided on billable days of attendance. All payments by LEA shall be made in accordance with the terms and conditions of this Master Contract and all applicable federal and state laws.

CONTRACTOR shall maintain separate registers for the basic education program and each related service. Original attendance forms (for example, roll books for the basic education program, service tracking documents and notes for instructional assistants, behavioral intervention aides, bus aides, and each related service) shall be completed by the actual service provider whose signature shall appear on such forms and shall be available for review, inspection, or audit by the LEA during the effective period of this Master Contract and for a period of five (5) years thereafter. CONTRACTOR shall verify the accuracy of minutes of reported attendance that is the basis of services being billed for payment.

CONTRACTOR shall submit invoices and related documents to the LEA for payment, for each calendar month when education or related services were provided. Invoices and related documents may be submitted electronically if requested by LEA and CONTRACTOR has the systems in place to generate the requested documents. The LEA may designate forms for use by CONTRACTOR when submitting invoices. At a minimum, each invoice must contain the following information: month of service; specific days and times of services coordinated by the LEA approved calendar unless otherwise specified in the ISA or agreed to by the LEA; name of staff who provided the service; approved cost of each invoice; total for each service and total for the monthly invoice; date invoice was mailed; signature of the nonpublic school/nonpublic agency administrator authorizing that the information is accurate and consistent with the ISA, CDE certificates and staff notification; verification that attendance report is attached as appropriate; indication of any made-up session consistent with this Master Contract; verification that progress reports have been provided consistent with the ISA (monthly or quarterly unless specified otherwise on the ISA); and the name or initials of each student for when the service was provided.

In the event services were not provided, rationale for why the services were not provided shall be included.

Such an invoice is subject to all conditions of this Master Contract. At the discretion of the LEA, an electronic invoice may be required provided such notice has been made in writing and training provided to the CONTRACTOR at no additional charge for such training.

Invoices shall be submitted no later than thirty (30) days after the end of the attendance accounting period in which the services were rendered. LEA shall make payment to CONTRACTOR based on the number of billable days of attendance and hours of service at rates specified in this Master Contract within forty-five (45) days of LEA's receipt of properly submitted hard copy of invoices prepared and submitted as specified in California Education Code Section 56366.5 and the LEA. CONTRACTOR shall correct deficiencies and submit rebilling invoices no later than thirty (30) calendar days after the invoice is returned by LEA. LEA shall pay properly submitted re-billing invoices no later than forty-five (45) days after the date a completely corrected re-billing invoice is received by the LEA.

In no case shall initial payment claim submission for any Master Contract fiscal year (July through June) extend beyond December 31st after the close of the fiscal year. In no case shall any rebilling for the Master Contract fiscal year (July through June) extend beyond six months after the close of the fiscal year unless approved by the LEA to resolve billing issues including rebilling issues directly related to a delay in obtaining information from the Commission on Teacher Credentialing regarding teacher qualification, but no later than 12 months from the close of the fiscal year. If the billing or rebilling error is the responsibility of the LEA, then no limit is set provided that the LEA and CONTRACTOR have communicated such concerns in writing during the 12-month period following the close of the fiscal year. LEA will not pay mileage for NPA employee.

58. RIGHT TO WITHHOLD PAYMENT

The LEA may withhold payment to CONTRACTOR when: (a) CONTRACTOR has failed to perform, in whole or in part, under the terms of this Master Contract; (b) CONTRACTOR has billed for services rendered on days other than billable days of attendance or for days when student was not in attendance and/or did not receive services; (c) CONTRACTOR was overpaid by LEA as determined by inspection, review, and/or audit of its program, work, and/or records; (d) CONTRACTOR has failed to provide supporting documentation with an invoice, as required by EC 56366(c)(2); (e) education and/or related services are provided to LEA students by personnel who are not appropriately credentialed, licensed, or otherwise qualified; (f) LEA has not received, prior to school closure or contract termination, all documents concerning one or more LEA students enrolled in CONTRACTOR's educational program; (g) CONTRACTOR fails to confirm a student's change of residence to another district or confirms the change or residence to another district, but fails to notify LEA with five (5) days of such confirmation; or (h) CONTRACTOR receives payment from Medi-Cal or from any other agency or funding source for a service provided to a LEA student. It is understood that no payments shall be made for any invoices that are not received by six months following the close of the prior fiscal year, for services provided in that year.

The amount which may be withheld by the LEA with respect to each of the subparagraphs of the preceding paragraph are as follows: (a): the value of the service CONTRACTOR failed to perform; (b) the amount of overpayment; (c) the portion of the invoice for which satisfactory documentation has not been provided by CONTRACTOR; (d) the amount invoiced for services provided by the individual not appropriately credentialed, licensed, or otherwise qualified; (e) the proportionate amount of the invoice related to the applicable pupil for the time period from the date of the violation occurred and until the violation is cured; or (f) the amount paid to CONTRACTOR by Medi-Cal or another agency or funding source for the service provided to the LEA student.

If the LEA determines that cause exists to withhold payment to CONTRACTOR, LEA shall, within ten (10) business days of this determination, provide to CONTRACTOR written notice that LEA is withholding payment. Such notice shall specify the basis or bases for the LEA's withholding

payment and the amount to be withheld. Within thirty (30) days from the date of receipt of such notice, CONTRACTOR shall take all necessary and appropriate action to correct the deficiencies that form the basis for the LEA's withholding payment, submit a written request for extension of time to correct the deficiencies or submit to LEA written documentation demonstrating that the basis or bases cited by the LEA for withholding payment is unfounded. Upon receipt of CONTRACTOR's written request showing good cause, the LEA shall extend CONTRACTOR's time to correct deficiencies (usually an additional thirty (30) days), otherwise payment will be denied.

If after subsequent request for payment has been denied and CONTRACTOR believes that payment should not be withheld, CONTRACTOR shall send written notice to the LEA specifying the reason it believes payment should not be withheld. The LEA shall respond to CONTRACTOR's notice within thirty (30) business days by indicating that a warrant for the amount of payment will be made or stating the reason the LEA believes payment should not be made. If the LEA fails to respond within thirty (30) business days or a dispute regarding the withholding of payment continues after the LEA's response to CONTRACTOR's notice, CONTRACTOR may invoke the following escalation policy.

After forty-five (45) business days: The CONTRACTOR may notify the Authorized LEA's Representative of the dispute in writing. The LEA Authorized Representative shall respond to the CONTRACTOR in writing within fifteen (15) business days.

After sixty (60) business days: Disagreements between the LEA and CONTRACTOR concerning the Master Contract may be appealed to the Orange County Superintendent of Schools or the State Superintendent of Public Instruction pursuant to the provisions of California Education Code Section 56366(c)(2). CONTRACTOR disagrees with the language of California Education Code Section 56366(c)(2), and nothing herein shall constitute a waiver by CONTRACTOR of its right to challenge that provision.

59. PAYMENT FROM OUTSIDE AGENCIES

CONTRACTOR shall notify the LEA when Medi-Cal or any other agency is billed for the costs associated with the provision of special education and/or related services to LEA students. Upon request, CONTRACTOR shall provide to the LEA any and all documentation regarding reports, billing, and/or payment by Medi-Cal or any other agency for the costs associated with the provision of special education and/or related services to LEA students. CONTRACTOR shall provide prior written notice of the rights and protections required by Title 34 of the Code of Federal Regulations section 300.154(d) whenever it seeks to use the LEA students' public benefits to pay for special education and related services. Such notice shall be provided before seeking payment from Medi-Cal for the first time and annually thereafter.

60. PAYMENT FOR ABSENCES

NONPUBLIC SCHOOL STAFF ABSENCE

Whenever a classroom teacher employed by CONTRACTOR is absent, CONTRACTOR shall provide an appropriately credentialed substitute teacher in the absent teacher's classroom in accordance with California Education Code section 56061. CONTRACTOR shall provide to the LEA documentation of substitute coverage. Substitute teachers shall remain with their assigned class during all instructional time. The LEA will not pay for instruction and/or services unless said instruction or service is provided by an appropriately credentialed substitute teacher.

Whenever a related service provider is absent, CONTRACTOR shall provide a qualified (as defined in section seven (7) of this Agreement and as determined by LEA) substitute. The LEA will not pay

for services unless a qualified substitute is provided and/or CONTRACTOR provides documentation evidencing the provision of “make-up” services by a qualified service provider within thirty (30) calendar days from the date on which the services should have been provided unless otherwise agreed in LEA student’s IEP or ISA.

NONPUBLIC SCHOOL STUDENT ABSENCE

If CONTRACTOR is a nonpublic school, no later than the tenth (10th) cumulative day of the LEA student’s unexcused absence, CONTRACTOR shall notify the LEA of such absence.

Criteria for a billable day for payment purposes is one day of attendance as defined in California Education Code, sections 46010, 46010.3 and 46307. The LEA shall not pay for services provided on days that a student’s attendance does not qualify for Average Daily Attendance (ADA) reimbursement under state law. *Per Diem* rates for students whose IEPs authorize less than a full instructional day may be adjusted on a pro rata basis in accordance with the actual proportion of the school day the student was served. The LEA shall not be responsible for payment of DIS or related services for days on which a student’s attendance does not qualify for Average Daily Attendance (ADA) reimbursement under state law, nor shall student be eligible for make-up services.

NONPUBLIC AGENCY STAFF ABSENCE

When CONTRACTOR is a nonpublic agency and CONTRACTOR’s service provider is absent, CONTRACTOR shall provide a qualified (as defined in section seven (7) of this Agreement and as determined by the LEA) substitute, unless the LEA provides appropriate coverage in lieu of CONTRACTOR’s service providers. The LEA shall not pay for services unless a qualified substitute is provided and/or CONTRACTOR provides documentation evidencing the provision of “make-up” services by a qualified service provider within thirty (30) calendar days from the date on which the services should have been provided. CONTRACTOR shall not “bank” or “carry over” make up service hours under any circumstances, unless otherwise agreed to in writing by CONTRACTOR and the LEA. In the event services were not provided, reasons for why the services were not provided shall be included. In the event of a service provider absence for Behavior Intervention Implementation services provided at the school site, services shall not be deemed eligible for make up.

NONPUBLIC AGENCY STUDENT ABSENCE

If CONTRACTOR is a nonpublic agency, it shall notify LEA of the absence of a LEA student no later than the fifth consecutive service day of the student’s absence. The LEA shall not be responsible for the payment of services when a student is absent.

61. INSPECTION AND AUDIT

The CONTRACTOR shall maintain and the LEA shall have the right to examine and audit all of the books, records, documents, accounting procedures and practices and other evidence that reflect all costs claimed to have been incurred or fees claimed to have been earned under this Agreement.

CONTRACTOR shall provide the LEA access to all records including, but not limited to: student records as defined by California Education Code section 49061(b); registers and rollbooks of teachers; daily service logs and notes or other documents used to record the provision of related services; Medi-Cal/daily service logs and notes used to record provision of services provided by instructional assistants, behavior intervention aides, bus aides, and supervisors; absence verification records (parent/doctor notes, telephone logs, and related documents); bus rosters; staff lists specifying credentials held, business licenses held, documents evidencing other qualifications, social security numbers (last four digits unless otherwise required), dates of hire, and dates of termination; staff time sheets; non-paid staff and volunteer sign-in sheets; transportation and other related service

subcontracts; school calendars; bell/class schedules when applicable; liability and worker's compensation insurance policies; state nonpublic school and/or agency certifications; by-laws; lists of current board of directors/trustees, if incorporated; other documents evidencing financial expenditures; federal/state payroll quarterly reports Form 941/DE3DP; and bank statements and canceled checks or facsimile thereof. Such access shall include unannounced inspections by the LEA. CONTRACTOR shall make available to the LEA all budgetary information including operating budgets submitted by CONTRACTOR to the LEA for the relevant contract period being audited.

CONTRACTOR shall make all records available at the office of the LEA or CONTRACTOR's offices at all reasonable times and without charge. All records shall be provided to the LEA within five (5) working days of a written request from the LEA. CONTRACTOR shall, at no cost to the LEA, provide reasonable assistance for such examination or audit. The LEA's rights under this section shall also include access to CONTRACTOR's offices for purposes of interviewing CONTRACTOR's employees. If any document or evidence is stored in an electronic form, a hard copy shall be made available to the LEA, unless the LEA agrees to the use of the electronic format.

CONTRACTOR shall obtain from its subcontractors and suppliers written agreements to the requirements of this section and shall provide a copy of such agreements to the LEA upon request by the LEA.

If an inspection, review, or audit by the LEA, a state agency, a federal agency, and/or an independent agency/firm determines that CONTRACTOR owes the LEA monies as a result of CONTRACTOR's over billing or failure to perform, in whole or in part, any of its obligations under this Master Contract, the LEA shall provide to CONTRACTOR written notice demanding payment from CONTRACTOR and specifying the basis or bases for such demand. Unless CONTRACTOR and the LEA otherwise agree in writing, CONTRACTOR shall pay to the LEA the full amount owed as result of CONTRACTOR's over billing and/or failure to perform, in whole or in part, any of its obligations under this Master Contract, as determined by an inspection, review, or audit by the LEA, a state agency, a federal agency, and/or an independent agency/firm. CONTRACTOR shall make such payment to the LEA within thirty (30) days of receipt of the LEA's written notice demanding payment.

62. RATE SCHEDULE

The attached rate schedule (Exhibit A) limits the number of LEA students that may be enrolled and the maximum dollar amount of the contract. It may also limit the maximum number of students that can be provided specific services. Per Diem rates for LEA students whose IEPs authorize less than a full instructional day may be adjusted proportionally. In such cases only, the adjustments in basic education rate shall be based on the percentage of a 310-minute instructional day.

Special education and/or related services offered by CONTRACTOR shall be provided by qualified personnel as per State and Federal law, and the codes and charges for such educational and/or related services during the term of this contract, shall be as stated in Exhibit A.

63. DEBARMENT CERTIFICATION

By signing this agreement, CONTRACTOR certifies that:

- (a) CONTRACTOR and any of its shareholders, partners, or executive officers are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency, and

- (b) Has/have not, within a three-year period preceding this contract, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses.

The parties hereto have executed this Master Contract by and through their duly authorized agents or representatives. This Master Contract is effective on the 1st day of July 2017 and terminates at 5:00 P.M. on June 30, 2018, unless sooner terminated as provide herein.

CONTRACTOR,

Cornerstone Therapies
Nonpublic School/Agency

LEA,

Fountain Valley School District

By:

Signature

Date

Name and Title of Authorized
Representative

By:

Signature

Date

Dr. Mark Johnson, Superintendent

Name and Title of Authorized
Representative

Notices to CONTRACTOR shall be addressed to:

Notices to LEA shall be addressed to:

			Rachel Rios, Fiscal Manager		
Name			Name and Title		
Cornerstone Therapies			West Orange County Consortium for Special Education (WOCCSE)		
Nonpublic School/Agency/Related Service Provider			LEA		
			5832 Bolsa Avenue		
Address			Address		
			Huntington Beach, CA 92649		
City	State	Zip	City	State	Zip
			(714) 903-7000, ext. 504615 (714) 872-8109		
Phone	Fax		Phone	Fax	
			rrios@hbuhsd.edu		
Email			Email		

EXHIBIT A: RATES

CONTRACTOR Cornerstone Therapies CONTRACTOR NUMBER W18107 2017-2018
 (NONPUBLIC SCHOOL OR AGENCY) (CONTRACT YEAR)

Per CDE Certification, total enrollment may not exceed _____ If blank, the number shall be as determine by CDE Certification.

Rate Schedule. This rate schedule limits the number of LEA students that may be enrolled and the maximum dollar amount of the contract. It may also limit the maximum number of students that can be provided specific services. Special education and/or related services offered by CONTRACTOR, and the charges for such educational and/or related services during the term of this contract shall be as follows:

Payment under this contract may not exceed _____

Total LEA enrollment may not exceed _____

Rate	Period
_____	_____
_____	_____

A. Basic Education Program/Special Education Instruction Basic Education Program/Dual Enrollment

Per diem rates for LEA students whose IEPs authorize less than a full instructional day may be adjusted proportionally.

B. Related Services

(1)	a. Language and Speech Therapy – Clinic	\$ 88.05	Per Hour
	b. Language and Speech Therapy – School/Home (Off Site)	\$ 103.59	Per Hour
	c. Language and Speech Therapy – Group	_____	_____
	d. Language and Speech Therapy – Per diem	_____	_____
	e. Language and Speech – Consultation Rate (Off Site)	\$ 103.59	Per Hour
(2)	a. Occupational Therapy – Clinic	\$ 88.05	Per Hour
	b. Occupational Therapy – School/Home (Off Site)	\$ 102.08	Per Hour
	c. Occupational Therapy – Group	_____	_____
	d. Occupational Therapy – Per diem	_____	_____
	e. Occupational Therapy – Consultation Rate (Off Site)	\$ 102.08	Per Hour
(3)	a. Physical Therapy – Clinic	\$ 88.05	Per Hour
	b. Physical Therapy – School/Home (Off Site)	\$ 102.08	Per Hour
	c. Physical Therapy – Group	_____	_____
	d. Physical Therapy – Per diem	_____	_____
	e. Physical Therapy – Consultation Rate (Off Site)	\$ 102.08	Per Hour
(4)	a. ABA – 1:1 IBI Master – Clinic	\$ 75.00	Per Hour
	b. ABA – 1:1 IBI Master – School/Home (Off Site)	\$ 85.00	Per Hour
	c. ABA – 1:1 BCBA Board Certified – Clinic	\$ 50.00	Per Hour
	d. ABA – 1:1 BCBA Board Certified – School/Home (Off Site)	\$ 70.00	Per Hour
	e. ABA – 1:1 BA Level RBT Certified – Clinic	\$ 50.00	Per Hour
	f. ABA – 1:1 BA Level RBT Certified – School/Home (Off Site)	\$ 65.00	Per Hour
	g. ABA – 1:1 H.S. Diploma RBT Certified – Clinic	\$ 50.00	Per Hour
	h. ABA – 1:1 H.S. Diploma RBT Certified – School/Home (Off Site)	\$ 60.00	Per Hour
(5)	IEP Meeting	\$ 102.08	Per Hour
(6)	a. Evaluations – Clinic	\$ 228.56	Per Hour up to 2hrs
	b. Evaluations – Clinic	\$ 88.05	Additional hour

2017/2018

HBUHSD Contract # W18108

Please refer to this number on correspondence, invoices, etc.

INDIVIDUAL SERVICE AGREEMENT FOR NONPUBLIC, NONSECTARIAN SCHOOL/AGENCY SERVICES
(Education Code 56365 et seq.)

This agreement is effective on July 1, 2017 or the date student begins attending a nonpublic school or begins receiving services from a nonpublic agency, if after the date identified, and terminates at 5:00 P.M. on June 30, 2018, unless sooner terminated as provided in the Master Contract and by applicable law.

Local Education Agency (LEA)	FOUNTAIN VALLEY SCHOOL DISTRICT			Nonpublic School/Agency	CORNERSTONE THERAPIES		
Address	10055 SLATER AVENUE			Address	18700 BEACH BLVD., SUITE 120		
City, State Zip	FOUNTAIN VALLEY, CA 92708			City, State, Zip	HUNTINGTON BEACH, CA 92648		
LEA Case Manager				Phone	714-962-6760	Fax	714-962-5161
				E-Mail			
Student Last Name		Student First Name		Program Contact Name	JILL BOOCOCK, BILLING ADMINISTRATOR		
D.O.B.		I.D. #		Phone	714-962-6760	Fax	714-962-5161
				E-Mail			
Grade Level		Sex (M or F)		Education Schedule – Regular School Year			
Parent/Guardian Last Name		Parent/Guardian First Name		Number of Days		Number of Weeks	
Address				Education Schedule – Extended School Year			
City, State Zip				Number of Days		Number of Weeks	
				Contract Begins	07/01/17	Ends	12/31/17
Home Phone	Business/ Mobile Phone			Master Contract Approved by the Governing Board on:			07/13/17

DESIGNATED INSTRUCTION AND SERVICES/RELATED SERVICES:

SERVICES	PROVIDER				Cost and Duration of Session	Number of Sessions per dy/wk/mo/yr	Maximum Number of Sessions		Estimated Maximum Total Cost for Contracted Period
	LEA	NPS	NPA	OTHER (Specify)			Reg School Year	ESY	
A. BASIC EDUCATION									
B. RELATED SERVICES									
1. Transportation									
a. Paid to NPS/A									
b. Reimburse Parent									
2. Counseling									
a. Group									
b. Individual									
3. Adapted P.E.									
4. Speech/Language									
a. Group									
b. Individual - Per Settlement Agreement thru 12/31/17			X		NTE \$90/hr	33hrs/total	33		\$ 2,970.00
c. Consultation									
5. Occupational Therapy									
a. Therapy									
b. Consultation									

2017/2018

HBUHSD Contract # W18108

Please refer to this number on correspondence, invoices, etc.

B. RELATED SERVICES (cont'd)	PROVIDER				Cost and Duration of Session	Number of Sessions per dy/wk/mo/yr	Maximum Number of Sessions		Estimated Maximum Total Cost for Contracted Period
	LEA	NPS	NPA	OTHER (Specify)			Reg School Year	ESY	
6. Physical Therapy									
a. Therapy									
b. Consultation									
7. ABA - Behavior Intervention									
a. Consult									
b. Direct									
c. Supervision									
d. Assessment									
8. One-to-One Aide									
9. Other									
10. Residential Services									
a. Board and Care									
b. Mental Health Services									
c. Transportation Public Carrier									
						A + B TOTAL COST			\$ 2,970.00

ESTIMATED MAXIMUM RELATED SERVICES COST (B) \$ \$ 2,970.00TOTAL ESTIMATED MAXIMUM BASIC EDUCATION/RELATED SERVICES COSTS (A+B) \$ \$ 2,970.00

Other Provisions/Attachments:

Progress Reporting Requirements: _____ Quarterly _____ Monthly X Trimester _____ Other (Specify)

APPROVED BY THE GOVERNING BOARD ON 07/13/17

The parties hereto have executed this Individual Services Agreement by and through their duly authorized agents or representatives as set forth below.

-CONTRACTOR-

-LEA-

CORNERSTONE THERAPIES
(Name of Nonpublic School/Agency)

FOUNTAIN VALLEY SCHOOL DISTRICT
(Name of School District)

(Contracting Officer's Signature) (Date)

(Signature) (Date)

(Name and Title)

DR. MARK JOHNSON, SUPERINTENDENT
(Name of Superintendent or Authorized Designee)

*NONPUBLIC, NONSECTARIAN
SCHOOL/AGENCY SERVICES*

MASTER CONTRACT

W18109

DEL SOL SCHOOL

FOUNTAIN VALLEY SCHOOL DISTRICT

2017-2018

MASTER CONTRACT

GENERAL AGREEMENT FOR NONSECTARIAN,
NONPUBLIC SCHOOL AND AGENCY SERVICES

District FOUNTAIN VALLEY SCHOOL DISTRICT

Contract Year 2017-2018

 X Nonpublic School
 Nonpublic Agency

Type of Contract:

 X Master Contract for fiscal year with Individual Service Agreements (ISA) to be approved throughout the term of this contract.

 Individual Master Contract for a specific student incorporating the Individual Service Agreement (ISA) into the terms of this Individual Master Contract specific to a single student.

 Interim Contract: an extension of the previous fiscal years approved contracts and rates. The sole purpose of this Interim Contract is to provide for ongoing funding at the prior year's rates for ninety (90) days at the discretion of the LEA and CONTRACTOR. Expiration Date:

When this section is included as part of any Master Contract, the changes specified above shall amend Section 4 – Term of Master Contract.

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2017-2018

CONTRACT NUMBER:
W18109

LEA: FOUNTAIN VALLEY SCHOOL DISTRICT

NONPUBLIC SCHOOL/AGENCY/RELATED SERVICES PROVIDER:

NONPUBLIC, NONSECTARIAN SCHOOL/AGENCY SERVICES
MASTER CONTRACT

AUTHORIZATION FOR MASTER CONTRACT AND GENERAL PROVISIONS

1. MASTER CONTRACT

This Master Contract is entered into this 13th day of July, 2017, between the Fountain Valley School District (hereinafter referred to as "District" or local educational agency "LEA") and Del Sol School (hereinafter referred to as "CONTRACTOR") for the purpose of providing special education and/or related services to District students with exceptional needs under the authorization of California Education Code sections 56157, 56361 and 56365 et seq. and Title 5 of the California Code of Regulations section 3000 et seq., AB490 (Chapter 862, Statutes of 2003) and AB1858 (Chapter 914, Statutes of 2004). It is understood that this agreement does not commit the District to pay for special education and/or related services provided to any District student, or CONTRACTOR to provide such special education and/or related services, unless and until an authorized LEA representative approves the provision of special education and/or related services by CONTRACTOR.

Upon acceptance of a student, LEA shall submit to CONTRACTOR an Individual Services Agreement (hereinafter referred to as "ISA"). Unless otherwise agreed in writing, the ISA shall acknowledge CONTRACTOR's obligation to provide all services specified in the student's Individualized Education Plan (hereinafter referred to as "IEP"). The ISA shall be executed within ninety (90) days of an LEA student's enrollment. LEA and CONTRACTOR shall enter into an ISA for each LEA student served by CONTRACTOR.

Unless placement is made pursuant to an Office of Administrative Hearings (hereinafter referred to as "OAH") order, a lawfully executed agreement between LEA and parent, authorized by LEA for a transfer student pursuant to California Education Code section 56325, or otherwise authorized by LEA without a signed IEP, LEA is not responsible for the costs associated with nonpublic school placement until the date on which an IEP team meeting is convened, the IEP team determines that a nonpublic school placement is appropriate, and the IEP is signed by the LEA student's parent.

2. CERTIFICATIONS AND LICENSES

CONTRACTOR shall be certified by the California Department of Education (hereinafter referred to as "CDE") as a nonpublic, nonsectarian school/agency. All nonpublic school and nonpublic agency services shall be provided consistent with the area of certification specified by CDE Certification and as defined in California Education Code, section 56366 et seq. and within the professional scope of practice of each provider's license, certification and/or credential. In addition to meeting the certification requirements of the State of California, a CONTRACTOR that operates a program outside of this State shall be certified or licensed by that state to provide, respectively, special education and related services and designated instruction and related services to pupils under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

If CONTRACTOR is a licensed children's institution (hereinafter referred to as "LCI"), CONTRACTOR shall be licensed by the state, or other public agency having delegated authority by contract with the state to license, to provide nonmedical care to children, including, but not limited to, individuals with exceptional needs. The LCI must also comply with all licensing requirements relevant to the protection of the child, and have a special permit, if necessary, to meet the needs of each child so placed. If the CONTRACTOR operates a program outside of California and provides services to LEA students in such out-of-state program, CONTRACTOR must obtain all required licenses from the appropriate licensing agency in both California and in the state where the LCI is located.

A current copy of CONTRACTOR's licenses and nonpublic school/agency certifications, or a validly issued waiver of any such certification, must be provided to LEA on or before the date this Master Contract is executed by CONTRACTOR. CONTRACTOR must immediately (and under no circumstances longer than three (3) calendar days) notify LEA if any such licenses, certifications or waivers are expired, suspended, revoked, rescinded, or subject to a pending administrative or legal complaint or lawsuit, or otherwise nullified during the effective period of this Master Contract. If any such licenses, certifications or waivers are expired, suspended, revoked, rescinded, or otherwise nullified during the effective period of this Master Contract, this Master Contract shall terminate as of the date of such action.

Total student enrollment shall be limited to capacity as stated on CDE certification. Total student enrollment shall be limited to capacity as stated in Section 24 of the Master Contract.

3. COMPLIANCE WITH LAWS, STATUTES, REGULATIONS

During the term of this Master Contract, CONTRACTOR shall comply with all applicable federal, state, and local statutes, laws, ordinances, rules, policies, and regulations including but not limited to the provision of special education and/or related services, facilities for individuals with exceptional needs, pupil enrollment, attendance and transfer, corporal punishment, pupil discipline, and positive behavioral interventions.

CONTRACTOR acknowledges and understands that LEA may report to the CDE any violations of the provisions of this Master Contract, and that this may result in the suspension and/or revocation of CDE nonpublic school/agency certification pursuant to California Education Code section 56366.4(a).

4. TERM OF MASTER CONTRACT

The term of this Master Contract shall be from July 1, 2017 to June 30, 2018 (Title 5 California Code of Regulations section 3062(a)) unless otherwise stated. Neither the CONTRACTOR nor the LEA is required to renew this Master Contract in subsequent contract years. However, the parties acknowledge that any subsequent Master Contract is to be renegotiated prior to June 30, 2017. In the event a Master Contract is not renegotiated by June 30th, an interim contract may be made available as mutually agreed upon for up to 90 days from July 1 of the new fiscal year. (Title 5, California Code of Regulations, Section 3062(d).) No Master Contract will be offered unless and until all of the contracting requirements have been satisfied. The offer of a Master Contract to a CONTRACTOR is at the sole discretion of the LEA. Requests for renegotiation of any rate, including but not limited to, related services for the subsequent contract year, are to be submitted in writing to Orange County Department of Education, Special Education Division, 200 Kalmus Drive, P.O. Box 9050, Costa Mesa, CA 92628-9050 prior to January 31, 2018.

5. INTEGRATION/CONTINUANCE OF CONTRACT FOLLOWING EXPIRATION OR TERMINATION

This Master Contract includes each Individual Services Agreement which is incorporated herein by this reference. This Master Contract supersedes any prior or contemporaneous written or oral understanding or agreement. This Master Contract may be amended only by written amendment executed by both parties.

CONTRACTOR shall provide the LEA with all information as requested in writing to secure a Master Contract or a renewal.

At a minimum, such information shall include copies of teacher credentials and clearance, insurance documentation and CDE certification. The LEA may require additional information as applicable. If the application packet is not completed and returned to the LEA, no Master Contract will be issued. If CONTRACTOR does not return the Master Contract to the LEA duly signed by an authorized representative within ninety (90) calendar days of issuance by LEA, the new contract rates will not take effect until the newly executed Master Contract is received by the LEA and will not be retroactive to the first day of the new Master Contract's effective date. If CONTRACTOR fails to execute the new Master Contract within such ninety day period, all payments shall cease until such time as the new Master Contract is signed. (California Education Code sections 56366(c)(1) and (2).) In the event that this Master Contract expires or terminates, CONTRACTOR and LEA shall continue to be bound to all of the terms and conditions of the most recent executed Master Contract between CONTRACTOR and LEA for so long as CONTRACTOR is servicing authorized LEA students at the direction of the LEA.

6. INDIVIDUAL SERVICES AGREEMENT

This Master Contract shall include an ISA developed for each LEA student for whom CONTRACTOR is to provide special education and/or related services. An ISA shall only be issued for LEA students enrolled with the approval of the LEA pursuant to Education Code section 56366(a)(2)(A). An ISA may be effective for more than one contract year provided that there is a concurrent Master Contract in effect. In the event that this Master Contract expires or terminates, CONTRACTOR shall continue to be bound to all of the terms and conditions of the most recent executed ISAs between CONTRACTOR and LEA for so long as CONTRACTOR is servicing authorized LEA students.

Any and all changes to a LEA student's educational placement/program provided under this Master Contract and/or an ISA shall be made solely on the basis of a revision to the LEA student's IEP. At any time during the term of this Master Contract, a LEA student's parent, CONTRACTOR, or LEA may request a review of a LEA student's IEP subject to all procedural safeguards required by law.

Unless otherwise provided in this Master Contract, the CONTRACTOR shall provide all services specified in the IEP unless the CONTRACTOR and the LEA agree otherwise in the ISA (California Education Code sections 56366(a)(5) and 3062(e)). In the event the CONTRACTOR is unable to provide a specific service at any time during the life of the ISA, the CONTRACTOR shall notify the LEA in writing within five (5) business days of the last date a service was provided.

If a parent or LEA contests the termination of an ISA by initiating a due process proceeding with the OAH, CONTRACTOR shall abide by the "stay-put" requirement of state and federal law unless the parent agrees otherwise. CONTRACTOR shall abide by the "stay-put" requirement of state and federal law when placement in an interim alternative educational setting is made by the LEA or OAH consistent with 20 U.S.C. section 1415(k)(1). CONTRACTOR shall adhere to all the LEA requirements concerning changes in placement.

Disagreements between the LEA and CONTRACTOR concerning the formulation of an ISA or the Master Contract may be appealed to the County Superintendent of Schools of the County where the LEA is located, or the State Superintendent of Public Instruction pursuant to the provisions of California Education Code section 56366(c)(2). Nothing herein shall limit LEA or CONTRACTOR from engaging in alternative dispute resolution. CONTRACTOR disagrees with the language of Education Code section 56366(c)(2), and nothing herein shall constitute a waiver by CONTRACTOR of its rights to challenge that provision.

7. DEFINITIONS

The following definitions shall apply for purposes of this contract:

- a. The term "CONTRACTOR" means a nonpublic, nonsectarian school/agency certified by the California Department of Education and identified in Paragraph 1 above.
- b. The term "authorized LEA representative" means a LEA administrator designated to be responsible for nonpublic school/agencies.
- c. The term "credential" means a valid credential, life diploma, permit, or document in special education or pupil personnel services issued by, or under the jurisdiction of, the State Board of Education if issued prior to 1970 or the California Commission on Teacher Credentialing, which entitles the holder thereof to perform services for which certification qualifications are required as defined in Title 5 of the California Code of Regulations section 3001(g).
- d. The term "qualified" means that a person holds a certificate, permit or other document equivalent to that which staff in a public school are required to hold to provide special education and designated instruction and services, and has met federal and state certification, licensing, registration, or other comparable requirements which apply to the area in which he or she is providing special education or related services, including those requirements set forth in Title 5 of the California Code of Regulations sections 3064 and 3065, or, in the absence of such requirements, the state-education-agency-approved or recognized requirements, and adheres to the standards of professional practice established in federal and state law or regulation, including the standards contained in the California Business and Professions Code. Nothing in this definition shall be construed as restricting the activities of services of a graduate needing direct hours leading to licensure, or of a student teacher or intern leading to a graduate degree at an accredited or approved college or university, as authorized by state laws or regulations.
- e. The term "license" means a valid nonexpired document issued by a licensing agency within the Department of Consumer Affairs or other state licensing office authorized to grant licenses and authorizing the bearer of the document to provide certain professional services, including but not limited to mental health and board and care services at a residential placement, or refer to themselves using a specified professional title. If a license is not available through an appropriate state licensing agency, a certificate of registration with the appropriate professional organization at the national or state level which has standards established for the certificate that are equivalent to a license, shall be deemed to be a license as defined in Title 5 of the California Code of Regulations section 3001(r).
- f. Parent means a biological or adoptive parent unless the biological or adoptive parent does not have legal authority to make educational decisions for the child, a guardian generally authorized to act as the child's parent or authorized to make educational decisions for the child, an individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative with whom the child lives, or an individual who is

legally responsible for the child's welfare, a surrogate parent, a foster parent if the authority of the biological or adoptive parent to make educational decisions on the child's behalf has been specifically limited by court order in accordance with Code of Federal Regulations 300.30(b)(1) or (2). Parent does not include the state or any political subdivision of government or the nonpublic school or agency under contract with the LEA for the provision of special education or designated instruction and services for a child. (California Education Code section 56028).

- g. The term "days" means calendar days unless otherwise specified.
- h. The phrase "billable day" means a school day in which instructional minutes meet or exceed those in comparable LEA programs.
- i. The phrase "billable day of attendance" means a school day as defined in California Education Code Section 46307, in which a LEA student is in attendance and in which instructional minutes meet or exceed those in comparable LEA programs unless otherwise stipulated in an IEP or ISA.
- j. It is understood that the term "Master Contract" also means "Agreement" and is referred to as such in this document.

ADMINISTRATION OF CONTRACT

8. NOTICES

All notices provided for by this Master Contract shall be in writing. Notices shall be mailed by first class mail deposited with the United States Postal Service or delivered by hand and shall be effective as of the date of receipt by addressee. E-mail notifications may be used provided that a hard copy is also mailed by first class mail deposited with the United States Postal Service or delivered by hand and shall be effective as of the date of receipt by addressee via first class mail or hand delivery.

All notices mailed to the LEA shall be addressed to the person and address as indicated on the signature page of the Master Contract. Notices to CONTRACTOR shall be addressed as indicated on signature page of this Master Contract.

9. MAINTENANCE OF RECORDS

All records shall be maintained by CONTRACTOR as required by state and federal laws and regulations. Notwithstanding the foregoing sentence, CONTRACTOR shall maintain all records for at least five (5) years after the termination of this Master Contract. For purposes of this Master Contract, "records" shall include, but not be limited to student records as defined by California Education Code section 49061(b) including electronically stored information; cost data records as set forth in Title 5 of the California Code of Regulations section 3061; registers and roll books of teachers and/or daily service providers; daily service logs and notes and other documents used to record the provision of related services including supervision; daily service logs and notes used to record the provision of services provided through additional instructional assistants, NPA behavior intervention aides, and bus aides; absence verification records (parent/doctor notes, telephone logs, and related documents) if the CONTRACTOR is funded for excused absences, however, such records are not required if positive attendance is required; bus rosters; staff lists specifying credentials held and documents evidencing other staff qualifications, social security numbers, dates of hire, and dates of termination; records of employee training and certification, staff time sheets; non-paid staff and volunteer sign-in sheets; transportation and other related services subcontracts; school calendars; bell/class schedules when applicable; liability and worker's compensation insurance policies; state nonpublic school and/or agency certifications by-laws; lists of current board

of directors/trustees, if incorporated; documents evidencing financial expenditures; federal/state payroll quarterly reports; and bank statements and canceled checks or facsimile thereof.

CONTRACTOR shall maintain LEA student records in a secure location to ensure confidentiality and prevent unauthorized access. CONTRACTOR shall maintain a current list of the names and positions of CONTRACTOR's employees who have access to confidential records. CONTRACTOR shall maintain an access log for each LEA student's record which lists all persons, agencies, or organizations requesting or receiving information from the record. Such log shall be maintained as required by California Education Code section 49064 and include the name, title, agency/organization affiliation, and date/time of access for each individual requesting or receiving information from the LEA student's record. Such log needs to record access to the LEA student's records by: (a) the LEA student's parent; (b) an individual to whom written consent has been executed by the LEA student's parent; or (c) employees of LEA or CONTRACTOR having a legitimate educational interest in requesting or receiving information from the record. CONTRACTOR/LEA shall maintain copies of any written parental concerns granting access to student records. For purposes of this paragraph, "employees of LEA or CONTRACTOR" do not include subcontractors. CONTRACTOR shall grant parents access to student records, and comply with parents' requests for copies of student records, as required by state and federal laws and regulations. CONTRACTOR agrees, in the event of school or agency closure, to forward all records within five (5) business days to LEA. These shall include, but not limited to, current transcripts, IEP/ISPs, and reports. CONTRACTOR acknowledges and agrees that all student records maintained by CONTRACTOR as required by state and federal laws and regulations are the property of LEA and must be returned to LEA without dissemination to any other entity.

10. SEVERABILITY CLAUSE

If any provision of this Master Contract is held, in whole or in part, to be unenforceable for any reason, the remainder of that provision and of the entire Agreement shall be severable and remain in effect.

11. SUCCESSORS IN INTEREST

This contract binds CONTRACTOR's successors and assignees. CONTRACTOR shall notify the LEA of any change of ownership or corporate control.

12. VENUE AND GOVERNING LAW

The laws of the State of California shall govern the terms and conditions of this Master Contract with venue in Orange County.

13. MODIFICATIONS AND AMENDMENTS REQUIRED TO CONFORM TO LEGAL AND ADMINISTRATIVE GUIDELINES

This Master Contract may be modified or amended to conform to administrative and statutory guidelines issued by any state, federal or local governmental agency. The party seeking such modification shall provide thirty (30) days' notice of any such changes or modifications made to conform to administrative or statutory guidelines and a copy of the statute or regulation upon which the modification or changes are based. If the parties cannot agree on such modifications or amendments, this Master Contract may be terminated in accordance with Paragraph 14.

14. TERMINATION

This Master Contract or an Individual Service Agreement may be terminated for cause. The cause shall not be the availability of a public class initiated during the period of the Master Contract or ISA

unless the parent agrees to the transfer of the student to the public school program at an IEP team meeting. To terminate the Master Contract for cause, either party shall give twenty (20) days prior written notice to the other party (California Education Code section 56366(a)(4)). At the time of termination, CONTRACTOR shall provide to the LEA any and all documents CONTRACTOR is required to maintain under this Master Contract. ISAs are void upon termination of this Master Contract, except as specified above in Paragraph 5. CONTRACTOR or the LEA may also terminate an individual ISA for cause. To terminate the ISA, either party shall also give twenty (20) days prior written notice to the other.

15. INSURANCE

CONTRACTOR shall, at his, her, or its sole cost and expense, maintain in full force and effect, during the term of this Agreement, the following insurance coverage from a California licensed and/or admitted insurer with an A minus (A-), VII, or better rating from A.M. Best, sufficient to cover any claims, damages, liabilities, costs and expenses (including counsel fees) arising out of or in connection with CONTRACTOR'S fulfillment of any of its obligations under this Agreement:

- A. **Commercial General Liability Insurance**, including both bodily injury and property damage, with minimum limits as follows:

\$1,000,000 per occurrence
\$2,000,000 general aggregate
\$1,000,000 personal & advertising injury
\$ 5,000 medical expenses

- B. **Sexual Abuse & Molestation** coverage with the following minimum limits:

\$1,000,000 per occurrence
\$2,000,000 general aggregate

- C. **Auto Liability Insurance**. To the extent vehicles are used to transport students, such vehicles shall have liability coverage of not less than \$1 million combined single limit.

If CONTRACTOR uses a vehicle to travel to/from school sites, between schools and/or to/from students' homes or other locations as an approved service location by the LEA, CONTRACTOR must comply with State of California auto insurance requirements.

- D. **Workers' Compensation and Employers Liability Insurance** in a form and amount covering CONTRACTOR'S full liability under the California Workers' Compensation Insurance and Safety Act and in accordance with applicable state and federal laws.

Part A – Statutory Limits
Part B - \$1,000,000/\$1,000,000/\$1,000,000 Employers Liability

- E. **Errors & Omissions (E & O)/Malpractice (Professional Liability)** coverage with the following minimum limits:

\$1,000,000 per occurrence
\$2,000,000 general aggregate

- F. CONTRACTOR, upon execution of this Master Contract and periodically thereafter upon request, shall furnish the LEA with certificates of insurance and endorsements evidencing such coverage. The certificate of insurance shall include a thirty (30) day

non-renewal, cancellation or modification notice provision. The Commercial General Liability and Automobile Liability policy shall name WCCCSE/Member Districts as additional insured's on all insurance policies and premiums shall be paid by CONTRACTOR and shall be deemed included in CONTRACTOR's obligations under this contract at no additional charge.

- G. Unless CONTRACTOR is insured under the California Private Schools Self Insurance Group (CAPS SIG) or a similar self-insurance group, any deductibles or self-insured retentions above \$100,000 must be declared to and approved by the LEA. At its option, the LEA may require the CONTRACTOR, at the CONTRACTOR's sole cost, to: (a) cause its insurer to reduce to levels specified by the LEA or eliminate such deductibles or self-insured retentions with respect to the LEA, its officials and employees or (b) procure a bond guaranteeing payment of losses and related investigation.
- H. For any claims related to the services provided by CONTRACTOR, the CONTRACTOR's insurance coverage shall be primary insurance as respects the LEA, its subsidiaries, officials and employees. Any insurance or self-insurance maintained by the LEA, its subsidiaries, officials and employees shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
- I. All Certificates of Insurance shall reference the contract number, name of the school or agency submitting the certificate, and the location of the school or agency submitting the certificate on the certificate.

If the LEA or CONTRACTOR determines that changes in insurance coverage obligations under this section is necessary, either party may reopen negotiations to modify the insurance obligations.

16. INDEMNIFICATION AND HOLD HARMLESS

To the fullest extent allowed by law, CONTRACTOR shall defend, indemnify and hold harmless LEA and its directors, officers, agents, employees and guests against any claim or demand arising from any actual or alleged act, error, or omission by CONTRACTOR or its directors, officers, agents, employees, volunteers or guests arising from CONTRACTOR's duties and obligations described in this Agreement or imposed by law.

To the fullest extent allowed by law, LEA shall defend, indemnify and hold harmless CONTRACTOR and its directors, officers, agents, employees and guests against any claim or demand arising from any actual or alleged act, error, or omission by LEA or its directors, officers, agents, employees, volunteers or guests arising from LEA's duties and obligations described in this Agreement or imposed by law.

17. INDEPENDENT CONTRACTOR

Nothing herein contained shall be construed to imply a joint venture, co-principal, partnership, principal-agent, employer-employee, or co-employer relationship between the LEA and CONTRACTOR. CONTRACTOR shall provide all services under this Agreement as an independent contractor, and neither party shall have the authority to bind or make any commitment on behalf of the other. Nothing contained in this Agreement shall be deemed to create any association, partnership, joint venture or relationship of principal and agent, master and servant, or employer and employee between the parties or any affiliates of the parties, or between the LEA and any individual assigned by CONTRACTOR to perform any services for the LEA.

If the LEA is held to be a partner, joint venturer, co-principal, employer or co-employer of CONTRACTOR based on any acts or omissions of CONTRACTOR, CONTRACTOR shall

indemnify and hold harmless the LEA from and against any and all claims for loss, liability, or damages arising from that holding, as well as any expenses, costs, taxes, penalties and interest charges incurred by the LEA as a result of that holding. If CONTRACTOR is held to be a partner, joint venturer, co-principal, employer, or co-employer of the LEA based on any acts or omissions of LEA, LEA shall indemnify and hold harmless the CONTRACTOR from and against any and all claims for loss, liability, or damages arising from that holding, as well as any expenses, costs, taxes, penalties and interest charges incurred by the LEA as a result of that holding..

18. SUBCONTRACTING

CONTRACTOR shall not enter into any subcontracting relationship without first obtaining the written approval of the LEA. CONTRACTOR's written notification shall include the specific special education and/or related service to be subcontracted, including the corresponding hourly rate or fee. In the event LEA determines that it can provide the subcontracted service(s) at a lower rate, LEA may elect to provide such service(s). If LEA elects to provide such service(s), LEA shall provide written notification to CONTRACTOR within five (5) days of receipt of CONTRACTOR's original notice and CONTRACTOR shall not subcontract for said service(s).

CONTRACTOR shall incorporate all of the provisions of this Master Contract in all subcontracts, unless written approval for any change is first obtained by the LEA. Furthermore, when CONTRACTOR enters into subcontracts for the provision of special education and/or related services (including without limitation transportation) for any LEA student, CONTRACTOR shall cause each subcontractor to procure and maintain insurance during the term of each subcontract. Such subcontractor's insurance shall comply with the provisions of Section 15. Each subcontractor shall furnish the LEA with original endorsements and certificates of insurance effecting coverage required by Section 15. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. LEA may request that the certificates and endorsements be completed on forms provided by the LEA. All certificates and endorsements are to be received and approved by the LEA before the subcontractor's work commences. The Commercial General Liability and Automobile Liability policies shall name the LEA and the LEA/District Board of Education as additional insured. If LEA does not approve the subcontractor's insurance, the LEA shall provide CONTRACTOR notice within fifteen (15) days.

As an alternative to the LEA's forms, a subcontractor's insurer may provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by this Master Contract. All Certificates of Insurance shall reference the LEA contract number, name of the school or agency submitting the certificate, indication if nonpublic school or nonpublic agency, and the location of the school or agency submitting the certificate. In addition, all sub-contractors must meet the requirements as contained in Section 45 (Clearance Requirements) and Section 46 (Staff Qualifications) of this Master Contract.

19. CONFLICTS OF INTEREST

CONTRACTOR shall provide to the LEA a copy of its current bylaws and a current list of its Board of Directors (or Trustees), if it is incorporated. This can be provided via e-mail to the SELPA Director of the LEA. CONTRACTOR and any member of its Board of Directors (or Trustees) shall avoid any relationship with the LEA that constitutes or may constitute a conflict of interest pursuant to California Education Code section 56042 including, but not limited to, employment with LEA, provision of private party assessments and/or reports, and attendance at IEP team meetings acting as a student's advocate. Pursuant to California Education Code section 56042, an attorney or advocate for a parent of an individual with exceptional needs shall not recommend placement at CONTRACTOR's facility if the attorney or advocate is employed or contracted by the CONTRACTOR, or will receive a benefit from the CONTRACTOR, or otherwise has a conflict of interest.

Unless CONTRACTOR and the LEA otherwise agree in writing, the LEA shall neither execute an ISA with CONTRACTOR nor amend an existing ISA for a LEA student when a recommendation for special education and/or related services is based in whole or in part on assessment(s) or reports provided by CONTRACTOR to the LEA student without prior written authorization by LEA. This paragraph shall apply to CONTRACTOR regardless of when an assessment is performed or a report is prepared (i.e., before or after the LEA student is enrolled in CONTRACTOR's school/agency) or whether an assessment of the LEA student is performed or a report is prepared in the normal course of the services provided to the LEA student by CONTRACTOR. To avoid a conflict of interest, and in order to ensure the appropriateness of an Independent Educational Evaluation (hereinafter referred to as "IEE") and its recommendations, the District may, in its discretion, not fund an IEE by an evaluator who provides ongoing service(s) or is sought to provide service(s) to the student for whom the IEE is requested. Likewise, the LEA may, in its discretion, not fund services through the evaluator whose IEE the District agrees to fund. When no other appropriate assessor is available, the LEA may request and if CONTRACTOR agrees, the CONTRACTOR may provide an IEE.

When the CONTRACTOR is a nonpublic agency, the CONTRACTOR acknowledges that its authorized representative has read and understands Education Code section 56366.3 which provides, in relevant part, that no special education and/or related services provided by CONTRACTOR shall be paid for by the LEA if provided by an individual who was an employee of the LEA within the three hundred and sixty five (365) days prior to executing this Master Contract. This provision does not apply to any person who is able to provide designated instruction and services during the extended school year because he or she is otherwise employed for up to ten months of the school year by the LEA.

20. NON-DISCRIMINATION

CONTRACTOR shall not unlawfully discriminate on the basis of race, religion, sex, national origin, age, sexual orientation, disability or any other classification protected by federal or state law, in employment or operation of its programs.

EDUCATIONAL PROGRAM

21. FREE AND APPROPRIATE PUBLIC EDUCATION

LEA shall provide CONTRACTOR with a copy of the IEP including the Individualized Transition Plan (hereinafter referred to as "ITP") of each LEA student served by CONTRACTOR. CONTRACTOR shall provide to each LEA student special education and/or related services (including transition services) within the nonpublic school or nonpublic agency consistent with the LEA student's IEP and as specified in the ISA. If CONTRACTOR is a nonpublic school, CONTRACTOR shall not accept a LEA student if it cannot provide or ensure the provision of the services outlined in the student's IEP.

Unless otherwise agreed to between CONTRACTOR and LEA, CONTRACTOR shall be responsible for the provision of all appropriate supplies, equipment, and/or facilities for LEA students, as specified in the LEA student's IEP and ISA. LEA shall provide low incidence equipment for eligible students with low incidence disabilities when specified in the student's IEP and ISA. Such equipment remains the property of the LEA and shall be returned to the LEA when the IEP team determines the equipment is no longer needed or when the student is no longer enrolled in the nonpublic school. CONTRACTOR shall make no charge of any kind to parents for special education and/or related services as specified in the LEA student's IEP and ISA (including, but not limited to, screenings, assessments, or interviews that occur prior to or as a condition of the LEA student's enrollment under the terms of this Master Contract). CONTRACTOR may charge a LEA student's parent(s) for services and/or activities not necessary for the LEA student to receive a free

appropriate public education after: (a) verification that any such charge or fee is not a “pupil fee” under Education Code section 49010 et. seq.; (b) written notification to the LEA student’s parent(s) of the cost and voluntary nature of the services and/or activities; and (c) receipt by the LEA of the written notification and a written acknowledgment signed by the LEA student’s parent(s) of the cost and voluntary nature of the services and/or activities. CONTRACTOR shall adhere to all LEA guidelines as well as all California state laws, regulations and guidelines prohibiting pupil fees, deposits or other charges.

Voluntary services and/or activities not necessary for the LEA student to receive a free appropriate public education shall not interfere with the LEA student’s receipt of special education and/or related services as specified in the LEA student’s IEP and ISA unless the LEA, CONTRACTOR and parent agree otherwise in writing.

22. GENERAL PROGRAM OF INSTRUCTION

All nonpublic school and nonpublic agency services shall be provided consistent with the area of certification specified by CDE Certification and as defined in California Education Code section 56366 et seq.

When CONTRACTOR is a nonpublic school, CONTRACTOR’s general program of instruction shall: (a) be consistent with LEA’s standards regarding the particular course of study and curriculum; (b) include curriculum that addresses mathematics, literacy and the use of educational, assistive technology and transition services; (c) be consistent with CDE’s standards regarding the particular course of study and curriculum; (d) provide the services as specified in the LEA student’s IEP and ISA. LEA students shall have access to: (a) State Board of Education (SBE) - adopted standards-based, core curriculum and the same instructional materials for kindergarten and grades 1 to 8, inclusive; and provide standards – aligned core curriculum and instructional materials for grades 9 to 12, inclusive, used by a local education agency (LEA), that contracts with the nonpublic school; (b) college preparation courses; (c) extracurricular activities, such as art, sports, music and academic clubs; (d) career preparation and vocational training, consistent with transition plans pursuant to state and federal law and; (e) supplemental assistance, including individual academic tutoring, psychological counseling, and career and college counseling. CONTRACTOR’s general program of instruction shall be described in writing and a copy provided to LEA prior to the effective date of this Master Contract.

When CONTRACTOR serves LEA students in grades nine through twelve inclusive, LEA shall provide to CONTRACTOR a specific list of the course requirements to be satisfied by the CONTRACTOR leading toward graduation or completion of LEA’s diploma requirements including the graduation requirements for pupils in foster care or pupils who are homeless as set forth in Education Code section 51225.1. CONTRACTOR shall not award a high school diploma to LEA students who have not successfully completed all of the LEA’s graduation requirements, including, but not limited to, passing the California High School Exit Exam in accordance with state law.

When CONTRACTOR is a nonpublic agency and/or related services provider, CONTRACTOR’s general program of instruction and/or services shall be consistent with LEA and CDE guidelines and certification, and provided as specified in the LEA student’s IEP and ISA. The nonpublic agency providing Behavior Intervention services shall develop a written treatment plan that specifies the nature of their nonpublic agency service for each student within thirty (30) days of enrollment and shall be provided in writing to the LEA. School-based services may not be unilaterally converted by CONTRACTOR to a substitute program or provided at a location not specifically authorized by the IEP team. Except for services provided by a contractor that is a licensed children’s institution, all services not provided in the school setting require the presence of a parent, guardian or adult caregiver during the delivery of services, provided such guardian or caregiver have a signed authorization by the parent or legal guardian to authorize emergency services as requested. LCI

contractors shall ensure that appropriate and qualified residential or clinical staff is present during the provision of services under this Master Contract. CONTRACTOR shall immediately notify LEA in writing if no parent, guardian or adult caregiver is present. CONTRACTOR shall provide to the LEA a written description of the services and location provided prior to the effective date of this Master Contract. Contractors providing Behavior Intervention services must have a trained behaviorist or trained equivalent on staff consistent with the requirements set forth in Education Code section 56520 et seq. It is understood that Behavior Intervention services are limited per CDE Certification and do not constitute as an instructional program.

When CONTRACTOR is a nonpublic agency, CONTRACTOR shall not provide transportation nor subcontract for transportation services.

23. INSTRUCTIONAL MINUTES

When CONTRACTOR is a nonpublic school, the total number of instructional minutes per school day provided by CONTRACTOR shall be at least equivalent to the number of instructional minutes per school day provided to LEA students at like grade level, attending LEA schools and shall be specified in the LEA student's ISA developed in accordance with the LEA student's IEP.

For LEA students in grades kindergarten through 12, unless otherwise specified in the LEA student's IEP and ISA, the number of instructional minutes, excluding breakfast, recess, lunch, and passing time, shall be consistent with Education Code sections 46100 et. seq.

The total number of annual instructional minutes shall be at least equivalent to the total number of annual instructional minutes provided to LEA students attending LEA schools in like grade levels unless otherwise specified in the LEA student's IEP.

When CONTRACTOR is a nonpublic agency and/or related services provider, the total number of minutes per school day provided by CONTRACTOR shall be specified in the LEA student's ISA developed in accordance with the LEA student's IEP.

24. CLASS SIZE

When CONTRACTOR is a nonpublic school, CONTRACTOR shall ensure that class size shall not exceed a ratio of one teacher per twelve (12) students unless CONTRACTOR and the LEA agree otherwise, in writing.

In the event a nonpublic school is unable to fill a vacant teaching position responsible for direct instruction to students, and the vacancy has direct impact on the California Department of Education Certification of that school, the nonpublic school shall develop a plan to assure appropriate coverage of students by first utilizing existing certificated staff. The nonpublic school and the LEA may agree to one 30 school day period per contract year where class size may be increased to assure coverage by an appropriately credentialed teacher. Such an agreement shall be in writing and signed by both parties. This provision does not apply to a nonpublic agency.

CONTRACTOR providing special education instruction for individuals with exceptional needs between the ages of three and five years, inclusive, shall also comply with the appropriate instructional adult to child ratios pursuant to California Education Code sections 56440 et seq.

25. CALENDARS

When CONTRACTOR is a nonpublic school, CONTRACTOR shall submit to the LEA a school calendar with the total number of billable days not to exceed 180 days, plus up to twenty (20) extended school year billable days unless otherwise specified in the LEA student's IEP/IFSP and

ISA. Billable days shall include only those days that are included on the submitted and approved school calendar, and/or required by the IEP (developed by the LEA) for each student. CONTRACTOR shall not be allowed to change its school calendar and/or amend the number of billable days without the prior written approval of the LEA. Nothing in this Master Contract shall be interpreted to require the LEA to accept any requests for calendar changes.

Unless otherwise specified by the students' IEP, educational services shall occur at the school site. A student shall only be eligible for extended school year services if such are recommended by his/her IEP Team and the provision of such is specifically included in the ISA. Extended school year shall consist of twenty (20) instructional days, unless otherwise agreed upon by the IEP Team convened by the LEA. Any days of extended school year in excess of twenty (20) billable days must be mutually agreed to, in writing, prior to the start of the extended school year.

Student must have actually been in attendance during the regular school year and/or during extended school year and actually received services on a billable day of attendance in order for CONTRACTOR to be eligible for payment. It is specifically understood that services may not be provided on weekends/holidays and other times when school is not in session, unless agreed to by the LEA, in writing, in advance of the delivery of any nonpublic school service. Any instructional days provided without this written agreement shall be at the sole financial responsibility of the CONTRACTOR.

CONTRACTOR shall observe the same legal holidays as the LEA and shall identify the dates of observance on its school calendar submitted to the LEA. Those holidays are Labor Day, Veteran's Day, Thanksgiving Day, Christmas Day, New Year's Day, Dr. Martin Luther King, Jr. Day, President's Day, Memorial Day and Independence Day. With the approval of the LEA, CONTRACTOR may revise the date upon which CONTRACTOR closes in observance of any of the holidays observed by LEA.

When CONTRACTOR is a nonpublic agency, CONTRACTOR shall be provided with a LEA-developed/approved calendar prior to the initiation of services. CONTRACTOR herein agrees to observe holidays as specified in the LEA-developed/approved calendar. CONTRACTOR shall provide services pursuant to the LEA-developed/approved calendar; or as specified in the LEA student's IEP and ISA. Unless otherwise specified in the LEA student's ISA, CONTRACTOR shall provide related services to LEA students on only those days that the LEA student's school of attendance is in session and the LEA student attends school. CONTRACTOR shall bill only for services provided on billable days of attendance as indicated on the LEA calendar unless CONTRACTOR and the LEA agree otherwise, in writing. Student must have actually been in attendance and/or received services on a billable day of attendance in order for CONTRACTOR to be eligible for payment. It is specifically understood that services may not be provided on weekends/holidays and other times when school is not in session, unless agreed to by the LEA, in writing, in advance of the delivery of any nonpublic agency service provided by CONTRACTOR. Any instructional days provided without this written agreement shall be at the sole financial responsibility of the CONTRACTOR.

26. DATA REPORTING

CONTRACTOR shall agree to provide to the LEA, all data related to students who are served by the CONTRACTOR. This shall include any and all data related to any section of this Master Contract. The specific format of the data to be provided shall be determined between the LEA and CONTRACTOR. CONTRACTOR shall not enter into a contract with a third party for the purpose of providing cloud-based services including but not limited digital storage, management and retrieval of pupil records or to provide digital educational software that authorizes such third party to access, store, and use pupil records, unless CONTRACTOR has obtained prior written authorization from LEA in compliance with Education Code section 49073.1.

The LEA may provide the CONTRACTOR with approved forms and/or format for such data, including but not limited to, invoicing, attendance reports, and progress reports. The LEA may approve use of CONTRACTOR-provided forms at LEAs discretion.

27. LEAST RESTRICTIVE ENVIRONMENT/DUAL ENROLLMENT

CONTRACTOR and the LEA shall both follow policies and procedures that support Least Restrictive Environment ("LRE") options (and/or dual enrollment options if available and appropriate) for students to have access to the general curriculum and to be educated with their nondisabled peers to the maximum extent appropriate.

LRE placement options shall be addressed at all IEP team meetings regarding students for whom ISAs have been or may be executed. This shall include IEP team consideration of supplementary aids and services and goals and objectives necessary for placement in the LRE and necessary to enable students to transition to less restrictive settings.

When an IEP team has determined that a student should be transitioned into the public school setting, CONTRACTOR shall assist the LEA in implementing the IEP team's recommendations and/or activities to support the transition.

28. STATEWIDE ACHIEVEMENT TESTING AND HIGH SCHOOL EXIT EXAMINATION

When CONTRACTOR is a nonpublic school, CONTRACTOR shall, in accordance with Education Code section 60640 et. seq. administer all Statewide assessments within the California Assessment of Student Performance and Progress ("CAASP"), Desired Results Developmental Profile ("DRDP"), California Alternative Assessment ("CAA"), achievement and abilities tests (using LEA-authorized assessment instruments), the Fitness Gram, the California English Language Development Test ("CELDT"), and the English Language Proficiency Assessments for California ("ELPAC"), as appropriate to the student, and mandated by LEA pursuant to LEA guidelines as well as state and federal laws and regulations.

When CONTRACTOR is a nonpublic school, CONTRACTOR is subject to the alternative accountability system developed pursuant to Education Code section 52052, in the same manner as public schools and each LEA student placed with CONTRACTOR by the LEA shall be tested by qualified staff of CONTRACTOR in accordance with that accountability program. LEA shall provide test administration training to CONTRACTOR's qualified staff; CONTRACTOR shall attend LEA test training and comply with completion of all coding requirements as required by LEA. Contractor shall report the test results to the CDE as required by Education Code section 56366(a)(8)(A).

Where CONTRACTOR is a nonpublic school, CONTRACTOR shall administer all statewide achievement tests and the California High School Exit Examination as mandated by the LEA and pursuant to the LEA guidelines, as well as state and federal laws and regulations.

29. DISTRICT MANDATED ATTENDANCE AT MEETINGS

CONTRACTOR shall attend District mandated meetings when legal mandates, and/or LEA policy and procedures are reviewed, including but not limited to the areas of: curriculum, high school graduation, standards-based instruction, behavior intervention, cultural and linguistic needs of students with disabilities, dual enrollment responsibilities, LRE responsibilities, transition services,

and standardized testing. The LEA shall provide CONTRACTOR with reasonable advanced notice of mandated meetings. Attendance at such meetings shall not constitute a billable service hour(s).

30. POSITIVE BEHAVIOR INTERVENTIONS

CONTRACTOR shall comply with the requirements of Education Code section 56520 et seq. and applicable provisions of Title 5 of the California Code of Regulations regarding positive behavior interventions including, but not limited to: the completion of functional behavioral assessments; the development, implementation, monitoring, supervision, modification, and evaluation of behavior intervention plans; and emergency interventions. CONTRACTOR shall notify the parent/guardian residential care provider (if appropriate) and LEA within one (1) school day of any behavior incident including when an emergency intervention is used or serious property damage occurs as well as provide LEA with a copy of the behavioral emergency report. It is understood that the LEA may require additional requirements for staff qualifications beyond what is required in Title 5 of the California Code of Regulations sections 3064 and 3065. Such requirements will be provided in writing to CONTRACTOR prior to entering into an ISA for a LEA student. Failure to maintain adherence to staff qualification requirements shall constitute sufficient cause for contract termination. CONTRACTOR shall provide the LEA with all training protocols for behavior intervention staff who do not possess a license, credential or recognized certification as part of their Master Contract application. CONTRACTOR shall provide certification that all behavior aides who do not possess a license, credential or recognized certification have completed required training protocols within ten days of the start of providing behavior intervention services to a LEA student. Failure to do so shall constitute sufficient cause for termination.

CONTRACTOR shall designate an individual employed, contracted, and/or otherwise hired by CONTRACTOR as a "behavior intervention case manager." CONTRACTOR shall maintain a written policy in compliance with Education Code section 56520 et seq. and applicable provisions of Title 5 of the California Code of Regulations regarding emergency interventions and behavioral emergency reports. Evidence of such training shall be submitted to the LEA at the beginning of the school year and within fourteen (14) days of any new hire. CONTRACTOR shall ensure that all of its staff members are trained annually in crisis intervention and emergency procedures as related to appropriate behavior management strategies.

CONTRACTOR shall not authorize, order, consent to, or pay for any of the following prohibited interventions, or any other intervention similar to or like the following: (a) any intervention that is designed to, or likely to, cause physical pain, including but not limited to, electric shock; (b) releasing noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the LEA student's face; (c) any intervention which denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities; (d) any intervention which is designed to subject, used to subject, or likely to subject the LEA student to verbal abuse, ridicule, or humiliation, or which can be expected to cause excessive emotional trauma; (e) restrictive interventions which employ a device, material, or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment or similar techniques may be used as a limited emergency intervention by CONTRACTOR's trained and qualified personnel as allowable by applicable law and regulations; (f) locked seclusion except as allowable by applicable law and regulations; (g) any intervention that precludes adequate supervision of the LEA student; and (h) any intervention which deprives the LEA student of one or more of his or her senses, pursuant to Education Code section 56521.2.

31. STUDENT DISCIPLINE

CONTRACTOR shall maintain and abide by a written policy for student discipline that is consistent with state and federal law and regulations.

When CONTRACTOR seeks to remove a LEA student from his/her current educational placement for disciplinary reasons, CONTRACTOR shall immediately submit a written discipline report to the LEA and a manifestation IEP team meeting shall be scheduled. Written discipline reports shall include, but not be limited to: the LEA student's name; the time, date, and description of the misconduct; the disciplinary action taken by CONTRACTOR; and the rationale for such disciplinary action. A copy of the LEA student's behavior plan, if any, shall be submitted with the written discipline report. CONTRACTOR and LEA agree to participate in a manifestation determination at an IEP meeting no later than the tenth (10th) day of suspension. CONTRACTOR shall notify and invite LEA representatives to the IEP team meeting where the manifestation determination will be made.

32. IEP TEAM MEETINGS

An IEP team meeting shall be convened at least annually to evaluate: (1) the educational progress of each student placed with CONTRACTOR, including all state assessment results pursuant to the requirements of Education Code section 52052; (2) whether or not the needs of the student continue to be best met at the nonpublic school and/or by the nonpublic agency; and (3) whether changes to the student's IEP are necessary, including whether the student may be transitioned to a public school setting. (California Education Code sections 56366(a)(2)(B)(i) and (ii).) If an LEA student is enrolled in the nonpublic school pursuant to a lawfully executed agreement between the LEA and parent, it shall be the responsibility of the LEA to notify CONTRACTOR in writing (1) when or whether an IEP meeting will be held, (2) whether placement in the nonpublic school should be documented as part of an IEP, and (3) the start date and, if known, the end date for services to be provided by CONTRACTOR to LEA student.

If a LEA student is to be transferred from a nonpublic school setting into a regular class setting in a public school for any part of the school day, the IEP team shall document, if appropriate, a description of activities provided to integrate the student into the regular education program, including the nature of each activity as well as the time spent on the activity each day or week and a description of the activities provided to support the transition of the student from the special education program into the regular education program. Each LEA student shall be allowed to provide confidential input to any representative of his or her IEP team. Except as otherwise provided in the Master Contract, CONTRACTOR and the LEA shall participate in all IEP team meetings regarding LEA students for whom ISAs have been or may be executed. At any time during the term of this Master Contract, a parent, the CONTRACTOR or the LEA may request a review of the student's IEP, subject to all procedural safeguards required by law, including reasonable notice given to, and participation of, the CONTRACTOR in the meeting. Every effort shall be made to schedule IEP team meetings at a time and place that is mutually convenient to the parent(s), the CONTRACTOR and the LEA. CONTRACTOR shall provide to the LEA any and all assessments (including testing protocols) and written assessment reports created by CONTRACTOR and any of its agents or subcontractors, upon request.

If the CONTRACTOR or LEA is unable to convince the parent or guardian that he or she should attend the IEP, CONTRACTOR shall maintain a written record of its attempts to arrange a mutually agreed-upon time and place. The CONTRACTOR and LEA shall also take any action necessary to ensure that the parent or guardian understands the proceedings at a meeting, including arranging for an interpreter.

Changes in any LEA student's educational program, including instruction, services, or instructional setting, provided under this Master Contract may only be made on the basis of revisions to the student's IEP. In the event that the CONTRACTOR believes the student requires a change of placement, the CONTRACTOR may request a review of the student's IEP for the purposes of considering a change in the student's placement. Student is entitled to remain in the last agreed upon

and implemented placement unless parent agrees otherwise or unless an interim alternative educational placement is deemed lawful and appropriate by the LEA or OAH.

33. SURROGATE PARENTS

CONTRACTOR shall comply with state and federal laws and regulations regarding assigning surrogate parents to LEA students.

34. DUE PROCESS PROCEEDINGS

CONTRACTOR shall fully participate in special education due process proceedings including mediations and hearings, as requested by the LEA. CONTRACTOR shall also fully participate in the investigation of any complaint filed with the State of California, the Office for Civil Rights, or any other state and/or federal governmental body or agency. Full participation shall include, but in no way be limited to, cooperating with LEA representatives to provide complete answers raised by any investigator and/or the immediate provision of any and all documentation that pertains to the operation of CONTRACTOR's program and/or the implementation of a particular student's IEP/IFSP.

35. COMPLAINT PROCEDURES

CONTRACTOR shall maintain and adhere to its own written procedures for responding to parent complaints. These procedures shall include annually notifying and providing parents of LEA students with appropriate information (including complaint forms) for the following: (1) Uniform Complaint Procedures pursuant to Title 5 of the California Code of Regulations section 4600 et seq.; (2) Nondiscrimination policies pursuant to Title 5 of the California Code of Regulations section 4960 (a); (3) Sexual Harassment Policies pursuant to California Education Code 231.5(a)(b)(c); (4) Student Grievance Procedure pursuant to Title IX 106.8 (a)(d) and 106.9 (a); and (5) Notice of Privacy Practices in compliance with Health Insurance Portability and Accountability Act (HIPPA). CONTRACTOR shall include verification of these procedures to the LEA.

36. LEA STUDENT PROGRESS REPORTS/REPORT CARDS AND ASSESSMENTS

Unless the LEA requests in writing that progress reports be provided on a monthly basis, CONTRACTOR shall provide to parents at least four written progress reports/report cards. At a minimum, progress reports shall include progress over time towards IEP goals and objectives. A copy of the progress reports/report cards shall be maintained at the CONTRACTOR's place of business and shall be submitted to the LEA and LEA student's parent(s).

CONTRACTOR shall also provide an LEA representative access to supporting documentation used to determine progress on any goal or objective, including but not limited to log sheets, observation notes, data sheets, pre-/post-tests, rubrics and other similar data collection used to determine progress or lack of progress on approved goals, objectives, transition plans or behavior support plans. The LEA may request copies of such data at any time within five (5) years of the date of service. CONTRACTOR agrees to maintain the information for at least five (5) years and also shall provide this data supporting progress within five (5) business days of request. Additional time may be granted as needed by the LEA.

CONTRACTOR shall complete academic or other assessment of the LEA student one month prior to the LEA student's annual or triennial review IEP team meeting for the purpose of reporting the LEA student's present levels of performance at the IEP team meeting as required by state and federal laws and regulations and pursuant to LEA policies, procedures, and/or practices. Contractor shall provide sufficient copies of its reports, documents, and projected goals to share with members of the IEP

team five (5) business days prior to the IEP meeting. CONTRACTOR shall maintain supporting documentation such as test protocols and data collection, which shall be made available to LEA within five (5) business days of request.

CONTRACTOR is responsible for all assessment costs regarding the updating of goals and objectives, progress reporting and the development of present levels of performance. All assessments shall be provided by the LEA unless the LEA specifies in writing a request that CONTRACTOR perform such additional assessment. Any assessment costs may be added to the ISA and/or approved separately by the LEA at the LEA's sole discretion.

It is understood that all billable hours must be in direct services to pupils as specified in the ISA. For nonpublic agency services, supervision provided by a qualified individual as specified in Title 5 of the California Code of Regulations section 3065, shall be determined as appropriate and included in the ISA. Supervision means the direct observation of services, data review, case conferencing and program design consistent with professional standards for each professional's license, certification, or credential.

CONTRACTOR shall not charge the LEA student's parent(s) or LEA for the provision of progress reports, report cards, and/or any assessments, interviews, or meetings, unless the LEA agrees in writing prior to the completion of any work. It is understood that all billable hours have limits to those specified on the ISA consistent with the IEP. It is understood that copies of data collection notes, forms, charts and other such data are part of the pupil's record and shall be made available to the LEA upon written request.

37. TRANSCRIPTS

When CONTRACTOR is a nonpublic school, CONTRACTOR shall prepare transcripts at the close of each semester, or upon LEA student transfer, for LEA students in grades nine through twelve inclusive. CONTRACTOR shall submit all transcripts to the LEA Director of Special Education for evaluation of progress toward completion of diploma requirements as specified by LEA.

38. LEA STUDENT CHANGE OF RESIDENCE

Upon enrollment, CONTRACTOR shall notify parents in writing of their obligation to notify CONTRACTOR of the LEA student's change of residence. CONTRACTOR shall maintain, and provide upon request by LEA, documentation of such notice to parents. Within five (5) school days after CONTRACTOR becomes aware of a LEA student's change of residence, CONTRACTOR shall notify the LEA, in writing, of the LEA student's change of residence.

If CONTRACTOR had knowledge or should reasonably have had knowledge of the LEA student's change of residence boundaries and CONTRACTOR fails to follow the procedures specified in this provision, the LEA shall not be responsible for the costs of services delivered after the LEA student's change of residence.

39. WITHDRAWAL OF LEA STUDENT FROM PROGRAM

CONTRACTOR shall immediately report, by telephone and e-mail, to the LEA Representative responsible for overseeing nonpublic schools and nonpublic agencies, and any other required representative from the California Department of Education, when a LEA student is withdrawn from school and/or services. CONTRACTOR shall confirm such telephone call in writing via e-mail or other written notification to the LEA Director of Special Education and submit to the LEA and the Department of Education, if required, within five (5) business days of the withdrawal. CONTRACTOR shall assist LEA to verify and clear potential dropouts three (3) times per year, as

required by the 2001 Elementary and Secondary Education Act (No Child Left Behind; NCLB), as documentation of graduation rate is one of the indicators of Adequate Yearly Progress (AYP).

40. PARENT ACCESS

CONTRACTOR shall provide for reasonable parental access to LEA students and all facilities including, but not limited to, the instructional setting, recreational activity areas, meeting rooms and LEA student living quarters. CONTRACTOR shall comply with any known court orders regarding parental visits and access to LEA students.

CONTRACTOR, if operating a program with a residential component, shall cooperate with a parent's reasonable request for LEA student visits in their home during, but not limited to, holidays and weekends. CONTRACTOR shall ensure that parents obtain prior written authorization for therapeutic visits from the CONTRACTOR and the LEA.

41. SERVICES AND SUPERVISION AND PROFESSIONAL CONDUCT

If CONTRACTOR provides services on a LEA public school campus, CONTRACTOR shall comply with Penal Code section 627.1 et seq., as well as all other LEA and campus-specific policies and procedures regarding visitors to/on school campuses. CONTRACTOR shall be responsible for the purchase and provision of the supplies and assessment tools necessary to implement the provision of CONTRACTOR services on LEA public school campuses.

It is understood that the public school credentialed classroom teacher is responsible for the educational program.

It is understood that all employees, subcontractors and volunteers of any certified nonpublic school or agency shall adhere to customary professional standards when providing services. All practices shall be within the scope of professional responsibility as defined in the professional code of conduct for each profession. Reports regarding student progress shall be consistent with the provision of the Master Contract.

CONTRACTOR, if providing services in a student's home as specified in the ISA, shall assure that at least one parent of the child or an adult caregiver with written and signed authorization to make decisions in an emergency is present during the provision of services. The names of any adult caregiver other than the parent shall be provided to the LEA prior to the start of any home based services, including written and signed authorization in emergency situations. The parent shall inform the LEA of any changes of caregivers and provide written authorization for emergency situations. The adult caregiver cannot also be an employee or volunteer associated with the nonpublic school/nonpublic agency service provider. All problems and/or concerns reported to parents, both verbal and written shall also be provided to the LEA.

42. LICENSED CHILDREN'S INSTITUTION CONTRACTORS

If CONTRACTOR is a licensed children's institution, CONTRACTOR shall adhere to all legal requirements regarding educational placements for LCI students as stated in Education Code sections 56366(a)(2)(C) and 56366.9, Health and Safety Code section 1501.1 (AB1858, AB490 (Chapter 862, Statutes of 2003)) and any other applicable laws and/or regulations, including LEA guidelines or procedures. An LCI shall not require that a pupil be placed in its nonpublic school as a condition of being placed in its residential facility.

If CONTRACTOR is a nonpublic, nonsectarian school that is owned, operated by, or associated with a residential treatment center (hereinafter referred to as "NPS/RTC"), CONTRACTOR shall adhere to all legal requirements under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. section 1400 et seq. including the federal regulations 34 C.F.R section 300 et seq. and Education Code section 56000 et seq. including Title 5 of the California Code of Regulations section 3000 et seq.

In addition to meeting the certification requirements of the State of California, a CONTRACTOR that operates a program outside of this State shall be certified or licensed by that state to provide, respectively, special education and related services and designated instruction and related services to pupils under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

If CONTRACTOR is a nonpublic, nonsectarian school that is owned, operated by, or associated with a LCI, CONTRACTOR shall provide to the LEA, on a quarterly basis, a list of all LEA students, including those identified as eligible for special education. For those identified special education students, the list shall include: 1) special education eligibility at the time of enrollment; and 2) the educational placement and services specified in each student's IEP at the time of enrollment.

Unless placement is made pursuant to an Office of Administrative Hearings order or a lawfully executed agreement between the LEA and parent, the LEA is not responsible for the costs associated with nonpublic school placement until the date on which an IEP team meeting is convened, the IEP team determines that a nonpublic school placement is appropriate, and the IEP is signed by the LEA student's parent or another adult with educational decision-making rights.

43. STATE MEAL MANDATE

When CONTRACTOR is a nonpublic school, CONTRACTOR and LEA shall satisfy the State Meal Mandate under California Education Code sections 49530, 49530.5 and 49550.

44. MONITORING

CONTRACTOR shall allow representatives from the LEA access to its facilities for the purpose of monitoring each LEA student's instructional program. LEA shall have access to observe each LEA student at work, observe the instructional setting, interview CONTRACTOR, and review each LEA student's records and progress. Such access shall include unannounced monitoring visits. When making site visits, LEA shall initially report to CONTRACTOR's site administrative office. CONTRACTOR shall be invited to participate in the review of each student's progress.

If CONTRACTOR is also an LCI, the LEA or its SELPA shall annually evaluate whether CONTRACTOR is in compliance with Education Code section 56366.9 and Health and Safety Code section 1501.1(b).

The State Superintendent of Public Instruction ("Superintendent") shall monitor CONTRACTOR'S facilities, the educational environment, and the quality of the educational program, including the teaching staff, the credentials authorizing service, the standards-based core curriculum being employed, and the standard focused instructional materials used on a three-year cycle, as follows: (1) CONTRACTOR shall complete a self-review in year one; (2) the Superintendent shall conduct an onsite review in year two; and (3) the Superintendent shall conduct a follow-up visit in year three.

CONTRACTOR shall fully participate in any LEA and CDE compliance review, including any On-Site and Self Review and if applicable, District Validation Review. This review will address programmatic aspects of the nonpublic school/agency, compliance with relevant state and federal regulations, and Master Contract compliance. CONTRACTOR shall complete and submit a Nonpublic School/Agency Self-Review Assessment submitted as specified by the LEA.

CONTRACTOR shall conduct any follow-up or corrective action procedures requested by LEA or CDE related to such compliance review.

CONTRACTOR understands that the LEA reserves the right to institute a program audit with or without cause. The program audit may include, but is not limited to, a review of core compliance areas of health and safety; curriculum/instruction; related services; and contractual, legal, and procedural compliance.

When CONTRACTOR is a nonpublic school, CONTRACTOR shall collect all applicable data and prepare the applicable portion of a School Accountability Report Card in accordance with California Education Code Section 33126.

PERSONNEL

45. CLEARANCE REQUIREMENTS

CONTRACTOR shall comply with the requirements of California Education Code section 44237, 35021.1 and 35021.2 including, but not limited to: obtaining clearance from both the California Department of Justice (hereinafter referred to as "CDOJ") and clearance from the Federal Bureau of Investigation (hereinafter referred to as "FBI") for all of CONTRACTOR's employees and volunteers who will have or likely may have any direct contact with LEA students. CONTRACTOR hereby agrees that CONTRACTOR's employees and volunteers who will have or likely may have direct contact with LEA students shall not come in contact with LEA students until both CDOJ and FBI clearance are ascertained. CONTRACTOR shall further certify in writing to the LEA that none of its employees, volunteers, or subcontractors who will have or likely may have any direct contact with LEA students have been convicted of a violent or serious felony as those terms are defined in California Education Code section 44237(h), unless despite the employee's conviction of a violent or serious felony, he or she has met the criteria to be eligible for employment pursuant to California Education Code section 44237(i) or (j). Clearance certification shall be submitted to the LEA. In addition, CONTRACTOR shall make a request for subsequent arrest service from the CDOJ as required by California Penal Code section 11105.2.

46. STAFF QUALIFICATIONS

CONTRACTOR shall ensure that all individuals employed, contracted, and/or otherwise hired by CONTRACTOR to provide classroom and/or individualized instruction or provide related services hold a license, certificate, permit, or other document equivalent to that which staff in a public school are required to hold to render the service consistent with Education Code section 56366.1(n)(1) and are qualified pursuant to Title 34 of the Code of Federal Regulations sections 200.56 and 200.58, and Title 5 of the California Code of Regulations sections 3001(r), 3051, 3064 and 3065. Such qualified staff may only provide related services within the scope of their professional license, certification or credential and ethical standards set by each profession and not assume responsibility or authority for another related services provider or special education teacher's scope of practice.

Only those nonpublic, nonsectarian schools or agencies located outside of California that employ staff who hold a current valid credential or license to render special education and related services as required by that state shall be eligible to be certified.

CONTRACTOR shall comply with personnel standards and qualifications regarding instructional aides and teacher assistants respectively pursuant to Federal requirements and California Education Code sections 45340 et seq. and 45350 et seq. Specifically, all paraprofessionals, including, but not limited to instructional aides and teacher assistants, employed, contracted, and/or otherwise hired by

CONTRACTOR to provide classroom and/or individualized instruction or related services, shall possess a high school diploma (or higher) degree; or met a rigorous standard of quality and can demonstrate, through a formal state or local assessment (i) knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or (ii) knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness, as appropriate. CONTRACTOR shall comply with all laws and regulations governing the licensed professions, including but not limited to, the provisions with respect to supervision.

In addition to meeting the certification requirements of the State of California, a CONTRACTOR that operates a program outside of this state and serving a student by this LEA shall be certified or licensed by that state to provide special education and related services and designated instruction and related services to pupils under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

47. VERIFICATION OF LICENSES, CREDENTIALS AND OTHER DOCUMENTS

CONTRACTOR shall submit to the LEA a staff list, and copies of all current and required licenses, certifications, credentials, permits and/or other documents which entitle the holder to provide special education and/or related services by CONTRACTOR and all individuals employed, contracted, and/or otherwise hired or sub-contracted by CONTRACTOR. The LEA may file all licenses, certifications, credentials, permits or other documents with the office of the County Superintendent of Schools. CONTRACTOR shall notify the LEA in writing within thirty (30) days when personnel changes occur which may affect the provision of special education and/or related services to LEA students. CONTRACTOR shall provide the LEA with the verified dates of fingerprint clearance, Department of Justice clearance and Tuberculosis Test clearance for all employees, approved subcontractors and/or volunteers prior to such individuals starting to work with any student.

CONTRACTOR shall monitor the status of licenses, certifications, credentials, permits and/or other documents for CONTRACTOR and all individuals employed, contracted, and/or otherwise hired by CONTRACTOR. CONTRACTOR shall immediately, and in no circumstances longer than five (5) business days, provide to the LEA updated information regarding the status of licenses, certifications, credentials, permits and/or other documents of any known changes.

48. STAFF ABSENCE

When CONTRACTOR is a nonpublic school and CONTRACTOR's classroom teacher is absent, CONTRACTOR shall provide an appropriately credentialed substitute teacher in the absent teacher's classroom in accordance with California Education Code section 56061. CONTRACTOR shall provide to the LEA documentation of substitute coverage. Substitute teachers shall remain with their assigned class during all instructional time. The LEA shall not be responsible for any payment for instruction and/or services when an appropriately credentialed substitute teacher is not provided in accordance with California Education Code section 56061.

When CONTRACTOR is a nonpublic agency and/or related services provider, and CONTRACTOR's service provider is absent, CONTRACTOR shall provide a qualified (as defined in section seven (7) of this agreement and as determined by the LEA) substitute, unless the LEA provides appropriate coverage in lieu of CONTRACTOR's service providers. It is understood that the parent of a student shall not be deemed to be a qualified substitute for his/her student. The LEA will not pay for services unless a qualified substitute is provided and/or CONTRACTOR provides documentation evidencing the provision of "make-up" services by a qualified service provider within thirty (30) calendar days from the date on which the services should have been provided. CONTRACTOR shall not "bank" or "carry over" make up service hours under any circumstances, unless otherwise agreed to in writing by CONTRACTOR and an authorized LEA representative.

49. STAFF PROFESSIONAL BEHAVIOR WHEN PROVIDING SERVICES AT SCHOOL OR SCHOOL RELATED EVENTS OR AT SCHOOL FACILITY AND/OR IN THE HOME

It is understood that all employees, subcontractors, and volunteers of any certified nonpublic school or nonpublic agency shall adhere to the customary professional and ethical standards when providing services. All practices shall only be within the scope of professional responsibility as defined in the professional code of conduct for each profession as well as any LEA professional standards as specified in Board policies and/or regulations when made available to the CONTRACTOR. Reports regarding student progress shall be consistent with the provision of this Master Contract.

For services provided on a public school campus, sign in/out procedures shall be followed by nonpublic agency providers working in a public school classroom along with all other procedures for being on campus consistent with school and LEA policy. It is understood that the public school credentialed classroom teacher is responsible for the instructional program, and all nonpublic agency service providers shall work collaboratively with the classroom teacher, who shall remain in charge of the instructional program.

For services provided in a pupil's home as specified in the IEP, CONTRACTOR must assure that the parent or an LEA-approved responsible adult is present during the provision of services. All problems and/or concerns reported to parents, both verbal and written shall also be provided to the LEA.

HEALTH AND SAFETY MANDATES

50. HEALTH AND SAFETY

CONTRACTOR shall comply with all applicable federal, state, and local laws, regulations, ordinances, policies, and procedures regarding student and employee health and safety. CONTRACTOR shall comply with the requirements of California Education Code sections 35021 et seq., 49406, and Health and Safety Code section 121525 regarding the examination of CONTRACTOR's employees and volunteers for tuberculosis. CONTRACTOR shall provide to the LEA documentation for each individual volunteering, employed, contracted, and/or otherwise hired by CONTRACTOR of such compliance before an individual comes in contact with an LEA student.

CONTRACTOR shall comply with OSHA Blood Borne Pathogens Standards, 29 Code of Federal Regulations (CFR) section 1910.1030, when providing medical treatment or assistance to a student. CONTRACTOR further agrees to provide annual training regarding universal health care precautions and to post required notices in areas designated in the California Health and Safety Code.

51. FACILITIES AND FACILITIES MODIFICATIONS

CONTRACTOR shall provide special education and/or related services to LEA students in facilities that comply with all applicable federal, state, and local laws, regulations, and ordinances related, but not limited to: disability access; fire, health, sanitation, and building standards and safety; fire warning systems; zoning permits; and occupancy capacity. When CONTRACTOR is a nonpublic school, CONTRACTOR shall conduct fire drills as required by Title 5 California Code of Regulations section 550. CONTRACTOR shall be responsible for any structural changes and/or

modifications to CONTRACTOR's facilities is required to comply with applicable federal, state, and local laws, regulations, and ordinances.

52. ADMINISTRATION OF MEDICATION

Unless otherwise set forth in the student's ISA, CONTRACTOR shall comply with the requirements of California Education Code section 49423 and Title 5 of the California Code of Regulations section 600 et seq. when CONTRACTOR serves a LEA student that is required to take prescription and/or over-the-counter medication during the school day. CONTRACTOR may designate personnel to assist the LEA student with the administration of such medication after the LEA student's parent(s) provides to CONTRACTOR: (a) a written statement from a physician detailing the type, administration method, amount, and time schedules by which such medication shall be taken; and (b) a written statement from the LEA student's parent(s) granting CONTRACTOR permission to administer medication(s) as specified in the physician's statement. CONTRACTOR shall maintain, and provide to the LEA upon request, copies of such written statements. CONTRACTOR shall maintain a written log for each LEA student to whom medication is administered. Such written log shall specify the LEA student's name; the type of medication; the date, time, and amount of each administration; and the name of CONTRACTOR's employee who administered the medication. CONTRACTOR maintains full responsibility for assuring appropriate staff training in the administration of such medication consistent with student's physician's written orders. Any change in medication type, administration method, amount or schedule must be authorized by both a licensed physician and parent.

53. INCIDENT/ACCIDENT REPORTING

CONTRACTOR shall submit within 24 hours by fax and mail, or electronically, any accident or incident report to the LEA, including any behavior incident or behavior emergency intervention. LEA may specify procedures to be implemented by CONTRACTOR or forms to be submitted by CONTRACTOR related to accident or incident reporting.

54. CHILD ABUSE REPORTING

CONTRACTOR hereby agrees to annually train all staff members, including volunteers, so that they are familiar with and agree to adhere to its own child and dependent adult abuse reporting obligations and procedures as specified in California Penal Code section 11164 et seq. To protect the privacy rights of all parties involved (i.e. reporter, child and alleged abuser), reports will remain confidential as required by law and professional ethical mandates. A written statement acknowledging the legal requirements of such reporting and verification of staff adherence to such reporting shall be submitted to the LEA.

55. SEXUAL HARASSMENT/DISCRIMINATION

CONTRACTOR shall have a Sexual and Gender Identity Harassment Policy that clearly describes the kinds of conduct that constitutes sexual harassment and that is prohibited by the CONTRACTOR's policy, as well as federal and state law. The policy should include procedures to make complaints without fear of retaliation, and for prompt and objective investigations of all sexual harassment complaints. CONTRACTOR further agrees to provide annual training to all employees regarding the laws concerning sexual harassment and related procedures.

56. REPORTING OF MISSING CHILDREN

CONTRACTOR assures the LEA that all staff members, including volunteers, are familiar with and agree to adhere to requirements for reporting missing children as specified in California Education Code section 49370. A written statement acknowledging the legal requirements of such reporting and verification of staff adherence to such reporting shall be properly submitted to the LEA. The written statement shall be submitted as specified by the LEA.

FINANCIAL

57. ENROLLMENT, CONTRACTING, SERVICE TRACKING, ATTENDANCE REPORTING, AND BILLING PROCEDURES

CONTRACTOR shall assure that the nonpublic school or nonpublic agency has the necessary financial resources to provide an appropriate education for the children enrolled and will distribute those resources in such a manner to implement the IEP and ISA for each and every child.

CONTRACTOR shall provide all records requested by LEA concerning enrollment, contracting, attendance reporting, service tracking and billing, including requirements of electronic billing. CONTRACTOR shall be paid for the provision of special education and/or related services specified in the LEA student's IEP and ISA which are provided on billable days of attendance. All payments by LEA shall be made in accordance with the terms and conditions of this Master Contract and all applicable federal and state laws.

CONTRACTOR shall maintain separate registers for the basic education program and each related service. Original attendance forms (for example, roll books for the basic education program, service tracking documents and notes for instructional assistants, behavioral intervention aides, bus aides, and each related service) shall be completed by the actual service provider whose signature shall appear on such forms and shall be available for review, inspection, or audit by the LEA during the effective period of this Master Contract and for a period of five (5) years thereafter. CONTRACTOR shall verify the accuracy of minutes of reported attendance that is the basis of services being billed for payment.

CONTRACTOR shall submit invoices and related documents to the LEA for payment, for each calendar month when education or related services were provided. Invoices and related documents may be submitted electronically if requested by LEA and CONTRACTOR has the systems in place to generate the requested documents. The LEA may designate forms for use by CONTRACTOR when submitting invoices. At a minimum, each invoice must contain the following information: month of service; specific days and times of services coordinated by the LEA approved calendar unless otherwise specified in the ISA or agreed to by the LEA; name of staff who provided the service; approved cost of each invoice; total for each service and total for the monthly invoice; date invoice was mailed; signature of the nonpublic school/nonpublic agency administrator authorizing that the information is accurate and consistent with the ISA, CDE certificates and staff notification; verification that attendance report is attached as appropriate; indication of any made-up session consistent with this Master Contract; verification that progress reports have been provided consistent with the ISA (monthly or quarterly unless specified otherwise on the ISA); and the name or initials of each student for when the service was provided.

In the event services were not provided, rationale for why the services were not provided shall be included.

Such an invoice is subject to all conditions of this Master Contract. At the discretion of the LEA, an electronic invoice may be required provided such notice has been made in writing and training provided to the CONTRACTOR at no additional charge for such training.

Invoices shall be submitted no later than thirty (30) days after the end of the attendance accounting period in which the services were rendered. LEA shall make payment to CONTRACTOR based on the number of billable days of attendance and hours of service at rates specified in this Master Contract within forty-five (45) days of LEA's receipt of properly submitted hard copy of invoices prepared and submitted as specified in California Education Code Section 56366.5 and the LEA. CONTRACTOR shall correct deficiencies and submit rebilling invoices no later than thirty (30) calendar days after the invoice is returned by LEA. LEA shall pay properly submitted re-billing invoices no later than forty-five (45) days after the date a completely corrected re-billing invoice is received by the LEA.

In no case shall initial payment claim submission for any Master Contract fiscal year (July through June) extend beyond December 31st after the close of the fiscal year. In no case shall any rebilling for the Master Contract fiscal year (July through June) extend beyond six months after the close of the fiscal year unless approved by the LEA to resolve billing issues including rebilling issues directly related to a delay in obtaining information from the Commission on Teacher Credentialing regarding teacher qualification, but no later than 12 months from the close of the fiscal year. If the billing or rebilling error is the responsibility of the LEA, then no limit is set provided that the LEA and CONTRACTOR have communicated such concerns in writing during the 12-month period following the close of the fiscal year. LEA will not pay mileage for NPA employee.

58. RIGHT TO WITHHOLD PAYMENT

The LEA may withhold payment to CONTRACTOR when: (a) CONTRACTOR has failed to perform, in whole or in part, under the terms of this Master Contract; (b) CONTRACTOR has billed for services rendered on days other than billable days of attendance or for days when student was not in attendance and/or did not receive services; (c) CONTRACTOR was overpaid by LEA as determined by inspection, review, and/or audit of its program, work, and/or records; (d) CONTRACTOR has failed to provide supporting documentation with an invoice, as required by EC 56366(c)(2); (e) education and/or related services are provided to LEA students by personnel who are not appropriately credentialed, licensed, or otherwise qualified; (f) LEA has not received, prior to school closure or contract termination, all documents concerning one or more LEA students enrolled in CONTRACTOR's educational program; (g) CONTRACTOR fails to confirm a student's change of residence to another district or confirms the change or residence to another district, but fails to notify LEA with five (5) days of such confirmation; or (h) CONTRACTOR receives payment from Medi-Cal or from any other agency or funding source for a service provided to a LEA student. It is understood that no payments shall be made for any invoices that are not received by six months following the close of the prior fiscal year, for services provided in that year.

The amount which may be withheld by the LEA with respect to each of the subparagraphs of the preceding paragraph are as follows: (a) the value of the service CONTRACTOR failed to perform; (b) the amount of overpayment; (c) the portion of the invoice for which satisfactory documentation has not been provided by CONTRACTOR; (d) the amount invoiced for services provided by the individual not appropriately credentialed, licensed, or otherwise qualified; (e) the proportionate amount of the invoice related to the applicable pupil for the time period from the date of the violation occurred and until the violation is cured; or (f) the amount paid to CONTRACTOR by Medi-Cal or another agency or funding source for the service provided to the LEA student.

If the LEA determines that cause exists to withhold payment to CONTRACTOR, LEA shall, within ten (10) business days of this determination, provide to CONTRACTOR written notice that LEA is withholding payment. Such notice shall specify the basis or bases for the LEA's withholding

payment and the amount to be withheld. Within thirty (30) days from the date of receipt of such notice, CONTRACTOR shall take all necessary and appropriate action to correct the deficiencies that form the basis for the LEA's withholding payment, submit a written request for extension of time to correct the deficiencies or submit to LEA written documentation demonstrating that the basis or bases cited by the LEA for withholding payment is unfounded. Upon receipt of CONTRACTOR's written request showing good cause, the LEA shall extend CONTRACTOR's time to correct deficiencies (usually an additional thirty (30) days), otherwise payment will be denied.

If after subsequent request for payment has been denied and CONTRACTOR believes that payment should not be withheld, CONTRACTOR shall send written notice to the LEA specifying the reason it believes payment should not be withheld. The LEA shall respond to CONTRACTOR's notice within thirty (30) business days by indicating that a warrant for the amount of payment will be made or stating the reason the LEA believes payment should not be made. If the LEA fails to respond within thirty (30) business days or a dispute regarding the withholding of payment continues after the LEA's response to CONTRACTOR's notice, CONTRACTOR may invoke the following escalation policy.

After forty-five (45) business days: The CONTRACTOR may notify the Authorized LEA's Representative of the dispute in writing. The LEA Authorized Representative shall respond to the CONTRACTOR in writing within fifteen (15) business days.

After sixty (60) business days: Disagreements between the LEA and CONTRACTOR concerning the Master Contract may be appealed to the Orange County Superintendent of Schools or the State Superintendent of Public Instruction pursuant to the provisions of California Education Code Section 56366(c)(2). CONTRACTOR disagrees with the language of California Education Code Section 56366(c)(2), and nothing herein shall constitute a waiver by CONTRACTOR of its right to challenge that provision.

59. PAYMENT FROM OUTSIDE AGENCIES

CONTRACTOR shall notify the LEA when Medi-Cal or any other agency is billed for the costs associated with the provision of special education and/or related services to LEA students. Upon request, CONTRACTOR shall provide to the LEA any and all documentation regarding reports, billing, and/or payment by Medi-Cal or any other agency for the costs associated with the provision of special education and/or related services to LEA students. CONTRACTOR shall provide prior written notice of the rights and protections required by Title 34 of the Code of Federal Regulations section 300.154(d) whenever it seeks to use the LEA students' public benefits to pay for special education and related services. Such notice shall be provided before seeking payment from Medi-Cal for the first time and annually thereafter.

60. PAYMENT FOR ABSENCES

NONPUBLIC SCHOOL STAFF ABSENCE

Whenever a classroom teacher employed by CONTRACTOR is absent, CONTRACTOR shall provide an appropriately credentialed substitute teacher in the absent teacher's classroom in accordance with California Education Code section 56061. CONTRACTOR shall provide to the LEA documentation of substitute coverage. Substitute teachers shall remain with their assigned class during all instructional time. The LEA will not pay for instruction and/or services unless said instruction or service is provided by an appropriately credentialed substitute teacher.

Whenever a related service provider is absent, CONTRACTOR shall provide a qualified (as defined in section seven (7) of this Agreement and as determined by LEA) substitute. The LEA will not pay

for services unless a qualified substitute is provided and/or CONTRACTOR provides documentation evidencing the provision of “make-up” services by a qualified service provider within thirty (30) calendar days from the date on which the services should have been provided unless otherwise agreed in LEA student’s IEP or ISA.

NONPUBLIC SCHOOL STUDENT ABSENCE

If CONTRACTOR is a nonpublic school, no later than the tenth (10th) cumulative day of the LEA student’s unexcused absence, CONTRACTOR shall notify the LEA of such absence.

Criteria for a billable day for payment purposes is one day of attendance as defined in California Education Code, sections 46010, 46010.3 and 46307. The LEA shall not pay for services provided on days that a student’s attendance does not qualify for Average Daily Attendance (ADA) reimbursement under state law. *Per Diem* rates for students whose IEPs authorize less than a full instructional day may be adjusted on a pro rata basis in accordance with the actual proportion of the school day the student was served. The LEA shall not be responsible for payment of DIS or related services for days on which a student’s attendance does not qualify for Average Daily Attendance (ADA) reimbursement under state law, nor shall student be eligible for make-up services.

NONPUBLIC AGENCY STAFF ABSENCE

When CONTRACTOR is a nonpublic agency and CONTRACTOR’s service provider is absent, CONTRACTOR shall provide a qualified (as defined in section seven (7) of this Agreement and as determined by the LEA) substitute, unless the LEA provides appropriate coverage in lieu of CONTRACTOR’s service providers. The LEA shall not pay for services unless a qualified substitute is provided and/or CONTRACTOR provides documentation evidencing the provision of “make-up” services by a qualified service provider within thirty (30) calendar days from the date on which the services should have been provided. CONTRACTOR shall not “bank” or “carry over” make up service hours under any circumstances, unless otherwise agreed to in writing by CONTRACTOR and the LEA. In the event services were not provided, reasons for why the services were not provided shall be included. In the event of a service provider absence for Behavior Intervention Implementation services provided at the school site, services shall not be deemed eligible for make up.

NONPUBLIC AGENCY STUDENT ABSENCE

If CONTRACTOR is a nonpublic agency, it shall notify LEA of the absence of a LEA student no later than the fifth consecutive service day of the student’s absence. The LEA shall not be responsible for the payment of services when a student is absent.

61. INSPECTION AND AUDIT

The CONTRACTOR shall maintain and the LEA shall have the right to examine and audit all of the books, records, documents, accounting procedures and practices and other evidence that reflect all costs claimed to have been incurred or fees claimed to have been earned under this Agreement.

CONTRACTOR shall provide the LEA access to all records including, but not limited to: student records as defined by California Education Code section 49061(b); registers and rollbooks of teachers; daily service logs and notes or other documents used to record the provision of related services; Medi-Cal/daily service logs and notes used to record provision of services provided by instructional assistants, behavior intervention aides, bus aides, and supervisors; absence verification records (parent/doctor notes, telephone logs, and related documents); bus rosters; staff lists specifying credentials held, business licenses held, documents evidencing other qualifications, social security numbers (last four digits unless otherwise required), dates of hire, and dates of termination; staff time sheets; non-paid staff and volunteer sign-in sheets; transportation and other related service

subcontracts; school calendars; bell/class schedules when applicable; liability and worker's compensation insurance policies; state nonpublic school and/or agency certifications; by-laws; lists of current board of directors/trustees, if incorporated; other documents evidencing financial expenditures; federal/state payroll quarterly reports Form 941/DE3DP; and bank statements and canceled checks or facsimile thereof. Such access shall include unannounced inspections by the LEA. CONTRACTOR shall make available to the LEA all budgetary information including operating budgets submitted by CONTRACTOR to the LEA for the relevant contract period being audited.

CONTRACTOR shall make all records available at the office of the LEA or CONTRACTOR's offices at all reasonable times and without charge. All records shall be provided to the LEA within five (5) working days of a written request from the LEA. CONTRACTOR shall, at no cost to the LEA, provide reasonable assistance for such examination or audit. The LEA's rights under this section shall also include access to CONTRACTOR's offices for purposes of interviewing CONTRACTOR's employees. If any document or evidence is stored in an electronic form, a hard copy shall be made available to the LEA, unless the LEA agrees to the use of the electronic format.

CONTRACTOR shall obtain from its subcontractors and suppliers written agreements to the requirements of this section and shall provide a copy of such agreements to the LEA upon request by the LEA.

If an inspection, review, or audit by the LEA, a state agency, a federal agency, and/or an independent agency/firm determines that CONTRACTOR owes the LEA monies as a result of CONTRACTOR's over billing or failure to perform, in whole or in part, any of its obligations under this Master Contract, the LEA shall provide to CONTRACTOR written notice demanding payment from CONTRACTOR and specifying the basis or bases for such demand. Unless CONTRACTOR and the LEA otherwise agree in writing, CONTRACTOR shall pay to the LEA the full amount owed as result of CONTRACTOR's over billing and/or failure to perform, in whole or in part, any of its obligations under this Master Contract, as determined by an inspection, review, or audit by the LEA, a state agency, a federal agency, and/or an independent agency/firm. CONTRACTOR shall make such payment to the LEA within thirty (30) days of receipt of the LEA's written notice demanding payment.

62. RATE SCHEDULE

The attached rate schedule (Exhibit A) limits the number of LEA students that may be enrolled and the maximum dollar amount of the contract. It may also limit the maximum number of students that can be provided specific services. Per Diem rates for LEA students whose IEPs authorize less than a full instructional day may be adjusted proportionally. In such cases only, the adjustments in basic education rate shall be based on the percentage of a 310-minute instructional day.

Special education and/or related services offered by CONTRACTOR shall be provided by qualified personnel as per State and Federal law, and the codes and charges for such educational and/or related services during the term of this contract, shall be as stated in Exhibit A.

63. DEBARMENT CERTIFICATION

By signing this agreement, CONTRACTOR certifies that:

- (a) CONTRACTOR and any of its shareholders, partners, or executive officers are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency, and

- (b) Has/have not, within a three-year period preceding this contract, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses.

The parties hereto have executed this Master Contract by and through their duly authorized agents or representatives. This Master Contract is effective on the 1st day of July 2017 and terminates at 5:00 P.M. on June 30, 2018, unless sooner terminated as provide herein.

CONTRACTOR,

Del Sol School

Nonpublic School/Agency

LEA,

Fountain Valley School District

By:

Signature

Date

Name and Title of Authorized Representative

By:

Signature

Date

Dr. Mark Johnson, Superintendent

Name and Title of Authorized Representative

Notices to CONTRACTOR shall be addressed to:

Notices to LEA shall be addressed to:

	Rachel Rios, Fiscal Manager		
Name	Name and Title		
Del Sol School	West Orange County Consortium for Special Education (WOCCSE)		
Nonpublic School/Agency/Related Service Provider	LEA		
	5832 Bolsa Avenue		
Address	Address		
	Huntington Beach,	CA	92649
City	State	Zip	
	(714) 903-7000, ext. 504615	(714) 872-8109	
Phone	Fax		
	rrios@hbuhsd.edu		
Email	Email		

EXHIBIT A: RATES

CONTRACTOR Del Sol School
(NONPUBLIC SCHOOL OR AGENCY)

CONTRACTOR NUMBER W18109 2017-2018
(CONTRACT YEAR)

Per CDE Certification, total enrollment may not exceed _____

If blank, the number shall be as determine by
CDE Certification.

Rate Schedule. This rate schedule limits the number of LEA students that may be enrolled and the maximum dollar amount of the contract. It may also limit the maximum number of students that can be provided specific services. Special education and/or related services offered by CONTRACTOR, and the charges for such educational and/or related services during the term of this contract shall be as follows:

Payment under this contract may not exceed _____
Total LEA enrollment may not exceed _____

Rate	Period
\$ 234.00	Per Diem

- A. Basic Education Program/Special Education Instruction
Basic Education Program/Dual Enrollment

Per diem rates for LEA students whose IEPs authorize less than a full instructional day may be adjusted proportionally.

B. Related Services

(1)	a. Transportation – Round Trip	_____	_____
	b. Transportation – One Way	_____	_____
	c. Transportation – Dual Enrollment	_____	_____
	d. Public Transportation	_____	_____
	e. Parent*	_____	_____
(2)	a. Educational Counseling – Individual	_____	_____
	b. Educational Counseling – Group of _____	_____	_____
	c. Counseling – Parent	_____	_____
(3)	a. Adapted Physical Education – Individual	_____	_____
	b. Adapted Physical Education – Group of _____	_____	_____
	c. Adapted Physical Education – Group of _____	_____	_____
(4)	a. Language and Speech Therapy – Individual	\$ 110.00	Per Hour
	b. Language and Speech Therapy – Group of 2	\$ 110.00	Per Hour
	c. Language and Speech Therapy – Group of 3	_____	_____
	d. Language and Speech Therapy – Per diem	_____	_____
	e. Language and Speech – Consultation Rate	_____	_____
(5)	a. Additional Classroom Aide – Individual (must be authorized on IEP)	_____	_____
	b. Additional Instructional Assistant – Group of 2	_____	_____
	c. Additional Instructional Assistant – Group of 3	_____	_____
(6)	Intensive Special Education Instruction**	_____	_____
(7)	a. Occupational Therapy – Individual	_____	_____
	b. Occupational Therapy – Group of 2	_____	_____
	c. Occupational Therapy – Group of 3	_____	_____
	d. Occupational Therapy – Group of 4 - 7	_____	_____
	e. Occupational Therapy – Consultation Rate	_____	_____
(8)	Physical Therapy	_____	_____
(9)	a. Behavior Intervention (BID)	\$ 90.00	Per Hour
	b. Behavior Intervention and Implementation (BII) – 1:1	\$ 48.00	Per Hour
	c. Behavior Intervention and Implementation (BII/2) – 1:2 ratio	\$ 38.00	Per Hour
	d. Behavior Intervention – Supervision	_____	_____
	Provided by: _____	_____	_____
(10)	Psychological Services/Mental Health	\$ 170.00	Per Hour

*Parent transportation reimbursement rates are to be determined by the LEA.

**By credentialed Special Education Teacher.

2017/2018

HBUHSD Contract # W18110

Please refer to this number on correspondence, invoices, etc.

INDIVIDUAL SERVICE AGREEMENT FOR NONPUBLIC, NONSECTARIAN SCHOOL/AGENCY SERVICES
(Education Code 56365 et seq.)

This agreement is effective on July 1, 2017 or the date student begins attending a nonpublic school or begins receiving services from a nonpublic agency, if after the date identified, and terminates at 5:00 P.M. on June 30, 2018, unless sooner terminated as provided in the Master Contract and by applicable law.

Local Education Agency (LEA)	FOUNTAIN VALLEY SCHOOL DISTRICT			Nonpublic School/Agency	DEL SOL SCHOOL		
Address	10055 SLATER AVENUE			Address	5340 MYRA AVENUE, SUITE A		
City, State Zip	FOUNTAIN VALLEY, CA 92708			City, State, Zip	CYPRESS, CA 90630		
LEA Case Manager				Phone	714-828-6409	Fax	714-828-3400
				E-Mail	DRKIM@DELSOLSCHOOL.COM		
Student Last Name		Student First Name		Program Contact Name	DR. KIM B. HUYNEN		
D.O.B.		I.D. #		Phone	714-828-6409	Fax	714-828-3400
				E-Mail	WWW.DELSOLSCHOOL.COM		
Grade Level		Sex (M or F)		Education Schedule – Regular School Year			
Parent/Guardian Last Name		Parent/Guardian First Name		Number of Days	189	Number of Weeks	40
Address	8			Education Schedule – Extended School Year			
City, State Zip				Number of Days	20	Number of Weeks	5
				Contract Begins	07/01/17	Ends	06/30/18
Home Phone	-	Business/Mobile Phone		Master Contract Approved by the Governing Board on:			07/13/17

DESIGNATED INSTRUCTION AND SERVICES/RELATED SERVICES:

SERVICES	PROVIDER				Cost and Duration of Session	Number of Sessions per dy/wk/mo/yr	Maximum Number of Sessions		Estimated Maximum Total Cost for Contracted Period
	LEA	NPS	NPA	OTHER (Specify)			Reg School Year	ESY	
A. BASIC EDUCATION		X			\$ 234.00	PER DIEM	189	20	\$ 48,906.00
B. RELATED SERVICES									
1. Transportation									
a. Paid to NPS/A									
b. Reimburse Parent									
2. Counseling									
a. Group									
b. Individual									
c. Family									
3. Adapted P.E.									
4. Speech/Language									
a. Therapy - Individual		X			\$110.00/hr	2x30min/wk	40		\$ 4,400.00
b. Therapy - Individual - ESY Only		X			\$110.00/hr	2x30min/wk		5	\$ 550.00
c. Therapy - Group		X			\$110.00/hr	1x30min/wk	40		\$ 2,200.00
d. Therapy - Group - ESY Only									
e. Consultation		X			\$110.00/hr	1x30min/wk	40	5	\$ 2,475.00

2017/2018

HBUHSD Contract # W18110

Please refer to this number on correspondence, invoices, etc.

B. RELATED SERVICES (cont'd)	PROVIDER				Cost and Duration of Session	Number of Sessions per dy/wk/mo/yr	Maximum Number of Sessions		Estimated Maximum Total Cost for Contracted Period
	LEA	NPS	NPA	OTHER (Specify)			Reg School Year	ESY	
5. Occupational Therapy									
a. Therapy									
b. Consultation									
6. Physical Therapy									
a. Therapy									
b. Consultation									
7. ABA - Behavior Intervention		X			\$90.00/hr	1x240min/mo	10	1	\$ 3,960.00
a. Consult									
b. Direct									
c. Supervision									
d. Assessment									
8. One-to-One Aide - BII (1:1 Support) - First 30 days only		X			\$48.00/hr	1x315min/day	10	11	\$ 5,292.00
9. Other									
10. Residential Treatment Services									
							A + B TOTAL COST		\$ 67,783.00

ESTIMATED MAXIMUM RELATED SERVICES COST (B) \$ 18,877.00

TOTAL ESTIMATED MAXIMUM BASIC EDUCATION/RELATED SERVICES COSTS (A+B) \$ 67,783.00

Other Provisions/Attachments:

Progress Reporting Requirements: _____ Quarterly _____ Monthly X Trimester _____ Other (Specify) _____

APPROVED BY THE GOVERNING BOARD ON: 07/13/17

The parties hereto have executed this Individual Services Agreement by and through their duly authorized agents or representatives as set forth below.

-CONTRACTOR-

-LEA-

DEL SOL SCHOOL
(Name of Nonpublic School/Agency)

FOUNTAIN VALLEY SCHOOL DISTRICT
(Name of School District)

(Contracting Officer's Signature) (Date)

(Signature) (Date)

(Name and Title)

DR. MARK JOHNSON, SUPERINTENDENT
(Name of Superintendent or Authorized Designee)

*NONPUBLIC, NONSECTARIAN
SCHOOL/AGENCY SERVICES*

MASTER CONTRACT

W18111

OLIVE CREST ACADEMY

FOUNTAIN VALLEY SCHOOL DISTRICT

2017-2018

MASTER CONTRACT

GENERAL AGREEMENT FOR NONSECTARIAN,
NONPUBLIC SCHOOL AND AGENCY SERVICES

District FOUNTAIN VALLEY SCHOOL DISTRICT

Contract Year 2017-2018

 X Nonpublic School
 Nonpublic Agency

Type of Contract:

 X Master Contract for fiscal year with Individual Service Agreements (ISA) to be approved throughout the term of this contract.

 Individual Master Contract for a specific student incorporating the Individual Service Agreement (ISA) into the terms of this Individual Master Contract specific to a single student.

 Interim Contract: an extension of the previous fiscal years approved contracts and rates. The sole purpose of this Interim Contract is to provide for ongoing funding at the prior year's rates for ninety (90) days at the discretion of the LEA and CONTRACTOR. Expiration Date:

When this section is included as part of any Master Contract, the changes specified above shall amend Section 4 – Term of Master Contract.

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2017-2018

CONTRACT NUMBER:
W18111

LEA: FOUNTAIN VALLEY SCHOOL DISTRICT

NONPUBLIC SCHOOL/AGENCY/RELATED SERVICES PROVIDER:

NONPUBLIC, NONSECTARIAN SCHOOL/AGENCY SERVICES
MASTER CONTRACT

AUTHORIZATION FOR MASTER CONTRACT AND GENERAL PROVISIONS

1. MASTER CONTRACT

This Master Contract is entered into this 13th day of July, 2017, between the Fountain Valley School District (hereinafter referred to as "District" or local educational agency "LEA") and Olive Crest Academy, (hereinafter referred to as "CONTRACTOR") for the purpose of providing special education and/or related services to District students with exceptional needs under the authorization of California Education Code sections 56157, 56361 and 56365 et seq. and Title 5 of the California Code of Regulations section 3000 et seq., AB490 (Chapter 862, Statutes of 2003) and AB1858 (Chapter 914, Statutes of 2004). It is understood that this agreement does not commit the District to pay for special education and/or related services provided to any District student, or CONTRACTOR to provide such special education and/or related services, unless and until an authorized LEA representative approves the provision of special education and/or related services by CONTRACTOR.

Upon acceptance of a student, LEA shall submit to CONTRACTOR an Individual Services Agreement (hereinafter referred to as "ISA"). Unless otherwise agreed in writing, the ISA shall acknowledge CONTRACTOR's obligation to provide all services specified in the student's Individualized Education Plan (hereinafter referred to as "IEP"). The ISA shall be executed within ninety (90) days of an LEA student's enrollment. LEA and CONTRACTOR shall enter into an ISA for each LEA student served by CONTRACTOR.

Unless placement is made pursuant to an Office of Administrative Hearings (hereinafter referred to as "OAH") order, a lawfully executed agreement between LEA and parent, authorized by LEA for a transfer student pursuant to California Education Code section 56325, or otherwise authorized by LEA without a signed IEP, LEA is not responsible for the costs associated with nonpublic school placement until the date on which an IEP team meeting is convened, the IEP team determines that a nonpublic school placement is appropriate, and the IEP is signed by the LEA student's parent.

2. CERTIFICATIONS AND LICENSES

CONTRACTOR shall be certified by the California Department of Education (hereinafter referred to as "CDE") as a nonpublic, nonsectarian school/agency. All nonpublic school and nonpublic agency services shall be provided consistent with the area of certification specified by CDE Certification and as defined in California Education Code, section 56366 et seq. and within the professional scope of practice of each provider's license, certification and/or credential. In addition to meeting the certification requirements of the State of California, a CONTRACTOR that operates a program outside of this State shall be certified or licensed by that state to provide, respectively, special education and related services and designated instruction and related services to pupils under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

If CONTRACTOR is a licensed children's institution (hereinafter referred to as "LCI"), CONTRACTOR shall be licensed by the state, or other public agency having delegated authority by contract with the state to license, to provide nonmedical care to children, including, but not limited to, individuals with exceptional needs. The LCI must also comply with all licensing requirements relevant to the protection of the child, and have a special permit, if necessary, to meet the needs of each child so placed. If the CONTRACTOR operates a program outside of California and provides services to LEA students in such out-of-state program, CONTRACTOR must obtain all required licenses from the appropriate licensing agency in both California and in the state where the LCI is located.

A current copy of CONTRACTOR's licenses and nonpublic school/agency certifications, or a validly issued waiver of any such certification, must be provided to LEA on or before the date this Master Contract is executed by CONTRACTOR. CONTRACTOR must immediately (and under no circumstances longer than three (3) calendar days) notify LEA if any such licenses, certifications or waivers are expired, suspended, revoked, rescinded, or subject to a pending administrative or legal complaint or lawsuit, or otherwise nullified during the effective period of this Master Contract. If any such licenses, certifications or waivers are expired, suspended, revoked, rescinded, or otherwise nullified during the effective period of this Master Contract, this Master Contract shall terminate as of the date of such action.

Total student enrollment shall be limited to capacity as stated on CDE certification. Total student enrollment shall be limited to capacity as stated in Section 24 of the Master Contract.

3. COMPLIANCE WITH LAWS, STATUTES, REGULATIONS

During the term of this Master Contract, CONTRACTOR shall comply with all applicable federal, state, and local statutes, laws, ordinances, rules, policies, and regulations including but not limited to the provision of special education and/or related services, facilities for individuals with exceptional needs, pupil enrollment, attendance and transfer, corporal punishment, pupil discipline, and positive behavioral interventions.

CONTRACTOR acknowledges and understands that LEA may report to the CDE any violations of the provisions of this Master Contract, and that this may result in the suspension and/or revocation of CDE nonpublic school/agency certification pursuant to California Education Code section 56366.4(a).

4. TERM OF MASTER CONTRACT

The term of this Master Contract shall be from July 1, 2017 to June 30, 2018 (Title 5 California Code of Regulations section 3062(a)) unless otherwise stated. Neither the CONTRACTOR nor the LEA is required to renew this Master Contract in subsequent contract years. However, the parties acknowledge that any subsequent Master Contract is to be renegotiated prior to June 30, 2017. In the event a Master Contract is not renegotiated by June 30th, an interim contract may be made available as mutually agreed upon for up to 90 days from July 1 of the new fiscal year. (Title 5, California Code of Regulations, Section 3062(d).) No Master Contract will be offered unless and until all of the contracting requirements have been satisfied. The offer of a Master Contract to a CONTRACTOR is at the sole discretion of the LEA. Requests for renegotiation of any rate, including but not limited to, related services for the subsequent contract year, are to be submitted in writing to Orange County Department of Education, Special Education Division, 200 Kalmus Drive, P.O. Box 9050, Costa Mesa, CA 92628-9050 prior to January 31, 2018.

5. INTEGRATION/CONTINUANCE OF CONTRACT FOLLOWING EXPIRATION OR TERMINATION

This Master Contract includes each Individual Services Agreement which is incorporated herein by this reference. This Master Contract supersedes any prior or contemporaneous written or oral understanding or agreement. This Master Contract may be amended only by written amendment executed by both parties.

CONTRACTOR shall provide the LEA with all information as requested in writing to secure a Master Contract or a renewal.

At a minimum, such information shall include copies of teacher credentials and clearance, insurance documentation and CDE certification. The LEA may require additional information as applicable. If the application packet is not completed and returned to the LEA, no Master Contract will be issued. If CONTRACTOR does not return the Master Contract to the LEA duly signed by an authorized representative within ninety (90) calendar days of issuance by LEA, the new contract rates will not take effect until the newly executed Master Contract is received by the LEA and will not be retroactive to the first day of the new Master Contract's effective date. If CONTRACTOR fails to execute the new Master Contract within such ninety day period, all payments shall cease until such time as the new Master Contract is signed. (California Education Code sections 56366(c)(1) and (2).) In the event that this Master Contract expires or terminates, CONTRACTOR and LEA shall continue to be bound to all of the terms and conditions of the most recent executed Master Contract between CONTRACTOR and LEA for so long as CONTRACTOR is servicing authorized LEA students at the direction of the LEA.

6. INDIVIDUAL SERVICES AGREEMENT

This Master Contract shall include an ISA developed for each LEA student for whom CONTRACTOR is to provide special education and/or related services. An ISA shall only be issued for LEA students enrolled with the approval of the LEA pursuant to Education Code section 56366(a)(2)(A). An ISA may be effective for more than one contract year provided that there is a concurrent Master Contract in effect. In the event that this Master Contract expires or terminates, CONTRACTOR shall continue to be bound to all of the terms and conditions of the most recent executed ISAs between CONTRACTOR and LEA for so long as CONTRACTOR is servicing authorized LEA students.

Any and all changes to a LEA student's educational placement/program provided under this Master Contract and/or an ISA shall be made solely on the basis of a revision to the LEA student's IEP. At any time during the term of this Master Contract, a LEA student's parent, CONTRACTOR, or LEA may request a review of a LEA student's IEP subject to all procedural safeguards required by law.

Unless otherwise provided in this Master Contract, the CONTRACTOR shall provide all services specified in the IEP unless the CONTRACTOR and the LEA agree otherwise in the ISA (California Education Code sections 56366(a)(5) and 3062(e)). In the event the CONTRACTOR is unable to provide a specific service at any time during the life of the ISA, the CONTRACTOR shall notify the LEA in writing within five (5) business days of the last date a service was provided.

If a parent or LEA contests the termination of an ISA by initiating a due process proceeding with the OAH, CONTRACTOR shall abide by the "stay-put" requirement of state and federal law unless the parent agrees otherwise. CONTRACTOR shall abide by the "stay-put" requirement of state and federal law when placement in an interim alternative educational setting is made by the LEA or OAH consistent with 20 U.S.C. section 1415(k)(1). CONTRACTOR shall adhere to all the LEA requirements concerning changes in placement.

Disagreements between the LEA and CONTRACTOR concerning the formulation of an ISA or the Master Contract may be appealed to the County Superintendent of Schools of the County where the LEA is located, or the State Superintendent of Public Instruction pursuant to the provisions of California Education Code section 56366(c)(2). Nothing herein shall limit LEA or CONTRACTOR from engaging in alternative dispute resolution. CONTRACTOR disagrees with the language of Education Code section 56366(c)(2), and nothing herein shall constitute a waiver by CONTRACTOR of its rights to challenge that provision.

7. DEFINITIONS

The following definitions shall apply for purposes of this contract:

- a. The term "CONTRACTOR" means a nonpublic, nonsectarian school/agency certified by the California Department of Education and identified in Paragraph 1 above.
- b. The term "authorized LEA representative" means a LEA administrator designated to be responsible for nonpublic school/agencies.
- c. The term "credential" means a valid credential, life diploma, permit, or document in special education or pupil personnel services issued by, or under the jurisdiction of, the State Board of Education if issued prior to 1970 or the California Commission on Teacher Credentialing, which entitles the holder thereof to perform services for which certification qualifications are required as defined in Title 5 of the California Code of Regulations section 3001(g).
- d. The term "qualified" means that a person holds a certificate, permit or other document equivalent to that which staff in a public school are required to hold to provide special education and designated instruction and services, and has met federal and state certification, licensing, registration, or other comparable requirements which apply to the area in which he or she is providing special education or related services, including those requirements set forth in Title 5 of the California Code of Regulations sections 3064 and 3065, or, in the absence of such requirements, the state-education-agency-approved or recognized requirements, and adheres to the standards of professional practice established in federal and state law or regulation, including the standards contained in the California Business and Professions Code. Nothing in this definition shall be construed as restricting the activities of services of a graduate needing direct hours leading to licensure, or of a student teacher or intern leading to a graduate degree at an accredited or approved college or university, as authorized by state laws or regulations.
- e. The term "license" means a valid nonexpired document issued by a licensing agency within the Department of Consumer Affairs or other state licensing office authorized to grant licenses and authorizing the bearer of the document to provide certain professional services, including but not limited to mental health and board and care services at a residential placement, or refer to themselves using a specified professional title. If a license is not available through an appropriate state licensing agency, a certificate of registration with the appropriate professional organization at the national or state level which has standards established for the certificate that are equivalent to a license, shall be deemed to be a license as defined in Title 5 of the California Code of Regulations section 3001(r).
- f. Parent means a biological or adoptive parent unless the biological or adoptive parent does not have legal authority to make educational decisions for the child, a guardian generally authorized to act as the child's parent or authorized to make educational decisions for the child, an individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative with whom the child lives, or an individual who is

legally responsible for the child's welfare, a surrogate parent, a foster parent if the authority of the biological or adoptive parent to make educational decisions on the child's behalf has been specifically limited by court order in accordance with Code of Federal Regulations 300.30(b)(1) or (2). Parent does not include the state or any political subdivision of government or the nonpublic school or agency under contract with the LEA for the provision of special education or designated instruction and services for a child. (California Education Code section 56028).

- g. The term "days" means calendar days unless otherwise specified.
- h. The phrase "billable day" means a school day in which instructional minutes meet or exceed those in comparable LEA programs.
- i. The phrase "billable day of attendance" means a school day as defined in California Education Code Section 46307, in which a LEA student is in attendance and in which instructional minutes meet or exceed those in comparable LEA programs unless otherwise stipulated in an IEP or ISA.
- j. It is understood that the term "Master Contract" also means "Agreement" and is referred to as such in this document.

ADMINISTRATION OF CONTRACT

8. NOTICES

All notices provided for by this Master Contract shall be in writing. Notices shall be mailed by first class mail deposited with the United States Postal Service or delivered by hand and shall be effective as of the date of receipt by addressee. E-mail notifications may be used provided that a hard copy is also mailed by first class mail deposited with the United States Postal Service or delivered by hand and shall be effective as of the date of receipt by addressee via first class mail or hand delivery.

All notices mailed to the LEA shall be addressed to the person and address as indicated on the signature page of the Master Contract. Notices to CONTRACTOR shall be addressed as indicated on signature page of this Master Contract.

9. MAINTENANCE OF RECORDS

All records shall be maintained by CONTRACTOR as required by state and federal laws and regulations. Notwithstanding the foregoing sentence, CONTRACTOR shall maintain all records for at least five (5) years after the termination of this Master Contract. For purposes of this Master Contract, "records" shall include, but not be limited to student records as defined by California Education Code section 49061(b) including electronically stored information; cost data records as set forth in Title 5 of the California Code of Regulations section 3061; registers and roll books of teachers and/or daily service providers; daily service logs and notes and other documents used to record the provision of related services including supervision; daily service logs and notes used to record the provision of services provided through additional instructional assistants, NPA behavior intervention aides, and bus aides; absence verification records (parent/doctor notes, telephone logs, and related documents) if the CONTRACTOR is funded for excused absences, however, such records are not required if positive attendance is required; bus rosters; staff lists specifying credentials held and documents evidencing other staff qualifications, social security numbers, dates of hire, and dates of termination; records of employee training and certification, staff time sheets; non-paid staff and volunteer sign-in sheets; transportation and other related services subcontracts; school calendars; bell/class schedules when applicable; liability and worker's compensation insurance policies; state nonpublic school and/or agency certifications by-laws; lists of current board

of directors/trustees, if incorporated; documents evidencing financial expenditures; federal/state payroll quarterly reports; and bank statements and canceled checks or facsimile thereof.

CONTRACTOR shall maintain LEA student records in a secure location to ensure confidentiality and prevent unauthorized access. CONTRACTOR shall maintain a current list of the names and positions of CONTRACTOR's employees who have access to confidential records. CONTRACTOR shall maintain an access log for each LEA student's record which lists all persons, agencies, or organizations requesting or receiving information from the record. Such log shall be maintained as required by California Education Code section 49064 and include the name, title, agency/organization affiliation, and date/time of access for each individual requesting or receiving information from the LEA student's record. Such log needs to record access to the LEA student's records by: (a) the LEA student's parent; (b) an individual to whom written consent has been executed by the LEA student's parent; or (c) employees of LEA or CONTRACTOR having a legitimate educational interest in requesting or receiving information from the record. CONTRACTOR/LEA shall maintain copies of any written parental concerns granting access to student records. For purposes of this paragraph, "employees of LEA or CONTRACTOR" do not include subcontractors. CONTRACTOR shall grant parents access to student records, and comply with parents' requests for copies of student records, as required by state and federal laws and regulations. CONTRACTOR agrees, in the event of school or agency closure, to forward all records within five (5) business days to LEA. These shall include, but not limited to, current transcripts, IEP/ISPs, and reports. CONTRACTOR acknowledges and agrees that all student records maintained by CONTRACTOR as required by state and federal laws and regulations are the property of LEA and must be returned to LEA without dissemination to any other entity.

10. SEVERABILITY CLAUSE

If any provision of this Master Contract is held, in whole or in part, to be unenforceable for any reason, the remainder of that provision and of the entire Agreement shall be severable and remain in effect.

11. SUCCESSORS IN INTEREST

This contract binds CONTRACTOR's successors and assignees. CONTRACTOR shall notify the LEA of any change of ownership or corporate control.

12. VENUE AND GOVERNING LAW

The laws of the State of California shall govern the terms and conditions of this Master Contract with venue in Orange County.

13. MODIFICATIONS AND AMENDMENTS REQUIRED TO CONFORM TO LEGAL AND ADMINISTRATIVE GUIDELINES

This Master Contract may be modified or amended to conform to administrative and statutory guidelines issued by any state, federal or local governmental agency. The party seeking such modification shall provide thirty (30) days' notice of any such changes or modifications made to conform to administrative or statutory guidelines and a copy of the statute or regulation upon which the modification or changes are based. If the parties cannot agree on such modifications or amendments, this Master Contract may be terminated in accordance with Paragraph 14.

14. TERMINATION

This Master Contract or an Individual Service Agreement may be terminated for cause. The cause shall not be the availability of a public class initiated during the period of the Master Contract or ISA

unless the parent agrees to the transfer of the student to the public school program at an IEP team meeting. To terminate the Master Contract for cause, either party shall give twenty (20) days prior written notice to the other party (California Education Code section 56366(a)(4)). At the time of termination, CONTRACTOR shall provide to the LEA any and all documents CONTRACTOR is required to maintain under this Master Contract. ISAs are void upon termination of this Master Contract, except as specified above in Paragraph 5. CONTRACTOR or the LEA may also terminate an individual ISA for cause. To terminate the ISA, either party shall also give twenty (20) days prior written notice to the other.

15. **INSURANCE**

CONTRACTOR shall, at his, her, or its sole cost and expense, maintain in full force and effect, during the term of this Agreement, the following insurance coverage from a California licensed and/or admitted insurer with an A minus (A-), VII, or better rating from A.M. Best, sufficient to cover any claims, damages, liabilities, costs and expenses (including counsel fees) arising out of or in connection with CONTRACTOR'S fulfillment of any of its obligations under this Agreement:

- A. **Commercial General Liability Insurance**, including both bodily injury and property damage, with minimum limits as follows:

\$1,000,000 per occurrence
\$2,000,000 general aggregate
\$1,000,000 personal & advertising injury
\$ 5,000 medical expenses

- B. **Sexual Abuse & Molestation** coverage with the following minimum limits:

\$1,000,000 per occurrence
\$2,000,000 general aggregate

- C. **Auto Liability Insurance.** To the extent vehicles are used to transport students, such vehicles shall have liability coverage of not less than \$1 million combined single limit.

If CONTRACTOR uses a vehicle to travel to/from school sites, between schools and/or to/from students' homes or other locations as an approved service location by the LEA, CONTRACTOR must comply with State of California auto insurance requirements.

- D. **Workers' Compensation and Employers Liability Insurance** in a form and amount covering CONTRACTOR'S full liability under the California Workers' Compensation Insurance and Safety Act and in accordance with applicable state and federal laws.

Part A – Statutory Limits
Part B - \$1,000,000/\$1,000,000/\$1,000,000 Employers Liability

- E. **Errors & Omissions (E & O)/Malpractice (Professional Liability)** coverage with the following minimum limits:

\$1,000,000 per occurrence
\$2,000,000 general aggregate

- F. CONTRACTOR, upon execution of this Master Contract and periodically thereafter upon request, shall furnish the LEA with certificates of insurance and endorsements evidencing such coverage. The certificate of insurance shall include a thirty (30) day

non-renewal, cancellation or modification notice provision. The Commercial General Liability and Automobile Liability policy shall name WCCCSE/Member Districts as additional insured's on all insurance policies and premiums shall be paid by CONTRACTOR and shall be deemed included in CONTRACTOR's obligations under this contract at no additional charge.

- G. Unless CONTRACTOR is insured under the California Private Schools Self Insurance Group (CAPS SIG) or a similar self-insurance group, any deductibles or self-insured retentions above \$100,000 must be declared to and approved by the LEA. At its option, the LEA may require the CONTRACTOR, at the CONTRACTOR's sole cost, to: (a) cause its insurer to reduce to levels specified by the LEA or eliminate such deductibles or self-insured retentions with respect to the LEA, its officials and employees or (b) procure a bond guaranteeing payment of losses and related investigation.
- H. For any claims related to the services provided by CONTRACTOR, the CONTRACTOR's insurance coverage shall be primary insurance as respects the LEA, its subsidiaries, officials and employees. Any insurance or self-insurance maintained by the LEA, its subsidiaries, officials and employees shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
- I. All Certificates of Insurance shall reference the contract number, name of the school or agency submitting the certificate, and the location of the school or agency submitting the certificate on the certificate.

If the LEA or CONTRACTOR determines that changes in insurance coverage obligations under this section is necessary, either party may reopen negotiations to modify the insurance obligations.

16. INDEMNIFICATION AND HOLD HARMLESS

To the fullest extent allowed by law, CONTRACTOR shall defend, indemnify and hold harmless LEA and its directors, officers, agents, employees and guests against any claim or demand arising from any actual or alleged act, error, or omission by CONTRACTOR or its directors, officers, agents, employees, volunteers or guests arising from CONTRACTOR's duties and obligations described in this Agreement or imposed by law.

To the fullest extent allowed by law, LEA shall defend, indemnify and hold harmless CONTRACTOR and its directors, officers, agents, employees and guests against any claim or demand arising from any actual or alleged act, error, or omission by LEA or its directors, officers, agents, employees, volunteers or guests arising from LEA's duties and obligations described in this Agreement or imposed by law.

17. INDEPENDENT CONTRACTOR

Nothing herein contained shall be construed to imply a joint venture, co-principal, partnership, principal-agent, employer-employee, or co-employer relationship between the LEA and CONTRACTOR. CONTRACTOR shall provide all services under this Agreement as an independent contractor, and neither party shall have the authority to bind or make any commitment on behalf of the other. Nothing contained in this Agreement shall be deemed to create any association, partnership, joint venture or relationship of principal and agent, master and servant, or employer and employee between the parties or any affiliates of the parties, or between the LEA and any individual assigned by CONTRACTOR to perform any services for the LEA.

If the LEA is held to be a partner, joint venturer, co-principal, employer or co-employer of CONTRACTOR based on any acts or omissions of CONTRACTOR, CONTRACTOR shall

indemnify and hold harmless the LEA from and against any and all claims for loss, liability, or damages arising from that holding, as well as any expenses, costs, taxes, penalties and interest charges incurred by the LEA as a result of that holding. If CONTRACTOR is held to be a partner, joint venturer, co-principal, employer, or co-employer of the LEA based on any acts or omissions of LEA, LEA shall indemnify and hold harmless the CONTRACTOR from and against any and all claims for loss, liability, or damages arising from that holding, as well as any expenses, costs, taxes, penalties and interest charges incurred by the LEA as a result of that holding..

18. SUBCONTRACTING

CONTRACTOR shall not enter into any subcontracting relationship without first obtaining the written approval of the LEA. CONTRACTOR's written notification shall include the specific special education and/or related service to be subcontracted, including the corresponding hourly rate or fee. In the event LEA determines that it can provide the subcontracted service(s) at a lower rate, LEA may elect to provide such service(s). If LEA elects to provide such service(s), LEA shall provide written notification to CONTRACTOR within five (5) days of receipt of CONTRACTOR's original notice and CONTRACTOR shall not subcontract for said service(s).

CONTRACTOR shall incorporate all of the provisions of this Master Contract in all subcontracts, unless written approval for any change is first obtained by the LEA. Furthermore, when CONTRACTOR enters into subcontracts for the provision of special education and/or related services (including without limitation transportation) for any LEA student, CONTRACTOR shall cause each subcontractor to procure and maintain insurance during the term of each subcontract. Such subcontractor's insurance shall comply with the provisions of Section 15. Each subcontractor shall furnish the LEA with original endorsements and certificates of insurance effecting coverage required by Section 15. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. LEA may request that the certificates and endorsements be completed on forms provided by the LEA. All certificates and endorsements are to be received and approved by the LEA before the subcontractor's work commences. The Commercial General Liability and Automobile Liability policies shall name the LEA and the LEA/District Board of Education as additional insured. If LEA does not approve the subcontractor's insurance, the LEA shall provide CONTRACTOR notice within fifteen (15) days.

As an alternative to the LEA's forms, a subcontractor's insurer may provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by this Master Contract. All Certificates of Insurance shall reference the LEA contract number, name of the school or agency submitting the certificate, indication if nonpublic school or nonpublic agency, and the location of the school or agency submitting the certificate. In addition, all sub-contractors must meet the requirements as contained in Section 45 (Clearance Requirements) and Section 46 (Staff Qualifications) of this Master Contract.

19. CONFLICTS OF INTEREST

CONTRACTOR shall provide to the LEA a copy of its current bylaws and a current list of its Board of Directors (or Trustees), if it is incorporated. This can be provided via e-mail to the SELPA Director of the LEA. CONTRACTOR and any member of its Board of Directors (or Trustees) shall avoid any relationship with the LEA that constitutes or may constitute a conflict of interest pursuant to California Education Code section 56042 including, but not limited to, employment with LEA, provision of private party assessments and/or reports, and attendance at IEP team meetings acting as a student's advocate. Pursuant to California Education Code section 56042, an attorney or advocate for a parent of an individual with exceptional needs shall not recommend placement at CONTRACTOR's facility if the attorney or advocate is employed or contracted by the CONTRACTOR, or will receive a benefit from the CONTRACTOR, or otherwise has a conflict of interest.

Unless CONTRACTOR and the LEA otherwise agree in writing, the LEA shall neither execute an ISA with CONTRACTOR nor amend an existing ISA for a LEA student when a recommendation for special education and/or related services is based in whole or in part on assessment(s) or reports provided by CONTRACTOR to the LEA student without prior written authorization by LEA. This paragraph shall apply to CONTRACTOR regardless of when an assessment is performed or a report is prepared (i.e., before or after the LEA student is enrolled in CONTRACTOR's school/agency) or whether an assessment of the LEA student is performed or a report is prepared in the normal course of the services provided to the LEA student by CONTRACTOR. To avoid a conflict of interest, and in order to ensure the appropriateness of an Independent Educational Evaluation (hereinafter referred to as "IEE") and its recommendations, the District may, in its discretion, not fund an IEE by an evaluator who provides ongoing service(s) or is sought to provide service(s) to the student for whom the IEE is requested. Likewise, the LEA may, in its discretion, not fund services through the evaluator whose IEE the District agrees to fund. When no other appropriate assessor is available, the LEA may request and if CONTRACTOR agrees, the CONTRACTOR may provide an IEE.

When the CONTRACTOR is a nonpublic agency, the CONTRACTOR acknowledges that its authorized representative has read and understands Education Code section 56366.3 which provides, in relevant part, that no special education and/or related services provided by CONTRACTOR shall be paid for by the LEA if provided by an individual who was an employee of the LEA within the three hundred and sixty five (365) days prior to executing this Master Contract. This provision does not apply to any person who is able to provide designated instruction and services during the extended school year because he or she is otherwise employed for up to ten months of the school year by the LEA.

20. NON-DISCRIMINATION

CONTRACTOR shall not unlawfully discriminate on the basis of race, religion, sex, national origin, age, sexual orientation, disability or any other classification protected by federal or state law, in employment or operation of its programs.

EDUCATIONAL PROGRAM

21. FREE AND APPROPRIATE PUBLIC EDUCATION

LEA shall provide CONTRACTOR with a copy of the IEP including the Individualized Transition Plan (hereinafter referred to as "ITP") of each LEA student served by CONTRACTOR. CONTRACTOR shall provide to each LEA student special education and/or related services (including transition services) within the nonpublic school or nonpublic agency consistent with the LEA student's IEP and as specified in the ISA. If CONTRACTOR is a nonpublic school, CONTRACTOR shall not accept a LEA student if it cannot provide or ensure the provision of the services outlined in the student's IEP.

Unless otherwise agreed to between CONTRACTOR and LEA, CONTRACTOR shall be responsible for the provision of all appropriate supplies, equipment, and/or facilities for LEA students, as specified in the LEA student's IEP and ISA. LEA shall provide low incidence equipment for eligible students with low incidence disabilities when specified in the student's IEP and ISA. Such equipment remains the property of the LEA and shall be returned to the LEA when the IEP team determines the equipment is no longer needed or when the student is no longer enrolled in the nonpublic school. CONTRACTOR shall make no charge of any kind to parents for special education and/or related services as specified in the LEA student's IEP and ISA (including, but not limited to, screenings, assessments, or interviews that occur prior to or as a condition of the LEA student's enrollment under the terms of this Master Contract). CONTRACTOR may charge a LEA student's parent(s) for services and/or activities not necessary for the LEA student to receive a free

appropriate public education after: (a) verification that any such charge or fee is not a “pupil fee” under Education Code section 49010 et. seq.; (b) written notification to the LEA student’s parent(s) of the cost and voluntary nature of the services and/or activities; and (c) receipt by the LEA of the written notification and a written acknowledgment signed by the LEA student’s parent(s) of the cost and voluntary nature of the services and/or activities. CONTRACTOR shall adhere to all LEA guidelines as well as all California state laws, regulations and guidelines prohibiting pupil fees, deposits or other charges.

Voluntary services and/or activities not necessary for the LEA student to receive a free appropriate public education shall not interfere with the LEA student’s receipt of special education and/or related services as specified in the LEA student’s IEP and ISA unless the LEA, CONTRACTOR and parent agree otherwise in writing.

22. GENERAL PROGRAM OF INSTRUCTION

All nonpublic school and nonpublic agency services shall be provided consistent with the area of certification specified by CDE Certification and as defined in California Education Code section 56366 et seq.

When CONTRACTOR is a nonpublic school, CONTRACTOR’s general program of instruction shall: (a) be consistent with LEA’s standards regarding the particular course of study and curriculum; (b) include curriculum that addresses mathematics, literacy and the use of educational, assistive technology and transition services; (c) be consistent with CDE’s standards regarding the particular course of study and curriculum; (d) provide the services as specified in the LEA student’s IEP and ISA. LEA students shall have access to: (a) State Board of Education (SBE) - adopted standards-based, core curriculum and the same instructional materials for kindergarten and grades 1 to 8, inclusive; and provide standards – aligned core curriculum and instructional materials for grades 9 to 12, inclusive, used by a local education agency (LEA), that contracts with the nonpublic school; (b) college preparation courses; (c) extracurricular activities, such as art, sports, music and academic clubs; (d) career preparation and vocational training, consistent with transition plans pursuant to state and federal law and; (e) supplemental assistance, including individual academic tutoring, psychological counseling, and career and college counseling. CONTRACTOR’s general program of instruction shall be described in writing and a copy provided to LEA prior to the effective date of this Master Contract.

When CONTRACTOR serves LEA students in grades nine through twelve inclusive, LEA shall provide to CONTRACTOR a specific list of the course requirements to be satisfied by the CONTRACTOR leading toward graduation or completion of LEA’s diploma requirements including the graduation requirements for pupils in foster care or pupils who are homeless as set forth in Education Code section 51225.1. CONTRACTOR shall not award a high school diploma to LEA students who have not successfully completed all of the LEA’s graduation requirements, including, but not limited to, passing the California High School Exit Exam in accordance with state law.

When CONTRACTOR is a nonpublic agency and/or related services provider, CONTRACTOR’s general program of instruction and/or services shall be consistent with LEA and CDE guidelines and certification, and provided as specified in the LEA student’s IEP and ISA. The nonpublic agency providing Behavior Intervention services shall develop a written treatment plan that specifies the nature of their nonpublic agency service for each student within thirty (30) days of enrollment and shall be provided in writing to the LEA. School-based services may not be unilaterally converted by CONTRACTOR to a substitute program or provided at a location not specifically authorized by the IEP team. Except for services provided by a contractor that is a licensed children’s institution, all services not provided in the school setting require the presence of a parent, guardian or adult caregiver during the delivery of services, provided such guardian or caregiver have a signed authorization by the parent or legal guardian to authorize emergency services as requested. LCI

contractors shall ensure that appropriate and qualified residential or clinical staff is present during the provision of services under this Master Contract. CONTRACTOR shall immediately notify LEA in writing if no parent, guardian or adult caregiver is present. CONTRACTOR shall provide to the LEA a written description of the services and location provided prior to the effective date of this Master Contract. Contractors providing Behavior Intervention services must have a trained behaviorist or trained equivalent on staff consistent with the requirements set forth in Education Code section 56520 et seq. It is understood that Behavior Intervention services are limited per CDE Certification and do not constitute as an instructional program.

When CONTRACTOR is a nonpublic agency, CONTRACTOR shall not provide transportation nor subcontract for transportation services.

23. INSTRUCTIONAL MINUTES

When CONTRACTOR is a nonpublic school, the total number of instructional minutes per school day provided by CONTRACTOR shall be at least equivalent to the number of instructional minutes per school day provided to LEA students at like grade level, attending LEA schools and shall be specified in the LEA student's ISA developed in accordance with the LEA student's IEP.

For LEA students in grades kindergarten through 12, unless otherwise specified in the LEA student's IEP and ISA, the number of instructional minutes, excluding breakfast, recess, lunch, and passing time, shall be consistent with Education Code sections 46100 et. seq.

The total number of annual instructional minutes shall be at least equivalent to the total number of annual instructional minutes provided to LEA students attending LEA schools in like grade levels unless otherwise specified in the LEA student's IEP.

When CONTRACTOR is a nonpublic agency and/or related services provider, the total number of minutes per school day provided by CONTRACTOR shall be specified in the LEA student's ISA developed in accordance with the LEA student's IEP.

24. CLASS SIZE

When CONTRACTOR is a nonpublic school, CONTRACTOR shall ensure that class size shall not exceed a ratio of one teacher per twelve (12) students unless CONTRACTOR and the LEA agree otherwise, in writing.

In the event a nonpublic school is unable to fill a vacant teaching position responsible for direct instruction to students, and the vacancy has direct impact on the California Department of Education Certification of that school, the nonpublic school shall develop a plan to assure appropriate coverage of students by first utilizing existing certificated staff. The nonpublic school and the LEA may agree to one 30 school day period per contract year where class size may be increased to assure coverage by an appropriately credentialed teacher. Such an agreement shall be in writing and signed by both parties. This provision does not apply to a nonpublic agency.

CONTRACTOR providing special education instruction for individuals with exceptional needs between the ages of three and five years, inclusive, shall also comply with the appropriate instructional adult to child ratios pursuant to California Education Code sections 56440 et seq.

25. CALENDARS

When CONTRACTOR is a nonpublic school, CONTRACTOR shall submit to the LEA a school calendar with the total number of billable days not to exceed 180 days, plus up to twenty (20) extended school year billable days unless otherwise specified in the LEA student's IEP/IFSP and

ISA. Billable days shall include only those days that are included on the submitted and approved school calendar, and/or required by the IEP (developed by the LEA) for each student. CONTRACTOR shall not be allowed to change its school calendar and/or amend the number of billable days without the prior written approval of the LEA. Nothing in this Master Contract shall be interpreted to require the LEA to accept any requests for calendar changes.

Unless otherwise specified by the students' IEP, educational services shall occur at the school site. A student shall only be eligible for extended school year services if such are recommended by his/her IEP Team and the provision of such is specifically included in the ISA. Extended school year shall consist of twenty (20) instructional days, unless otherwise agreed upon by the IEP Team convened by the LEA. Any days of extended school year in excess of twenty (20) billable days must be mutually agreed to, in writing, prior to the start of the extended school year.

Student must have actually been in attendance during the regular school year and/or during extended school year and actually received services on a billable day of attendance in order for CONTRACTOR to be eligible for payment. It is specifically understood that services may not be provided on weekends/holidays and other times when school is not in session, unless agreed to by the LEA, in writing, in advance of the delivery of any nonpublic school service. Any instructional days provided without this written agreement shall be at the sole financial responsibility of the CONTRACTOR.

CONTRACTOR shall observe the same legal holidays as the LEA and shall identify the dates of observance on its school calendar submitted to the LEA. Those holidays are Labor Day, Veteran's Day, Thanksgiving Day, Christmas Day, New Year's Day, Dr. Martin Luther King, Jr. Day, President's Day, Memorial Day and Independence Day. With the approval of the LEA, CONTRACTOR may revise the date upon which CONTRACTOR closes in observance of any of the holidays observed by LEA.

When CONTRACTOR is a nonpublic agency, CONTRACTOR shall be provided with a LEA-developed/approved calendar prior to the initiation of services. CONTRACTOR herein agrees to observe holidays as specified in the LEA-developed/approved calendar. CONTRACTOR shall provide services pursuant to the LEA-developed/approved calendar; or as specified in the LEA student's IEP and ISA. Unless otherwise specified in the LEA student's ISA, CONTRACTOR shall provide related services to LEA students on only those days that the LEA student's school of attendance is in session and the LEA student attends school. CONTRACTOR shall bill only for services provided on billable days of attendance as indicated on the LEA calendar unless CONTRACTOR and the LEA agree otherwise, in writing. Student must have actually been in attendance and/or received services on a billable day of attendance in order for CONTRACTOR to be eligible for payment. It is specifically understood that services may not be provided on weekends/holidays and other times when school is not in session, unless agreed to by the LEA, in writing, in advance of the delivery of any nonpublic agency service provided by CONTRACTOR. Any instructional days provided without this written agreement shall be at the sole financial responsibility of the CONTRACTOR.

26. DATA REPORTING

CONTRACTOR shall agree to provide to the LEA, all data related to students who are served by the CONTRACTOR. This shall include any and all data related to any section of this Master Contract. The specific format of the data to be provided shall be determined between the LEA and CONTRACTOR. CONTRACTOR shall not enter into a contract with a third party for the purpose of providing cloud-based services including but not limited digital storage, management and retrieval of pupil records or to provide digital educational software that authorizes such third party to access, store, and use pupil records, unless CONTRACTOR has obtained prior written authorization from LEA in compliance with Education Code section 49073.1.

The LEA may provide the CONTRACTOR with approved forms and/or format for such data, including but not limited to, invoicing, attendance reports, and progress reports. The LEA may approve use of CONTRACTOR-provided forms at LEAs discretion.

27. LEAST RESTRICTIVE ENVIRONMENT/DUAL ENROLLMENT

CONTRACTOR and the LEA shall both follow policies and procedures that support Least Restrictive Environment (“LRE”) options (and/or dual enrollment options if available and appropriate) for students to have access to the general curriculum and to be educated with their nondisabled peers to the maximum extent appropriate.

LRE placement options shall be addressed at all IEP team meetings regarding students for whom ISAs have been or may be executed. This shall include IEP team consideration of supplementary aids and services and goals and objectives necessary for placement in the LRE and necessary to enable students to transition to less restrictive settings.

When an IEP team has determined that a student should be transitioned into the public school setting, CONTRACTOR shall assist the LEA in implementing the IEP team’s recommendations and/or activities to support the transition.

28. STATEWIDE ACHIEVEMENT TESTING AND HIGH SCHOOL EXIT EXAMINATION

When CONTRACTOR is a nonpublic school, CONTRACTOR shall, in accordance with Education Code section 60640 et. seq. administer all Statewide assessments within the California Assessment of Student Performance and Progress (“CAASP”), Desired Results Developmental Profile (“DRDP”), California Alternative Assessment (“CAA”), achievement and abilities tests (using LEA-authorized assessment instruments), the Fitness Gram, the California English Language Development Test (“CELDT”), and the English Language Proficiency Assessments for California (“ELPAC”), as appropriate to the student, and mandated by LEA pursuant to LEA guidelines as well as state and federal laws and regulations.

When CONTRACTOR is a nonpublic school, CONTRACTOR is subject to the alternative accountability system developed pursuant to Education Code section 52052, in the same manner as public schools and each LEA student placed with CONTRACTOR by the LEA shall be tested by qualified staff of CONTRACTOR in accordance with that accountability program. LEA shall provide test administration training to CONTRACTOR’s qualified staff; CONTRACTOR shall attend LEA test training and comply with completion of all coding requirements as required by LEA. Contractor shall report the test results to the CDE as required by Education Code section 56366(a)(8)(A).

Where CONTRACTOR is a nonpublic school, CONTRACTOR shall administer all statewide achievement tests and the California High School Exit Examination as mandated by the LEA and pursuant to the LEA guidelines, as well as state and federal laws and regulations.

29. DISTRICT MANDATED ATTENDANCE AT MEETINGS

CONTRACTOR shall attend District mandated meetings when legal mandates, and/or LEA policy and procedures are reviewed, including but not limited to the areas of: curriculum, high school graduation, standards-based instruction, behavior intervention, cultural and linguistic needs of students with disabilities, dual enrollment responsibilities, LRE responsibilities, transition services,

and standardized testing. The LEA shall provide CONTRACTOR with reasonable advanced notice of mandated meetings. Attendance at such meetings shall not constitute a billable service hour(s).

30. POSITIVE BEHAVIOR INTERVENTIONS

CONTRACTOR shall comply with the requirements of Education Code section 56520 et seq. and applicable provisions of Title 5 of the California Code of Regulations regarding positive behavior interventions including, but not limited to: the completion of functional behavioral assessments; the development, implementation, monitoring, supervision, modification, and evaluation of behavior intervention plans; and emergency interventions. CONTRACTOR shall notify the parent/guardian residential care provider (if appropriate) and LEA within one (1) school day of any behavior incident including when an emergency intervention is used or serious property damage occurs as well as provide LEA with a copy of the behavioral emergency report. It is understood that the LEA may require additional requirements for staff qualifications beyond what is required in Title 5 of the California Code of Regulations sections 3064 and 3065. Such requirements will be provided in writing to CONTRACTOR prior to entering into an ISA for a LEA student. Failure to maintain adherence to staff qualification requirements shall constitute sufficient cause for contract termination. CONTRACTOR shall provide the LEA with all training protocols for behavior intervention staff who do not possess a license, credential or recognized certification as part of their Master Contract application. CONTRACTOR shall provide certification that all behavior aides who do not possess a license, credential or recognized certification have completed required training protocols within ten days of the start of providing behavior intervention services to a LEA student. Failure to do so shall constitute sufficient cause for termination.

CONTRACTOR shall designate an individual employed, contracted, and/or otherwise hired by CONTRACTOR as a "behavior intervention case manager." CONTRACTOR shall maintain a written policy in compliance with Education Code section 56520 et seq. and applicable provisions of Title 5 of the California Code of Regulations regarding emergency interventions and behavioral emergency reports. Evidence of such training shall be submitted to the LEA at the beginning of the school year and within fourteen (14) days of any new hire. CONTRACTOR shall ensure that all of its staff members are trained annually in crisis intervention and emergency procedures as related to appropriate behavior management strategies.

CONTRACTOR shall not authorize, order, consent to, or pay for any of the following prohibited interventions, or any other intervention similar to or like the following: (a) any intervention that is designed to, or likely to, cause physical pain, including but not limited to, electric shock; (b) releasing noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the LEA student's face; (c) any intervention which denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities; (d) any intervention which is designed to subject, used to subject, or likely to subject the LEA student to verbal abuse, ridicule, or humiliation, or which can be expected to cause excessive emotional trauma; (e) restrictive interventions which employ a device, material, or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment or similar techniques may be used as a limited emergency intervention by CONTRACTOR's trained and qualified personnel as allowable by applicable law and regulations; (f) locked seclusion except as allowable by applicable law and regulations; (g) any intervention that precludes adequate supervision of the LEA student; and (h) any intervention which deprives the LEA student of one or more of his or her senses, pursuant to Education Code section 56521.2.

31. STUDENT DISCIPLINE

CONTRACTOR shall maintain and abide by a written policy for student discipline that is consistent with state and federal law and regulations.

When CONTRACTOR seeks to remove a LEA student from his/her current educational placement for disciplinary reasons, CONTRACTOR shall immediately submit a written discipline report to the LEA and a manifestation IEP team meeting shall be scheduled. Written discipline reports shall include, but not be limited to: the LEA student's name; the time, date, and description of the misconduct; the disciplinary action taken by CONTRACTOR; and the rationale for such disciplinary action. A copy of the LEA student's behavior plan, if any, shall be submitted with the written discipline report. CONTRACTOR and LEA agree to participate in a manifestation determination at an IEP meeting no later than the tenth (10th) day of suspension. CONTRACTOR shall notify and invite LEA representatives to the IEP team meeting where the manifestation determination will be made.

32. IEP TEAM MEETINGS

An IEP team meeting shall be convened at least annually to evaluate: (1) the educational progress of each student placed with CONTRACTOR, including all state assessment results pursuant to the requirements of Education Code section 52052; (2) whether or not the needs of the student continue to be best met at the nonpublic school and/or by the nonpublic agency; and (3) whether changes to the student's IEP are necessary, including whether the student may be transitioned to a public school setting. (California Education Code sections 56366(a)(2)(B)(i) and (ii).) If an LEA student is enrolled in the nonpublic school pursuant to a lawfully executed agreement between the LEA and parent, it shall be the responsibility of the LEA to notify CONTRACTOR in writing (1) when or whether an IEP meeting will be held, (2) whether placement in the nonpublic school should be documented as part of an IEP, and (3) the start date and, if known, the end date for services to be provided by CONTRACTOR to LEA student.

If a LEA student is to be transferred from a nonpublic school setting into a regular class setting in a public school for any part of the school day, the IEP team shall document, if appropriate, a description of activities provided to integrate the student into the regular education program, including the nature of each activity as well as the time spent on the activity each day or week and a description of the activities provided to support the transition of the student from the special education program into the regular education program. Each LEA student shall be allowed to provide confidential input to any representative of his or her IEP team. Except as otherwise provided in the Master Contract, CONTRACTOR and the LEA shall participate in all IEP team meetings regarding LEA students for whom ISAs have been or may be executed. At any time during the term of this Master Contract, a parent, the CONTRACTOR or the LEA may request a review of the student's IEP, subject to all procedural safeguards required by law, including reasonable notice given to, and participation of, the CONTRACTOR in the meeting. Every effort shall be made to schedule IEP team meetings at a time and place that is mutually convenient to the parent(s), the CONTRACTOR and the LEA. CONTRACTOR shall provide to the LEA any and all assessments (including testing protocols) and written assessment reports created by CONTRACTOR and any of its agents or subcontractors, upon request.

If the CONTRACTOR or LEA is unable to convince the parent or guardian that he or she should attend the IEP, CONTRACTOR shall maintain a written record of its attempts to arrange a mutually agreed-upon time and place. The CONTRACTOR and LEA shall also take any action necessary to ensure that the parent or guardian understands the proceedings at a meeting, including arranging for an interpreter.

Changes in any LEA student's educational program, including instruction, services, or instructional setting, provided under this Master Contract may only be made on the basis of revisions to the student's IEP. In the event that the CONTRACTOR believes the student requires a change of placement, the CONTRACTOR may request a review of the student's IEP for the purposes of considering a change in the student's placement. Student is entitled to remain in the last agreed upon

and implemented placement unless parent agrees otherwise or unless an interim alternative educational placement is deemed lawful and appropriate by the LEA or OAH.

33. SURROGATE PARENTS

CONTRACTOR shall comply with state and federal laws and regulations regarding assigning surrogate parents to LEA students.

34. DUE PROCESS PROCEEDINGS

CONTRACTOR shall fully participate in special education due process proceedings including mediations and hearings, as requested by the LEA. CONTRACTOR shall also fully participate in the investigation of any complaint filed with the State of California, the Office for Civil Rights, or any other state and/or federal governmental body or agency. Full participation shall include, but in no way be limited to, cooperating with LEA representatives to provide complete answers raised by any investigator and/or the immediate provision of any and all documentation that pertains to the operation of CONTRACTOR's program and/or the implementation of a particular student's IEP/IFSP.

35. COMPLAINT PROCEDURES

CONTRACTOR shall maintain and adhere to its own written procedures for responding to parent complaints. These procedures shall include annually notifying and providing parents of LEA students with appropriate information (including complaint forms) for the following: (1) Uniform Complaint Procedures pursuant to Title 5 of the California Code of Regulations section 4600 et seq.; (2) Nondiscrimination policies pursuant to Title 5 of the California Code of Regulations section 4960 (a); (3) Sexual Harassment Policies pursuant to California Education Code 231.5(a)(b)(c); (4) Student Grievance Procedure pursuant to Title IX 106.8 (a)(d) and 106.9 (a); and (5) Notice of Privacy Practices in compliance with Health Insurance Portability and Accountability Act (HIPPA). CONTRACTOR shall include verification of these procedures to the LEA.

36. LEA STUDENT PROGRESS REPORTS/REPORT CARDS AND ASSESSMENTS

Unless the LEA requests in writing that progress reports be provided on a monthly basis, CONTRACTOR shall provide to parents at least four written progress reports/report cards. At a minimum, progress reports shall include progress over time towards IEP goals and objectives. A copy of the progress reports/report cards shall be maintained at the CONTRACTOR's place of business and shall be submitted to the LEA and LEA student's parent(s).

CONTRACTOR shall also provide an LEA representative access to supporting documentation used to determine progress on any goal or objective, including but not limited to log sheets, observation notes, data sheets, pre-/post-tests, rubrics and other similar data collection used to determine progress or lack of progress on approved goals, objectives, transition plans or behavior support plans. The LEA may request copies of such data at any time within five (5) years of the date of service. CONTRACTOR agrees to maintain the information for at least five (5) years and also shall provide this data supporting progress within five (5) business days of request. Additional time may be granted as needed by the LEA.

CONTRACTOR shall complete academic or other assessment of the LEA student one month prior to the LEA student's annual or triennial review IEP team meeting for the purpose of reporting the LEA student's present levels of performance at the IEP team meeting as required by state and federal laws and regulations and pursuant to LEA policies, procedures, and/or practices. Contractor shall provide sufficient copies of its reports, documents, and projected goals to share with members of the IEP

team five (5) business days prior to the IEP meeting. CONTRACTOR shall maintain supporting documentation such as test protocols and data collection, which shall be made available to LEA within five (5) business days of request.

CONTRACTOR is responsible for all assessment costs regarding the updating of goals and objectives, progress reporting and the development of present levels of performance. All assessments shall be provided by the LEA unless the LEA specifies in writing a request that CONTRACTOR perform such additional assessment. Any assessment costs may be added to the ISA and/or approved separately by the LEA at the LEA's sole discretion.

It is understood that all billable hours must be in direct services to pupils as specified in the ISA. For nonpublic agency services, supervision provided by a qualified individual as specified in Title 5 of the California Code of Regulations section 3065, shall be determined as appropriate and included in the ISA. Supervision means the direct observation of services, data review, case conferencing and program design consistent with professional standards for each professional's license, certification, or credential.

CONTRACTOR shall not charge the LEA student's parent(s) or LEA for the provision of progress reports, report cards, and/or any assessments, interviews, or meetings, unless the LEA agrees in writing prior to the completion of any work. It is understood that all billable hours have limits to those specified on the ISA consistent with the IEP. It is understood that copies of data collection notes, forms, charts and other such data are part of the pupil's record and shall be made available to the LEA upon written request.

37. TRANSCRIPTS

When CONTRACTOR is a nonpublic school, CONTRACTOR shall prepare transcripts at the close of each semester, or upon LEA student transfer, for LEA students in grades nine through twelve inclusive. CONTRACTOR shall submit all transcripts to the LEA Director of Special Education for evaluation of progress toward completion of diploma requirements as specified by LEA.

38. LEA STUDENT CHANGE OF RESIDENCE

Upon enrollment, CONTRACTOR shall notify parents in writing of their obligation to notify CONTRACTOR of the LEA student's change of residence. CONTRACTOR shall maintain, and provide upon request by LEA, documentation of such notice to parents. Within five (5) school days after CONTRACTOR becomes aware of a LEA student's change of residence, CONTRACTOR shall notify the LEA, in writing, of the LEA student's change of residence.

If CONTRACTOR had knowledge or should reasonably have had knowledge of the LEA student's change of residence boundaries and CONTRACTOR fails to follow the procedures specified in this provision, the LEA shall not be responsible for the costs of services delivered after the LEA student's change of residence.

39. WITHDRAWAL OF LEA STUDENT FROM PROGRAM

CONTRACTOR shall immediately report, by telephone and e-mail, to the LEA Representative responsible for overseeing nonpublic schools and nonpublic agencies, and any other required representative from the California Department of Education, when a LEA student is withdrawn from school and/or services. CONTRACTOR shall confirm such telephone call in writing via e-mail or other written notification to the LEA Director of Special Education and submit to the LEA and the Department of Education, if required, within five (5) business days of the withdrawal. CONTRACTOR shall assist LEA to verify and clear potential dropouts three (3) times per year, as

required by the 2001 Elementary and Secondary Education Act (No Child Left Behind; NCLB), as documentation of graduation rate is one of the indicators of Adequate Yearly Progress (AYP).

40. PARENT ACCESS

CONTRACTOR shall provide for reasonable parental access to LEA students and all facilities including, but not limited to, the instructional setting, recreational activity areas, meeting rooms and LEA student living quarters. CONTRACTOR shall comply with any known court orders regarding parental visits and access to LEA students.

CONTRACTOR, if operating a program with a residential component, shall cooperate with a parent's reasonable request for LEA student visits in their home during, but not limited to, holidays and weekends. CONTRACTOR shall ensure that parents obtain prior written authorization for therapeutic visits from the CONTRACTOR and the LEA.

41. SERVICES AND SUPERVISION AND PROFESSIONAL CONDUCT

If CONTRACTOR provides services on a LEA public school campus, CONTRACTOR shall comply with Penal Code section 627.1 et seq., as well as all other LEA and campus-specific policies and procedures regarding visitors to/on school campuses. CONTRACTOR shall be responsible for the purchase and provision of the supplies and assessment tools necessary to implement the provision of CONTRACTOR services on LEA public school campuses.

It is understood that the public school credentialed classroom teacher is responsible for the educational program.

It is understood that all employees, subcontractors and volunteers of any certified nonpublic school or agency shall adhere to customary professional standards when providing services. All practices shall be within the scope of professional responsibility as defined in the professional code of conduct for each profession. Reports regarding student progress shall be consistent with the provision of the Master Contract.

CONTRACTOR, if providing services in a student's home as specified in the ISA, shall assure that at least one parent of the child or an adult caregiver with written and signed authorization to make decisions in an emergency is present during the provision of services. The names of any adult caregiver other than the parent shall be provided to the LEA prior to the start of any home based services, including written and signed authorization in emergency situations. The parent shall inform the LEA of any changes of caregivers and provide written authorization for emergency situations. The adult caregiver cannot also be an employee or volunteer associated with the nonpublic school/nonpublic agency service provider. All problems and/or concerns reported to parents, both verbal and written shall also be provided to the LEA.

42. LICENSED CHILDREN'S INSTITUTION CONTRACTORS

If CONTRACTOR is a licensed children's institution, CONTRACTOR shall adhere to all legal requirements regarding educational placements for LCI students as stated in Education Code sections 56366(a)(2)(C) and 56366.9, Health and Safety Code section 1501.1 (AB1858, AB490 (Chapter 862, Statutes of 2003)) and any other applicable laws and/or regulations, including LEA guidelines or procedures. An LCI shall not require that a pupil be placed in its nonpublic school as a condition of being placed in its residential facility.

If CONTRACTOR is a nonpublic, nonsectarian school that is owned, operated by, or associated with a residential treatment center (hereinafter referred to as "NPS/RTC"), CONTRACTOR shall adhere to all legal requirements under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. section 1400 et seq. including the federal regulations 34 C.F.R section 300 et seq. and Education Code section 56000 et seq. including Title 5 of the California Code of Regulations section 3000 et seq.

In addition to meeting the certification requirements of the State of California, a CONTRACTOR that operates a program outside of this State shall be certified or licensed by that state to provide, respectively, special education and related services and designated instruction and related services to pupils under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

If CONTRACTOR is a nonpublic, nonsectarian school that is owned, operated by, or associated with a LCI, CONTRACTOR shall provide to the LEA, on a quarterly basis, a list of all LEA students, including those identified as eligible for special education. For those identified special education students, the list shall include: 1) special education eligibility at the time of enrollment; and 2) the educational placement and services specified in each student's IEP at the time of enrollment.

Unless placement is made pursuant to an Office of Administrative Hearings order or a lawfully executed agreement between the LEA and parent, the LEA is not responsible for the costs associated with nonpublic school placement until the date on which an IEP team meeting is convened, the IEP team determines that a nonpublic school placement is appropriate, and the IEP is signed by the LEA student's parent or another adult with educational decision-making rights.

43. STATE MEAL MANDATE

When CONTRACTOR is a nonpublic school, CONTRACTOR and LEA shall satisfy the State Meal Mandate under California Education Code sections 49530, 49530.5 and 49550.

44. MONITORING

CONTRACTOR shall allow representatives from the LEA access to its facilities for the purpose of monitoring each LEA student's instructional program. LEA shall have access to observe each LEA student at work, observe the instructional setting, interview CONTRACTOR, and review each LEA student's records and progress. Such access shall include unannounced monitoring visits. When making site visits, LEA shall initially report to CONTRACTOR's site administrative office. CONTRACTOR shall be invited to participate in the review of each student's progress.

If CONTRACTOR is also an LCI, the LEA or its SELPA shall annually evaluate whether CONTRACTOR is in compliance with Education Code section 56366.9 and Health and Safety Code section 1501.1(b).

The State Superintendent of Public Instruction ("Superintendent") shall monitor CONTRACTOR'S facilities, the educational environment, and the quality of the educational program, including the teaching staff, the credentials authorizing service, the standards-based core curriculum being employed, and the standard focused instructional materials used on a three-year cycle, as follows: (1) CONTRACTOR shall complete a self-review in year one; (2) the Superintendent shall conduct an onsite review in year two; and (3) the Superintendent shall conduct a follow-up visit in year three.

CONTRACTOR shall fully participate in any LEA and CDE compliance review, including any On-Site and Self Review and if applicable, District Validation Review. This review will address programmatic aspects of the nonpublic school/agency, compliance with relevant state and federal regulations, and Master Contract compliance. CONTRACTOR shall complete and submit a Nonpublic School/Agency Self-Review Assessment submitted as specified by the LEA.

CONTRACTOR shall conduct any follow-up or corrective action procedures requested by LEA or CDE related to such compliance review.

CONTRACTOR understands that the LEA reserves the right to institute a program audit with or without cause. The program audit may include, but is not limited to, a review of core compliance areas of health and safety; curriculum/instruction; related services; and contractual, legal, and procedural compliance.

When CONTRACTOR is a nonpublic school, CONTRACTOR shall collect all applicable data and prepare the applicable portion of a School Accountability Report Card in accordance with California Education Code Section 33126.

PERSONNEL

45. CLEARANCE REQUIREMENTS

CONTRACTOR shall comply with the requirements of California Education Code section 44237, 35021.1 and 35021.2 including, but not limited to: obtaining clearance from both the California Department of Justice (hereinafter referred to as "CDOJ") and clearance from the Federal Bureau of Investigation (hereinafter referred to as "FBI") for all of CONTRACTOR's employees and volunteers who will have or likely may have any direct contact with LEA students. CONTRACTOR hereby agrees that CONTRACTOR's employees and volunteers who will have or likely may have direct contact with LEA students shall not come in contact with LEA students until both CDOJ and FBI clearance are ascertained. CONTRACTOR shall further certify in writing to the LEA that none of its employees, volunteers, or subcontractors who will have or likely may have any direct contact with LEA students have been convicted of a violent or serious felony as those terms are defined in California Education Code section 44237(h), unless despite the employee's conviction of a violent or serious felony, he or she has met the criteria to be eligible for employment pursuant to California Education Code section 44237(i) or (j). Clearance certification shall be submitted to the LEA. In addition, CONTRACTOR shall make a request for subsequent arrest service from the CDOJ as required by California Penal Code section 11105.2.

46. STAFF QUALIFICATIONS

CONTRACTOR shall ensure that all individuals employed, contracted, and/or otherwise hired by CONTRACTOR to provide classroom and/or individualized instruction or provide related services hold a license, certificate, permit, or other document equivalent to that which staff in a public school are required to hold to render the service consistent with Education Code section 56366.1(n)(1) and are qualified pursuant to Title 34 of the Code of Federal Regulations sections 200.56 and 200.58, and Title 5 of the California Code of Regulations sections 3001(r), 3051, 3064 and 3065. Such qualified staff may only provide related services within the scope of their professional license, certification or credential and ethical standards set by each profession and not assume responsibility or authority for another related services provider or special education teacher's scope of practice.

Only those nonpublic, nonsectarian schools or agencies located outside of California that employ staff who hold a current valid credential or license to render special education and related services as required by that state shall be eligible to be certified.

CONTRACTOR shall comply with personnel standards and qualifications regarding instructional aides and teacher assistants respectively pursuant to Federal requirements and California Education Code sections 45340 et seq. and 45350 et seq. Specifically, all paraprofessionals, including, but not limited to instructional aides and teacher assistants, employed, contracted, and/or otherwise hired by

CONTRACTOR to provide classroom and/or individualized instruction or related services, shall possess a high school diploma (or higher) degree; or met a rigorous standard of quality and can demonstrate, through a formal state or local assessment (i) knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or (ii) knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness, as appropriate. CONTRACTOR shall comply with all laws and regulations governing the licensed professions, including but not limited to, the provisions with respect to supervision.

In addition to meeting the certification requirements of the State of California, a CONTRACTOR that operates a program outside of this state and serving a student by this LEA shall be certified or licensed by that state to provide special education and related services and designated instruction and related services to pupils under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

47. VERIFICATION OF LICENSES, CREDENTIALS AND OTHER DOCUMENTS

CONTRACTOR shall submit to the LEA a staff list, and copies of all current and required licenses, certifications, credentials, permits and/or other documents which entitle the holder to provide special education and/or related services by CONTRACTOR and all individuals employed, contracted, and/or otherwise hired or sub-contracted by CONTRACTOR. The LEA may file all licenses, certifications, credentials, permits or other documents with the office of the County Superintendent of Schools. CONTRACTOR shall notify the LEA in writing within thirty (30) days when personnel changes occur which may affect the provision of special education and/or related services to LEA students. CONTRACTOR shall provide the LEA with the verified dates of fingerprint clearance, Department of Justice clearance and Tuberculosis Test clearance for all employees, approved subcontractors and/or volunteers prior to such individuals starting to work with any student.

CONTRACTOR shall monitor the status of licenses, certifications, credentials, permits and/or other documents for CONTRACTOR and all individuals employed, contracted, and/or otherwise hired by CONTRACTOR. CONTRACTOR shall immediately, and in no circumstances longer than five (5) business days, provide to the LEA updated information regarding the status of licenses, certifications, credentials, permits and/or other documents of any known changes.

48. STAFF ABSENCE

When CONTRACTOR is a nonpublic school and CONTRACTOR's classroom teacher is absent, CONTRACTOR shall provide an appropriately credentialed substitute teacher in the absent teacher's classroom in accordance with California Education Code section 56061. CONTRACTOR shall provide to the LEA documentation of substitute coverage. Substitute teachers shall remain with their assigned class during all instructional time. The LEA shall not be responsible for any payment for instruction and/or services when an appropriately credentialed substitute teacher is not provided in accordance with California Education Code section 56061.

When CONTRACTOR is a nonpublic agency and/or related services provider, and CONTRACTOR's service provider is absent, CONTRACTOR shall provide a qualified (as defined in section seven (7) of this agreement and as determined by the LEA) substitute, unless the LEA provides appropriate coverage in lieu of CONTRACTOR's service providers. It is understood that the parent of a student shall not be deemed to be a qualified substitute for his/her student. The LEA will not pay for services unless a qualified substitute is provided and/or CONTRACTOR provides documentation evidencing the provision of "make-up" services by a qualified service provider within thirty (30) calendar days from the date on which the services should have been provided. CONTRACTOR shall not "bank" or "carry over" make up service hours under any circumstances, unless otherwise agreed to in writing by CONTRACTOR and an authorized LEA representative.

49. STAFF PROFESSIONAL BEHAVIOR WHEN PROVIDING SERVICES AT SCHOOL OR SCHOOL RELATED EVENTS OR AT SCHOOL FACILITY AND/OR IN THE HOME

It is understood that all employees, subcontractors, and volunteers of any certified nonpublic school or nonpublic agency shall adhere to the customary professional and ethical standards when providing services. All practices shall only be within the scope of professional responsibility as defined in the professional code of conduct for each profession as well as any LEA professional standards as specified in Board policies and/or regulations when made available to the CONTRACTOR. Reports regarding student progress shall be consistent with the provision of this Master Contract.

For services provided on a public school campus, sign in/out procedures shall be followed by nonpublic agency providers working in a public school classroom along with all other procedures for being on campus consistent with school and LEA policy. It is understood that the public school credentialed classroom teacher is responsible for the instructional program, and all nonpublic agency service providers shall work collaboratively with the classroom teacher, who shall remain in charge of the instructional program.

For services provided in a pupil's home as specified in the IEP, CONTRACTOR must assure that the parent or an LEA-approved responsible adult is present during the provision of services. All problems and/or concerns reported to parents, both verbal and written shall also be provided to the LEA.

HEALTH AND SAFETY MANDATES

50. HEALTH AND SAFETY

CONTRACTOR shall comply with all applicable federal, state, and local laws, regulations, ordinances, policies, and procedures regarding student and employee health and safety. CONTRACTOR shall comply with the requirements of California Education Code sections 35021 et seq., 49406, and Health and Safety Code section 121525 regarding the examination of CONTRACTOR's employees and volunteers for tuberculosis. CONTRACTOR shall provide to the LEA documentation for each individual volunteering, employed, contracted, and/or otherwise hired by CONTRACTOR of such compliance before an individual comes in contact with an LEA student.

CONTRACTOR shall comply with OSHA Blood Borne Pathogens Standards, 29 Code of Federal Regulations (CFR) section 1910.1030, when providing medical treatment or assistance to a student. CONTRACTOR further agrees to provide annual training regarding universal health care precautions and to post required notices in areas designated in the California Health and Safety Code.

51. FACILITIES AND FACILITIES MODIFICATIONS

CONTRACTOR shall provide special education and/or related services to LEA students in facilities that comply with all applicable federal, state, and local laws, regulations, and ordinances related, but not limited to: disability access; fire, health, sanitation, and building standards and safety; fire warning systems; zoning permits; and occupancy capacity. When CONTRACTOR is a nonpublic school, CONTRACTOR shall conduct fire drills as required by Title 5 California Code of Regulations section 550. CONTRACTOR shall be responsible for any structural changes and/or

modifications to CONTRACTOR's facilities is required to comply with applicable federal, state, and local laws, regulations, and ordinances.

52. ADMINISTRATION OF MEDICATION

Unless otherwise set forth in the student's ISA, CONTRACTOR shall comply with the requirements of California Education Code section 49423 and Title 5 of the California Code of Regulations section 600 et seq. when CONTRACTOR serves a LEA student that is required to take prescription and/or over-the-counter medication during the school day. CONTRACTOR may designate personnel to assist the LEA student with the administration of such medication after the LEA student's parent(s) provides to CONTRACTOR: (a) a written statement from a physician detailing the type, administration method, amount, and time schedules by which such medication shall be taken; and (b) a written statement from the LEA student's parent(s) granting CONTRACTOR permission to administer medication(s) as specified in the physician's statement. CONTRACTOR shall maintain, and provide to the LEA upon request, copies of such written statements. CONTRACTOR shall maintain a written log for each LEA student to whom medication is administered. Such written log shall specify the LEA student's name; the type of medication; the date, time, and amount of each administration; and the name of CONTRACTOR's employee who administered the medication. CONTRACTOR maintains full responsibility for assuring appropriate staff training in the administration of such medication consistent with student's physician's written orders. Any change in medication type, administration method, amount or schedule must be authorized by both a licensed physician and parent.

53. INCIDENT/ACCIDENT REPORTING

CONTRACTOR shall submit within 24 hours by fax and mail, or electronically, any accident or incident report to the LEA, including any behavior incident or behavior emergency intervention. LEA may specify procedures to be implemented by CONTRACTOR or forms to be submitted by CONTRACTOR related to accident or incident reporting.

54. CHILD ABUSE REPORTING

CONTRACTOR hereby agrees to annually train all staff members, including volunteers, so that they are familiar with and agree to adhere to its own child and dependent adult abuse reporting obligations and procedures as specified in California Penal Code section 11164 et seq. To protect the privacy rights of all parties involved (i.e. reporter, child and alleged abuser), reports will remain confidential as required by law and professional ethical mandates. A written statement acknowledging the legal requirements of such reporting and verification of staff adherence to such reporting shall be submitted to the LEA.

55. SEXUAL HARASSMENT/DISCRIMINATION

CONTRACTOR shall have a Sexual and Gender Identity Harassment Policy that clearly describes the kinds of conduct that constitutes sexual harassment and that is prohibited by the CONTRACTOR's policy, as well as federal and state law. The policy should include procedures to make complaints without fear of retaliation, and for prompt and objective investigations of all sexual harassment complaints. CONTRACTOR further agrees to provide annual training to all employees regarding the laws concerning sexual harassment and related procedures.

56. REPORTING OF MISSING CHILDREN

CONTRACTOR assures the LEA that all staff members, including volunteers, are familiar with and agree to adhere to requirements for reporting missing children as specified in California Education Code section 49370. A written statement acknowledging the legal requirements of such reporting and verification of staff adherence to such reporting shall be properly submitted to the LEA. The written statement shall be submitted as specified by the LEA.

FINANCIAL

57. ENROLLMENT, CONTRACTING, SERVICE TRACKING, ATTENDANCE REPORTING, AND BILLING PROCEDURES

CONTRACTOR shall assure that the nonpublic school or nonpublic agency has the necessary financial resources to provide an appropriate education for the children enrolled and will distribute those resources in such a manner to implement the IEP and ISA for each and every child.

CONTRACTOR shall provide all records requested by LEA concerning enrollment, contracting, attendance reporting, service tracking and billing, including requirements of electronic billing. CONTRACTOR shall be paid for the provision of special education and/or related services specified in the LEA student's IEP and ISA which are provided on billable days of attendance. All payments by LEA shall be made in accordance with the terms and conditions of this Master Contract and all applicable federal and state laws.

CONTRACTOR shall maintain separate registers for the basic education program and each related service. Original attendance forms (for example, roll books for the basic education program, service tracking documents and notes for instructional assistants, behavioral intervention aides, bus aides, and each related service) shall be completed by the actual service provider whose signature shall appear on such forms and shall be available for review, inspection, or audit by the LEA during the effective period of this Master Contract and for a period of five (5) years thereafter. CONTRACTOR shall verify the accuracy of minutes of reported attendance that is the basis of services being billed for payment.

CONTRACTOR shall submit invoices and related documents to the LEA for payment, for each calendar month when education or related services were provided. Invoices and related documents may be submitted electronically if requested by LEA and CONTRACTOR has the systems in place to generate the requested documents. The LEA may designate forms for use by CONTRACTOR when submitting invoices. At a minimum, each invoice must contain the following information: month of service; specific days and times of services coordinated by the LEA approved calendar unless otherwise specified in the ISA or agreed to by the LEA; name of staff who provided the service; approved cost of each invoice; total for each service and total for the monthly invoice; date invoice was mailed; signature of the nonpublic school/nonpublic agency administrator authorizing that the information is accurate and consistent with the ISA, CDE certificates and staff notification; verification that attendance report is attached as appropriate; indication of any made-up session consistent with this Master Contract; verification that progress reports have been provided consistent with the ISA (monthly or quarterly unless specified otherwise on the ISA); and the name or initials of each student for when the service was provided.

In the event services were not provided, rationale for why the services were not provided shall be included.

Such an invoice is subject to all conditions of this Master Contract. At the discretion of the LEA, an electronic invoice may be required provided such notice has been made in writing and training provided to the CONTRACTOR at no additional charge for such training.

Invoices shall be submitted no later than thirty (30) days after the end of the attendance accounting period in which the services were rendered. LEA shall make payment to CONTRACTOR based on the number of billable days of attendance and hours of service at rates specified in this Master Contract within forty-five (45) days of LEA's receipt of properly submitted hard copy of invoices prepared and submitted as specified in California Education Code Section 56366.5 and the LEA. CONTRACTOR shall correct deficiencies and submit rebilling invoices no later than thirty (30) calendar days after the invoice is returned by LEA. LEA shall pay properly submitted re-billing invoices no later than forty-five (45) days after the date a completely corrected re-billing invoice is received by the LEA.

In no case shall initial payment claim submission for any Master Contract fiscal year (July through June) extend beyond December 31st after the close of the fiscal year. In no case shall any rebilling for the Master Contract fiscal year (July through June) extend beyond six months after the close of the fiscal year unless approved by the LEA to resolve billing issues including rebilling issues directly related to a delay in obtaining information from the Commission on Teacher Credentialing regarding teacher qualification, but no later than 12 months from the close of the fiscal year. If the billing or rebilling error is the responsibility of the LEA, then no limit is set provided that the LEA and CONTRACTOR have communicated such concerns in writing during the 12-month period following the close of the fiscal year. LEA will not pay mileage for NPA employee.

58. RIGHT TO WITHHOLD PAYMENT

The LEA may withhold payment to CONTRACTOR when: (a) CONTRACTOR has failed to perform, in whole or in part, under the terms of this Master Contract; (b) CONTRACTOR has billed for services rendered on days other than billable days of attendance or for days when student was not in attendance and/or did not receive services; (c) CONTRACTOR was overpaid by LEA as determined by inspection, review, and/or audit of its program, work, and/or records; (d) CONTRACTOR has failed to provide supporting documentation with an invoice, as required by EC 56366(c)(2); (e) education and/or related services are provided to LEA students by personnel who are not appropriately credentialed, licensed, or otherwise qualified; (f) LEA has not received, prior to school closure or contract termination, all documents concerning one or more LEA students enrolled in CONTRACTOR's educational program; (g) CONTRACTOR fails to confirm a student's change of residence to another district or confirms the change or residence to another district, but fails to notify LEA with five (5) days of such confirmation; or (h) CONTRACTOR receives payment from Medi-Cal or from any other agency or funding source for a service provided to a LEA student. It is understood that no payments shall be made for any invoices that are not received by six months following the close of the prior fiscal year, for services provided in that year.

The amount which may be withheld by the LEA with respect to each of the subparagraphs of the preceding paragraph are as follows: (a): the value of the service CONTRACTOR failed to perform; (b) the amount of overpayment; (c) the portion of the invoice for which satisfactory documentation has not been provided by CONTRACTOR; (d) the amount invoiced for services provided by the individual not appropriately credentialed, licensed, or otherwise qualified; (e) the proportionate amount of the invoice related to the applicable pupil for the time period from the date of the violation occurred and until the violation is cured; or (f) the amount paid to CONTRACTOR by Medi-Cal or another agency or funding source for the service provided to the LEA student.

If the LEA determines that cause exists to withhold payment to CONTRACTOR, LEA shall, within ten (10) business days of this determination, provide to CONTRACTOR written notice that LEA is withholding payment. Such notice shall specify the basis or bases for the LEA's withholding

payment and the amount to be withheld. Within thirty (30) days from the date of receipt of such notice, CONTRACTOR shall take all necessary and appropriate action to correct the deficiencies that form the basis for the LEA's withholding payment, submit a written request for extension of time to correct the deficiencies or submit to LEA written documentation demonstrating that the basis or bases cited by the LEA for withholding payment is unfounded. Upon receipt of CONTRACTOR's written request showing good cause, the LEA shall extend CONTRACTOR's time to correct deficiencies (usually an additional thirty (30) days), otherwise payment will be denied.

If after subsequent request for payment has been denied and CONTRACTOR believes that payment should not be withheld, CONTRACTOR shall send written notice to the LEA specifying the reason it believes payment should not be withheld. The LEA shall respond to CONTRACTOR's notice within thirty (30) business days by indicating that a warrant for the amount of payment will be made or stating the reason the LEA believes payment should not be made. If the LEA fails to respond within thirty (30) business days or a dispute regarding the withholding of payment continues after the LEA's response to CONTRACTOR's notice, CONTRACTOR may invoke the following escalation policy.

After forty-five (45) business days: The CONTRACTOR may notify the Authorized LEA's Representative of the dispute in writing. The LEA Authorized Representative shall respond to the CONTRACTOR in writing within fifteen (15) business days.

After sixty (60) business days: Disagreements between the LEA and CONTRACTOR concerning the Master Contract may be appealed to the Orange County Superintendent of Schools or the State Superintendent of Public Instruction pursuant to the provisions of California Education Code Section 56366(c)(2). CONTRACTOR disagrees with the language of California Education Code Section 56366(c)(2), and nothing herein shall constitute a waiver by CONTRACTOR of its right to challenge that provision.

59. PAYMENT FROM OUTSIDE AGENCIES

CONTRACTOR shall notify the LEA when Medi-Cal or any other agency is billed for the costs associated with the provision of special education and/or related services to LEA students. Upon request, CONTRACTOR shall provide to the LEA any and all documentation regarding reports, billing, and/or payment by Medi-Cal or any other agency for the costs associated with the provision of special education and/or related services to LEA students. CONTRACTOR shall provide prior written notice of the rights and protections required by Title 34 of the Code of Federal Regulations section 300.154(d) whenever it seeks to use the LEA students' public benefits to pay for special education and related services. Such notice shall be provided before seeking payment from Medi-Cal for the first time and annually thereafter.

60. PAYMENT FOR ABSENCES

NONPUBLIC SCHOOL STAFF ABSENCE

Whenever a classroom teacher employed by CONTRACTOR is absent, CONTRACTOR shall provide an appropriately credentialed substitute teacher in the absent teacher's classroom in accordance with California Education Code section 56061. CONTRACTOR shall provide to the LEA documentation of substitute coverage. Substitute teachers shall remain with their assigned class during all instructional time. The LEA will not pay for instruction and/or services unless said instruction or service is provided by an appropriately credentialed substitute teacher.

Whenever a related service provider is absent, CONTRACTOR shall provide a qualified (as defined in section seven (7) of this Agreement and as determined by LEA) substitute. The LEA will not pay

for services unless a qualified substitute is provided and/or CONTRACTOR provides documentation evidencing the provision of “make-up” services by a qualified service provider within thirty (30) calendar days from the date on which the services should have been provided unless otherwise agreed in LEA student’s IEP or ISA.

NONPUBLIC SCHOOL STUDENT ABSENCE

If CONTRACTOR is a nonpublic school, no later than the tenth (10th) cumulative day of the LEA student’s unexcused absence, CONTRACTOR shall notify the LEA of such absence.

Criteria for a billable day for payment purposes is one day of attendance as defined in California Education Code, sections 46010, 46010.3 and 46307. The LEA shall not pay for services provided on days that a student’s attendance does not qualify for Average Daily Attendance (ADA) reimbursement under state law. *Per Diem* rates for students whose IEPs authorize less than a full instructional day may be adjusted on a pro rata basis in accordance with the actual proportion of the school day the student was served. The LEA shall not be responsible for payment of DIS or related services for days on which a student’s attendance does not qualify for Average Daily Attendance (ADA) reimbursement under state law, nor shall student be eligible for make-up services.

NONPUBLIC AGENCY STAFF ABSENCE

When CONTRACTOR is a nonpublic agency and CONTRACTOR’s service provider is absent, CONTRACTOR shall provide a qualified (as defined in section seven (7) of this Agreement and as determined by the LEA) substitute, unless the LEA provides appropriate coverage in lieu of CONTRACTOR’s service providers. The LEA shall not pay for services unless a qualified substitute is provided and/or CONTRACTOR provides documentation evidencing the provision of “make-up” services by a qualified service provider within thirty (30) calendar days from the date on which the services should have been provided. CONTRACTOR shall not “bank” or “carry over” make up service hours under any circumstances, unless otherwise agreed to in writing by CONTRACTOR and the LEA. In the event services were not provided, reasons for why the services were not provided shall be included. In the event of a service provider absence for Behavior Intervention Implementation services provided at the school site, services shall not be deemed eligible for make up.

NONPUBLIC AGENCY STUDENT ABSENCE

If CONTRACTOR is a nonpublic agency, it shall notify LEA of the absence of a LEA student no later than the fifth consecutive service day of the student’s absence. The LEA shall not be responsible for the payment of services when a student is absent.

61. INSPECTION AND AUDIT

The CONTRACTOR shall maintain and the LEA shall have the right to examine and audit all of the books, records, documents, accounting procedures and practices and other evidence that reflect all costs claimed to have been incurred or fees claimed to have been earned under this Agreement.

CONTRACTOR shall provide the LEA access to all records including, but not limited to: student records as defined by California Education Code section 49061(b); registers and rollbooks of teachers; daily service logs and notes or other documents used to record the provision of related services; Medi-Cal/daily service logs and notes used to record provision of services provided by instructional assistants, behavior intervention aides, bus aides, and supervisors; absence verification records (parent/doctor notes, telephone logs, and related documents); bus rosters; staff lists specifying credentials held, business licenses held, documents evidencing other qualifications, social security numbers (last four digits unless otherwise required), dates of hire, and dates of termination; staff time sheets; non-paid staff and volunteer sign-in sheets; transportation and other related service

subcontracts; school calendars; bell/class schedules when applicable; liability and worker's compensation insurance policies; state nonpublic school and/or agency certifications; by-laws; lists of current board of directors/trustees, if incorporated; other documents evidencing financial expenditures; federal/state payroll quarterly reports Form 941/DE3DP; and bank statements and canceled checks or facsimile thereof. Such access shall include unannounced inspections by the LEA. CONTRACTOR shall make available to the LEA all budgetary information including operating budgets submitted by CONTRACTOR to the LEA for the relevant contract period being audited.

CONTRACTOR shall make all records available at the office of the LEA or CONTRACTOR's offices at all reasonable times and without charge. All records shall be provided to the LEA within five (5) working days of a written request from the LEA. CONTRACTOR shall, at no cost to the LEA, provide reasonable assistance for such examination or audit. The LEA's rights under this section shall also include access to CONTRACTOR's offices for purposes of interviewing CONTRACTOR's employees. If any document or evidence is stored in an electronic form, a hard copy shall be made available to the LEA, unless the LEA agrees to the use of the electronic format.

CONTRACTOR shall obtain from its subcontractors and suppliers written agreements to the requirements of this section and shall provide a copy of such agreements to the LEA upon request by the LEA.

If an inspection, review, or audit by the LEA, a state agency, a federal agency, and/or an independent agency/firm determines that CONTRACTOR owes the LEA monies as a result of CONTRACTOR's over billing or failure to perform, in whole or in part, any of its obligations under this Master Contract, the LEA shall provide to CONTRACTOR written notice demanding payment from CONTRACTOR and specifying the basis or bases for such demand. Unless CONTRACTOR and the LEA otherwise agree in writing, CONTRACTOR shall pay to the LEA the full amount owed as result of CONTRACTOR's over billing and/or failure to perform, in whole or in part, any of its obligations under this Master Contract, as determined by an inspection, review, or audit by the LEA, a state agency, a federal agency, and/or an independent agency/firm. CONTRACTOR shall make such payment to the LEA within thirty (30) days of receipt of the LEA's written notice demanding payment.

62. RATE SCHEDULE

The attached rate schedule (Exhibit A) limits the number of LEA students that may be enrolled and the maximum dollar amount of the contract. It may also limit the maximum number of students that can be provided specific services. Per Diem rates for LEA students whose IEPs authorize less than a full instructional day may be adjusted proportionally. In such cases only, the adjustments in basic education rate shall be based on the percentage of a 310-minute instructional day.

Special education and/or related services offered by CONTRACTOR shall be provided by qualified personnel as per State and Federal law, and the codes and charges for such educational and/or related services during the term of this contract, shall be as stated in Exhibit A.

63. DEBARMENT CERTIFICATION

By signing this agreement, CONTRACTOR certifies that:

- (a) CONTRACTOR and any of its shareholders, partners, or executive officers are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency, and

- (b) Has/have not, within a three-year period preceding this contract, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses.

The parties hereto have executed this Master Contract by and through their duly authorized agents or representatives. This Master Contract is effective on the 1st day of July 2017 and terminates at 5:00 P.M. on June 30, 2018, unless sooner terminated as provide herein.

CONTRACTOR,

Olive Crest Academy

Nonpublic School/Agency

LEA,

Fountain Valley School District

By:

Signature

Date

Name and Title of Authorized
Representative

By:

Signature

Date

Dr. Mark Johnson, Superintendent

Name and Title of Authorized
Representative

Notices to CONTRACTOR shall be addressed to:

Notices to LEA shall be addressed to:

Name	Rachel Rios, Fiscal Manager		
Olive Crest Academy	Name and Title		
Nonpublic School/Agency/Related Service Provider	West Orange County Consortium for Special Education (WOCCSE)		
	LEA		
Address	5832 Bolsa Avenue		
City	Huntington Beach,	CA	92649
State	City	State	Zip
Zip	(714) 903-7000, ext. 504615	(714) 872-8109	
Phone	Phone	Fax	
Fax	rrios@hbuhdsd.edu		
Email	Email		

EXHIBIT A: RATES

CONTRACTOR Olive Crest Academy CONTRACTOR NUMBER W18111 2017-2018
 (NONPUBLIC SCHOOL OR AGENCY) (CONTRACT YEAR)

Per CDE Certification, total enrollment may not exceed _____ If blank, the number shall be as determine by CDE Certification.

Rate Schedule. This rate schedule limits the number of LEA students that may be enrolled and the maximum dollar amount of the contract. It may also limit the maximum number of students that can be provided specific services. Special education and/or related services offered by CONTRACTOR, and the charges for such educational and/or related services during the term of this contract shall be as follows:

Payment under this contract may not exceed _____

Total LEA enrollment may not exceed _____

A. Basic Education Program/Special Education Instruction

Basic Education Program/Dual Enrollment

Rate	Period
\$ 168.82	Per Diem

Per diem rates for LEA students whose IEPs authorize less than a full instructional day may be adjusted proportionally.

B. Related Services

(1)	a. Transportation – Round Trip	44.35 / 54.60 / 64.93	Per Day
	b. Transportation – One Way		
	c. Public Transportation		
	d. Parent*		
(2)	a. Educational Counseling – Individual	Inclusive	30-min Session
	b. Educational Counseling – Group of _____	Inclusive	30-min Session
	c. Counseling – Parent	\$ 106.55	Per Hour
(3)	a. Adapted Physical Education – Individual		
	b. Adapted Physical Education – Group of _____		
	c. Adapted Physical Education – Group of _____		
(4)	a. Language and Speech Therapy – Individual	\$ 55.71	30-min Session
	b. Language and Speech Therapy – Group of 2	\$ 55.71	30-min Session
	c. Language and Speech Therapy – Group of 3		
	d. Language and Speech – Assessment	\$ 127.58	Per Hour
	e. Language and Speech – Consultation Rate		
(5)	a. Additional Classroom Aide – Individual (must be authorized on IEP)		
	b. Additional Instructional Assistant – Group of 2		
	c. Additional Instructional Assistant – Group of 3		
(6)	Intensive Special Education Instruction**		
(7)	a. Occupational Therapy – Individual		
	b. Occupational Therapy – Group of 2		
	c. Occupational Therapy – Group of 3		
	d. Occupational Therapy – Group of 4 - 7		
	e. Occupational Therapy – Consultation Rate		
(8)	Physical Therapy		
(9)	a. Behavior Intervention and Development (BID)	\$ 112.00	Per Hour
	b. Behavior Intervention and Implementation (BII)	\$ 60.00	Per Hour
	c. Behavior Intervention – Supervision		
	Provided by: _____		
	d. Behavior Support Services (outside of school hours)	\$ 106.55	Per Hour
(10)	a. Behavioral Assistant – 1:1 Classroom	\$ 119.09	Per Day
	b. Behavioral Assistant – During Transit	\$ 62.14	Per Day

*Parent transportation reimbursement rates are to be determined by the LEA.

**By credentialed Special Education Teacher.

2017/2018

HBUHSD Contract # W18112

Please refer to this number on correspondence, invoices, etc.

INDIVIDUAL SERVICE AGREEMENT FOR NONPUBLIC, NONSECTARIAN SCHOOL/AGENCY SERVICES
(Education Code 56365 et seq.)

This agreement is effective on July 1, 2017 or the date student begins attending a nonpublic school or begins receiving services from a nonpublic agency, if after the date identified, and terminates at 5:00 P.M. on June 30, 2018, unless sooner terminated as provided in the Master Contract and by applicable law.

Local Education Agency (LEA)	FOUNTAIN VALLEY SCHOOL DISTRICT			Nonpublic School/Agency	OLIVE CREST ACADEMY		
Address	10055 SLATER AVENUE			Address	2190 N. CANAL STREET		
City, State Zip	FOUNTAIN VALLEY, CA 92708			City, State, Zip	ORANGE, CA 92865		
LEA Case Manager				Phone	714-998-6571	Fax	714-998-6573
				E-Mail			
Student Last Name		Student First Name		Program Contact Name			
D.O.B.		I.D. #		Phone		Fax	
				E-Mail			
Grade Level		Sex (M or F)		Education Schedule – Regular School Year			
Parent/Guardian Last Name		Parent/Guardian First Name		Number of Days	180	Number of Weeks	38
Address				Education Schedule – Extended School Year			
City, State Zip				Number of Days	20	Number of Weeks	5
				Contract Begins	07/01/17	Ends	06/30/18
Home Phone		Business/Mobile Phone		Master Contract Approved by the Governing Board on:			07/13/17

DESIGNATED INSTRUCTION AND SERVICES/RELATED SERVICES:

SERVICES	PROVIDER				Cost and Duration of Session	Number of Sessions per dy/wk/mo/yr	Maximum Number of Sessions		Estimated Maximum Total Cost for Contracted Period
	LEA	NPS	NPA	OTHER (Specify)			Reg School Year	ESY	
A. BASIC EDUCATION		X			\$ 168.82	PER DIEM	180	20	\$ 33,764.00
B. RELATED SERVICES									
1. Transportation									
a. Paid to NPS/A		X			\$ 54.60/day	1 RT/Daily	180	20	\$ 10,920.00
b. Reimburse Parent									
2. Counseling									
a. Group		X			INCLUSIVE	1x30min/wk	38	5	\$ -
b. Individual		X			INCLUSIVE	1x30min/wk	38	5	\$ -
c. Family									
3. Adapted P.E.									
4. Speech/Language									
a. Therapy		X			\$55.71/30min	1x30min/wk	38	5	\$ 2,395.53
b. Consultation									
5. Occupational Therapy									
a. Therapy									
b. Consultation									

2017/2018

HBUHSD Contract # W18112

Please refer to this number on correspondence, invoices, etc.

B. RELATED SERVICES (cont'd)	PROVIDER				Cost and Duration of Session	Number of Sessions per dy/wk/mo/yr	Maximum Number of Sessions		Estimated Maximum Total Cost for Contracted Period
	LEA	NPS	NPA	OTHER (Specify)			Reg School Year	ESY	
6. Physical Therapy									
a. Therapy									
b. Consultation									
7. ABA - Behavior Intervention									
a. Consult									
b. Direct									
c. Supervision									
d. Assessment									
8. One-to-One Aide									
9. Other									
10. Residential Services									
a. Board and Care									
b. Mental Health Services									
c. Transportation Public Carrier									
						A + B TOTAL COST			\$ 47,079.53

ESTIMATED MAXIMUM RELATED SERVICES COST (B) \$

\$ 13,315.53

TOTAL ESTIMATED MAXIMUM BASIC EDUCATION/RELATED SERVICES COSTS (A+B) \$

\$ 47,079.53

Other Provisions/Attachments:

Progress Reporting Requirements: _____ Quarterly _____ Monthly X Trimester _____ Other (Specify) _____

APPROVED BY THE GOVERNING BOARD ON: 07/13/17

The parties hereto have executed this Individual Services Agreement by and through their duly authorized agents or representatives as set forth below.

-CONTRACTOR-

-LEA-

OLIVE CREST ACADEMY
(Name of Nonpublic School/Agency)

FOUNTAIN VALLEY SCHOOL DISTRICT
(Name of School District)

(Contracting Officer's Signature) (Date)

(Signature) (Date)

(Name and Title)

DR. MARK JOHNSON, SUPERINTENDENT
(Name of Superintendent or Authorized Designee)

2017/2018

HBUHSD Contract # W18113

Please refer to this number on correspondence, invoices, etc.

INDIVIDUAL SERVICE AGREEMENT FOR NONPUBLIC, NONSECTARIAN SCHOOL/AGENCY SERVICES
(Education Code 56365 et seq.)

This agreement is effective on July 1, 2017 or the date student begins attending a nonpublic school or begins receiving services from a nonpublic agency, if after the date identified, and terminates at 5:00 P.M. on June 30, 2018, unless sooner terminated as provided in the Master Contract and by applicable law.

Local Education Agency (LEA)	FOUNTAIN VALLEY SCHOOL DISTRICT			Nonpublic School/Agency	OLIVE CREST ACADEMY		
Address	10055 SLATER AVENUE			Address	2190 N. CANAL STREET		
City, State Zip	FOUNTAIN VALLEY, CA 92708			City, State, Zip	ORANGE, CA 92865		
LEA Case Manager				Phone	714-998-6571	Fax	714-998-6573
				E-Mail			
Student Last Name		Student First Name		Program Contact Name			
D.O.B.		I.D. #		Phone		Fax	
				E-Mail			
Grade Level		Sex (M or F)		Education Schedule – Regular School Year			
Parent/Guardian Last Name		Parent/Guardian First Name		Number of Days	180	Number of Weeks	38
Address				Education Schedule – Extended School Year			
City, State Zip				Number of Days	20	Number of Weeks	5
				Contract Begins	07/01/17	Ends	06/30/18
Home Phone		Business/Mobile Phone		Master Contract Approved by the Governing Board on:			07/13/17

DESIGNATED INSTRUCTION AND SERVICES/RELATED SERVICES:

SERVICES	PROVIDER				Cost and Duration of Session	Number of Sessions per dy/wk/mo/yr	Maximum Number of Sessions		Estimated Maximum Total Cost for Contracted Period
	LEA	NPS	NPA	OTHER (Specify)			Reg School Year	ESY	
A. BASIC EDUCATION		X			\$ 168.82	PER DIEM	180	20	\$ 33,764.00
B. RELATED SERVICES									
1. Transportation									
a. Paid to NPS/A		X			\$ 54.60/day	1 RT/Daily	180	20	\$ 10,920.00
b. Reimburse Parent									
2. Counseling									
a. Group		X			INCLUSIVE	1x30min/wk	38	5	\$ -
b. Individual		X			INCLUSIVE	1x30min/wk	38	5	\$ -
c. Family									
3. Adapted P.E.									
4. Speech/Language									
a. Therapy		X			\$55.71/30min	2x30min/wk	38		\$ 4,233.96
b. Therapy - ESY Only		X			\$55.71/30min	1x30min/wk		5	\$ 278.55
5. Occupational Therapy									
a. Therapy									
b. Consultation									

2017/2018

HBUHSD Contract # W18113

Please refer to this number on correspondence, invoices, etc.

B. RELATED SERVICES (cont'd)	PROVIDER				Cost and Duration of Session	Number of Sessions per dy/wk/mo/yr	Maximum Number of Sessions		Estimated Maximum Total Cost for Contracted Period
	LEA	NPS	NPA	OTHER (Specify)			Reg School Year	ESY	
6. Physical Therapy									
a. Therapy									
b. Consultation									
7. ABA - Behavior Intervention									
a. Consult									
b. Direct									
c. Supervision									
d. Assessment									
8. One-to-One Aide									
9. Other									
10. Residential Services									
a. Board and Care									
b. Mental Health Services									
c. Transportation Public Carrier									
						A + B TOTAL COST			\$ 49,196.51

ESTIMATED MAXIMUM RELATED SERVICES COST (B) \$

\$ 15,432.51

TOTAL ESTIMATED MAXIMUM BASIC EDUCATION/RELATED SERVICES COSTS (A+B) \$

\$ 49,196.51

Other Provisions/Attachments:

Progress Reporting Requirements: _____ Quarterly _____ Monthly X Trimester _____ Other (Specify) _____

APPROVED BY THE GOVERNING BOARD ON: 07/13/17

The parties hereto have executed this Individual Services Agreement by and through their duly authorized agents or representatives as set forth below.

-CONTRACTOR-

-LEA-

OLIVE CREST ACADEMY
(Name of Nonpublic School/Agency)

FOUNTAIN VALLEY SCHOOL DISTRICT
(Name of School District)

(Contracting Officer's Signature) (Date)

(Signature) (Date)

(Name and Title)

DR. MARK JOHNSON, SUPERINTENDENT
(Name of Superintendent or Authorized Designee)

2017/2018

HBUHSD Contract # W18114

Please refer to this number on correspondence, invoices, etc.

INDIVIDUAL SERVICE AGREEMENT FOR NONPUBLIC, NONSECTARIAN SCHOOL/AGENCY SERVICES
(Education Code 56365 et seq.)

This agreement is effective on July 1, 2017 or the date student begins attending a nonpublic school or begins receiving services from a nonpublic agency, if after the date identified, and terminates at 5:00 P.M. on June 30, 2018, unless sooner terminated as provided in the Master Contract and by applicable law.

Local Education Agency (LEA)	FOUNTAIN VALLEY SCHOOL DISTRICT			Nonpublic School/Agency	OLIVE CREST ACADEMY		
Address	10055 SLATER AVENUE			Address	2190 N. CANAL STREET		
City, State Zip	FOUNTAIN VALLEY, CA 92708			City, State, Zip	ORANGE, CA 92865		
LEA Case Manager				Phone	714-998-6571	Fax	714-998-6573
				E-Mail			
Student Last Name		Student First Name		Program Contact Name			
D.O.B.		I.D. #		Phone		Fax	
				E-Mail			
Grade Level		Sex (M or F)		Education Schedule – Regular School Year			
Parent/Guardian Last Name		Parent/Guardian First Name		Number of Days	180	Number of Weeks	38
Address				Education Schedule – Extended School Year			
City, State Zip				Number of Days	20	Number of Weeks	5
				Contract Begins	07/01/17	Ends	06/30/18
Home Phone		Business/Mobile Phone		Master Contract Approved by the Governing Board on:			07/13/17

DESIGNATED INSTRUCTION AND SERVICES/RELATED SERVICES:

SERVICES	PROVIDER				Cost and Duration of Session	Number of Sessions per dy/wk/mo/yr	Maximum Number of Sessions		Estimated Maximum Total Cost for Contracted Period
	LEA	NPS	NPA	OTHER (Specify)			Reg School Year	ESY	
A. BASIC EDUCATION		X			\$ 168.82	PER DIEM	180	20	\$ 33,764.00
B. RELATED SERVICES									
1. Transportation									
a. Paid to NPS/A		X			\$ 54.60/day	1 RT/Daily	180	20	\$ 10,920.00
b. Reimburse Parent									
2. Counseling									
a. Group		X			INCLUSIVE	1x30min/wk	38	5	\$ -
b. Individual		X			INCLUSIVE	1x30min/wk	38	5	\$ -
c. Family									
3. Adapted P.E.									
4. Speech/Language									
a. Therapy		X			\$55.71/30min	2x30min/wk	38		\$ 4,233.96
b. Therapy - ESY Only		X			\$55.71/30min	1x30min/wk		5	\$ 278.55
5. Occupational Therapy									
a. Therapy									
b. Consultation									

2017/2018

HBUHSD Contract # W18114

Please refer to this number on correspondence, invoices, etc.

B. RELATED SERVICES (cont'd)	PROVIDER				Cost and Duration of Session	Number of Sessions per dy/wk/mo/yr	Maximum Number of Sessions		Estimated Maximum Total Cost for Contracted Period
	LEA	NPS	NPA	OTHER (Specify)			Reg School Year	ESY	
6. Physical Therapy									
a. Therapy									
b. Consultation									
7. ABA - Behavior Intervention									
a. Consult									
b. Direct									
c. Supervision									
d. Assessment									
8. One-to-One Aide (Behavioral Assistant - Classroom)		X			\$ 119.09	PER DIEM	180	20	\$ 23,818.00
9. Other									
10. Residential Services									
a. Board and Care									
b. Mental Health Services									
c. Transportation Public Carrier									
						A + B TOTAL COST			\$ 73,014.51

ESTIMATED MAXIMUM RELATED SERVICES COST (B) \$ 39,250.51TOTAL ESTIMATED MAXIMUM BASIC EDUCATION/RELATED SERVICES COSTS (A+B) \$ 73,014.51

Other Provisions/Attachments:

Progress Reporting Requirements: Quarterly Monthly X Trimester Other (Specify)

APPROVED BY THE GOVERNING BOARD ON: 07/13/17

The parties hereto have executed this Individual Services Agreement by and through their duly authorized agents or representatives as set forth below.

-CONTRACTOR-

OLIVE CREST ACADEMY
(Name of Nonpublic School/Agency)

(Contracting Officer's Signature) (Date)

(Name and Title)

-LEA-

FOUNTAIN VALLEY SCHOOL DISTRICT
(Name of School District)

(Signature) (Date)

DR. MARK JOHNSON, SUPERINTENDENT
(Name of Superintendent or Authorized Designee)

*NONPUBLIC, NONSECTARIAN
SCHOOL/AGENCY SERVICES*

MASTER CONTRACT

W18115

PORT VIEW PREPARATORY SCHOOL, INC.

FOUNTAIN VALLEY SCHOOL DISTRICT

2017-2018

MASTER CONTRACT

GENERAL AGREEMENT FOR NONSECTARIAN,
NONPUBLIC SCHOOL AND AGENCY SERVICES

District FOUNTAIN VALLEY SCHOOL DISTRICT

Contract Year 2017-2018

 X Nonpublic School
 Nonpublic Agency

Type of Contract:

 X Master Contract for fiscal year with Individual Service Agreements (ISA) to be approved throughout the term of this contract.

 Individual Master Contract for a specific student incorporating the Individual Service Agreement (ISA) into the terms of this Individual Master Contract specific to a single student.

 Interim Contract: an extension of the previous fiscal years approved contracts and rates. The sole purpose of this Interim Contract is to provide for ongoing funding at the prior year's rates for ninety (90) days at the discretion of the LEA and CONTRACTOR. Expiration Date:

When this section is included as part of any Master Contract, the changes specified above shall amend Section 4 – Term of Master Contract.

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2017-2018

CONTRACT NUMBER:
W18115

LEA: FOUNTAIN VALLEY SCHOOL DISTRICT

NONPUBLIC SCHOOL/AGENCY/RELATED SERVICES PROVIDER:

NONPUBLIC, NONSECTARIAN SCHOOL/AGENCY SERVICES
MASTER CONTRACT

AUTHORIZATION FOR MASTER CONTRACT AND GENERAL PROVISIONS

1. MASTER CONTRACT

This Master Contract is entered into this 13th day of July, 2017, between the Fountain Valley School District (hereinafter referred to as "District" or local educational agency "LEA") and Port View Preparatory School, Inc., (hereinafter referred to as "CONTRACTOR") for the purpose of providing special education and/or related services to District students with exceptional needs under the authorization of California Education Code sections 56157, 56361 and 56365 et seq. and Title 5 of the California Code of Regulations section 3000 et seq., AB490 (Chapter 862, Statutes of 2003) and AB1858 (Chapter 914, Statutes of 2004). It is understood that this agreement does not commit the District to pay for special education and/or related services provided to any District student, or CONTRACTOR to provide such special education and/or related services, unless and until an authorized LEA representative approves the provision of special education and/or related services by CONTRACTOR.

Upon acceptance of a student, LEA shall submit to CONTRACTOR an Individual Services Agreement (hereinafter referred to as "ISA"). Unless otherwise agreed in writing, the ISA shall acknowledge CONTRACTOR's obligation to provide all services specified in the student's Individualized Education Plan (hereinafter referred to as "IEP"). The ISA shall be executed within ninety (90) days of an LEA student's enrollment. LEA and CONTRACTOR shall enter into an ISA for each LEA student served by CONTRACTOR.

Unless placement is made pursuant to an Office of Administrative Hearings (hereinafter referred to as "OAH") order, a lawfully executed agreement between LEA and parent, authorized by LEA for a transfer student pursuant to California Education Code section 56325, or otherwise authorized by LEA without a signed IEP, LEA is not responsible for the costs associated with nonpublic school placement until the date on which an IEP team meeting is convened, the IEP team determines that a nonpublic school placement is appropriate, and the IEP is signed by the LEA student's parent.

2. CERTIFICATIONS AND LICENSES

CONTRACTOR shall be certified by the California Department of Education (hereinafter referred to as "CDE") as a nonpublic, nonsectarian school/agency. All nonpublic school and nonpublic agency services shall be provided consistent with the area of certification specified by CDE Certification and as defined in California Education Code, section 56366 et seq. and within the professional scope of practice of each provider's license, certification and/or credential. In addition to meeting the certification requirements of the State of California, a CONTRACTOR that operates a program outside of this State shall be certified or licensed by that state to provide, respectively, special education and related services and designated instruction and related services to pupils under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

If CONTRACTOR is a licensed children's institution (hereinafter referred to as "LCI"), CONTRACTOR shall be licensed by the state, or other public agency having delegated authority by contract with the state to license, to provide nonmedical care to children, including, but not limited to, individuals with exceptional needs. The LCI must also comply with all licensing requirements relevant to the protection of the child, and have a special permit, if necessary, to meet the needs of each child so placed. If the CONTRACTOR operates a program outside of California and provides services to LEA students in such out-of-state program, CONTRACTOR must obtain all required licenses from the appropriate licensing agency in both California and in the state where the LCI is located.

A current copy of CONTRACTOR's licenses and nonpublic school/agency certifications, or a validly issued waiver of any such certification, must be provided to LEA on or before the date this Master Contract is executed by CONTRACTOR. CONTRACTOR must immediately (and under no circumstances longer than three (3) calendar days) notify LEA if any such licenses, certifications or waivers are expired, suspended, revoked, rescinded, or subject to a pending administrative or legal complaint or lawsuit, or otherwise nullified during the effective period of this Master Contract. If any such licenses, certifications or waivers are expired, suspended, revoked, rescinded, or otherwise nullified during the effective period of this Master Contract, this Master Contract shall terminate as of the date of such action.

Total student enrollment shall be limited to capacity as stated on CDE certification. Total student enrollment shall be limited to capacity as stated in Section 24 of the Master Contract.

3. COMPLIANCE WITH LAWS, STATUTES, REGULATIONS

During the term of this Master Contract, CONTRACTOR shall comply with all applicable federal, state, and local statutes, laws, ordinances, rules, policies, and regulations including but not limited to the provision of special education and/or related services, facilities for individuals with exceptional needs, pupil enrollment, attendance and transfer, corporal punishment, pupil discipline, and positive behavioral interventions.

CONTRACTOR acknowledges and understands that LEA may report to the CDE any violations of the provisions of this Master Contract, and that this may result in the suspension and/or revocation of CDE nonpublic school/agency certification pursuant to California Education Code section 56366.4(a).

4. TERM OF MASTER CONTRACT

The term of this Master Contract shall be from July 1, 2017 to June 30, 2018 (Title 5 California Code of Regulations section 3062(a)) unless otherwise stated. Neither the CONTRACTOR nor the LEA is required to renew this Master Contract in subsequent contract years. However, the parties acknowledge that any subsequent Master Contract is to be renegotiated prior to June 30, 2017. In the event a Master Contract is not renegotiated by June 30th, an interim contract may be made available as mutually agreed upon for up to 90 days from July 1 of the new fiscal year. (Title 5, California Code of Regulations, Section 3062(d).) No Master Contract will be offered unless and until all of the contracting requirements have been satisfied. The offer of a Master Contract to a CONTRACTOR is at the sole discretion of the LEA. Requests for renegotiation of any rate, including but not limited to, related services for the subsequent contract year, are to be submitted in writing to Orange County Department of Education, Special Education Division, 200 Kalmus Drive, P.O. Box 9050, Costa Mesa, CA 92628-9050 prior to January 31, 2018.

5. INTEGRATION/CONTINUANCE OF CONTRACT FOLLOWING EXPIRATION OR TERMINATION

This Master Contract includes each Individual Services Agreement which is incorporated herein by this reference. This Master Contract supersedes any prior or contemporaneous written or oral understanding or agreement. This Master Contract may be amended only by written amendment executed by both parties.

CONTRACTOR shall provide the LEA with all information as requested in writing to secure a Master Contract or a renewal.

At a minimum, such information shall include copies of teacher credentials and clearance, insurance documentation and CDE certification. The LEA may require additional information as applicable. If the application packet is not completed and returned to the LEA, no Master Contract will be issued. If CONTRACTOR does not return the Master Contract to the LEA duly signed by an authorized representative within ninety (90) calendar days of issuance by LEA, the new contract rates will not take effect until the newly executed Master Contract is received by the LEA and will not be retroactive to the first day of the new Master Contract's effective date. If CONTRACTOR fails to execute the new Master Contract within such ninety day period, all payments shall cease until such time as the new Master Contract is signed. (California Education Code sections 56366(c)(1) and (2).) In the event that this Master Contract expires or terminates, CONTRACTOR and LEA shall continue to be bound to all of the terms and conditions of the most recent executed Master Contract between CONTRACTOR and LEA for so long as CONTRACTOR is servicing authorized LEA students at the direction of the LEA.

6. INDIVIDUAL SERVICES AGREEMENT

This Master Contract shall include an ISA developed for each LEA student for whom CONTRACTOR is to provide special education and/or related services. An ISA shall only be issued for LEA students enrolled with the approval of the LEA pursuant to Education Code section 56366(a)(2)(A). An ISA may be effective for more than one contract year provided that there is a concurrent Master Contract in effect. In the event that this Master Contract expires or terminates, CONTRACTOR shall continue to be bound to all of the terms and conditions of the most recent executed ISAs between CONTRACTOR and LEA for so long as CONTRACTOR is servicing authorized LEA students.

Any and all changes to a LEA student's educational placement/program provided under this Master Contract and/or an ISA shall be made solely on the basis of a revision to the LEA student's IEP. At any time during the term of this Master Contract, a LEA student's parent, CONTRACTOR, or LEA may request a review of a LEA student's IEP subject to all procedural safeguards required by law.

Unless otherwise provided in this Master Contract, the CONTRACTOR shall provide all services specified in the IEP unless the CONTRACTOR and the LEA agree otherwise in the ISA (California Education Code sections 56366(a)(5) and 3062(e)). In the event the CONTRACTOR is unable to provide a specific service at any time during the life of the ISA, the CONTRACTOR shall notify the LEA in writing within five (5) business days of the last date a service was provided.

If a parent or LEA contests the termination of an ISA by initiating a due process proceeding with the OAH, CONTRACTOR shall abide by the "stay-put" requirement of state and federal law unless the parent agrees otherwise. CONTRACTOR shall abide by the "stay-put" requirement of state and federal law when placement in an interim alternative educational setting is made by the LEA or OAH consistent with 20 U.S.C. section 1415(k)(1). CONTRACTOR shall adhere to all the LEA requirements concerning changes in placement.

Disagreements between the LEA and CONTRACTOR concerning the formulation of an ISA or the Master Contract may be appealed to the County Superintendent of Schools of the County where the LEA is located, or the State Superintendent of Public Instruction pursuant to the provisions of California Education Code section 56366(c)(2). Nothing herein shall limit LEA or CONTRACTOR from engaging in alternative dispute resolution. CONTRACTOR disagrees with the language of Education Code section 56366(c)(2), and nothing herein shall constitute a waiver by CONTRACTOR of its rights to challenge that provision.

7. DEFINITIONS

The following definitions shall apply for purposes of this contract:

- a. The term "CONTRACTOR" means a nonpublic, nonsectarian school/agency certified by the California Department of Education and identified in Paragraph 1 above.
- b. The term "authorized LEA representative" means a LEA administrator designated to be responsible for nonpublic school/agencies.
- c. The term "credential" means a valid credential, life diploma, permit, or document in special education or pupil personnel services issued by, or under the jurisdiction of, the State Board of Education if issued prior to 1970 or the California Commission on Teacher Credentialing, which entitles the holder thereof to perform services for which certification qualifications are required as defined in Title 5 of the California Code of Regulations section 3001(g).
- d. The term "qualified" means that a person holds a certificate, permit or other document equivalent to that which staff in a public school are required to hold to provide special education and designated instruction and services, and has met federal and state certification, licensing, registration, or other comparable requirements which apply to the area in which he or she is providing special education or related services, including those requirements set forth in Title 5 of the California Code of Regulations sections 3064 and 3065, or, in the absence of such requirements, the state-education-agency-approved or recognized requirements, and adheres to the standards of professional practice established in federal and state law or regulation, including the standards contained in the California Business and Professions Code. Nothing in this definition shall be construed as restricting the activities of services of a graduate needing direct hours leading to licensure, or of a student teacher or intern leading to a graduate degree at an accredited or approved college or university, as authorized by state laws or regulations.
- e. The term "license" means a valid nonexpired document issued by a licensing agency within the Department of Consumer Affairs or other state licensing office authorized to grant licenses and authorizing the bearer of the document to provide certain professional services, including but not limited to mental health and board and care services at a residential placement, or refer to themselves using a specified professional title. If a license is not available through an appropriate state licensing agency, a certificate of registration with the appropriate professional organization at the national or state level which has standards established for the certificate that are equivalent to a license, shall be deemed to be a license as defined in Title 5 of the California Code of Regulations section 3001(r).
- f. Parent means a biological or adoptive parent unless the biological or adoptive parent does not have legal authority to make educational decisions for the child, a guardian generally authorized to act as the child's parent or authorized to make educational decisions for the child, an individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative with whom the child lives, or an individual who is

legally responsible for the child's welfare, a surrogate parent, a foster parent if the authority of the biological or adoptive parent to make educational decisions on the child's behalf has been specifically limited by court order in accordance with Code of Federal Regulations 300.30(b)(1) or (2). Parent does not include the state or any political subdivision of government or the nonpublic school or agency under contract with the LEA for the provision of special education or designated instruction and services for a child. (California Education Code section 56028).

- g. The term "days" means calendar days unless otherwise specified.
- h. The phrase "billable day" means a school day in which instructional minutes meet or exceed those in comparable LEA programs.
- i. The phrase "billable day of attendance" means a school day as defined in California Education Code Section 46307, in which a LEA student is in attendance and in which instructional minutes meet or exceed those in comparable LEA programs unless otherwise stipulated in an IEP or ISA.
- j. It is understood that the term "Master Contract" also means "Agreement" and is referred to as such in this document.

ADMINISTRATION OF CONTRACT

8. NOTICES

All notices provided for by this Master Contract shall be in writing. Notices shall be mailed by first class mail deposited with the United States Postal Service or delivered by hand and shall be effective as of the date of receipt by addressee. E-mail notifications may be used provided that a hard copy is also mailed by first class mail deposited with the United States Postal Service or delivered by hand and shall be effective as of the date of receipt by addressee via first class mail or hand delivery.

All notices mailed to the LEA shall be addressed to the person and address as indicated on the signature page of the Master Contract. Notices to CONTRACTOR shall be addressed as indicated on signature page of this Master Contract.

9. MAINTENANCE OF RECORDS

All records shall be maintained by CONTRACTOR as required by state and federal laws and regulations. Notwithstanding the foregoing sentence, CONTRACTOR shall maintain all records for at least five (5) years after the termination of this Master Contract. For purposes of this Master Contract, "records" shall include, but not be limited to student records as defined by California Education Code section 49061(b) including electronically stored information; cost data records as set forth in Title 5 of the California Code of Regulations section 3061; registers and roll books of teachers and/or daily service providers; daily service logs and notes and other documents used to record the provision of related services including supervision; daily service logs and notes used to record the provision of services provided through additional instructional assistants, NPA behavior intervention aides, and bus aides; absence verification records (parent/doctor notes, telephone logs, and related documents) if the CONTRACTOR is funded for excused absences, however, such records are not required if positive attendance is required; bus rosters; staff lists specifying credentials held and documents evidencing other staff qualifications, social security numbers, dates of hire, and dates of termination; records of employee training and certification, staff time sheets; non-paid staff and volunteer sign-in sheets; transportation and other related services subcontracts; school calendars; bell/class schedules when applicable; liability and worker's compensation insurance policies; state nonpublic school and/or agency certifications by-laws; lists of current board

of directors/trustees, if incorporated; documents evidencing financial expenditures; federal/state payroll quarterly reports; and bank statements and canceled checks or facsimile thereof.

CONTRACTOR shall maintain LEA student records in a secure location to ensure confidentiality and prevent unauthorized access. CONTRACTOR shall maintain a current list of the names and positions of CONTRACTOR's employees who have access to confidential records. CONTRACTOR shall maintain an access log for each LEA student's record which lists all persons, agencies, or organizations requesting or receiving information from the record. Such log shall be maintained as required by California Education Code section 49064 and include the name, title, agency/organization affiliation, and date/time of access for each individual requesting or receiving information from the LEA student's record. Such log needs to record access to the LEA student's records by: (a) the LEA student's parent; (b) an individual to whom written consent has been executed by the LEA student's parent; or (c) employees of LEA or CONTRACTOR having a legitimate educational interest in requesting or receiving information from the record. CONTRACTOR/LEA shall maintain copies of any written parental concerns granting access to student records. For purposes of this paragraph, "employees of LEA or CONTRACTOR" do not include subcontractors. CONTRACTOR shall grant parents access to student records, and comply with parents' requests for copies of student records, as required by state and federal laws and regulations. CONTRACTOR agrees, in the event of school or agency closure, to forward all records within five (5) business days to LEA. These shall include, but not limited to, current transcripts, IEP/ISPs, and reports. CONTRACTOR acknowledges and agrees that all student records maintained by CONTRACTOR as required by state and federal laws and regulations are the property of LEA and must be returned to LEA without dissemination to any other entity.

10. SEVERABILITY CLAUSE

If any provision of this Master Contract is held, in whole or in part, to be unenforceable for any reason, the remainder of that provision and of the entire Agreement shall be severable and remain in effect.

11. SUCCESSORS IN INTEREST

This contract binds CONTRACTOR's successors and assignees. CONTRACTOR shall notify the LEA of any change of ownership or corporate control.

12. VENUE AND GOVERNING LAW

The laws of the State of California shall govern the terms and conditions of this Master Contract with venue in Orange County.

13. MODIFICATIONS AND AMENDMENTS REQUIRED TO CONFORM TO LEGAL AND ADMINISTRATIVE GUIDELINES

This Master Contract may be modified or amended to conform to administrative and statutory guidelines issued by any state, federal or local governmental agency. The party seeking such modification shall provide thirty (30) days' notice of any such changes or modifications made to conform to administrative or statutory guidelines and a copy of the statute or regulation upon which the modification or changes are based. If the parties cannot agree on such modifications or amendments, this Master Contract may be terminated in accordance with Paragraph 14.

14. TERMINATION

This Master Contract or an Individual Service Agreement may be terminated for cause. The cause shall not be the availability of a public class initiated during the period of the Master Contract or ISA

unless the parent agrees to the transfer of the student to the public school program at an IEP team meeting. To terminate the Master Contract for cause, either party shall give twenty (20) days prior written notice to the other party (California Education Code section 56366(a)(4)). At the time of termination, CONTRACTOR shall provide to the LEA any and all documents CONTRACTOR is required to maintain under this Master Contract. ISAs are void upon termination of this Master Contract, except as specified above in Paragraph 5. CONTRACTOR or the LEA may also terminate an individual ISA for cause. To terminate the ISA, either party shall also give twenty (20) days prior written notice to the other.

15. INSURANCE

CONTRACTOR shall, at his, her, or its sole cost and expense, maintain in full force and effect, during the term of this Agreement, the following insurance coverage from a California licensed and/or admitted insurer with an A minus (A-), VII, or better rating from A.M. Best, sufficient to cover any claims, damages, liabilities, costs and expenses (including counsel fees) arising out of or in connection with CONTRACTOR'S fulfillment of any of its obligations under this Agreement:

- A. **Commercial General Liability Insurance**, including both bodily injury and property damage, with minimum limits as follows:

\$1,000,000 per occurrence
\$2,000,000 general aggregate
\$1,000,000 personal & advertising injury
\$ 5,000 medical expenses

- B. **Sexual Abuse & Molestation** coverage with the following minimum limits:

\$1,000,000 per occurrence
\$2,000,000 general aggregate

- C. **Auto Liability Insurance.** To the extent vehicles are used to transport students, such vehicles shall have liability coverage of not less than \$1 million combined single limit.

If CONTRACTOR uses a vehicle to travel to/from school sites, between schools and/or to/from students' homes or other locations as an approved service location by the LEA, CONTRACTOR must comply with State of California auto insurance requirements.

- D. **Workers' Compensation and Employers Liability Insurance** in a form and amount covering CONTRACTOR'S full liability under the California Workers' Compensation Insurance and Safety Act and in accordance with applicable state and federal laws.

Part A – Statutory Limits
Part B - \$1,000,000/\$1,000,000/\$1,000,000 Employers Liability

- E. **Errors & Omissions (E & O)/Malpractice (Professional Liability)** coverage with the following minimum limits:

\$1,000,000 per occurrence
\$2,000,000 general aggregate

- F. CONTRACTOR, upon execution of this Master Contract and periodically thereafter upon request, shall furnish the LEA with certificates of insurance and endorsements evidencing such coverage. The certificate of insurance shall include a thirty (30) day

non-renewal, cancellation or modification notice provision. The Commercial General Liability and Automobile Liability policy shall name WCCCSE/Member Districts as additional insured's on all insurance policies and premiums shall be paid by CONTRACTOR and shall be deemed included in CONTRACTOR's obligations under this contract at no additional charge.

- G. Unless CONTRACTOR is insured under the California Private Schools Self Insurance Group (CAPS SIG) or a similar self-insurance group, any deductibles or self-insured retentions above \$100,000 must be declared to and approved by the LEA. At its option, the LEA may require the CONTRACTOR, at the CONTRACTOR's sole cost, to: (a) cause its insurer to reduce to levels specified by the LEA or eliminate such deductibles or self-insured retentions with respect to the LEA, its officials and employees or (b) procure a bond guaranteeing payment of losses and related investigation.
- H. For any claims related to the services provided by CONTRACTOR, the CONTRACTOR's insurance coverage shall be primary insurance as respects the LEA, its subsidiaries, officials and employees. Any insurance or self-insurance maintained by the LEA, its subsidiaries, officials and employees shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
- I. All Certificates of Insurance shall reference the contract number, name of the school or agency submitting the certificate, and the location of the school or agency submitting the certificate on the certificate.

If the LEA or CONTRACTOR determines that changes in insurance coverage obligations under this section is necessary, either party may reopen negotiations to modify the insurance obligations.

16. INDEMNIFICATION AND HOLD HARMLESS

To the fullest extent allowed by law, CONTRACTOR shall defend, indemnify and hold harmless LEA and its directors, officers, agents, employees and guests against any claim or demand arising from any actual or alleged act, error, or omission by CONTRACTOR or its directors, officers, agents, employees, volunteers or guests arising from CONTRACTOR's duties and obligations described in this Agreement or imposed by law.

To the fullest extent allowed by law, LEA shall defend, indemnify and hold harmless CONTRACTOR and its directors, officers, agents, employees and guests against any claim or demand arising from any actual or alleged act, error, or omission by LEA or its directors, officers, agents, employees, volunteers or guests arising from LEA's duties and obligations described in this Agreement or imposed by law.

17. INDEPENDENT CONTRACTOR

Nothing herein contained shall be construed to imply a joint venture, co-principal, partnership, principal-agent, employer-employee, or co-employer relationship between the LEA and CONTRACTOR. CONTRACTOR shall provide all services under this Agreement as an independent contractor, and neither party shall have the authority to bind or make any commitment on behalf of the other. Nothing contained in this Agreement shall be deemed to create any association, partnership, joint venture or relationship of principal and agent, master and servant, or employer and employee between the parties or any affiliates of the parties, or between the LEA and any individual assigned by CONTRACTOR to perform any services for the LEA.

If the LEA is held to be a partner, joint venturer, co-principal, employer or co-employer of CONTRACTOR based on any acts or omissions of CONTRACTOR, CONTRACTOR shall

indemnify and hold harmless the LEA from and against any and all claims for loss, liability, or damages arising from that holding, as well as any expenses, costs, taxes, penalties and interest charges incurred by the LEA as a result of that holding. If CONTRACTOR is held to be a partner, joint venturer, co-principal, employer, or co-employer of the LEA based on any acts or omissions of LEA, LEA shall indemnify and hold harmless the CONTRACTOR from and against any and all claims for loss, liability, or damages arising from that holding, as well as any expenses, costs, taxes, penalties and interest charges incurred by the LEA as a result of that holding..

18. SUBCONTRACTING

CONTRACTOR shall not enter into any subcontracting relationship without first obtaining the written approval of the LEA. CONTRACTOR's written notification shall include the specific special education and/or related service to be subcontracted, including the corresponding hourly rate or fee. In the event LEA determines that it can provide the subcontracted service(s) at a lower rate, LEA may elect to provide such service(s). If LEA elects to provide such service(s), LEA shall provide written notification to CONTRACTOR within five (5) days of receipt of CONTRACTOR's original notice and CONTRACTOR shall not subcontract for said service(s).

CONTRACTOR shall incorporate all of the provisions of this Master Contract in all subcontracts, unless written approval for any change is first obtained by the LEA. Furthermore, when CONTRACTOR enters into subcontracts for the provision of special education and/or related services (including without limitation transportation) for any LEA student, CONTRACTOR shall cause each subcontractor to procure and maintain insurance during the term of each subcontract. Such subcontractor's insurance shall comply with the provisions of Section 15. Each subcontractor shall furnish the LEA with original endorsements and certificates of insurance effecting coverage required by Section 15. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. LEA may request that the certificates and endorsements be completed on forms provided by the LEA. All certificates and endorsements are to be received and approved by the LEA before the subcontractor's work commences. The Commercial General Liability and Automobile Liability policies shall name the LEA and the LEA/District Board of Education as additional insured. If LEA does not approve the subcontractor's insurance, the LEA shall provide CONTRACTOR notice within fifteen (15) days.

As an alternative to the LEA's forms, a subcontractor's insurer may provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by this Master Contract. All Certificates of Insurance shall reference the LEA contract number, name of the school or agency submitting the certificate, indication if nonpublic school or nonpublic agency, and the location of the school or agency submitting the certificate. In addition, all sub-contractors must meet the requirements as contained in Section 45 (Clearance Requirements) and Section 46 (Staff Qualifications) of this Master Contract.

19. CONFLICTS OF INTEREST

CONTRACTOR shall provide to the LEA a copy of its current bylaws and a current list of its Board of Directors (or Trustees), if it is incorporated. This can be provided via e-mail to the SELPA Director of the LEA. CONTRACTOR and any member of its Board of Directors (or Trustees) shall avoid any relationship with the LEA that constitutes or may constitute a conflict of interest pursuant to California Education Code section 56042 including, but not limited to, employment with LEA, provision of private party assessments and/or reports, and attendance at IEP team meetings acting as a student's advocate. Pursuant to California Education Code section 56042, an attorney or advocate for a parent of an individual with exceptional needs shall not recommend placement at CONTRACTOR's facility if the attorney or advocate is employed or contracted by the CONTRACTOR, or will receive a benefit from the CONTRACTOR, or otherwise has a conflict of interest.

Unless CONTRACTOR and the LEA otherwise agree in writing, the LEA shall neither execute an ISA with CONTRACTOR nor amend an existing ISA for a LEA student when a recommendation for special education and/or related services is based in whole or in part on assessment(s) or reports provided by CONTRACTOR to the LEA student without prior written authorization by LEA. This paragraph shall apply to CONTRACTOR regardless of when an assessment is performed or a report is prepared (i.e., before or after the LEA student is enrolled in CONTRACTOR's school/agency) or whether an assessment of the LEA student is performed or a report is prepared in the normal course of the services provided to the LEA student by CONTRACTOR. To avoid a conflict of interest, and in order to ensure the appropriateness of an Independent Educational Evaluation (hereinafter referred to as "IEE") and its recommendations, the District may, in its discretion, not fund an IEE by an evaluator who provides ongoing service(s) or is sought to provide service(s) to the student for whom the IEE is requested. Likewise, the LEA may, in its discretion, not fund services through the evaluator whose IEE the District agrees to fund. When no other appropriate assessor is available, the LEA may request and if CONTRACTOR agrees, the CONTRACTOR may provide an IEE.

When the CONTRACTOR is a nonpublic agency, the CONTRACTOR acknowledges that its authorized representative has read and understands Education Code section 56366.3 which provides, in relevant part, that no special education and/or related services provided by CONTRACTOR shall be paid for by the LEA if provided by an individual who was an employee of the LEA within the three hundred and sixty five (365) days prior to executing this Master Contract. This provision does not apply to any person who is able to provide designated instruction and services during the extended school year because he or she is otherwise employed for up to ten months of the school year by the LEA.

20. NON-DISCRIMINATION

CONTRACTOR shall not unlawfully discriminate on the basis of race, religion, sex, national origin, age, sexual orientation, disability or any other classification protected by federal or state law, in employment or operation of its programs.

EDUCATIONAL PROGRAM

21. FREE AND APPROPRIATE PUBLIC EDUCATION

LEA shall provide CONTRACTOR with a copy of the IEP including the Individualized Transition Plan (hereinafter referred to as "ITP") of each LEA student served by CONTRACTOR. CONTRACTOR shall provide to each LEA student special education and/or related services (including transition services) within the nonpublic school or nonpublic agency consistent with the LEA student's IEP and as specified in the ISA. If CONTRACTOR is a nonpublic school, CONTRACTOR shall not accept a LEA student if it cannot provide or ensure the provision of the services outlined in the student's IEP.

Unless otherwise agreed to between CONTRACTOR and LEA, CONTRACTOR shall be responsible for the provision of all appropriate supplies, equipment, and/or facilities for LEA students, as specified in the LEA student's IEP and ISA. LEA shall provide low incidence equipment for eligible students with low incidence disabilities when specified in the student's IEP and ISA. Such equipment remains the property of the LEA and shall be returned to the LEA when the IEP team determines the equipment is no longer needed or when the student is no longer enrolled in the nonpublic school. CONTRACTOR shall make no charge of any kind to parents for special education and/or related services as specified in the LEA student's IEP and ISA (including, but not limited to, screenings, assessments, or interviews that occur prior to or as a condition of the LEA student's enrollment under the terms of this Master Contract). CONTRACTOR may charge a LEA student's parent(s) for services and/or activities not necessary for the LEA student to receive a free

appropriate public education after: (a) verification that any such charge or fee is not a “pupil fee” under Education Code section 49010 et. seq.; (b) written notification to the LEA student’s parent(s) of the cost and voluntary nature of the services and/or activities; and (c) receipt by the LEA of the written notification and a written acknowledgment signed by the LEA student’s parent(s) of the cost and voluntary nature of the services and/or activities. CONTRACTOR shall adhere to all LEA guidelines as well as all California state laws, regulations and guidelines prohibiting pupil fees, deposits or other charges.

Voluntary services and/or activities not necessary for the LEA student to receive a free appropriate public education shall not interfere with the LEA student’s receipt of special education and/or related services as specified in the LEA student’s IEP and ISA unless the LEA, CONTRACTOR and parent agree otherwise in writing.

22. GENERAL PROGRAM OF INSTRUCTION

All nonpublic school and nonpublic agency services shall be provided consistent with the area of certification specified by CDE Certification and as defined in California Education Code section 56366 et seq.

When CONTRACTOR is a nonpublic school, CONTRACTOR’s general program of instruction shall: (a) be consistent with LEA’s standards regarding the particular course of study and curriculum; (b) include curriculum that addresses mathematics, literacy and the use of educational, assistive technology and transition services; (c) be consistent with CDE’s standards regarding the particular course of study and curriculum; (d) provide the services as specified in the LEA student’s IEP and ISA. LEA students shall have access to: (a) State Board of Education (SBE) - adopted standards-based, core curriculum and the same instructional materials for kindergarten and grades 1 to 8, inclusive; and provide standards – aligned core curriculum and instructional materials for grades 9 to 12, inclusive, used by a local education agency (LEA), that contracts with the nonpublic school; (b) college preparation courses; (c) extracurricular activities, such as art, sports, music and academic clubs; (d) career preparation and vocational training, consistent with transition plans pursuant to state and federal law and; (e) supplemental assistance, including individual academic tutoring, psychological counseling, and career and college counseling. CONTRACTOR’s general program of instruction shall be described in writing and a copy provided to LEA prior to the effective date of this Master Contract.

When CONTRACTOR serves LEA students in grades nine through twelve inclusive, LEA shall provide to CONTRACTOR a specific list of the course requirements to be satisfied by the CONTRACTOR leading toward graduation or completion of LEA’s diploma requirements including the graduation requirements for pupils in foster care or pupils who are homeless as set forth in Education Code section 51225.1. CONTRACTOR shall not award a high school diploma to LEA students who have not successfully completed all of the LEA’s graduation requirements, including, but not limited to, passing the California High School Exit Exam in accordance with state law.

When CONTRACTOR is a nonpublic agency and/or related services provider, CONTRACTOR’s general program of instruction and/or services shall be consistent with LEA and CDE guidelines and certification, and provided as specified in the LEA student’s IEP and ISA. The nonpublic agency providing Behavior Intervention services shall develop a written treatment plan that specifies the nature of their nonpublic agency service for each student within thirty (30) days of enrollment and shall be provided in writing to the LEA. School-based services may not be unilaterally converted by CONTRACTOR to a substitute program or provided at a location not specifically authorized by the IEP team. Except for services provided by a contractor that is a licensed children’s institution, all services not provided in the school setting require the presence of a parent, guardian or adult caregiver during the delivery of services, provided such guardian or caregiver have a signed authorization by the parent or legal guardian to authorize emergency services as requested. LCI

contractors shall ensure that appropriate and qualified residential or clinical staff is present during the provision of services under this Master Contract. CONTRACTOR shall immediately notify LEA in writing if no parent, guardian or adult caregiver is present. CONTRACTOR shall provide to the LEA a written description of the services and location provided prior to the effective date of this Master Contract. Contractors providing Behavior Intervention services must have a trained behaviorist or trained equivalent on staff consistent with the requirements set forth in Education Code section 56520 et seq. It is understood that Behavior Intervention services are limited per CDE Certification and do not constitute as an instructional program.

When CONTRACTOR is a nonpublic agency, CONTRACTOR shall not provide transportation nor subcontract for transportation services.

23. INSTRUCTIONAL MINUTES

When CONTRACTOR is a nonpublic school, the total number of instructional minutes per school day provided by CONTRACTOR shall be at least equivalent to the number of instructional minutes per school day provided to LEA students at like grade level, attending LEA schools and shall be specified in the LEA student's ISA developed in accordance with the LEA student's IEP.

For LEA students in grades kindergarten through 12, unless otherwise specified in the LEA student's IEP and ISA, the number of instructional minutes, excluding breakfast, recess, lunch, and passing time, shall be consistent with Education Code sections 46100 et. seq.

The total number of annual instructional minutes shall be at least equivalent to the total number of annual instructional minutes provided to LEA students attending LEA schools in like grade levels unless otherwise specified in the LEA student's IEP.

When CONTRACTOR is a nonpublic agency and/or related services provider, the total number of minutes per school day provided by CONTRACTOR shall be specified in the LEA student's ISA developed in accordance with the LEA student's IEP.

24. CLASS SIZE

When CONTRACTOR is a nonpublic school, CONTRACTOR shall ensure that class size shall not exceed a ratio of one teacher per twelve (12) students unless CONTRACTOR and the LEA agree otherwise, in writing.

In the event a nonpublic school is unable to fill a vacant teaching position responsible for direct instruction to students, and the vacancy has direct impact on the California Department of Education Certification of that school, the nonpublic school shall develop a plan to assure appropriate coverage of students by first utilizing existing certificated staff. The nonpublic school and the LEA may agree to one 30 school day period per contract year where class size may be increased to assure coverage by an appropriately credentialed teacher. Such an agreement shall be in writing and signed by both parties. This provision does not apply to a nonpublic agency.

CONTRACTOR providing special education instruction for individuals with exceptional needs between the ages of three and five years, inclusive, shall also comply with the appropriate instructional adult to child ratios pursuant to California Education Code sections 56440 et seq.

25. CALENDARS

When CONTRACTOR is a nonpublic school, CONTRACTOR shall submit to the LEA a school calendar with the total number of billable days not to exceed 180 days, plus up to twenty (20) extended school year billable days unless otherwise specified in the LEA student's IEP/IFSP and

ISA. Billable days shall include only those days that are included on the submitted and approved school calendar, and/or required by the IEP (developed by the LEA) for each student. CONTRACTOR shall not be allowed to change its school calendar and/or amend the number of billable days without the prior written approval of the LEA. Nothing in this Master Contract shall be interpreted to require the LEA to accept any requests for calendar changes.

Unless otherwise specified by the students' IEP, educational services shall occur at the school site. A student shall only be eligible for extended school year services if such are recommended by his/her IEP Team and the provision of such is specifically included in the ISA. Extended school year shall consist of twenty (20) instructional days, unless otherwise agreed upon by the IEP Team convened by the LEA. Any days of extended school year in excess of twenty (20) billable days must be mutually agreed to, in writing, prior to the start of the extended school year.

Student must have actually been in attendance during the regular school year and/or during extended school year and actually received services on a billable day of attendance in order for CONTRACTOR to be eligible for payment. It is specifically understood that services may not be provided on weekends/holidays and other times when school is not in session, unless agreed to by the LEA, in writing, in advance of the delivery of any nonpublic school service. Any instructional days provided without this written agreement shall be at the sole financial responsibility of the CONTRACTOR.

CONTRACTOR shall observe the same legal holidays as the LEA and shall identify the dates of observance on its school calendar submitted to the LEA. Those holidays are Labor Day, Veteran's Day, Thanksgiving Day, Christmas Day, New Year's Day, Dr. Martin Luther King, Jr. Day, President's Day, Memorial Day and Independence Day. With the approval of the LEA, CONTRACTOR may revise the date upon which CONTRACTOR closes in observance of any of the holidays observed by LEA.

When CONTRACTOR is a nonpublic agency, CONTRACTOR shall be provided with a LEA-developed/approved calendar prior to the initiation of services. CONTRACTOR herein agrees to observe holidays as specified in the LEA-developed/approved calendar. CONTRACTOR shall provide services pursuant to the LEA-developed/approved calendar; or as specified in the LEA student's IEP and ISA. Unless otherwise specified in the LEA student's ISA, CONTRACTOR shall provide related services to LEA students on only those days that the LEA student's school of attendance is in session and the LEA student attends school. CONTRACTOR shall bill only for services provided on billable days of attendance as indicated on the LEA calendar unless CONTRACTOR and the LEA agree otherwise, in writing. Student must have actually been in attendance and/or received services on a billable day of attendance in order for CONTRACTOR to be eligible for payment. It is specifically understood that services may not be provided on weekends/holidays and other times when school is not in session, unless agreed to by the LEA, in writing, in advance of the delivery of any nonpublic agency service provided by CONTRACTOR. Any instructional days provided without this written agreement shall be at the sole financial responsibility of the CONTRACTOR.

26. DATA REPORTING

CONTRACTOR shall agree to provide to the LEA, all data related to students who are served by the CONTRACTOR. This shall include any and all data related to any section of this Master Contract. The specific format of the data to be provided shall be determined between the LEA and CONTRACTOR. CONTRACTOR shall not enter into a contract with a third party for the purpose of providing cloud-based services including but not limited digital storage, management and retrieval of pupil records or to provide digital educational software that authorizes such third party to access, store, and use pupil records, unless CONTRACTOR has obtained prior written authorization from LEA in compliance with Education Code section 49073.1.

The LEA may provide the CONTRACTOR with approved forms and/or format for such data, including but not limited to, invoicing, attendance reports, and progress reports. The LEA may approve use of CONTRACTOR-provided forms at LEAs discretion.

27. LEAST RESTRICTIVE ENVIRONMENT/DUAL ENROLLMENT

CONTRACTOR and the LEA shall both follow policies and procedures that support Least Restrictive Environment (“LRE”) options (and/or dual enrollment options if available and appropriate) for students to have access to the general curriculum and to be educated with their nondisabled peers to the maximum extent appropriate.

LRE placement options shall be addressed at all IEP team meetings regarding students for whom ISAs have been or may be executed. This shall include IEP team consideration of supplementary aids and services and goals and objectives necessary for placement in the LRE and necessary to enable students to transition to less restrictive settings.

When an IEP team has determined that a student should be transitioned into the public school setting, CONTRACTOR shall assist the LEA in implementing the IEP team’s recommendations and/or activities to support the transition.

28. STATEWIDE ACHIEVEMENT TESTING AND HIGH SCHOOL EXIT EXAMINATION

When CONTRACTOR is a nonpublic school, CONTRACTOR shall, in accordance with Education Code section 60640 et. seq. administer all Statewide assessments within the California Assessment of Student Performance and Progress (“CAASP”), Desired Results Developmental Profile (“DRDP”), California Alternative Assessment (“CAA”), achievement and abilities tests (using LEA-authorized assessment instruments), the Fitness Gram, the California English Language Development Test (“CELDT”), and the English Language Proficiency Assessments for California (“ELPAC”), as appropriate to the student, and mandated by LEA pursuant to LEA guidelines as well as state and federal laws and regulations.

When CONTRACTOR is a nonpublic school, CONTRACTOR is subject to the alternative accountability system developed pursuant to Education Code section 52052, in the same manner as public schools and each LEA student placed with CONTRACTOR by the LEA shall be tested by qualified staff of CONTRACTOR in accordance with that accountability program. LEA shall provide test administration training to CONTRACTOR’s qualified staff; CONTRACTOR shall attend LEA test training and comply with completion of all coding requirements as required by LEA. Contractor shall report the test results to the CDE as required by Education Code section 56366(a)(8)(A).

Where CONTRACTOR is a nonpublic school, CONTRACTOR shall administer all statewide achievement tests and the California High School Exit Examination as mandated by the LEA and pursuant to the LEA guidelines, as well as state and federal laws and regulations.

29. DISTRICT MANDATED ATTENDANCE AT MEETINGS

CONTRACTOR shall attend District mandated meetings when legal mandates, and/or LEA policy and procedures are reviewed, including but not limited to the areas of: curriculum, high school graduation, standards-based instruction, behavior intervention, cultural and linguistic needs of students with disabilities, dual enrollment responsibilities, LRE responsibilities, transition services,

and standardized testing. The LEA shall provide CONTRACTOR with reasonable advanced notice of mandated meetings. Attendance at such meetings shall not constitute a billable service hour(s).

30. POSITIVE BEHAVIOR INTERVENTIONS

CONTRACTOR shall comply with the requirements of Education Code section 56520 et seq. and applicable provisions of Title 5 of the California Code of Regulations regarding positive behavior interventions including, but not limited to: the completion of functional behavioral assessments; the development, implementation, monitoring, supervision, modification, and evaluation of behavior intervention plans; and emergency interventions. CONTRACTOR shall notify the parent/guardian residential care provider (if appropriate) and LEA within one (1) school day of any behavior incident including when an emergency intervention is used or serious property damage occurs as well as provide LEA with a copy of the behavioral emergency report. It is understood that the LEA may require additional requirements for staff qualifications beyond what is required in Title 5 of the California Code of Regulations sections 3064 and 3065. Such requirements will be provided in writing to CONTRACTOR prior to entering into an ISA for a LEA student. Failure to maintain adherence to staff qualification requirements shall constitute sufficient cause for contract termination. CONTRACTOR shall provide the LEA with all training protocols for behavior intervention staff who do not possess a license, credential or recognized certification as part of their Master Contract application. CONTRACTOR shall provide certification that all behavior aides who do not possess a license, credential or recognized certification have completed required training protocols within ten days of the start of providing behavior intervention services to a LEA student. Failure to do so shall constitute sufficient cause for termination.

CONTRACTOR shall designate an individual employed, contracted, and/or otherwise hired by CONTRACTOR as a "behavior intervention case manager." CONTRACTOR shall maintain a written policy in compliance with Education Code section 56520 et seq. and applicable provisions of Title 5 of the California Code of Regulations regarding emergency interventions and behavioral emergency reports. Evidence of such training shall be submitted to the LEA at the beginning of the school year and within fourteen (14) days of any new hire. CONTRACTOR shall ensure that all of its staff members are trained annually in crisis intervention and emergency procedures as related to appropriate behavior management strategies.

CONTRACTOR shall not authorize, order, consent to, or pay for any of the following prohibited interventions, or any other intervention similar to or like the following: (a) any intervention that is designed to, or likely to, cause physical pain, including but not limited to, electric shock; (b) releasing noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the LEA student's face; (c) any intervention which denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities; (d) any intervention which is designed to subject, used to subject, or likely to subject the LEA student to verbal abuse, ridicule, or humiliation, or which can be expected to cause excessive emotional trauma; (e) restrictive interventions which employ a device, material, or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment or similar techniques may be used as a limited emergency intervention by CONTRACTOR's trained and qualified personnel as allowable by applicable law and regulations; (f) locked seclusion except as allowable by applicable law and regulations; (g) any intervention that precludes adequate supervision of the LEA student; and (h) any intervention which deprives the LEA student of one or more of his or her senses, pursuant to Education Code section 56521.2.

31. STUDENT DISCIPLINE

CONTRACTOR shall maintain and abide by a written policy for student discipline that is consistent with state and federal law and regulations.

When CONTRACTOR seeks to remove a LEA student from his/her current educational placement for disciplinary reasons, CONTRACTOR shall immediately submit a written discipline report to the LEA and a manifestation IEP team meeting shall be scheduled. Written discipline reports shall include, but not be limited to: the LEA student's name; the time, date, and description of the misconduct; the disciplinary action taken by CONTRACTOR; and the rationale for such disciplinary action. A copy of the LEA student's behavior plan, if any, shall be submitted with the written discipline report. CONTRACTOR and LEA agree to participate in a manifestation determination at an IEP meeting no later than the tenth (10th) day of suspension. CONTRACTOR shall notify and invite LEA representatives to the IEP team meeting where the manifestation determination will be made.

32. IEP TEAM MEETINGS

An IEP team meeting shall be convened at least annually to evaluate: (1) the educational progress of each student placed with CONTRACTOR, including all state assessment results pursuant to the requirements of Education Code section 52052; (2) whether or not the needs of the student continue to be best met at the nonpublic school and/or by the nonpublic agency; and (3) whether changes to the student's IEP are necessary, including whether the student may be transitioned to a public school setting. (California Education Code sections 56366(a)(2)(B)(i) and (ii).) If an LEA student is enrolled in the nonpublic school pursuant to a lawfully executed agreement between the LEA and parent, it shall be the responsibility of the LEA to notify CONTRACTOR in writing (1) when or whether an IEP meeting will be held, (2) whether placement in the nonpublic school should be documented as part of an IEP, and (3) the start date and, if known, the end date for services to be provided by CONTRACTOR to LEA student.

If a LEA student is to be transferred from a nonpublic school setting into a regular class setting in a public school for any part of the school day, the IEP team shall document, if appropriate, a description of activities provided to integrate the student into the regular education program, including the nature of each activity as well as the time spent on the activity each day or week and a description of the activities provided to support the transition of the student from the special education program into the regular education program. Each LEA student shall be allowed to provide confidential input to any representative of his or her IEP team. Except as otherwise provided in the Master Contract, CONTRACTOR and the LEA shall participate in all IEP team meetings regarding LEA students for whom ISAs have been or may be executed. At any time during the term of this Master Contract, a parent, the CONTRACTOR or the LEA may request a review of the student's IEP, subject to all procedural safeguards required by law, including reasonable notice given to, and participation of, the CONTRACTOR in the meeting. Every effort shall be made to schedule IEP team meetings at a time and place that is mutually convenient to the parent(s), the CONTRACTOR and the LEA. CONTRACTOR shall provide to the LEA any and all assessments (including testing protocols) and written assessment reports created by CONTRACTOR and any of its agents or subcontractors, upon request.

If the CONTRACTOR or LEA is unable to convince the parent or guardian that he or she should attend the IEP, CONTRACTOR shall maintain a written record of its attempts to arrange a mutually agreed-upon time and place. The CONTRACTOR and LEA shall also take any action necessary to ensure that the parent or guardian understands the proceedings at a meeting, including arranging for an interpreter.

Changes in any LEA student's educational program, including instruction, services, or instructional setting, provided under this Master Contract may only be made on the basis of revisions to the student's IEP. In the event that the CONTRACTOR believes the student requires a change of placement, the CONTRACTOR may request a review of the student's IEP for the purposes of considering a change in the student's placement. Student is entitled to remain in the last agreed upon

and implemented placement unless parent agrees otherwise or unless an interim alternative educational placement is deemed lawful and appropriate by the LEA or OAH.

33. SURROGATE PARENTS

CONTRACTOR shall comply with state and federal laws and regulations regarding assigning surrogate parents to LEA students.

34. DUE PROCESS PROCEEDINGS

CONTRACTOR shall fully participate in special education due process proceedings including mediations and hearings, as requested by the LEA. CONTRACTOR shall also fully participate in the investigation of any complaint filed with the State of California, the Office for Civil Rights, or any other state and/or federal governmental body or agency. Full participation shall include, but in no way be limited to, cooperating with LEA representatives to provide complete answers raised by any investigator and/or the immediate provision of any and all documentation that pertains to the operation of CONTRACTOR's program and/or the implementation of a particular student's IEP/IFSP.

35. COMPLAINT PROCEDURES

CONTRACTOR shall maintain and adhere to its own written procedures for responding to parent complaints. These procedures shall include annually notifying and providing parents of LEA students with appropriate information (including complaint forms) for the following: (1) Uniform Complaint Procedures pursuant to Title 5 of the California Code of Regulations section 4600 et seq.; (2) Nondiscrimination policies pursuant to Title 5 of the California Code of Regulations section 4960 (a); (3) Sexual Harassment Policies pursuant to California Education Code 231.5(a)(b)(c); (4) Student Grievance Procedure pursuant to Title IX 106.8 (a)(d) and 106.9 (a); and (5) Notice of Privacy Practices in compliance with Health Insurance Portability and Accountability Act (HIPPA). CONTRACTOR shall include verification of these procedures to the LEA.

36. LEA STUDENT PROGRESS REPORTS/REPORT CARDS AND ASSESSMENTS

Unless the LEA requests in writing that progress reports be provided on a monthly basis, CONTRACTOR shall provide to parents at least four written progress reports/report cards. At a minimum, progress reports shall include progress over time towards IEP goals and objectives. A copy of the progress reports/report cards shall be maintained at the CONTRACTOR's place of business and shall be submitted to the LEA and LEA student's parent(s).

CONTRACTOR shall also provide an LEA representative access to supporting documentation used to determine progress on any goal or objective, including but not limited to log sheets, observation notes, data sheets, pre-/post-tests, rubrics and other similar data collection used to determine progress or lack of progress on approved goals, objectives, transition plans or behavior support plans. The LEA may request copies of such data at any time within five (5) years of the date of service. CONTRACTOR agrees to maintain the information for at least five (5) years and also shall provide this data supporting progress within five (5) business days of request. Additional time may be granted as needed by the LEA.

CONTRACTOR shall complete academic or other assessment of the LEA student one month prior to the LEA student's annual or triennial review IEP team meeting for the purpose of reporting the LEA student's present levels of performance at the IEP team meeting as required by state and federal laws and regulations and pursuant to LEA policies, procedures, and/or practices. Contractor shall provide sufficient copies of its reports, documents, and projected goals to share with members of the IEP

team five (5) business days prior to the IEP meeting. CONTRACTOR shall maintain supporting documentation such as test protocols and data collection, which shall be made available to LEA within five (5) business days of request.

CONTRACTOR is responsible for all assessment costs regarding the updating of goals and objectives, progress reporting and the development of present levels of performance. All assessments shall be provided by the LEA unless the LEA specifies in writing a request that CONTRACTOR perform such additional assessment. Any assessment costs may be added to the ISA and/or approved separately by the LEA at the LEA's sole discretion.

It is understood that all billable hours must be in direct services to pupils as specified in the ISA. For nonpublic agency services, supervision provided by a qualified individual as specified in Title 5 of the California Code of Regulations section 3065, shall be determined as appropriate and included in the ISA. Supervision means the direct observation of services, data review, case conferencing and program design consistent with professional standards for each professional's license, certification, or credential.

CONTRACTOR shall not charge the LEA student's parent(s) or LEA for the provision of progress reports, report cards, and/or any assessments, interviews, or meetings, unless the LEA agrees in writing prior to the completion of any work. It is understood that all billable hours have limits to those specified on the ISA consistent with the IEP. It is understood that copies of data collection notes, forms, charts and other such data are part of the pupil's record and shall be made available to the LEA upon written request.

37. TRANSCRIPTS

When CONTRACTOR is a nonpublic school, CONTRACTOR shall prepare transcripts at the close of each semester, or upon LEA student transfer, for LEA students in grades nine through twelve inclusive. CONTRACTOR shall submit all transcripts to the LEA Director of Special Education for evaluation of progress toward completion of diploma requirements as specified by LEA.

38. LEA STUDENT CHANGE OF RESIDENCE

Upon enrollment, CONTRACTOR shall notify parents in writing of their obligation to notify CONTRACTOR of the LEA student's change of residence. CONTRACTOR shall maintain, and provide upon request by LEA, documentation of such notice to parents. Within five (5) school days after CONTRACTOR becomes aware of a LEA student's change of residence, CONTRACTOR shall notify the LEA, in writing, of the LEA student's change of residence.

If CONTRACTOR had knowledge or should reasonably have had knowledge of the LEA student's change of residence boundaries and CONTRACTOR fails to follow the procedures specified in this provision, the LEA shall not be responsible for the costs of services delivered after the LEA student's change of residence.

39. WITHDRAWAL OF LEA STUDENT FROM PROGRAM

CONTRACTOR shall immediately report, by telephone and e-mail, to the LEA Representative responsible for overseeing nonpublic schools and nonpublic agencies, and any other required representative from the California Department of Education, when a LEA student is withdrawn from school and/or services. CONTRACTOR shall confirm such telephone call in writing via e-mail or other written notification to the LEA Director of Special Education and submit to the LEA and the Department of Education, if required, within five (5) business days of the withdrawal. CONTRACTOR shall assist LEA to verify and clear potential dropouts three (3) times per year, as

required by the 2001 Elementary and Secondary Education Act (No Child Left Behind; NCLB), as documentation of graduation rate is one of the indicators of Adequate Yearly Progress (AYP).

40. PARENT ACCESS

CONTRACTOR shall provide for reasonable parental access to LEA students and all facilities including, but not limited to, the instructional setting, recreational activity areas, meeting rooms and LEA student living quarters. CONTRACTOR shall comply with any known court orders regarding parental visits and access to LEA students.

CONTRACTOR, if operating a program with a residential component, shall cooperate with a parent's reasonable request for LEA student visits in their home during, but not limited to, holidays and weekends. CONTRACTOR shall ensure that parents obtain prior written authorization for therapeutic visits from the CONTRACTOR and the LEA.

41. SERVICES AND SUPERVISION AND PROFESSIONAL CONDUCT

If CONTRACTOR provides services on a LEA public school campus, CONTRACTOR shall comply with Penal Code section 627.1 et seq., as well as all other LEA and campus-specific policies and procedures regarding visitors to/on school campuses. CONTRACTOR shall be responsible for the purchase and provision of the supplies and assessment tools necessary to implement the provision of CONTRACTOR services on LEA public school campuses.

It is understood that the public school credentialed classroom teacher is responsible for the educational program.

It is understood that all employees, subcontractors and volunteers of any certified nonpublic school or agency shall adhere to customary professional standards when providing services. All practices shall be within the scope of professional responsibility as defined in the professional code of conduct for each profession. Reports regarding student progress shall be consistent with the provision of the Master Contract.

CONTRACTOR, if providing services in a student's home as specified in the ISA, shall assure that at least one parent of the child or an adult caregiver with written and signed authorization to make decisions in an emergency is present during the provision of services. The names of any adult caregiver other than the parent shall be provided to the LEA prior to the start of any home based services, including written and signed authorization in emergency situations. The parent shall inform the LEA of any changes of caregivers and provide written authorization for emergency situations. The adult caregiver cannot also be an employee or volunteer associated with the nonpublic school/nonpublic agency service provider. All problems and/or concerns reported to parents, both verbal and written shall also be provided to the LEA.

42. LICENSED CHILDREN'S INSTITUTION CONTRACTORS

If CONTRACTOR is a licensed children's institution, CONTRACTOR shall adhere to all legal requirements regarding educational placements for LCI students as stated in Education Code sections 56366(a)(2)(C) and 56366.9, Health and Safety Code section 1501.1 (AB1858, AB490 (Chapter 862, Statutes of 2003)) and any other applicable laws and/or regulations, including LEA guidelines or procedures. An LCI shall not require that a pupil be placed in its nonpublic school as a condition of being placed in its residential facility.

If CONTRACTOR is a nonpublic, nonsectarian school that is owned, operated by, or associated with a residential treatment center (hereinafter referred to as "NPS/RTC"), CONTRACTOR shall adhere to all legal requirements under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. section 1400 et seq. including the federal regulations 34 C.F.R section 300 et seq. and Education Code section 56000 et seq. including Title 5 of the California Code of Regulations section 3000 et seq.

In addition to meeting the certification requirements of the State of California, a CONTRACTOR that operates a program outside of this State shall be certified or licensed by that state to provide, respectively, special education and related services and designated instruction and related services to pupils under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

If CONTRACTOR is a nonpublic, nonsectarian school that is owned, operated by, or associated with a LCI, CONTRACTOR shall provide to the LEA, on a quarterly basis, a list of all LEA students, including those identified as eligible for special education. For those identified special education students, the list shall include: 1) special education eligibility at the time of enrollment; and 2) the educational placement and services specified in each student's IEP at the time of enrollment.

Unless placement is made pursuant to an Office of Administrative Hearings order or a lawfully executed agreement between the LEA and parent, the LEA is not responsible for the costs associated with nonpublic school placement until the date on which an IEP team meeting is convened, the IEP team determines that a nonpublic school placement is appropriate, and the IEP is signed by the LEA student's parent or another adult with educational decision-making rights.

43. STATE MEAL MANDATE

When CONTRACTOR is a nonpublic school, CONTRACTOR and LEA shall satisfy the State Meal Mandate under California Education Code sections 49530, 49530.5 and 49550.

44. MONITORING

CONTRACTOR shall allow representatives from the LEA access to its facilities for the purpose of monitoring each LEA student's instructional program. LEA shall have access to observe each LEA student at work, observe the instructional setting, interview CONTRACTOR, and review each LEA student's records and progress. Such access shall include unannounced monitoring visits. When making site visits, LEA shall initially report to CONTRACTOR's site administrative office. CONTRACTOR shall be invited to participate in the review of each student's progress.

If CONTRACTOR is also an LCI, the LEA or its SELPA shall annually evaluate whether CONTRACTOR is in compliance with Education Code section 56366.9 and Health and Safety Code section 1501.1(b).

The State Superintendent of Public Instruction ("Superintendent") shall monitor CONTRACTOR'S facilities, the educational environment, and the quality of the educational program, including the teaching staff, the credentials authorizing service, the standards-based core curriculum being employed, and the standard focused instructional materials used on a three-year cycle, as follows: (1) CONTRACTOR shall complete a self-review in year one; (2) the Superintendent shall conduct an onsite review in year two; and (3) the Superintendent shall conduct a follow-up visit in year three.

CONTRACTOR shall fully participate in any LEA and CDE compliance review, including any On-Site and Self Review and if applicable, District Validation Review. This review will address programmatic aspects of the nonpublic school/agency, compliance with relevant state and federal regulations, and Master Contract compliance. CONTRACTOR shall complete and submit a Nonpublic School/Agency Self-Review Assessment submitted as specified by the LEA.

CONTRACTOR shall conduct any follow-up or corrective action procedures requested by LEA or CDE related to such compliance review.

CONTRACTOR understands that the LEA reserves the right to institute a program audit with or without cause. The program audit may include, but is not limited to, a review of core compliance areas of health and safety; curriculum/instruction; related services; and contractual, legal, and procedural compliance.

When CONTRACTOR is a nonpublic school, CONTRACTOR shall collect all applicable data and prepare the applicable portion of a School Accountability Report Card in accordance with California Education Code Section 33126.

PERSONNEL

45. CLEARANCE REQUIREMENTS

CONTRACTOR shall comply with the requirements of California Education Code section 44237, 35021.1 and 35021.2 including, but not limited to: obtaining clearance from both the California Department of Justice (hereinafter referred to as "CDOJ") and clearance from the Federal Bureau of Investigation (hereinafter referred to as "FBI") for all of CONTRACTOR's employees and volunteers who will have or likely may have any direct contact with LEA students. CONTRACTOR hereby agrees that CONTRACTOR's employees and volunteers who will have or likely may have direct contact with LEA students shall not come in contact with LEA students until both CDOJ and FBI clearance are ascertained. CONTRACTOR shall further certify in writing to the LEA that none of its employees, volunteers, or subcontractors who will have or likely may have any direct contact with LEA students have been convicted of a violent or serious felony as those terms are defined in California Education Code section 44237(h), unless despite the employee's conviction of a violent or serious felony, he or she has met the criteria to be eligible for employment pursuant to California Education Code section 44237(i) or (j). Clearance certification shall be submitted to the LEA. In addition, CONTRACTOR shall make a request for subsequent arrest service from the CDOJ as required by California Penal Code section 11105.2.

46. STAFF QUALIFICATIONS

CONTRACTOR shall ensure that all individuals employed, contracted, and/or otherwise hired by CONTRACTOR to provide classroom and/or individualized instruction or provide related services hold a license, certificate, permit, or other document equivalent to that which staff in a public school are required to hold to render the service consistent with Education Code section 56366.1(n)(1) and are qualified pursuant to Title 34 of the Code of Federal Regulations sections 200.56 and 200.58, and Title 5 of the California Code of Regulations sections 3001(r), 3051, 3064 and 3065. Such qualified staff may only provide related services within the scope of their professional license, certification or credential and ethical standards set by each profession and not assume responsibility or authority for another related services provider or special education teacher's scope of practice.

Only those nonpublic, nonsectarian schools or agencies located outside of California that employ staff who hold a current valid credential or license to render special education and related services as required by that state shall be eligible to be certified.

CONTRACTOR shall comply with personnel standards and qualifications regarding instructional aides and teacher assistants respectively pursuant to Federal requirements and California Education Code sections 45340 et seq. and 45350 et seq. Specifically, all paraprofessionals, including, but not limited to instructional aides and teacher assistants, employed, contracted, and/or otherwise hired by

CONTRACTOR to provide classroom and/or individualized instruction or related services, shall possess a high school diploma (or higher) degree; or met a rigorous standard of quality and can demonstrate, through a formal state or local assessment (i) knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or (ii) knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness, as appropriate. CONTRACTOR shall comply with all laws and regulations governing the licensed professions, including but not limited to, the provisions with respect to supervision.

In addition to meeting the certification requirements of the State of California, a CONTRACTOR that operates a program outside of this state and serving a student by this LEA shall be certified or licensed by that state to provide special education and related services and designated instruction and related services to pupils under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

47. VERIFICATION OF LICENSES, CREDENTIALS AND OTHER DOCUMENTS

CONTRACTOR shall submit to the LEA a staff list, and copies of all current and required licenses, certifications, credentials, permits and/or other documents which entitle the holder to provide special education and/or related services by CONTRACTOR and all individuals employed, contracted, and/or otherwise hired or sub-contracted by CONTRACTOR. The LEA may file all licenses, certifications, credentials, permits or other documents with the office of the County Superintendent of Schools. CONTRACTOR shall notify the LEA in writing within thirty (30) days when personnel changes occur which may affect the provision of special education and/or related services to LEA students. CONTRACTOR shall provide the LEA with the verified dates of fingerprint clearance, Department of Justice clearance and Tuberculosis Test clearance for all employees, approved subcontractors and/or volunteers prior to such individuals starting to work with any student.

CONTRACTOR shall monitor the status of licenses, certifications, credentials, permits and/or other documents for CONTRACTOR and all individuals employed, contracted, and/or otherwise hired by CONTRACTOR. CONTRACTOR shall immediately, and in no circumstances longer than five (5) business days, provide to the LEA updated information regarding the status of licenses, certifications, credentials, permits and/or other documents of any known changes.

48. STAFF ABSENCE

When CONTRACTOR is a nonpublic school and CONTRACTOR's classroom teacher is absent, CONTRACTOR shall provide an appropriately credentialed substitute teacher in the absent teacher's classroom in accordance with California Education Code section 56061. CONTRACTOR shall provide to the LEA documentation of substitute coverage. Substitute teachers shall remain with their assigned class during all instructional time. The LEA shall not be responsible for any payment for instruction and/or services when an appropriately credentialed substitute teacher is not provided in accordance with California Education Code section 56061.

When CONTRACTOR is a nonpublic agency and/or related services provider, and CONTRACTOR's service provider is absent, CONTRACTOR shall provide a qualified (as defined in section seven (7) of this agreement and as determined by the LEA) substitute, unless the LEA provides appropriate coverage in lieu of CONTRACTOR's service providers. It is understood that the parent of a student shall not be deemed to be a qualified substitute for his/her student. The LEA will not pay for services unless a qualified substitute is provided and/or CONTRACTOR provides documentation evidencing the provision of "make-up" services by a qualified service provider within thirty (30) calendar days from the date on which the services should have been provided. CONTRACTOR shall not "bank" or "carry over" make up service hours under any circumstances, unless otherwise agreed to in writing by CONTRACTOR and an authorized LEA representative.

49. STAFF PROFESSIONAL BEHAVIOR WHEN PROVIDING SERVICES AT SCHOOL OR SCHOOL RELATED EVENTS OR AT SCHOOL FACILITY AND/OR IN THE HOME

It is understood that all employees, subcontractors, and volunteers of any certified nonpublic school or nonpublic agency shall adhere to the customary professional and ethical standards when providing services. All practices shall only be within the scope of professional responsibility as defined in the professional code of conduct for each profession as well as any LEA professional standards as specified in Board policies and/or regulations when made available to the CONTRACTOR. Reports regarding student progress shall be consistent with the provision of this Master Contract.

For services provided on a public school campus, sign in/out procedures shall be followed by nonpublic agency providers working in a public school classroom along with all other procedures for being on campus consistent with school and LEA policy. It is understood that the public school credentialed classroom teacher is responsible for the instructional program, and all nonpublic agency service providers shall work collaboratively with the classroom teacher, who shall remain in charge of the instructional program.

For services provided in a pupil's home as specified in the IEP, CONTRACTOR must assure that the parent or an LEA-approved responsible adult is present during the provision of services. All problems and/or concerns reported to parents, both verbal and written shall also be provided to the LEA.

HEALTH AND SAFETY MANDATES

50. HEALTH AND SAFETY

CONTRACTOR shall comply with all applicable federal, state, and local laws, regulations, ordinances, policies, and procedures regarding student and employee health and safety. CONTRACTOR shall comply with the requirements of California Education Code sections 35021 et seq., 49406, and Health and Safety Code section 121525 regarding the examination of CONTRACTOR's employees and volunteers for tuberculosis. CONTRACTOR shall provide to the LEA documentation for each individual volunteering, employed, contracted, and/or otherwise hired by CONTRACTOR of such compliance before an individual comes in contact with an LEA student.

CONTRACTOR shall comply with OSHA Blood Borne Pathogens Standards, 29 Code of Federal Regulations (CFR) section 1910.1030, when providing medical treatment or assistance to a student. CONTRACTOR further agrees to provide annual training regarding universal health care precautions and to post required notices in areas designated in the California Health and Safety Code.

51. FACILITIES AND FACILITIES MODIFICATIONS

CONTRACTOR shall provide special education and/or related services to LEA students in facilities that comply with all applicable federal, state, and local laws, regulations, and ordinances related, but not limited to: disability access; fire, health, sanitation, and building standards and safety; fire warning systems; zoning permits; and occupancy capacity. When CONTRACTOR is a nonpublic school, CONTRACTOR shall conduct fire drills as required by Title 5 California Code of Regulations section 550. CONTRACTOR shall be responsible for any structural changes and/or

modifications to CONTRACTOR's facilities is required to comply with applicable federal, state, and local laws, regulations, and ordinances.

52. ADMINISTRATION OF MEDICATION

Unless otherwise set forth in the student's ISA, CONTRACTOR shall comply with the requirements of California Education Code section 49423 and Title 5 of the California Code of Regulations section 600 et seq. when CONTRACTOR serves a LEA student that is required to take prescription and/or over-the-counter medication during the school day. CONTRACTOR may designate personnel to assist the LEA student with the administration of such medication after the LEA student's parent(s) provides to CONTRACTOR: (a) a written statement from a physician detailing the type, administration method, amount, and time schedules by which such medication shall be taken; and (b) a written statement from the LEA student's parent(s) granting CONTRACTOR permission to administer medication(s) as specified in the physician's statement. CONTRACTOR shall maintain, and provide to the LEA upon request, copies of such written statements. CONTRACTOR shall maintain a written log for each LEA student to whom medication is administered. Such written log shall specify the LEA student's name; the type of medication; the date, time, and amount of each administration; and the name of CONTRACTOR's employee who administered the medication. CONTRACTOR maintains full responsibility for assuring appropriate staff training in the administration of such medication consistent with student's physician's written orders. Any change in medication type, administration method, amount or schedule must be authorized by both a licensed physician and parent.

53. INCIDENT/ACCIDENT REPORTING

CONTRACTOR shall submit within 24 hours by fax and mail, or electronically, any accident or incident report to the LEA, including any behavior incident or behavior emergency intervention. LEA may specify procedures to be implemented by CONTRACTOR or forms to be submitted by CONTRACTOR related to accident or incident reporting.

54. CHILD ABUSE REPORTING

CONTRACTOR hereby agrees to annually train all staff members, including volunteers, so that they are familiar with and agree to adhere to its own child and dependent adult abuse reporting obligations and procedures as specified in California Penal Code section 11164 et seq. To protect the privacy rights of all parties involved (i.e. reporter, child and alleged abuser), reports will remain confidential as required by law and professional ethical mandates. A written statement acknowledging the legal requirements of such reporting and verification of staff adherence to such reporting shall be submitted to the LEA.

55. SEXUAL HARASSMENT/DISCRIMINATION

CONTRACTOR shall have a Sexual and Gender Identity Harassment Policy that clearly describes the kinds of conduct that constitutes sexual harassment and that is prohibited by the CONTRACTOR's policy, as well as federal and state law. The policy should include procedures to make complaints without fear of retaliation, and for prompt and objective investigations of all sexual harassment complaints. CONTRACTOR further agrees to provide annual training to all employees regarding the laws concerning sexual harassment and related procedures.

56. REPORTING OF MISSING CHILDREN

CONTRACTOR assures the LEA that all staff members, including volunteers, are familiar with and agree to adhere to requirements for reporting missing children as specified in California Education Code section 49370. A written statement acknowledging the legal requirements of such reporting and verification of staff adherence to such reporting shall be properly submitted to the LEA. The written statement shall be submitted as specified by the LEA.

FINANCIAL

57. ENROLLMENT, CONTRACTING, SERVICE TRACKING, ATTENDANCE REPORTING, AND BILLING PROCEDURES

CONTRACTOR shall assure that the nonpublic school or nonpublic agency has the necessary financial resources to provide an appropriate education for the children enrolled and will distribute those resources in such a manner to implement the IEP and ISA for each and every child.

CONTRACTOR shall provide all records requested by LEA concerning enrollment, contracting, attendance reporting, service tracking and billing, including requirements of electronic billing. CONTRACTOR shall be paid for the provision of special education and/or related services specified in the LEA student's IEP and ISA which are provided on billable days of attendance. All payments by LEA shall be made in accordance with the terms and conditions of this Master Contract and all applicable federal and state laws.

CONTRACTOR shall maintain separate registers for the basic education program and each related service. Original attendance forms (for example, roll books for the basic education program, service tracking documents and notes for instructional assistants, behavioral intervention aides, bus aides, and each related service) shall be completed by the actual service provider whose signature shall appear on such forms and shall be available for review, inspection, or audit by the LEA during the effective period of this Master Contract and for a period of five (5) years thereafter. CONTRACTOR shall verify the accuracy of minutes of reported attendance that is the basis of services being billed for payment.

CONTRACTOR shall submit invoices and related documents to the LEA for payment, for each calendar month when education or related services were provided. Invoices and related documents may be submitted electronically if requested by LEA and CONTRACTOR has the systems in place to generate the requested documents. The LEA may designate forms for use by CONTRACTOR when submitting invoices. At a minimum, each invoice must contain the following information: month of service; specific days and times of services coordinated by the LEA approved calendar unless otherwise specified in the ISA or agreed to by the LEA; name of staff who provided the service; approved cost of each invoice; total for each service and total for the monthly invoice; date invoice was mailed; signature of the nonpublic school/nonpublic agency administrator authorizing that the information is accurate and consistent with the ISA, CDE certificates and staff notification; verification that attendance report is attached as appropriate; indication of any made-up session consistent with this Master Contract; verification that progress reports have been provided consistent with the ISA (monthly or quarterly unless specified otherwise on the ISA); and the name or initials of each student for when the service was provided.

In the event services were not provided, rationale for why the services were not provided shall be included.

Such an invoice is subject to all conditions of this Master Contract. At the discretion of the LEA, an electronic invoice may be required provided such notice has been made in writing and training provided to the CONTRACTOR at no additional charge for such training.

Invoices shall be submitted no later than thirty (30) days after the end of the attendance accounting period in which the services were rendered. LEA shall make payment to CONTRACTOR based on the number of billable days of attendance and hours of service at rates specified in this Master Contract within forty-five (45) days of LEA's receipt of properly submitted hard copy of invoices prepared and submitted as specified in California Education Code Section 56366.5 and the LEA. CONTRACTOR shall correct deficiencies and submit rebilling invoices no later than thirty (30) calendar days after the invoice is returned by LEA. LEA shall pay properly submitted re-billing invoices no later than forty-five (45) days after the date a completely corrected re-billing invoice is received by the LEA.

In no case shall initial payment claim submission for any Master Contract fiscal year (July through June) extend beyond December 31st after the close of the fiscal year. In no case shall any rebilling for the Master Contract fiscal year (July through June) extend beyond six months after the close of the fiscal year unless approved by the LEA to resolve billing issues including rebilling issues directly related to a delay in obtaining information from the Commission on Teacher Credentialing regarding teacher qualification, but no later than 12 months from the close of the fiscal year. If the billing or rebilling error is the responsibility of the LEA, then no limit is set provided that the LEA and CONTRACTOR have communicated such concerns in writing during the 12-month period following the close of the fiscal year. LEA will not pay mileage for NPA employee.

58. RIGHT TO WITHHOLD PAYMENT

The LEA may withhold payment to CONTRACTOR when: (a) CONTRACTOR has failed to perform, in whole or in part, under the terms of this Master Contract; (b) CONTRACTOR has billed for services rendered on days other than billable days of attendance or for days when student was not in attendance and/or did not receive services; (c) CONTRACTOR was overpaid by LEA as determined by inspection, review, and/or audit of its program, work, and/or records; (d) CONTRACTOR has failed to provide supporting documentation with an invoice, as required by EC 56366(c)(2); (e) education and/or related services are provided to LEA students by personnel who are not appropriately credentialed, licensed, or otherwise qualified; (f) LEA has not received, prior to school closure or contract termination, all documents concerning one or more LEA students enrolled in CONTRACTOR's educational program; (g) CONTRACTOR fails to confirm a student's change of residence to another district or confirms the change or residence to another district, but fails to notify LEA with five (5) days of such confirmation; or (h) CONTRACTOR receives payment from Medi-Cal or from any other agency or funding source for a service provided to a LEA student. It is understood that no payments shall be made for any invoices that are not received by six months following the close of the prior fiscal year, for services provided in that year.

The amount which may be withheld by the LEA with respect to each of the subparagraphs of the preceding paragraph are as follows: (a): the value of the service CONTRACTOR failed to perform; (b) the amount of overpayment; (c) the portion of the invoice for which satisfactory documentation has not been provided by CONTRACTOR; (d) the amount invoiced for services provided by the individual not appropriately credentialed, licensed, or otherwise qualified; (e) the proportionate amount of the invoice related to the applicable pupil for the time period from the date of the violation occurred and until the violation is cured; or (f) the amount paid to CONTRACTOR by Medi-Cal or another agency or funding source for the service provided to the LEA student.

If the LEA determines that cause exists to withhold payment to CONTRACTOR, LEA shall, within ten (10) business days of this determination, provide to CONTRACTOR written notice that LEA is withholding payment. Such notice shall specify the basis or bases for the LEA's withholding

payment and the amount to be withheld. Within thirty (30) days from the date of receipt of such notice, CONTRACTOR shall take all necessary and appropriate action to correct the deficiencies that form the basis for the LEA's withholding payment, submit a written request for extension of time to correct the deficiencies or submit to LEA written documentation demonstrating that the basis or bases cited by the LEA for withholding payment is unfounded. Upon receipt of CONTRACTOR's written request showing good cause, the LEA shall extend CONTRACTOR's time to correct deficiencies (usually an additional thirty (30) days), otherwise payment will be denied.

If after subsequent request for payment has been denied and CONTRACTOR believes that payment should not be withheld, CONTRACTOR shall send written notice to the LEA specifying the reason it believes payment should not be withheld. The LEA shall respond to CONTRACTOR's notice within thirty (30) business days by indicating that a warrant for the amount of payment will be made or stating the reason the LEA believes payment should not be made. If the LEA fails to respond within thirty (30) business days or a dispute regarding the withholding of payment continues after the LEA's response to CONTRACTOR's notice, CONTRACTOR may invoke the following escalation policy.

After forty-five (45) business days: The CONTRACTOR may notify the Authorized LEA's Representative of the dispute in writing. The LEA Authorized Representative shall respond to the CONTRACTOR in writing within fifteen (15) business days.

After sixty (60) business days: Disagreements between the LEA and CONTRACTOR concerning the Master Contract may be appealed to the Orange County Superintendent of Schools or the State Superintendent of Public Instruction pursuant to the provisions of California Education Code Section 56366(c)(2). CONTRACTOR disagrees with the language of California Education Code Section 56366(c)(2), and nothing herein shall constitute a waiver by CONTRACTOR of its right to challenge that provision.

59. PAYMENT FROM OUTSIDE AGENCIES

CONTRACTOR shall notify the LEA when Medi-Cal or any other agency is billed for the costs associated with the provision of special education and/or related services to LEA students. Upon request, CONTRACTOR shall provide to the LEA any and all documentation regarding reports, billing, and/or payment by Medi-Cal or any other agency for the costs associated with the provision of special education and/or related services to LEA students. CONTRACTOR shall provide prior written notice of the rights and protections required by Title 34 of the Code of Federal Regulations section 300.154(d) whenever it seeks to use the LEA students' public benefits to pay for special education and related services. Such notice shall be provided before seeking payment from Medi-Cal for the first time and annually thereafter.

60. PAYMENT FOR ABSENCES

NONPUBLIC SCHOOL STAFF ABSENCE

Whenever a classroom teacher employed by CONTRACTOR is absent, CONTRACTOR shall provide an appropriately credentialed substitute teacher in the absent teacher's classroom in accordance with California Education Code section 56061. CONTRACTOR shall provide to the LEA documentation of substitute coverage. Substitute teachers shall remain with their assigned class during all instructional time. The LEA will not pay for instruction and/or services unless said instruction or service is provided by an appropriately credentialed substitute teacher.

Whenever a related service provider is absent, CONTRACTOR shall provide a qualified (as defined in section seven (7) of this Agreement and as determined by LEA) substitute. The LEA will not pay

for services unless a qualified substitute is provided and/or CONTRACTOR provides documentation evidencing the provision of “make-up” services by a qualified service provider within thirty (30) calendar days from the date on which the services should have been provided unless otherwise agreed in LEA student’s IEP or ISA.

NONPUBLIC SCHOOL STUDENT ABSENCE

If CONTRACTOR is a nonpublic school, no later than the tenth (10th) cumulative day of the LEA student’s unexcused absence, CONTRACTOR shall notify the LEA of such absence.

Criteria for a billable day for payment purposes is one day of attendance as defined in California Education Code, sections 46010, 46010.3 and 46307. The LEA shall not pay for services provided on days that a student’s attendance does not qualify for Average Daily Attendance (ADA) reimbursement under state law. *Per Diem* rates for students whose IEPs authorize less than a full instructional day may be adjusted on a pro rata basis in accordance with the actual proportion of the school day the student was served. The LEA shall not be responsible for payment of DIS or related services for days on which a student’s attendance does not qualify for Average Daily Attendance (ADA) reimbursement under state law, nor shall student be eligible for make-up services.

NONPUBLIC AGENCY STAFF ABSENCE

When CONTRACTOR is a nonpublic agency and CONTRACTOR’s service provider is absent, CONTRACTOR shall provide a qualified (as defined in section seven (7) of this Agreement and as determined by the LEA) substitute, unless the LEA provides appropriate coverage in lieu of CONTRACTOR’s service providers. The LEA shall not pay for services unless a qualified substitute is provided and/or CONTRACTOR provides documentation evidencing the provision of “make-up” services by a qualified service provider within thirty (30) calendar days from the date on which the services should have been provided. CONTRACTOR shall not “bank” or “carry over” make up service hours under any circumstances, unless otherwise agreed to in writing by CONTRACTOR and the LEA. In the event services were not provided, reasons for why the services were not provided shall be included. In the event of a service provider absence for Behavior Intervention Implementation services provided at the school site, services shall not be deemed eligible for make up.

NONPUBLIC AGENCY STUDENT ABSENCE

If CONTRACTOR is a nonpublic agency, it shall notify LEA of the absence of a LEA student no later than the fifth consecutive service day of the student’s absence. The LEA shall not be responsible for the payment of services when a student is absent.

61. INSPECTION AND AUDIT

The CONTRACTOR shall maintain and the LEA shall have the right to examine and audit all of the books, records, documents, accounting procedures and practices and other evidence that reflect all costs claimed to have been incurred or fees claimed to have been earned under this Agreement.

CONTRACTOR shall provide the LEA access to all records including, but not limited to: student records as defined by California Education Code section 49061(b); registers and rollbooks of teachers; daily service logs and notes or other documents used to record the provision of related services; Medi-Cal/daily service logs and notes used to record provision of services provided by instructional assistants, behavior intervention aides, bus aides, and supervisors; absence verification records (parent/doctor notes, telephone logs, and related documents); bus rosters; staff lists specifying credentials held, business licenses held, documents evidencing other qualifications, social security numbers (last four digits unless otherwise required), dates of hire, and dates of termination; staff time sheets; non-paid staff and volunteer sign-in sheets; transportation and other related service

subcontracts; school calendars; bell/class schedules when applicable; liability and worker's compensation insurance policies; state nonpublic school and/or agency certifications; by-laws; lists of current board of directors/trustees, if incorporated; other documents evidencing financial expenditures; federal/state payroll quarterly reports Form 941/DE3DP; and bank statements and canceled checks or facsimile thereof. Such access shall include unannounced inspections by the LEA. CONTRACTOR shall make available to the LEA all budgetary information including operating budgets submitted by CONTRACTOR to the LEA for the relevant contract period being audited.

CONTRACTOR shall make all records available at the office of the LEA or CONTRACTOR's offices at all reasonable times and without charge. All records shall be provided to the LEA within five (5) working days of a written request from the LEA. CONTRACTOR shall, at no cost to the LEA, provide reasonable assistance for such examination or audit. The LEA's rights under this section shall also include access to CONTRACTOR's offices for purposes of interviewing CONTRACTOR's employees. If any document or evidence is stored in an electronic form, a hard copy shall be made available to the LEA, unless the LEA agrees to the use of the electronic format.

CONTRACTOR shall obtain from its subcontractors and suppliers written agreements to the requirements of this section and shall provide a copy of such agreements to the LEA upon request by the LEA.

If an inspection, review, or audit by the LEA, a state agency, a federal agency, and/or an independent agency/firm determines that CONTRACTOR owes the LEA monies as a result of CONTRACTOR's over billing or failure to perform, in whole or in part, any of its obligations under this Master Contract, the LEA shall provide to CONTRACTOR written notice demanding payment from CONTRACTOR and specifying the basis or bases for such demand. Unless CONTRACTOR and the LEA otherwise agree in writing, CONTRACTOR shall pay to the LEA the full amount owed as result of CONTRACTOR's over billing and/or failure to perform, in whole or in part, any of its obligations under this Master Contract, as determined by an inspection, review, or audit by the LEA, a state agency, a federal agency, and/or an independent agency/firm. CONTRACTOR shall make such payment to the LEA within thirty (30) days of receipt of the LEA's written notice demanding payment.

62. RATE SCHEDULE

The attached rate schedule (Exhibit A) limits the number of LEA students that may be enrolled and the maximum dollar amount of the contract. It may also limit the maximum number of students that can be provided specific services. Per Diem rates for LEA students whose IEPs authorize less than a full instructional day may be adjusted proportionally. In such cases only, the adjustments in basic education rate shall be based on the percentage of a 310-minute instructional day.

Special education and/or related services offered by CONTRACTOR shall be provided by qualified personnel as per State and Federal law, and the codes and charges for such educational and/or related services during the term of this contract, shall be as stated in Exhibit A.

63. DEBARMENT CERTIFICATION

By signing this agreement, CONTRACTOR certifies that:

- (a) CONTRACTOR and any of its shareholders, partners, or executive officers are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency, and

- (b) Has/have not, within a three-year period preceding this contract, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses.

The parties hereto have executed this Master Contract by and through their duly authorized agents or representatives. This Master Contract is effective on the 1st day of July 2017 and terminates at 5:00 P.M. on June 30, 2018, unless sooner terminated as provide herein.

CONTRACTOR,

Port View Preparatory School, Inc.

Nonpublic School/Agency

LEA,

Fountain Valley School District

By:

Signature

Date

Name and Title of Authorized
Representative

By:

Signature

Date

Dr. Mark Johnson, Superintendent

Name and Title of Authorized
Representative

Notices to CONTRACTOR shall be addressed to:

Notices to LEA shall be addressed to:

Name	Rachel Rios, Fiscal Manager
Port View Preparatory School, Inc.	Name and Title
Nonpublic School/Agency/Related Service Provider	West Orange County Consortium for Special Education (WOCCSE)
	LEA
Address	5832 Bolsa Avenue
City State Zip	Address
	Huntington Beach, CA 92649
Phone Fax	City State Zip
	(714) 903-7000, ext. 504615 (714) 872-8109
Email	Phone Fax
	rrios@hbuhd.edu
	Email

EXHIBIT A: RATES

CONTRACTOR Port View Preparatory School CONTRACTOR NUMBER W18115 2017-2018
(NONPUBLIC SCHOOL OR AGENCY) (CONTRACT YEAR)

Per CDE Certification, total enrollment may not exceed _____ If blank, the number shall be as determine by CDE Certification.

Rate Schedule. This rate schedule limits the number of LEA students that may be enrolled and the maximum dollar amount of the contract. It may also limit the maximum number of students that can be provided specific services. Special education and/or related services offered by CONTRACTOR, and the charges for such educational and/or related services during the term of this contract shall be as follows:

Payment under this contract may not exceed _____
 Total LEA enrollment may not exceed _____

A. Basic Education Program/Special Education Instruction
Basic Education Program/Dual Enrollment

Rate	Period
\$ 185.00	Per Diem

Per diem rates for LEA students whose IEPs authorize less than a full instructional day may be adjusted proportionally.

B. Related Services

	Rate based on P/U & D/O Location	Per Day
(1) a. Transportation – Round Trip		
b. Transportation – One Way		
c. Public Transportation		
d. Parent*		
(2) a. Counseling – Individual	\$ 150.00	Per Hour
b. Counseling – Group	\$ 100.00	Per Hour
c. Counseling – Consultation Rate	\$ 100.00	Per Hour
(3) a. Parent Counseling & Training – Individual	\$ 100.00	Per Hour
b. Parent Counseling & Training – Group	\$ 45.00	Per Hour
c. Parent Counseling & Training – Consultation Rate	\$ 100.00	Per Hour
(4) a. Behavior Intervention – Classroom Support Provider (must be authorized on IEP)	\$35.00 - \$45.00	Per Hour
b. Behavior Intervention – Classroom Support Specialist (authorization required)	\$ 50.00	Per Hour
c. Behavior Intervention – Transportation Support Provider (authorization req'd)	\$ 35.00	Per Hour
(5) a. Language and Speech Therapy – Individual	\$ 120.00	Per Hour
b. Language and Speech Therapy – Group	\$ 80.00	Per Hour
c. Language and Speech – Assessment		
d. Language and Speech – Consultation Rate	\$ 120.00	Per Hour
(6) a. Occupational Therapy – Individual	\$ 100.00	31-60 Minutes
b. Occupational Therapy – Group	\$ 85.00	1-30 Minutes
c. Occupational Therapy – Consultation Rate	\$ 135.00	Per Hour
(7) a. Physical Therapy – Individual	\$ 100.00	Per Hour
b. Physical Therapy – Group	\$ 85.00	Per Hour
c. Physical Therapy – Consultation Rate	\$ 135.00	Per Hour
(8) a. Assistive Technology Services – Individual	\$ 110.00	Per Hour
b. Assistive Technology Services – Group	\$ 80.00	Per Hour
c. Assistive Technology Services – Consultation Rate	\$ 110.00	Per Hour

*Parent transportation reimbursement rates are to be determined by the LEA.

2017/2018

HBUHSD Contract # W18116

Please refer to this number on correspondence, invoices, etc.

INDIVIDUAL SERVICE AGREEMENT FOR NONPUBLIC, NONSECTARIAN SCHOOL/AGENCY SERVICES
(Education Code 56365 et seq.)

This agreement is effective on July 1, 2017 or the date student begins attending a nonpublic school or begins receiving services from a nonpublic agency, if after the date identified, and terminates at 5:00 P.M. on June 30, 2018, unless sooner terminated as provided in the Master Contract and by applicable law.

Local Education Agency (LEA)	FOUNTAIN VALLEY SCHOOL DISTRICT		Nonpublic School/Agency	PORT VIEW PREPARATORY SCHOOL, INC.	
Address City, State Zip	10055 SLATER AVENUE FOUNTAIN VALLEY, CA 92708		Address City, State, Zip	23705 VIA DEL RIO YORBA LINDA, CA 92887	
LEA Case Manager			Phone	714-463-6391	Fax 714-998-6573
			E-Mail		
Student Last Name		Student First Name	Program Contact Name		
D.O.B.		I.D. #	Phone		Fax
			E-Mail		
Grade Level		Sex (M or F)	Education Schedule - Regular School Year		
Parent/Guardian Last Name		Parent/Guardian First Name	Number of Days	185	Number of Weeks 38
Address City, State Zip			Education Schedule - Extended School Year		
			Number of Days	20	Number of Weeks 5
			Contract Begins	07/01/17	Ends 06/30/18
Home Phone	Business/ Mobile Phone		Master Contract Approved by the Governing Board on:		07/13/17

DESIGNATED INSTRUCTION AND SERVICES/RELATED SERVICES:

SERVICES	PROVIDER				Cost and Duration of Session	Number of Sessions per dy/wk/mo/yr	Maximum Number of Sessions		Estimated Maximum Total Cost for Contracted Period
	LEA	NPS	NPA	OTHER (Specify)			Reg School Year	ESY	
A. BASIC EDUCATION		X			\$ 185.00	PER DIEM	185	20	\$ 37,925.00
B. RELATED SERVICES									
1. Transportation									
a. Paid to NPS/A									
b. Reimburse Parent									
2. Counseling									
a. Group									
b. Individual									
3. Adapted P.E.									
4. Speech/Language									
a. Therapy - Individual		X			\$ 120.00/hour	2x30min/wk	38	5	\$ 5,160.00
b. Therapy - Group		X			\$ 80.00/hour	1x30min/wk	38	5	\$ 1,720.00
c. Consultation - ESY Only									
5. Occupational Therapy									
a. Therapy		X			\$ 85.00/30min	1x30min/wk	38	5	\$ 3,655.00
b. Consultation									

2017/2018

HBUHSD Contract # W18116

Please refer to this number on correspondence, invoices, etc.

B. RELATED SERVICES (cont'd)	PROVIDER				Cost and Duration of Session	Number of Sessions per dy/wk/mo/yr	Maximum Number of Sessions		Estimated Maximum Total Cost for Contracted Period
	LEA	NPS	NPA	OTHER (Specify)			Reg School Year	ESY	
6. Physical Therapy									
a. Therapy									
b. Consultation									
7. ABA - Behavior Intervention									
a. Consult									
b. Direct									
c. Supervision									
d. Assessment									
8. One-to-One Aide - Classroom Support		X			\$ 45.00/hour	1x330min/day	185		\$ 45,787.50
9. One-to-One Aide - Classroom Support - <i>ESY Only</i>		X			\$ 45.00/hour	1x240min/day		20	\$ 3,600.00
10. Residential Services									
a. Board and Care									
b. Mental Health Services									
c. Transportation Public Carrier									
						A + B TOTAL COST			\$ 97,847.50

ESTIMATED MAXIMUM RELATED SERVICES COST (B) \$

\$ 59,922.50

TOTAL ESTIMATED MAXIMUM BASIC EDUCATION/RELATED SERVICES COSTS (A+B) \$

\$ 97,847.50

Other Provisions/Attachments:

Progress Reporting Requirements: _____ Quarterly _____ Monthly X Trimester _____ Other (Specify) _____

APPROVED BY THE GOVERNING BOARD ON 07/13/17

The parties hereto have executed this Individual Services Agreement by and through their duly authorized agents or representatives as set forth below.

-CONTRACTOR-

PORT VIEW PREPARATORY SCHOOL, INC.
(Name of Nonpublic School/Agency)

(Contracting Officer's Signature)

(Date)

(Name and Title)

-LEA-

FOUNTAIN VALLEY SCHOOL DISTRICT
(Name of School District)

(Signature)

(Date)

DR. MARK JOHNSON, SUPERINTENDENT
(Name of Superintendent or Authorized Designee)

2016/2017

WEST ORANGE COUNTY CONSORTIUM FOR SPECIAL EDUCATION
CONFIDENTIAL MEMO

To: FVSD Board Members

From: Rachel Rios, Fiscal Manager
West Orange County Consortium for Special Education

Date: July 3, 2017

Subject: **Non-Public Agency/School Contracts**

Board Meeting Date: July 13, 2017

Under current consortium budget agreements, any unfunded cost of NPS/NPA placement is a cost to the general fund of the resident district. It is recommended that the following non-public school/agency contracts be approved and that the West Orange county Consortium for Special Education be authorized to receive invoices and process payment.

Student's Name	Non-Public School/Agency	100% Contract	Effective Dates
N/A	Del Sol School W17225	N/A	June 19, 2017 to June 30, 2017
	Del Sol School W17226	\$4,884.00	June 19, 2017 to June 30, 2017

Approved by the FVSD Board of Trustees
July 13, 2017

Dr. Mark Johnson
Superintendent

Date:

*NONPUBLIC, NONSECTARIAN
SCHOOL/AGENCY SERVICES*

MASTER CONTRACT

W17225

DEL SOL SCHOOL, INC.

FOUNTAIN VALLEY SCHOOL DISTRICT

2016-2017

MASTER CONTRACT

GENERAL AGREEMENT FOR NONSECTARIAN,
NONPUBLIC SCHOOL AND AGENCY SERVICES

District FOUNTAIN VALLEY SCHOOL DISTRICT

Contract Year 2016-2017

 X Nonpublic School
 Nonpublic Agency

Type of Contract:

 X Master Contract for fiscal year with Individual Service Agreements (ISA) to be approved throughout the term of this contract.

 Individual Master Contract for a specific student incorporating the Individual Service Agreement (ISA) into the terms of this Individual Master Contract specific to a single student.

 Interim Contract: an extension of the previous fiscal years approved contracts and rates. The sole purpose of this Interim Contract is to provide for ongoing funding at the prior year's rates for ninety (90) days at the discretion of the LEA and CONTRACTOR. Expiration Date:

When this section is included as part of any Master Contract, the changes specified above shall amend Section 4 – Term of Master Contract.

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2016-2017

CONTRACT NUMBER:
W17225

LEA: FOUNTAIN VALLEY SCHOOL DISTRICT

NONPUBLIC SCHOOL/AGENCY/RELATED SERVICES PROVIDER:

NONPUBLIC, NONSECTARIAN SCHOOL/AGENCY SERVICES
MASTER CONTRACT

AUTHORIZATION FOR MASTER CONTRACT AND GENERAL PROVISIONS

1. MASTER CONTRACT

This Master Contract is entered into this 13th day of July, 2017, between the Fountain Valley School District (hereinafter referred to as "District" or local educational agency "LEA") and Del Sol School (hereinafter referred to as "CONTRACTOR") for the purpose of providing special education and/or related services to District students with exceptional needs under the authorization of California Education Code sections 56157, 56361 and 56365 et seq. and Title 5 of the California Code of Regulations section 3000 et seq., AB490 (Chapter 862, Statutes of 2003) and AB1858 (Chapter 914, Statutes of 2004). It is understood that this agreement does not commit the District to pay for special education and/or related services provided to any District student, or CONTRACTOR to provide such special education and/or related services, unless and until an authorized LEA representative approves the provision of special education and/or related services by CONTRACTOR.

Upon acceptance of a student, LEA shall submit to CONTRACTOR an Individual Services Agreement (hereinafter referred to as "ISA"). Unless otherwise agreed in writing, the ISA shall acknowledge CONTRACTOR's obligation to provide all services specified in the student's Individualized Education Plan (hereinafter referred to as "IEP"). The ISA shall be executed within ninety (90) days of an LEA student's enrollment. LEA and CONTRACTOR shall enter into an ISA for each LEA student served by CONTRACTOR.

Unless placement is made pursuant to an Office of Administrative Hearings (hereinafter referred to as "OAH") order, a lawfully executed agreement between LEA and parent, authorized by LEA for a transfer student pursuant to California Education Code section 56325, or otherwise authorized by LEA without a signed IEP, LEA is not responsible for the costs associated with nonpublic school placement until the date on which an IEP team meeting is convened, the IEP team determines that a nonpublic school placement is appropriate, and the IEP is signed by the LEA student's parent.

2. CERTIFICATIONS AND LICENSES

CONTRACTOR shall be certified by the California Department of Education (hereinafter referred to as "CDE") as a nonpublic, nonsectarian school/agency. All nonpublic school and nonpublic agency services shall be provided consistent with the area of certification specified by CDE Certification and as defined in California Education Code, section 56366 et seq. and within the professional scope of practice of each provider's license, certification and/or credential. In addition to meeting the certification requirements of the State of California, a CONTRACTOR that operates a program outside of this State shall be certified or licensed by that state to provide, respectively, special education and related services and designated instruction and related services to pupils under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

If CONTRACTOR is a licensed children's institution (hereinafter referred to as "LCI"), CONTRACTOR shall be licensed by the state, or other public agency having delegated authority by contract with the state to license, to provide nonmedical care to children, including, but not limited to, individuals with exceptional needs. The LCI must also comply with all licensing requirements relevant to the protection of the child, and have a special permit, if necessary, to meet the needs of each child so placed. If the CONTRACTOR operates a program outside of California and provides services to LEA students in such out-of-state program, CONTRACTOR must obtain all required licenses from the appropriate licensing agency in both California and in the state where the LCI is located.

A current copy of CONTRACTOR's licenses and nonpublic school/agency certifications, or a validly issued waiver of any such certification, must be provided to LEA on or before the date this Master Contract is executed by CONTRACTOR. CONTRACTOR must immediately (and under no circumstances longer than three (3) calendar days) notify LEA if any such licenses, certifications or waivers are expired, suspended, revoked, rescinded, or subject to a pending administrative or legal complaint or lawsuit, or otherwise nullified during the effective period of this Master Contract. If any such licenses, certifications or waivers are expired, suspended, revoked, rescinded, or otherwise nullified during the effective period of this Master Contract, this Master Contract shall terminate as of the date of such action.

Total student enrollment shall be limited to capacity as stated on CDE certification. Total student enrollment shall be limited to capacity as stated in Section 24 of the Master Contract.

3. COMPLIANCE WITH LAWS, STATUTES, REGULATIONS

During the term of this Master Contract, CONTRACTOR shall comply with all applicable federal, state, and local statutes, laws, ordinances, rules, policies, and regulations including but not limited to the provision of special education and/or related services, facilities for individuals with exceptional needs, pupil enrollment, attendance and transfer, corporal punishment, pupil discipline, and positive behavioral interventions.

CONTRACTOR acknowledges and understands that LEA may report to the CDE any violations of the provisions of this Master Contract, and that this may result in the suspension and/or revocation of CDE nonpublic school/agency certification pursuant to California Education Code section 56366.4(a).

4. TERM OF MASTER CONTRACT

The term of this Master Contract shall be from June 19, 2017 to June 30, 2017 (Title 5 California Code of Regulations section 3062(a)) unless otherwise stated. Neither the CONTRACTOR nor the LEA is required to renew this Master Contract in subsequent contract years. However, the parties acknowledge that any subsequent Master Contract is to be renegotiated prior to June 30, 2017. In the event a Master Contract is not renegotiated by June 30th, an interim contract may be made available as mutually agreed upon for up to 90 days from July 1 of the new fiscal year. (Title 5, California Code of Regulations, Section 3062(d).) No Master Contract will be offered unless and until all of the contracting requirements have been satisfied. The offer of a Master Contract to a CONTRACTOR is at the sole discretion of the LEA. Requests for renegotiation of any rate, including but not limited to, related services for the subsequent contract year, are to be submitted in writing to Orange County Department of Education, Special Education Division, 200 Kalmus Drive, P.O. Box 9050, Costa Mesa, CA 92628-9050 prior to January 31, 2017.

5. INTEGRATION/CONTINUANCE OF CONTRACT FOLLOWING EXPIRATION OR TERMINATION

This Master Contract includes each Individual Services Agreement which is incorporated herein by this reference. This Master Contract supersedes any prior or contemporaneous written or oral understanding or agreement. This Master Contract may be amended only by written amendment executed by both parties.

CONTRACTOR shall provide the LEA with all information as requested in writing to secure a Master Contract or a renewal.

At a minimum, such information shall include copies of teacher credentials and clearance, insurance documentation and CDE certification. The LEA may require additional information as applicable. If the application packet is not completed and returned to the LEA, no Master Contract will be issued. If CONTRACTOR does not return the Master Contract to the LEA duly signed by an authorized representative within ninety (90) calendar days of issuance by LEA, the new contract rates will not take effect until the newly executed Master Contract is received by the LEA and will not be retroactive to the first day of the new Master Contract's effective date. If CONTRACTOR fails to execute the new Master Contract within such ninety day period, all payments shall cease until such time as the new Master Contract is signed. (California Education Code sections 56366(c)(1) and (2).) In the event that this Master Contract expires or terminates, CONTRACTOR and LEA shall continue to be bound to all of the terms and conditions of the most recent executed Master Contract between CONTRACTOR and LEA for so long as CONTRACTOR is servicing authorized LEA students at the direction of the LEA.

6. INDIVIDUAL SERVICES AGREEMENT

This Master Contract shall include an ISA developed for each LEA student for whom CONTRACTOR is to provide special education and/or related services. An ISA shall only be issued for LEA students enrolled with the approval of the LEA pursuant to Education Code section 56366(a)(2)(A). An ISA may be effective for more than one contract year provided that there is a concurrent Master Contract in effect. In the event that this Master Contract expires or terminates, CONTRACTOR shall continue to be bound to all of the terms and conditions of the most recent executed ISAs between CONTRACTOR and LEA for so long as CONTRACTOR is servicing authorized LEA students.

Any and all changes to a LEA student's educational placement/program provided under this Master Contract and/or an ISA shall be made solely on the basis of a revision to the LEA student's IEP. At any time during the term of this Master Contract, a LEA student's parent, CONTRACTOR, or LEA may request a review of a LEA student's IEP subject to all procedural safeguards required by law.

Unless otherwise provided in this Master Contract, the CONTRACTOR shall provide all services specified in the IEP unless the CONTRACTOR and the LEA agree otherwise in the ISA (California Education Code sections 56366(a)(5) and 3062(e)). In the event the CONTRACTOR is unable to provide a specific service at any time during the life of the ISA, the CONTRACTOR shall notify the LEA in writing within five (5) business days of the last date a service was provided.

If a parent or LEA contests the termination of an ISA by initiating a due process proceeding with the OAH, CONTRACTOR shall abide by the "stay-put" requirement of state and federal law unless the parent agrees otherwise or an interim alternative educational placement is deemed lawful and appropriate by the LEA or OAH. CONTRACTOR shall adhere to all the LEA requirements concerning changes in placement.

Disagreements between the LEA and CONTRACTOR concerning the formulation of an ISA or the Master Contract may be appealed to the County Superintendent of Schools of the County where the LEA is located, or the State Superintendent of Public Instruction pursuant to the provisions of California Education Code section 56366(c)(2). Nothing herein shall limit LEA or CONTRACTOR

from engaging in alternative dispute resolution. CONTRACTOR disagrees with the language of Education Code section 56366(c)(2), and nothing herein shall constitute a waiver by CONTRACTOR of its rights to challenge that provision.

7. DEFINITIONS

The following definitions shall apply for purposes of this contract:

- a. The term "CONTRACTOR" means a nonpublic, nonsectarian school/agency certified by the California Department of Education and identified in Paragraph 1 above.
- b. The term "authorized LEA representative" means a LEA administrator designated to be responsible for nonpublic school/agencies.
- c. The term "credential" means a valid credential, life diploma, permit, or document in special education or pupil personnel services issued by, or under the jurisdiction of, the State Board of Education if issued prior to 1970 or the California Commission on Teacher Credentialing, which entitles the holder thereof to perform services for which certification qualifications are required as defined in Title 5 of the California Code of Regulations section 3001(g).
- d. The term "qualified" means that a person holds a certificate, permit or other document equivalent to that which staff in a public school are required to hold to provide special education and designated instruction and services, and has met federal and state certification, licensing, registration, or other comparable requirements which apply to the area in which he or she is providing special education or related services, including those requirements set forth in Title 5 of the California Code of Regulations sections 3064 and 3065, or, in the absence of such requirements, the state-education-agency-approved or recognized requirements, and adheres to the standards of professional practice established in federal and state law or regulation, including the standards contained in the California Business and Professions Code. Nothing in this definition shall be construed as restricting the activities of services of a graduate needing direct hours leading to licensure, or of a student teacher or intern leading to a graduate degree at an accredited or approved college or university, as authorized by state laws or regulations.
- e. The term "license" means a valid nonexpired document issued by a licensing agency within the Department of Consumer Affairs or other state licensing office authorized to grant licenses and authorizing the bearer of the document to provide certain professional services, including but not limited to mental health and board and care services at a residential placement, or refer to themselves using a specified professional title. If a license is not available through an appropriate state licensing agency, a certificate of registration with the appropriate professional organization at the national or state level which has standards established for the certificate that are equivalent to a license, shall be deemed to be a license as defined in Title 5 of the California Code of Regulations section 3001(r).
- f. Parent means a biological or adoptive parent unless the biological or adoptive parent does not have legal authority to make educational decisions for the child, a guardian generally authorized to act as the child's parent or authorized to make educational decisions for the child, an individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative with whom the child lives, or an individual who is legally responsible for the child's welfare, a surrogate parent, a foster parent if the authority of the biological or adoptive parent to make educational decisions on the child's behalf has been specifically limited by court order in accordance with Code of Federal Regulations 300.30(b)(1) or (2). Parent does not include the state or any political subdivision of government or the nonpublic school or agency under contract with the LEA for the provision

of special education or designated instruction and services for a child. (California Education Code section 56028).

- g. The term “days” means calendar days unless otherwise specified.
- h. The phrase “billable day” means a school day in which instructional minutes meet or exceed those in comparable LEA programs.
- i. The phrase “billable day of attendance” means a school day as defined in California Education Code Section 46307, in which a LEA student is in attendance and in which instructional minutes meet or exceed those in comparable LEA programs unless otherwise stipulated in an IEP or ISA.
- j. It is understood that the term “Master Contract” also means “Agreement” and is referred to as such in this document.

ADMINISTRATION OF CONTRACT

8. NOTICES

All notices provided for by this Master Contract shall be in writing. Notices shall be mailed by first class mail deposited with the United States Postal Service or delivered by hand and shall be effective as of the date of receipt by addressee. E-mail notifications may be used provided that a hard copy is also mailed by first class mail deposited with the United States Postal Service or delivered by hand and shall be effective as of the date of receipt by addressee via first class mail or hand delivery.

All notices mailed to the LEA shall be addressed to the person and address as indicated on the signature page of the Master Contract. Notices to CONTRACTOR shall be addressed as indicated on signature page of this Master Contract.

9. MAINTENANCE OF RECORDS

All records shall be maintained by CONTRACTOR as required by state and federal laws and regulations. Notwithstanding the foregoing sentence, CONTRACTOR shall maintain all records for at least five (5) years after the termination of this Master Contract. For purposes of this Master Contract, “records” shall include, but not be limited to student records as defined by California Education Code section 49061(b) including electronically stored information; cost data records as set forth in Title 5 of the California Code of Regulations section 3061; registers and roll books of teachers and/or daily service providers; daily service logs and notes and other documents used to record the provision of related services including supervision; daily service logs and notes used to record the provision of services provided through additional instructional assistants, NPA behavior intervention aides, and bus aides; absence verification records (parent/doctor notes, telephone logs, and related documents) if the CONTRACTOR is funded for excused absences, however, such records are not required if positive attendance is required; bus rosters; staff lists specifying credentials held and documents evidencing other staff qualifications, social security numbers, dates of hire, and dates of termination; records of employee training and certification, staff time sheets; non-paid staff and volunteer sign-in sheets; transportation and other related services subcontracts; school calendars; bell/class schedules when applicable; liability and worker’s compensation insurance policies; state nonpublic school and/or agency certifications by-laws; lists of current board of directors/trustees, if incorporated; documents evidencing financial expenditures; federal/state payroll quarterly reports; and bank statements and canceled checks or facsimile thereof.

CONTRACTOR shall maintain LEA student records in a secure location to ensure confidentiality and prevent unauthorized access. CONTRACTOR shall maintain a current list of the names and

positions of CONTRACTOR's employees who have access to confidential records. CONTRACTOR shall maintain an access log for each LEA student's record which lists all persons, agencies, or organizations requesting or receiving information from the record. Such log shall be maintained as required by California Education Code section 49064 and include the name, title, agency/organization affiliation, and date/time of access for each individual requesting or receiving information from the LEA student's record. Such log needs to record access to the LEA student's records by: (a) the LEA student's parent; (b) an individual to whom written consent has been executed by the LEA student's parent; or (c) employees of LEA or CONTRACTOR having a legitimate educational interest in requesting or receiving information from the record. CONTRACTOR/LEA shall maintain copies of any written parental concerns granting access to student records. For purposes of this paragraph, "employees of LEA or CONTRACTOR" do not include subcontractors. CONTRACTOR shall grant parents access to student records, and comply with parents' requests for copies of student records, as required by state and federal laws and regulations. CONTRACTOR agrees, in the event of school or agency closure, to forward all records within five (5) business days to LEA. These shall include, but not limited to, current transcripts, IEP/ISPs, and reports. CONTRACTOR acknowledges and agrees that all student records maintained by CONTRACTOR as required by state and federal laws and regulations are the property of LEA and must be returned to LEA without dissemination to any other entity.

10. SEVERABILITY CLAUSE

If any provision of this Master Contract is held, in whole or in part, to be unenforceable for any reason, the remainder of that provision and of the entire Agreement shall be severable and remain in effect.

11. SUCCESSORS IN INTEREST

This contract binds CONTRACTOR's successors and assignees. CONTRACTOR shall notify the LEA of any change of ownership or corporate control.

12. VENUE AND GOVERNING LAW

The laws of the State of California shall govern the terms and conditions of this Master Contract with venue in Orange County.

13. MODIFICATIONS AND AMENDMENTS REQUIRED TO CONFORM TO LEGAL AND ADMINISTRATIVE GUIDELINES

This Master Contract may be modified or amended to conform to administrative and statutory guidelines issued by any state, federal or local governmental agency. The party seeking such modification shall provide thirty (30) days' notice of any such changes or modifications made to conform to administrative or statutory guidelines and a copy of the statute or regulation upon which the modification or changes are based. If the parties cannot agree on such modifications or amendments, this Master Contract may be terminated in accordance with Paragraph 14.

14. TERMINATION

This Master Contract or an Individual Service Agreement may be terminated for cause. The cause shall not be the availability of a public class initiated during the period of the Master Contract or ISA unless the parent agrees to the transfer of the student to the public school program at an IEP team meeting. To terminate the Master Contract for cause, either party shall give twenty (20) days prior written notice to the other party (California Education Code section 56366(a)(4)). At the time of termination, CONTRACTOR shall provide to the LEA any and all documents CONTRACTOR is required to maintain under this Master Contract. ISAs are void upon termination of this Master

Contract, except as specified above in Paragraph 5. CONTRACTOR or the LEA may also terminate an individual ISA for cause. To terminate the ISA, either party shall also give twenty (20) days prior written notice to the other.

15. INSURANCE

CONTRACTOR shall, at his, her, or its sole cost and expense, maintain in full force and effect, during the term of this Agreement, the following insurance coverage from a California licensed and/or admitted insurer with an A minus (A-), VII, or better rating from A.M. Best, sufficient to cover any claims, damages, liabilities, costs and expenses (including counsel fees) arising out of or in connection with CONTRACTOR'S fulfillment of any of its obligations under this Agreement:

- A. **Commercial General Liability Insurance**, including both bodily injury and property damage, with minimum limits as follows:

\$1,000,000 per occurrence
\$2,000,000 general aggregate
\$1,000,000 personal & advertising injury
\$ 5,000 medical expenses

- B. **Sexual Abuse & Molestation** coverage with the following minimum limits:

\$1,000,000 per occurrence
\$2,000,000 general aggregate

- C. **Auto Liability Insurance**. To the extent vehicles are used to transport students, such vehicles shall have liability coverage of not less than \$1 million combined single limit.

If CONTRACTOR uses **Personal** vehicles to travel to/from school sites, between schools and/or to/from students' homes or other locations as an approved service location by the LEA, CONTRACTOR must comply with State of California auto insurance requirements.

- D. **Workers' Compensation and Employers Liability Insurance** in a form and amount covering CONTRACTOR'S full liability under the California Workers' Compensation Insurance and Safety Act and in accordance with applicable state and federal laws.

Part A – Statutory Limits
Part B - \$1,000,000/\$1,000,000/\$1,000,000 Employers Liability

- D. **Errors & Omissions (E & O)/Malpractice (Professional Liability)** coverage with the following minimum limits:

\$1,000,000 per occurrence
\$2,000,000 general aggregate

- E. CONTRACTOR, upon execution of this Master Contract and periodically thereafter upon request, shall furnish the LEA with certificates of insurance and endorsements evidencing such coverage. The certificate of insurance shall include a thirty (30) day non-renewal, cancellation or modification notice provision. The Commercial General Liability and Automobile Liability policy shall name WCCCSE/Member Districts as additional insured's on all insurance policies and premiums shall be paid by CONTRACTOR and shall be deemed included in CONTRACTOR's obligations under this contract at no additional charge.

- F. Unless CONTRACTOR is insured under the California Private Schools Self Insurance Group (CAPS SIG) or a similar self-insurance group, any deductibles or self-insured retentions above \$100,000 must be declared to and approved by the LEA. At its option, the LEA may require the CONTRACTOR, at the CONTRACTOR's sole cost, to: (a) cause its insurer to reduce to levels specified by the LEA or eliminate such deductibles or self-insured retentions with respect to the LEA, its officials and employees or (b) procure a bond guaranteeing payment of losses and related investigation.
- G. For any claims related to the services provided by CONTRACTOR, the CONTRACTOR's insurance coverage shall be primary insurance as respects the LEA, its subsidiaries, officials and employees. Any insurance or self-insurance maintained by the LEA, its subsidiaries, officials and employees shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
- H. All Certificates of Insurance shall reference the contract number, name of the school or agency submitting the certificate, and the location of the school or agency submitting the certificate on the certificate.

If the LEA or CONTRACTOR determines that changes in insurance coverage obligations under this section is necessary, either party may reopen negotiations to modify the insurance obligations.

16. INDEMNIFICATION AND HOLD HARMLESS

To the fullest extent allowed by law, CONTRACTOR shall defend, indemnify and hold harmless LEA and its directors, officers, agents, employees and guests against any claim or demand arising from any actual or alleged act, error, or omission by CONTRACTOR or its directors, officers, agents, employees, volunteers or guests arising from CONTRACTOR's duties and obligations described in this Agreement or imposed by law.

To the fullest extent allowed by law, LEA shall defend, indemnify and hold harmless CONTRACTOR and its directors, officers, agents, employees and guests against any claim or demand arising from any actual or alleged act, error, or omission by LEA or its directors, officers, agents, employees, volunteers or guests arising from LEA's duties and obligations described in this Agreement or imposed by law.

17. INDEPENDENT CONTRACTOR

Nothing herein contained shall be construed to imply a joint venture, co-principal, partnership, principal-agent, employer-employee, or co-employer relationship between the LEA and CONTRACTOR. CONTRACTOR shall provide all services under this Agreement as an independent contractor, and neither party shall have the authority to bind or make any commitment on behalf of the other. Nothing contained in this Agreement shall be deemed to create any association, partnership, joint venture or relationship of principal and agent, master and servant, or employer and employee between the parties or any affiliates of the parties, or between the LEA and any individual assigned by CONTRACTOR to perform any services for the LEA.

If the LEA is held to be a partner, joint venturer, co-principal, employer or co-employer of CONTRACTOR based on any acts or omissions of CONTRACTOR, CONTRACTOR shall indemnify and hold harmless the LEA from and against any and all claims for loss, liability, or damages arising from that holding, as well as any expenses, costs, taxes, penalties and interest charges incurred by the LEA as a result of that holding. If CONTRACTOR is held to be a partner, joint venturer, co-principal, employer, or co-employer of the LEA based on any acts or omissions of LEA, LEA shall indemnify and hold harmless the CONTRACTOR from and against any and all

claims for loss, liability, or damages arising from that holding, as well as any expenses, costs, taxes, penalties and interest charges incurred by the LEA as a result of that holding..

18. SUBCONTRACTING

CONTRACTOR shall not enter into any subcontracting relationship without first obtaining the written approval of the LEA. CONTRACTOR's written notification shall include the specific special education and/or related service to be subcontracted, including the corresponding hourly rate or fee. In the event LEA determines that it can provide the subcontracted service(s) at a lower rate, LEA may elect to provide such service(s). If LEA elects to provide such service(s), LEA shall provide written notification to CONTRACTOR within five (5) days of receipt of CONTRACTOR's original notice and CONTRACTOR shall not subcontract for said service(s).

CONTRACTOR shall incorporate all of the provisions of this Master Contract in all subcontracts, unless written approval for any change is first obtained by the LEA. Furthermore, when CONTRACTOR enters into subcontracts for the provision of special education and/or related services (including without limitation transportation) for any LEA student, CONTRACTOR shall cause each subcontractor to procure and maintain insurance during the term of each subcontract. Such subcontractor's insurance shall comply with the provisions of Section 15. Each subcontractor shall furnish the LEA with original endorsements and certificates of insurance effecting coverage required by Section 15. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. LEA may request that the certificates and endorsements be completed on forms provided by the LEA. All certificates and endorsements are to be received and approved by the LEA before the subcontractor's work commences. The Commercial General Liability and Automobile Liability policies shall name the LEA and the LEA/District Board of Education as additional insured. If LEA does not approve the subcontractor's insurance, the LEA shall provide CONTRACTOR notice within fifteen (15) days.

As an alternative to the LEA's forms, a subcontractor's insurer may provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by this Master Contract. All Certificates of Insurance shall reference the LEA contract number, name of the school or agency submitting the certificate, indication if nonpublic school or nonpublic agency, and the location of the school or agency submitting the certificate. In addition, all sub-contractors must meet the requirements as contained in Section 45 (Clearance Requirements) and Section 46 (Staff Qualifications) of this Master Contract.

19. CONFLICTS OF INTEREST

CONTRACTOR shall provide to the LEA a copy of its current bylaws and a current list of its Board of Directors (or Trustees), if it is incorporated. This can be provided via e-mail to the SELPA Director of the LEA. CONTRACTOR and any member of its Board of Directors (or Trustees) shall avoid any relationship with the LEA that constitutes or may constitute a conflict of interest pursuant to California Education Code section 56042 including, but not limited to, employment with LEA, provision of private party assessments and/or reports, and attendance at IEP team meetings acting as a student's advocate. Pursuant to California Education Code section 56042, an attorney or advocate for a parent of an individual with exceptional needs shall not recommend placement at CONTRACTOR's facility if the attorney or advocate is employed or contracted by the CONTRACTOR, or will receive a benefit from the CONTRACTOR, or otherwise has a conflict of interest.

Unless CONTRACTOR and the LEA otherwise agree in writing, the LEA shall neither execute an ISA with CONTRACTOR nor amend an existing ISA for a LEA student when a recommendation for special education and/or related services is based in whole or in part on assessment(s) or reports provided by CONTRACTOR to the LEA student without prior written authorization by LEA. This paragraph shall apply to CONTRACTOR regardless of when an assessment is performed or a report

is prepared (i.e., before or after the LEA student is enrolled in CONTRACTOR's school/agency) or whether an assessment of the LEA student is performed or a report is prepared in the normal course of the services provided to the LEA student by CONTRACTOR. To avoid a conflict of interest, and in order to ensure the appropriateness of an Independent Educational Evaluation (hereinafter referred to as "IEE") and its recommendations, the District may, in its discretion, not fund an IEE by an evaluator who provides ongoing service(s) or is sought to provide service(s) to the student for whom the IEE is requested. Likewise, the LEA may, in its discretion, not fund services through the evaluator whose IEE the District agrees to fund. When no other appropriate assessor is available, the LEA may request and if CONTRACTOR agrees, the CONTRACTOR may provide an IEE.

When the CONTRACTOR is a nonpublic agency, the CONTRACTOR acknowledges that its authorized representative has read and understands Education Code section 56366.3 which provides, in relevant part, that no special education and/or related services provided by CONTRACTOR shall be paid for by the LEA if provided by an individual who was an employee of the LEA within the three hundred and sixty five (365) days prior to executing this Master Contract. This provision does not apply to any person who is able to provide designated instruction and services during the extended school year because he or she is otherwise employed for up to ten months of the school year by the LEA.

20. NON-DISCRIMINATION

CONTRACTOR shall not unlawfully discriminate on the basis of race, religion, sex, national origin, age, sexual orientation, disability or any other classification protected by federal or state law, in employment or operation of its programs.

EDUCATIONAL PROGRAM

21. FREE AND APPROPRIATE PUBLIC EDUCATION

LEA shall provide CONTRACTOR with a copy of the IEP including the Individualized Transition Plan (hereinafter referred to as "ITP") of each LEA student served by CONTRACTOR. CONTRACTOR shall provide to each LEA student special education and/or related services (including transition services) within the nonpublic school or nonpublic agency consistent with the LEA student's IEP and as specified in the ISA. If CONTRACTOR is a nonpublic school, CONTRACTOR shall not accept a LEA student if it cannot provide or ensure the provision of the services outlined in the student's IEP.

Unless otherwise agreed to between CONTRACTOR and LEA, CONTRACTOR shall be responsible for the provision of all appropriate supplies, equipment, and/or facilities for LEA students, as specified in the LEA student's IEP and ISA. LEA shall provide low incidence equipment for eligible students with low incidence disabilities when specified in the student's IEP and ISA. Such equipment remains the property of the LEA and shall be returned to the LEA when the IEP team determines the equipment is no longer needed or when the student is no longer enrolled in the nonpublic school. CONTRACTOR shall make no charge of any kind to parents for special education and/or related services as specified in the LEA student's IEP and ISA (including, but not limited to, screenings, assessments, or interviews that occur prior to or as a condition of the LEA student's enrollment under the terms of this Master Contract). CONTRACTOR may charge a LEA student's parent(s) for services and/or activities not necessary for the LEA student to receive a free appropriate public education after: (a) verification that any such charge or fee is not a "pupil fee" under Education Code section 49010 et. seq.; (b) written notification to the LEA student's parent(s) of the cost and voluntary nature of the services and/or activities; and (c) receipt by the LEA of the written notification and a written acknowledgment signed by the LEA student's parent(s) of the cost and voluntary nature of the services and/or activities. CONTRACTOR shall adhere to all LEA

guidelines as well as all California state laws, regulations and guidelines prohibiting pupil fees, deposits or other charges.

Voluntary services and/or activities not necessary for the LEA student to receive a free appropriate public education shall not interfere with the LEA student's receipt of special education and/or related services as specified in the LEA student's IEP and ISA unless the LEA and CONTRACTOR agree otherwise in writing.

22. GENERAL PROGRAM OF INSTRUCTION

All nonpublic school and nonpublic agency services shall be provided consistent with the area of certification specified by CDE Certification and as defined in California Education Code section 56366 et seq.

When CONTRACTOR is a nonpublic school, CONTRACTOR's general program of instruction shall: (a) be consistent with LEA's standards regarding the particular course of study and curriculum; (b) include curriculum that addresses mathematics, literacy and the use of educational, assistive technology and transition services; (c) be consistent with CDE's standards regarding the particular course of study and curriculum; (d) provide the services as specified in the LEA student's IEP and ISA. LEA students shall have access to: (a) State Board of Education (SBE) - adopted standards-based, core curriculum and the same instructional materials for kindergarten and grades 1 to 8, inclusive; and provide standards – aligned core curriculum and instructional materials for grades 9 to 12, inclusive, used by a local education agency (LEA), that contracts with the nonpublic school; (b) college preparation courses; (c) extracurricular activities, such as art, sports, music and academic clubs; (d) career preparation and vocational training, consistent with transition plans pursuant to state and federal law and; (e) supplemental assistance, including individual academic tutoring, psychological counseling, and career and college counseling. CONTRACTOR's general program of instruction shall be described in writing and a copy provided to LEA prior to the effective date of this Master Contract.

When CONTRACTOR serves LEA students in grades nine through twelve inclusive, LEA shall provide to CONTRACTOR a specific list of the course requirements to be satisfied by the CONTRACTOR leading toward graduation or completion of LEA's diploma requirements including the graduation requirements for pupils in foster care or pupils who are homeless as set forth in Education Code section 51225.1. CONTRACTOR shall not award a high school diploma to LEA students who have not successfully completed all of the LEA's graduation requirements, including, but not limited to, passing the California High School Exit Exam in accordance with state law.

When CONTRACTOR is a nonpublic agency and/or related services provider, CONTRACTOR's general program of instruction and/or services shall be consistent with LEA and CDE guidelines and certification, and provided as specified in the LEA student's IEP and ISA. The nonpublic agency providing Behavior Intervention services shall develop a written treatment plan that specifies the nature of their nonpublic agency service for each student within thirty (30) days of enrollment and shall be provided in writing to the LEA. School-based services may not be unilaterally converted by CONTRACTOR to a substitute program or provided at a location not specifically authorized by the IEP team. Except for services provided by a contractor that is a licensed children's institution, all services not provided in the school setting require the presence of a parent, guardian or adult caregiver during the delivery of services, provided such guardian or caregiver have a signed authorization by the parent or legal guardian to authorize emergency services as requested. LCI contractors shall ensure that appropriate and qualified residential or clinical staff is present during the provision of services under this Master Contract. CONTRACTOR shall immediately notify LEA in writing if no parent, guardian or adult caregiver is present. CONTRACTOR shall provide to the LEA a written description of the services and location provided prior to the effective date of this Master Contract. Contractors providing Behavior Intervention services must meet the requirements

set forth in Title 5 of the California Code of Regulations sections 3065(d) and (e) and Education Code section 56520 et seq. It is understood that Behavior Intervention services are limited per CDE Certification and do not constitute as an instructional program.

When CONTRACTOR is a nonpublic agency, CONTRACTOR shall not provide transportation nor subcontract for transportation services.

23. INSTRUCTIONAL MINUTES

When CONTRACTOR is a nonpublic school, the total number of instructional minutes per school day provided by CONTRACTOR shall be at least equivalent to the number of instructional minutes per school day provided to LEA students at like grade level, attending LEA schools and shall be specified in the LEA student's ISA developed in accordance with the LEA student's IEP.

For LEA students in grades pre-kindergarten through 12, unless otherwise specified in the LEA student's IEP and ISA, the number of instructional minutes, excluding breakfast, recess, lunch, and passing time, shall be at least:

310 instructional minutes for LEA students in grades pre-kindergarten through five inclusive.

314 instructional minutes for LEA students in grades six through twelve inclusive.

The total number of annual instructional minutes shall be at least equivalent to the total number of annual instructional minutes provided to LEA students attending LEA schools in like grade levels unless otherwise specified in the LEA student's IEP.

When CONTRACTOR is a nonpublic agency and/or related services provider, the total number of minutes per school day provided by CONTRACTOR shall be specified in the LEA student's ISA developed in accordance with the LEA student's IEP.

24. CLASS SIZE

When CONTRACTOR is a nonpublic school, CONTRACTOR shall ensure that class size shall not exceed a ratio of one teacher per twelve (12) students unless CONTRACTOR and the LEA agree otherwise, in writing.

In the event a nonpublic school is unable to fill a vacant teaching position responsible for direct instruction to students, and the vacancy has direct impact on the California Department of Education Certification of that school, the nonpublic school shall develop a plan to assure appropriate coverage of students by first utilizing existing certificated staff. The nonpublic school and the LEA may agree to one 30 school day period per contract year where class size may be increased to assure coverage by an appropriately credentialed teacher. Such an agreement shall be in writing and signed by both parties. This provision does not apply to a nonpublic agency.

CONTRACTOR providing special education instruction for individuals with exceptional needs between the ages of three and five years, inclusive, shall also comply with the appropriate instructional adult to child ratios pursuant to California Education Code sections 56440 et seq.

25. CALENDARS

When CONTRACTOR is a nonpublic school, CONTRACTOR shall submit to the LEA a school calendar with the total number of billable days not to exceed 180 days, plus up to twenty (20) extended school year billable days unless otherwise specified in the LEA student's IEP/IFSP and ISA. Billable days shall include only those days that are included on the submitted and approved school calendar, and/or required by the IEP (developed by the LEA) for each student.

CONTRACTOR shall not be allowed to change its school calendar and/or amend the number of billable days without the prior written approval of the LEA. Nothing in this Master Contract shall be interpreted to require the LEA to accept any requests for calendar changes.

Unless otherwise specified by the students' IEP, educational services shall occur at the school site. A student shall only be eligible for extended school year services if such are recommended by his/her IEP Team and the provision of such is specifically included in the ISA. Extended school year shall consist of twenty (20) instructional days, unless otherwise agreed upon by the IEP Team convened by the LEA. Any days of extended school year in excess of twenty (20) billable days must be mutually agreed to, in writing, prior to the start of the extended school year.

Student must have actually been in attendance during the regular school year and/or during extended school year and actually received services on a billable day of attendance in order for CONTRACTOR to be eligible for payment. It is specifically understood that services may not be provided on weekends/holidays and other times when school is not in session, unless agreed to by the LEA, in writing, in advance of the delivery of any nonpublic school service. Any instructional days provided without this written agreement shall be at the sole financial responsibility of the CONTRACTOR.

CONTRACTOR shall observe the same legal holidays as the LEA and shall identify the dates of observance on its school calendar submitted to the LEA. Those holidays are Labor Day, Veteran's Day, Thanksgiving Day, Christmas Day, New Year's Day, Dr. Martin Luther King, Jr. Day, President's Day, Memorial Day and Independence Day. With the approval of the LEA, CONTRACTOR may revise the date upon which CONTRACTOR closes in observance of any of the holidays observed by LEA.

When CONTRACTOR is a nonpublic agency, CONTRACTOR shall be provided with a LEA-developed/approved calendar prior to the initiation of services. CONTRACTOR herein agrees to observe holidays as specified in the LEA-developed/approved calendar. CONTRACTOR shall provide services pursuant to the LEA-developed/approved calendar; or as specified in the LEA student's IEP and ISA. Unless otherwise specified in the LEA student's ISA, CONTRACTOR shall provide related services to LEA students on only those days that the LEA student's school of attendance is in session and the LEA student attends school. CONTRACTOR shall bill only for services provided on billable days of attendance as indicated on the LEA calendar unless CONTRACTOR and the LEA agree otherwise, in writing. Student must have actually been in attendance and/or received services on a billable day of attendance in order for CONTRACTOR to be eligible for payment. It is specifically understood that services may not be provided on weekends/holidays and other times when school is not in session, unless agreed to by the LEA, in writing, in advance of the delivery of any nonpublic agency service provided by CONTRACTOR. Any instructional days provided without this written agreement shall be at the sole financial responsibility of the CONTRACTOR.

26. DATA REPORTING

CONTRACTOR shall agree to provide to the LEA, all data related to students who are served by the CONTRACTOR. This shall include any and all data related to any section of this Master Contract. The specific format of the data to be provided shall be determined between the LEA and CONTRACTOR. CONTRACTOR shall not enter into a contract with a third party for the purpose of providing cloud-based services including but not limited digital storage, management and retrieval of pupil records or to provide digital educational software that authorizes such third party to access, store, and use pupil records, unless CONTRACTOR has obtained prior written authorization from LEA in compliance with Education Code section 49073.1.

The LEA may provide the CONTRACTOR with approved forms and/or format for such data, including but not limited to, invoicing, attendance reports, and progress reports. The LEA may approve use of CONTRACTOR-provided forms at LEAs discretion.

27. LEAST RESTRICTIVE ENVIRONMENT/DUAL ENROLLMENT

CONTRACTOR and the LEA shall both follow policies and procedures that support Least Restrictive Environment (“LRE”) options (and/or dual enrollment options if available and appropriate) for students to have access to the general curriculum and to be educated with their nondisabled peers to the maximum extent appropriate.

LRE placement options shall be addressed at all IEP team meetings regarding students for whom ISAs have been or may be executed. This shall include IEP team consideration of supplementary aids and services and goals and objectives necessary for placement in the LRE and necessary to enable students to transition to less restrictive settings.

When an IEP team has determined that a student should be transitioned into the public school setting, CONTRACTOR shall assist the LEA in implementing the IEP team’s recommendations and/or activities to support the transition.

28. STATEWIDE ACHIEVEMENT TESTING AND HIGH SCHOOL EXIT EXAMINATION

When CONTRACTOR is a nonpublic school, CONTRACTOR shall, in accordance with Education Code section 60640 et. seq. administer all Statewide assessments within the California Assessment of Student Performance and Progress (“CAASP”), as well as the Desired Results Developmental Profile (“DRDP”) achievement and abilities tests (using LEA-authorized assessment instruments), the Fitness Gram, and the California English Language Development Test (“CELDT”), as appropriate to the student, and mandated by LEA pursuant to LEA guidelines as well as state and federal laws and regulations.

When CONTRACTOR is a nonpublic school, CONTRACTOR is subject to the alternative accountability system developed pursuant to Education Code section 52052, in the same manner as public schools and each LEA student placed with CONTRACTOR by the LEA shall be tested by qualified staff of CONTRACTOR in accordance with that accountability program. LEA shall provide test administration training to CONTRACTOR’s qualified staff; CONTRACTOR shall attend LEA test training and comply with completion of all coding requirements as required by LEA. Contractor shall report the test results to the CDE as required by Education Code section 56366(a)(8)(A).

Where CONTRACTOR is a nonpublic school, CONTRACTOR shall administer all statewide achievement tests and the California High School Exit Examination as mandated by the LEA and pursuant to the LEA guidelines, as well as state and federal laws and regulations.

29. DISTRICT MANDATED ATTENDANCE AT MEETINGS

CONTRACTOR shall attend District mandated meetings when legal mandates, and/or LEA policy and procedures are reviewed, including but not limited to the areas of: curriculum, high school graduation, standards-based instruction, behavior intervention, cultural and linguistic needs of students with disabilities, dual enrollment responsibilities, LRE responsibilities, transition services, and standardized testing. The LEA shall provide CONTRACTOR with reasonable advanced notice of mandated meetings. Attendance at such meetings shall not constitute a billable service hour(s).

30. POSITIVE BEHAVIOR INTERVENTIONS

CONTRACTOR shall comply with the requirements of Education Code section 56520 et seq. and applicable provisions of Title 5 of the California Code of Regulations regarding positive behavior interventions including, but not limited to: the completion of functional behavioral assessments; the development, implementation, monitoring, supervision, modification, and evaluation of behavior intervention plans; and emergency interventions. It is understood that the LEA may require additional requirements for staff qualifications beyond what is required in Title 5 of the California Code of Regulations sections 3064 and 3065. Such requirements will be provided in writing to CONTRACTOR prior to entering into an ISA for a LEA student. Failure to maintain adherence to staff qualification requirements shall constitute sufficient cause for contract termination. CONTRACTOR shall provide the LEA with all training protocols for behavior intervention staff who do not possess a license, credential or recognized certification as part of their Master Contract application. CONTRACTOR shall provide certification that all behavior aides who do not possess a license, credential or recognized certification have completed required training protocols within ten days of the start of providing behavior intervention services to a LEA student. Failure to do so shall constitute sufficient cause for termination.

CONTRACTOR shall designate an individual employed, contracted, and/or otherwise hired by CONTRACTOR as a "behavior intervention case manager." CONTRACTOR shall maintain a written policy in compliance with Education Code section 56520 et seq. and applicable provisions of Title 5 of the California Code of Regulations regarding emergency interventions and behavioral emergency reports. Evidence of such training shall be submitted to the LEA at the beginning of the school year and within fourteen (14) days of any new hire. CONTRACTOR shall ensure that all of its staff members are trained annually in crisis intervention and emergency procedures as related to appropriate behavior management strategies.

CONTRACTOR shall not authorize, order, consent to, or pay for any of the following prohibited interventions, or any other intervention similar to or like the following: (a) any intervention that is designed to, or likely to, cause physical pain, including but not limited to, electric shock; (b) releasing noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the LEA student's face; (c) any intervention which denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities; (d) any intervention which is designed to subject, used to subject, or likely to subject the LEA student to verbal abuse, ridicule, or humiliation, or which can be expected to cause excessive emotional trauma; (e) restrictive interventions which employ a device, material, or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment or similar techniques may be used as a limited emergency intervention by CONTRACTOR's trained and qualified personnel as allowable by applicable law and regulations; (f) locked seclusion except as allowable by applicable law and regulations; (g) any intervention that precludes adequate supervision of the LEA student; and (h) any intervention which deprives the LEA student of one or more of his or her senses, pursuant to Education Code section 56521.2.

31. STUDENT DISCIPLINE

CONTRACTOR shall maintain and abide by a written policy for student discipline that is consistent with state and federal law and regulations.

When CONTRACTOR seeks to remove a LEA student from his/her current educational placement for disciplinary reasons, CONTRACTOR shall immediately submit a written discipline report to the LEA and a manifestation IEP team meeting shall be scheduled. Written discipline reports shall include, but not be limited to: the LEA student's name; the time, date, and description of the misconduct; the disciplinary action taken by CONTRACTOR; and the rationale for such disciplinary action. A copy of the LEA student's behavior plan, if any, shall be submitted with the written

discipline report. CONTRACTOR and LEA agree to participate in a manifestation determination at an IEP meeting no later than the tenth (10th) day of suspension. CONTRACTOR shall notify and invite LEA representatives to the IEP team meeting where the manifestation determination will be made.

32. IEP TEAM MEETINGS

An IEP team meeting shall be convened at least annually to evaluate: (1) the educational progress of each student placed with CONTRACTOR, including all state assessment results pursuant to the requirements of Education Code section 52052; (2) whether or not the needs of the student continue to be best met at the nonpublic school and/or by the nonpublic agency; and (3) whether changes to the student's IEP are necessary, including whether the student may be transitioned to a public school setting. (California Education Code sections 56366(a)(2)(B)(i) and (ii).) If an LEA student is enrolled in the nonpublic school pursuant to a lawfully executed agreement between the LEA and parent, it shall be the responsibility of the LEA to notify CONTRACTOR in writing (1) when or whether an IEP meeting will be held, (2) whether placement in the nonpublic school should be documented as part of an IEP, and (3) the start date and, if known, the end date for services to be provided by CONTRACTOR to LEA student.

If a LEA student is to be transferred from a nonpublic school setting into a regular class setting in a public school for any part of the school day, the IEP team shall document, if appropriate, a description of activities provided to integrate the student into the regular education program, including the nature of each activity as well as the time spent on the activity each day or week and a description of the activities provided to support the transition of the student from the special education program into the regular education program. Each LEA student shall be allowed to provide confidential input to any representative of his or her IEP team. Except as otherwise provided in the Master Contract, CONTRACTOR and the LEA shall participate in all IEP team meetings regarding LEA students for whom ISAs have been or may be executed. At any time during the term of this Master Contract, a parent, the CONTRACTOR or the LEA may request a review of the student's IEP, subject to all procedural safeguards required by law, including reasonable notice given to, and participation of, the CONTRACTOR in the meeting. Every effort shall be made to schedule IEP team meetings at a time and place that is mutually convenient to the parent(s), the CONTRACTOR and the LEA. CONTRACTOR shall provide to the LEA any and all assessments (including testing protocols) and written assessment reports created by CONTRACTOR and any of its agents or subcontractors, upon request.

If the CONTRACTOR or LEA is unable to convince the parent or guardian that he or she should attend the IEP, CONTRACTOR shall maintain a written record of its attempts to arrange a mutually agreed-upon time and place. The CONTRACTOR and LEA shall also take any action necessary to ensure that the parent or guardian understands the proceedings at a meeting, including arranging for an interpreter.

Changes in any LEA student's educational program, including instruction, services, or instructional setting, provided under this Master Contract may only be made on the basis of revisions to the student's IEP. In the event that the CONTRACTOR believes the student requires a change of placement, the CONTRACTOR may request a review of the student's IEP for the purposes of considering a change in the student's placement. Student is entitled to remain in the last agreed upon and implemented placement unless parent agrees otherwise or unless an interim alternative educational placement is deemed lawful and appropriate by the LEA or OAH.

33. SURROGATE PARENTS

CONTRACTOR shall comply with state and federal laws and regulations regarding assigning surrogate parents to LEA students.

34. DUE PROCESS PROCEEDINGS

CONTRACTOR shall fully participate in special education due process proceedings including mediations and hearings, as requested by the LEA. CONTRACTOR shall also fully participate in the investigation of any complaint filed with the State of California, the Office for Civil Rights, or any other state and/or federal governmental body or agency. Full participation shall include, but in no way be limited to, cooperating with LEA representatives to provide complete answers raised by any investigator and/or the immediate provision of any and all documentation that pertains to the operation of CONTRACTOR's program and/or the implementation of a particular student's IEP/IFSP.

35. COMPLAINT PROCEDURES

CONTRACTOR shall maintain and adhere to its own written procedures for responding to parent complaints. These procedures shall include annually notifying and providing parents of LEA students with appropriate information (including complaint forms) for the following: (1) Uniform Complaint Procedures pursuant to Title 5 of the California Code of Regulations section 4600 et seq.; (2) Nondiscrimination policies pursuant to Title 5 of the California Code of Regulations section 4960 (a); (3) Sexual Harassment Policies pursuant to California Education Code 231.5(a)(b)(c); (4) Student Grievance Procedure pursuant to Title IX 106.8 (a)(d) and 106.9 (a); and (5) Notice of Privacy Practices in compliance with Health Insurance Portability and Accountability Act (HIPPA). CONTRACTOR shall include verification of these procedures to the LEA.

36. LEA STUDENT PROGRESS REPORTS/REPORT CARDS AND ASSESSMENTS

Unless the LEA requests in writing that progress reports be provided on a monthly basis, CONTRACTOR shall provide to parents at least four written progress reports/report cards. At a minimum, progress reports shall include progress over time towards IEP goals and objectives. A copy of the progress reports/report cards shall be maintained at the CONTRACTOR's place of business and shall be submitted to the LEA and LEA student's parent(s).

CONTRACTOR shall also provide an LEA representative access to supporting documentation used to determine progress on any goal or objective, including but not limited to log sheets, observation notes, data sheets, pre-/post-tests, rubrics and other similar data collection used to determine progress or lack of progress on approved goals, objectives, transition plans or behavior support plans. The LEA may request copies of such data at any time within five (5) years of the date of service. CONTRACTOR agrees to maintain the information for at least five (5) years and also shall provide this data supporting progress within five (5) business days of request. Additional time may be granted as needed by the LEA.

CONTRACTOR shall complete academic or other assessment of the LEA student one month prior to the LEA student's annual or triennial review IEP team meeting for the purpose of reporting the LEA student's present levels of performance at the IEP team meeting as required by state and federal laws and regulations and pursuant to LEA policies, procedures, and/or practices. Contractor shall provide sufficient copies of its reports, documents, and projected goals to share with members of the IEP team five (5) business days prior to the IEP meeting. CONTRACTOR shall maintain supporting documentation such as test protocols and data collection, which shall be made available to LEA within five (5) business days of request.

CONTRACTOR is responsible for all assessment costs regarding the updating of goals and objectives, progress reporting and the development of present levels of performance. All assessments shall be provided by the LEA unless the LEA specifies in writing a request that

CONTRACTOR perform such additional assessment. Any assessment costs may be added to the ISA and/or approved separately by the LEA at the LEA's sole discretion.

It is understood that all billable hours must be in direct services to pupils as specified in the ISA. For nonpublic agency services, supervision provided by a qualified individual as specified in Title 5 of the California Code of Regulations section 3065, shall be determined as appropriate and included in the ISA. Supervision means the direct observation of services, data review, case conferencing and program design consistent with professional standards for each professional's license, certification, or credential.

CONTRACTOR shall not charge the LEA student's parent(s) or LEA for the provision of progress reports, report cards, and/or any assessments, interviews, or meetings, unless the LEA agrees in writing prior to the completion of any work. It is understood that all billable hours have limits to those specified on the ISA consistent with the IEP. It is understood that copies of data collection notes, forms, charts and other such data are part of the pupil's record and shall be made available to the LEA upon written request.

37. TRANSCRIPTS

When CONTRACTOR is a nonpublic school, CONTRACTOR shall prepare transcripts at the close of each semester, or upon LEA student transfer, for LEA students in grades nine through twelve inclusive. CONTRACTOR shall submit all transcripts to the LEA Director of Special Education for evaluation of progress toward completion of diploma requirements as specified by LEA.

38. LEA STUDENT CHANGE OF RESIDENCE

Upon enrollment, CONTRACTOR shall notify parents in writing of their obligation to notify CONTRACTOR of the LEA student's change of residence. CONTRACTOR shall maintain, and provide upon request by LEA, documentation of such notice to parents. Within five (5) school days after CONTRACTOR becomes aware of a LEA student's change of residence, CONTRACTOR shall notify the LEA, in writing, of the LEA student's change of residence.

If CONTRACTOR had knowledge or should reasonably have had knowledge of the LEA student's change of residence boundaries and CONTRACTOR fails to follow the procedures specified in this provision, the LEA shall not be responsible for the costs of services delivered after the LEA student's change of residence.

39. WITHDRAWAL OF LEA STUDENT FROM PROGRAM

CONTRACTOR shall immediately report, by telephone and e-mail, to the LEA Representative responsible for overseeing nonpublic schools and nonpublic agencies, and any other required representative from the California Department of Education, when a LEA student is withdrawn from school and/or services. CONTRACTOR shall confirm such telephone call in writing via e-mail or other written notification to the LEA Director of Special Education and submit to the LEA and the Department of Education, if required, within five (5) business days of the withdrawal. CONTRACTOR shall assist LEA to verify and clear potential dropouts three (3) times per year, as required by the 2001 Elementary and Secondary Education Act (No Child Left Behind; NCLB), as documentation of graduation rate is one of the indicators of Adequate Yearly Progress (AYP).

40. PARENT ACCESS

CONTRACTOR shall provide for reasonable parental access to LEA students and all facilities including, but not limited to, the instructional setting, recreational activity areas, meeting rooms and

LEA student living quarters. CONTRACTOR shall comply with any known court orders regarding parental visits and access to LEA students.

CONTRACTOR, if operating a program with a residential component, shall cooperate with a parent's reasonable request for LEA student visits in their home during, but not limited to, holidays and weekends. CONTRACTOR shall ensure that parents obtain prior written authorization for therapeutic visits from the CONTRACTOR and the LEA.

41. SERVICES AND SUPERVISION AND PROFESSIONAL CONDUCT

If CONTRACTOR provides services on a LEA public school campus, CONTRACTOR shall comply with Penal Code section 627.1 et seq., as well as all other LEA and campus-specific policies and procedures regarding visitors to/on school campuses. CONTRACTOR shall be responsible for the purchase and provision of the supplies and assessment tools necessary to implement the provision of CONTRACTOR services on LEA public school campuses.

It is understood that the public school credentialed classroom teacher is responsible for the educational program.

It is understood that all employees, subcontractors and volunteers of any certified nonpublic school or agency shall adhere to customary professional standards when providing services. All practices shall be within the scope of professional responsibility as defined in the professional code of conduct for each profession. Reports regarding student progress shall be consistent with the provision of the Master Contract.

CONTRACTOR, if providing services in a student's home as specified in the ISA, shall assure that at least one parent of the child or an adult caregiver with written and signed authorization to make decisions in an emergency is present during the provision of services. The names of any adult caregiver other than the parent shall be provided to the LEA prior to the start of any home based services, including written and signed authorization in emergency situations. The parent shall inform the LEA of any changes of caregivers and provide written authorization for emergency situations. The adult caregiver cannot also be an employee or volunteer associated with the nonpublic school/nonpublic agency service provider. All problems and/or concerns reported to parents, both verbal and written shall also be provided to the LEA.

42. LICENSED CHILDREN'S INSTITUTION CONTRACTORS

If CONTRACTOR is a licensed children's institution, CONTRACTOR shall adhere to all legal requirements regarding educational placements for LCI students as stated in Education Code sections 56366(a)(2)(C) and 56366.9, Health and Safety Code section 1501.1 (AB1858, AB490 (Chapter 862, Statutes of 2003)) and any other applicable laws and/or regulations. Including LEA guidelines or procedures. An LCI shall not require that a pupil be placed in its nonpublic school as a condition of being placed in its residential facility.

If CONTRACTOR is a nonpublic, nonsectarian school that is owned, operated by, or associated with a residential treatment center (hereinafter referred to as "NPS/RTC"), CONTRACTOR shall adhere to all legal requirements under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. section 1400 et seq. including the federal regulations 34 C.F.R section 300 et seq. and Education Code section 56000 et seq. including Title 5 of the California Code of Regulations section 3000 et seq.

In addition to meeting the certification requirements of the State of California, a CONTRACTOR that operates a program outside of this State shall be certified or licensed by that state to provide,

respectively, special education and related services and designated instruction and related services to pupils under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

If CONTRACTOR is a nonpublic, nonsectarian school that is owned, operated by, or associated with a LCI, CONTRACTOR shall provide to the LEA, on a quarterly basis, a list of all LEA students, including those identified as eligible for special education. For those identified special education students, the list shall include: 1) special education eligibility at the time of enrollment; and 2) the educational placement and services specified in each student's IEP at the time of enrollment.

Unless placement is made pursuant to an Office of Administrative Hearings order or a lawfully executed agreement between the LEA and parent, the LEA is not responsible for the costs associated with nonpublic school placement until the date on which an IEP team meeting is convened, the IEP team determines that a nonpublic school placement is appropriate, and the IEP is signed by the LEA student's parent or another adult with educational decision-making rights.

43. STATE MEAL MANDATE

When CONTRACTOR is a nonpublic school, CONTRACTOR and LEA shall satisfy the State Meal Mandate under California Education Code sections 49530, 49530.5 and 49550.

44. MONITORING

CONTRACTOR shall allow representatives from the LEA access to its facilities for the purpose of monitoring each LEA student's instructional program. LEA shall have access to observe each LEA student at work, observe the instructional setting, interview CONTRACTOR, and review each LEA student's records and progress. Such access shall include unannounced monitoring visits. When making site visits, LEA shall initially report to CONTRACTOR's site administrative office. CONTRACTOR shall be invited to participate in the review of each student's progress.

If CONTRACTOR is also an LCI, the LEA or its SELPA shall annually evaluate whether CONTRACTOR is in compliance with Education Code section 56366.9 and Health and Safety Code section 1501.1(b).

The State Superintendent of Public Instruction ("Superintendent") shall monitor CONTRACTOR'S facilities, the educational environment, and the quality of the educational program, including the teaching staff, the credentials authorizing service, the standards-based core curriculum being employed, and the standard focused instructional materials used on a three-year cycle, as follows: (1) CONTRACTOR shall complete a self-review in year one; (2) the Superintendent shall conduct an onsite review in year two; and (3) the Superintendent shall conduct a follow-up visit in year three.

CONTRACTOR shall fully participate in any LEA and CDE compliance review, including any On-Site and Self Review and if applicable, District Validation Review. This review will address programmatic aspects of the nonpublic school/agency, compliance with relevant state and federal regulations, and Master Contract compliance. CONTRACTOR shall complete and submit a Nonpublic School/Agency Self-Review Assessment submitted as specified by the LEA. CONTRACTOR shall conduct any follow-up or corrective action procedures requested by LEA or CDE related to such compliance review.

CONTRACTOR understands that the LEA reserves the right to institute a program audit with or without cause. The program audit may include, but is not limited to, a review of core compliance areas of health and safety; curriculum/instruction; related services; and contractual, legal, and procedural compliance.

When CONTRACTOR is a nonpublic school, CONTRACTOR shall collect all applicable data and prepare the applicable portion of a School Accountability Report Card in accordance with California Education Code Section 33126.

PERSONNEL

45. CLEARANCE REQUIREMENTS

CONTRACTOR shall comply with the requirements of California Education Code section 44237, 35021.1 and 35021.2 including, but not limited to: obtaining clearance from both the California Department of Justice (hereinafter referred to as "CDOJ") and clearance from the Federal Bureau of Investigation (hereinafter referred to as "FBI") for all of CONTRACTOR's employees and volunteers who will have or likely may have any direct contact with LEA students. CONTRACTOR hereby agrees that CONTRACTOR's employees and volunteers who will have or likely may have direct contact with LEA students shall not come in contact with LEA students until both CDOJ and FBI clearance are ascertained. CONTRACTOR shall further certify in writing to the LEA that none of its employees, volunteers, or subcontractors who will have or likely may have any direct contact with LEA students have been convicted of a violent or serious felony as those terms are defined in California Education Code section 44237(h), unless despite the employee's conviction of a violent or serious felony, he or she has met the criteria to be eligible for employment pursuant to California Education Code section 44237(i) or (j). Clearance certification shall be submitted to the LEA. In addition, CONTRACTOR shall make a request for subsequent arrest service from the CDOJ as required by California Penal Code section 11105.2.

46. STAFF QUALIFICATIONS

CONTRACTOR shall ensure that all individuals employed, contracted, and/or otherwise hired by CONTRACTOR to provide classroom and/or individualized instruction or provide related services hold a license, certificate, permit, or other document equivalent to that which staff in a public school are required to hold to render the service consistent with Education Code section 56366.1(n)(1) and are qualified pursuant to Title 34 of the Code of Federal Regulations sections 200.56 and 200.58, and Title 5 of the California Code of Regulations sections 3001(r), 3051, 3064 and 3065. Such qualified staff may only provide related services within the scope of their professional license, certification or credential and ethical standards set by each profession and not assume responsibility or authority for another related services provider or special education teacher's scope of practice.

Only those nonpublic, nonsectarian schools or agencies located outside of California that employ staff who hold a current valid credential or license to render special education and related services as required by that state shall be eligible to be certified.

CONTRACTOR shall comply with personnel standards and qualifications regarding instructional aides and teacher assistants respectively pursuant to Federal requirements and California Education Code sections 45340 et seq. and 45350 et seq. Specifically, all paraprofessionals, including, but not limited to instructional aides and teacher assistants, employed, contracted, and/or otherwise hired by CONTRACTOR to provide classroom and/or individualized instruction or related services, shall possess a high school diploma (or higher) degree; or met a rigorous standard of quality and can demonstrate, through a formal state or local assessment (i) knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or (ii) knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness, as appropriate. CONTRACTOR shall comply with all laws and regulations governing the licensed professions, including but not limited to, the provisions with respect to supervision.

In addition to meeting the certification requirements of the State of California, a CONTRACTOR that operates a program outside of this state and serving a student by this LEA shall be certified or

licensed by that state to provide special education and related services and designated instruction and related services to pupils under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

47. VERIFICATION OF LICENSES, CREDENTIALS AND OTHER DOCUMENTS

CONTRACTOR shall submit to the LEA a staff list, and copies of all current and required licenses, certifications, credentials, permits and/or other documents which entitle the holder to provide special education and/or related services by CONTRACTOR and all individuals employed, contracted, and/or otherwise hired or sub-contracted by CONTRACTOR. The LEA may file all licenses, certifications, credentials, permits or other documents with the office of the County Superintendent of Schools. CONTRACTOR shall notify the LEA in writing within thirty (30) days when personnel changes occur which may affect the provision of special education and/or related services to LEA students. CONTRACTOR shall provide the LEA with the verified dates of fingerprint clearance, Department of Justice clearance and Tuberculosis Test clearance for all employees, approved subcontractors and/or volunteers prior to such individuals starting to work with any student.

CONTRACTOR shall monitor the status of licenses, certifications, credentials, permits and/or other documents for CONTRACTOR and all individuals employed, contracted, and/or otherwise hired by CONTRACTOR. CONTRACTOR shall immediately, and in no circumstances longer than five (5) business days, provide to the LEA updated information regarding the status of licenses, certifications, credentials, permits and/or other documents of any known changes.

48. STAFF ABSENCE

When CONTRACTOR is a nonpublic school and CONTRACTOR's classroom teacher is absent, CONTRACTOR shall provide an appropriately credentialed substitute teacher in the absent teacher's classroom in accordance with California Education Code section 56061. CONTRACTOR shall provide to the LEA documentation of substitute coverage. Substitute teachers shall remain with their assigned class during all instructional time. The LEA shall not be responsible for any payment for instruction and/or services when an appropriately credentialed substitute teacher is not provided in accordance with California Education Code section 56061.

When CONTRACTOR is a nonpublic agency and/or related services provider, and CONTRACTOR's service provider is absent, CONTRACTOR shall provide a qualified (as defined in section seven (7) of this agreement and as determined by the LEA) substitute, unless the LEA provides appropriate coverage in lieu of CONTRACTOR's service providers. It is understood that the parent of a student shall not be deemed to be a qualified substitute for his/her student. The LEA will not pay for services unless a qualified substitute is provided and/or CONTRACTOR provides documentation evidencing the provision of "make-up" services by a qualified service provider within thirty (30) calendar days from the date on which the services should have been provided. CONTRACTOR shall not "bank" or "carry over" make up service hours under any circumstances, unless otherwise agreed to in writing by CONTRACTOR and an authorized LEA representative.

49. STAFF PROFESSIONAL BEHAVIOR WHEN PROVIDING SERVICES AT SCHOOL OR SCHOOL RELATED EVENTS OR AT SCHOOL FACILITY AND/OR IN THE HOME

It is understood that all employees, subcontractors, and volunteers of any certified nonpublic school or nonpublic agency shall adhere to the customary professional and ethical standards when providing services. All practices shall only be within the scope of professional responsibility as defined in the professional code of conduct for each profession as well as any LEA professional standards as specified in Board policies and/or regulations when made available to the CONTRACTOR. Reports regarding student progress shall be consistent with the provision of this Master Contract.

For services provided on a public school campus, sign in/out procedures shall be followed by nonpublic agency providers working in a public school classroom along with all other procedures for being on campus consistent with school and LEA policy. It is understood that the public school credentialed classroom teacher is responsible for the instructional program, and all nonpublic agency service providers shall work collaboratively with the classroom teacher, who shall remain in charge of the instructional program.

For services provided in a pupil's home as specified in the IEP, CONTRACTOR must assure that the parent or an LEA-approved responsible adult is present during the provision of services. All problems and/or concerns reported to parents, both verbal and written shall also be provided to the LEA.

HEALTH AND SAFETY MANDATES

50. HEALTH AND SAFETY

CONTRACTOR shall comply with all applicable federal, state, and local laws, regulations, ordinances, policies, and procedures regarding student and employee health and safety. CONTRACTOR shall comply with the requirements of California Education Code sections 35021 et seq., 49406, and Health and Safety Code section 121525 regarding the examination of CONTRACTOR's employees and volunteers for tuberculosis. CONTRACTOR shall provide to the LEA documentation for each individual volunteering, employed, contracted, and/or otherwise hired by CONTRACTOR of such compliance before an individual comes in contact with an LEA student.

CONTRACTOR shall comply with OSHA Blood Borne Pathogens Standards, 29 Code of Federal Regulations (CFR) section 1910.1030, when providing medical treatment or assistance to a student. CONTRACTOR further agrees to provide annual training regarding universal health care precautions and to post required notices in areas designated in the California Health and Safety Code.

51. FACILITIES AND FACILITIES MODIFICATIONS

CONTRACTOR shall provide special education and/or related services to LEA students in facilities that comply with all applicable federal, state, and local laws, regulations, and ordinances related, but not limited to: disability access; fire, health, sanitation, and building standards and safety; fire warning systems; zoning permits; and occupancy capacity. When CONTRACTOR is a nonpublic school, CONTRACTOR shall conduct fire drills as required by Title 5 California Code of Regulations section 550. CONTRACTOR shall be responsible for any structural changes and/or modifications to CONTRACTOR's facilities is required to comply with applicable federal, state, and local laws, regulations, and ordinances.

52. ADMINISTRATION OF MEDICATION

Unless otherwise set forth in the student's ISA, CONTRACTOR shall comply with the requirements of California Education Code section 49423 and Title 5 of the California Code of Regulations section 600 et seq. when CONTRACTOR serves a LEA student that is required to take prescription and/or over-the-counter medication during the school day. CONTRACTOR may designate personnel to assist the LEA student with the administration of such medication after the LEA student's parent(s) provides to CONTRACTOR: (a) a written statement from a physician detailing the type, administration method, amount, and time schedules by which such medication shall be taken; and (b) a written statement from the LEA student's parent(s) granting CONTRACTOR permission to administer medication(s) as specified in the physician's statement. CONTRACTOR shall maintain, and provide to the LEA upon request, copies of such written statements. CONTRACTOR shall maintain a written log for each LEA student to whom medication is

administered. Such written log shall specify the LEA student's name; the type of medication; the date, time, and amount of each administration; and the name of CONTRACTOR's employee who administered the medication. CONTRACTOR maintains full responsibility for assuring appropriate staff training in the administration of such medication consistent with student's physician's written orders. Any change in medication type, administration method, amount or schedule must be authorized by both a licensed physician and parent.

53. INCIDENT/ACCIDENT REPORTING

CONTRACTOR shall submit within 24 hours by fax and mail, any accident or incident report to the LEA. LEA may specify procedures to be implemented by CONTRACTOR or forms to be submitted by CONTRACTOR related to accident or incident reporting.

54. CHILD ABUSE REPORTING

CONTRACTOR hereby agrees to annually train all staff members, including volunteers, so that they are familiar with and agree to adhere to its own child and dependent adult abuse reporting obligations and procedures as specified in California Penal Code section 11164 et seq. To protect the privacy rights of all parties involved (i.e. reporter, child and alleged abuser), reports will remain confidential as required by law and professional ethical mandates. A written statement acknowledging the legal requirements of such reporting and verification of staff adherence to such reporting shall be submitted to the LEA.

55. SEXUAL HARASSMENT/DISCRIMINATION

CONTRACTOR shall have a Sexual and Gender Identity Harassment Policy that clearly describes the kinds of conduct that constitutes sexual harassment and that is prohibited by the CONTRACTOR's policy, as well as federal and state law. The policy should include procedures to make complaints without fear of retaliation, and for prompt and objective investigations of all sexual harassment complaints. CONTRACTOR further agrees to provide annual training to all employees regarding the laws concerning sexual harassment and related procedures.

56. REPORTING OF MISSING CHILDREN

CONTRACTOR assures the LEA that all staff members, including volunteers, are familiar with and agree to adhere to requirements for reporting missing children as specified in California Education Code section 49370. A written statement acknowledging the legal requirements of such reporting and verification of staff adherence to such reporting shall be properly submitted to the LEA. The written statement shall be submitted as specified by the LEA.

FINANCIAL

57. ENROLLMENT, CONTRACTING, SERVICE TRACKING, ATTENDANCE REPORTING, AND BILLING PROCEDURES

CONTRACTOR shall assure that the nonpublic school or nonpublic agency has the necessary financial resources to provide an appropriate education for the children enrolled and will distribute those resources in such a manner to implement the IEP and ISA for each and every child.

CONTRACTOR shall provide all records requested by LEA concerning enrollment, contracting, attendance reporting, service tracking and billing, including requirements of electronic billing. CONTRACTOR shall be paid for the provision of special education and/or related services specified in the LEA student's IEP and ISA which are provided on billable days of attendance. All payments

by LEA shall be made in accordance with the terms and conditions of this Master Contract and all applicable federal and state laws.

CONTRACTOR shall maintain separate registers for the basic education program and each related service. Original attendance forms (for example, roll books for the basic education program, service tracking documents and notes for instructional assistants, behavioral intervention aides, bus aides, and each related service) shall be completed by the actual service provider whose signature shall appear on such forms and shall be available for review, inspection, or audit by the LEA during the effective period of this Master Contract and for a period of five (5) years thereafter. CONTRACTOR shall verify the accuracy of minutes of reported attendance that is the basis of services being billed for payment.

CONTRACTOR shall submit invoices and related documents to the LEA for payment, for each calendar month when education or related services were provided. Invoices and related documents may be submitted electronically if requested by LEA and CONTRACTOR has the systems in place to generate the requested documents. The LEA may designate forms for use by CONTRACTOR when submitting invoices. At a minimum, each invoice must contain the following information: month of service; specific days and times of services coordinated by the LEA approved calendar unless otherwise specified in the ISA or agreed to by the LEA; name of staff who provided the service; approved cost of each invoice; total for each service and total for the monthly invoice; date invoice was mailed; signature of the nonpublic school/nonpublic agency administrator authorizing that the information is accurate and consistent with the ISA, CDE certificates and staff notification; verification that attendance report is attached as appropriate; indication of any made-up session consistent with this Master Contract; verification that progress reports have been provided consistent with the ISA (monthly or quarterly unless specified otherwise on the ISA); and the name or initials of each student for when the service was provided.

In the event services were not provided, rationale for why the services were not provided shall be included.

Such an invoice is subject to all conditions of this Master Contract. At the discretion of the LEA, an electronic invoice may be required provided such notice has been made in writing and training provided to the CONTRACTOR at no additional charge for such training.

Invoices shall be submitted no later than thirty (30) days after the end of the attendance accounting period in which the services were rendered. LEA shall make payment to CONTRACTOR based on the number of billable days of attendance and hours of service at rates specified in this Master Contract within forty-five (45) days of LEA's receipt of properly submitted hard copy of invoices prepared and submitted as specified in California Education Code Section 56366.5 and the LEA. CONTRACTOR shall correct deficiencies and submit rebilling invoices no later than thirty (30) calendar days after the invoice is returned by LEA. LEA shall pay properly submitted re-billing invoices no later than forty-five (45) days after the date a completely corrected re-billing invoice is received by the LEA.

In no case shall initial payment claim submission for any Master Contract fiscal year (July through June) extend beyond December 31st after the close of the fiscal year. In no case shall any rebilling for the Master Contract fiscal year (July through June) extend beyond six months after the close of the fiscal year unless approved by the LEA to resolve billing issues including rebilling issues directly related to a delay in obtaining information from the Commission on Teacher Credentialing regarding teacher qualification, but no later than 12 months from the close of the fiscal year. If the billing or rebilling error is the responsibility of the LEA, then no limit is set provided that the LEA and CONTRACTOR have communicated such concerns in writing during the 12-month period following the close of the fiscal year. LEA will not pay mileage for NPA employee.

58. RIGHT TO WITHHOLD PAYMENT

The LEA may withhold payment to CONTRACTOR when: (a) CONTRACTOR has failed to perform, in whole or in part, under the terms of this Master Contract; (b) CONTRACTOR has billed for services rendered on days other than billable days of attendance or for days when student was not in attendance and/or did not receive services; (c) CONTRACTOR was overpaid by LEA as determined by inspection, review, and/or audit of its program, work, and/or records; (d) CONTRACTOR has failed to provide supporting documentation with an invoice, as required by EC 56366(c)(2); (e) education and/or related services are provided to LEA students by personnel who are not appropriately credentialed, licensed, or otherwise qualified; (f) LEA has not received, prior to school closure or contract termination, all documents concerning one or more LEA students enrolled in CONTRACTOR's educational program; (g) CONTRACTOR fails to confirm a student's change of residence to another district or confirms the change or residence to another district, but fails to notify LEA with five (5) days of such confirmation; or (h) CONTRACTOR receives payment from Medi-Cal or from any other agency or funding source for a service provided to a LEA student. It is understood that no payments shall be made for any invoices that are not received by six months following the close of the prior fiscal year, for services provided in that year.

The amount which may be withheld by the LEA with respect to each of the subparagraphs of the preceding paragraph are as follows: (a): the value of the service CONTRACTOR failed to perform; (b) the amount of overpayment; (c) the portion of the invoice for which satisfactory documentation has not been provided by CONTRACTOR; (d) the amount invoiced for services provided by the individual not appropriately credentialed, licensed, or otherwise qualified; (e) the proportionate amount of the invoice related to the applicable pupil for the time period from the date of the violation occurred and until the violation is cured; or (f) the amount paid to CONTRACTOR by Medi-Cal or another agency or funding source for the service provided to the LEA student.

If the LEA determines that cause exists to withhold payment to CONTRACTOR, LEA shall, within ten (10) business days of this determination, provide to CONTRACTOR written notice that LEA is withholding payment. Such notice shall specify the basis or bases for the LEA's withholding payment and the amount to be withheld. Within thirty (30) days from the date of receipt of such notice, CONTRACTOR shall take all necessary and appropriate action to correct the deficiencies that form the basis for the LEA's withholding payment, submit a written request for extension of time to correct the deficiencies or submit to LEA written documentation demonstrating that the basis or bases cited by the LEA for withholding payment is unfounded. Upon receipt of CONTRACTOR's written request showing good cause, the LEA shall extend CONTRACTOR's time to correct deficiencies (usually an additional thirty (30) days), otherwise payment will be denied.

If after subsequent request for payment has been denied and CONTRACTOR believes that payment should not be withheld, CONTRACTOR shall send written notice to the LEA specifying the reason it believes payment should not be withheld. The LEA shall respond to CONTRACTOR's notice within thirty (30) business days by indicating that a warrant for the amount of payment will be made or stating the reason the LEA believes payment should not be made. If the LEA fails to respond within thirty (30) business days or a dispute regarding the withholding of payment continues after the LEA's response to CONTRACTOR's notice, CONTRACTOR may invoke the following escalation policy.

After forty-five (45) business days: The CONTRACTOR may notify the Authorized LEA's Representative of the dispute in writing. The LEA Authorized Representative shall respond to the CONTRACTOR in writing within fifteen (15) business days.

After sixty (60) business days: Disagreements between the LEA and CONTRACTOR concerning the Master Contract may be appealed to the Orange County Superintendent of Schools or the State

Superintendent of Public Instruction pursuant to the provisions of California Education Code Section 56366(c)(2). CONTRACTOR disagrees with the language of California Education Code Section 56366(c)(2), and nothing herein shall constitute a waiver by CONTRACTOR of its right to challenge that provision.

59. PAYMENT FROM OUTSIDE AGENCIES

CONTRACTOR shall notify the LEA when Medi-Cal or any other agency is billed for the costs associated with the provision of special education and/or related services to LEA students. Upon request, CONTRACTOR shall provide to the LEA any and all documentation regarding reports, billing, and/or payment by Medi-Cal or any other agency for the costs associated with the provision of special education and/or related services to LEA students. CONTRACTOR shall provide prior written notice of the rights and protections required by Title 34 of the Code of Federal Regulations section 300.154(d) whenever it seeks to use the LEA students' public benefits to pay for special education and related services. Such notice shall be provided before seeking payment from Medi-Cal for the first time and annually thereafter.

60. PAYMENT FOR ABSENCES

NONPUBLIC SCHOOL STAFF ABSENCE

Whenever a classroom teacher employed by CONTRACTOR is absent, CONTRACTOR shall provide an appropriately credentialed substitute teacher in the absent teacher's classroom in accordance with California Education Code section 56061. CONTRACTOR shall provide to the LEA documentation of substitute coverage. Substitute teachers shall remain with their assigned class during all instructional time. The LEA will not pay for instruction and/or services unless said instruction or service is provided by an appropriately credentialed substitute teacher.

Whenever a related service provider is absent, CONTRACTOR shall provide a qualified (as defined in section seven (7) of this Agreement and as determined by LEA) substitute. The LEA will not pay for services unless a qualified substitute is provided and/or CONTRACTOR provides documentation evidencing the provision of "make-up" services by a qualified service provider within thirty (30) calendar days from the date on which the services should have been provided unless otherwise agreed in LEA student's IEP or ISA.

NONPUBLIC SCHOOL STUDENT ABSENCE

If CONTRACTOR is a nonpublic school, no later than the tenth (10th) cumulative day of the LEA student's unexcused absence, CONTRACTOR shall notify the LEA of such absence.

Criteria for a billable day for payment purposes is one day of attendance as defined in California Education Code, sections 46010, 46010.3 and 46307. The LEA shall not pay for services provided on days that a student's attendance does not qualify for Average Daily Attendance (ADA) reimbursement under state law. *Per Diem* rates for students whose IEPs authorize less than a full instructional day may be adjusted on a pro rata basis in accordance with the actual proportion of the school day the student was served. The LEA shall not be responsible for payment of DIS or related services for days on which a student's attendance does not qualify for Average Daily Attendance (ADA) reimbursement under state law, nor shall student be eligible for make-up services.

NONPUBLIC AGENCY STAFF ABSENCE

When CONTRACTOR is a nonpublic agency and CONTRACTOR's service provider is absent, CONTRACTOR shall provide a qualified (as defined in section seven (7) of this Agreement and as determined by the LEA) substitute, unless the LEA provides appropriate coverage in lieu of CONTRACTOR's service providers. The LEA shall not pay for services unless a qualified substitute is provided and/or CONTRACTOR provides documentation evidencing the provision of

“make-up” services by a qualified service provider within thirty (30) calendar days from the date on which the services should have been provided. CONTRACTOR shall not “bank” or “carry over” make up service hours under any circumstances, unless otherwise agreed to in writing by CONTRACTOR and the LEA. In the event services were not provided, reasons for why the services were not provided shall be included. In the event of a service provider absence for Behavior Intervention Implementation services provided at the school site, services shall not be deemed eligible for make up.

NONPUBLIC AGENCY STUDENT ABSENCE

If CONTRACTOR is a nonpublic agency, it shall notify LEA of the absence of a LEA student no later than the fifth consecutive service day of the student’s absence. The LEA shall not be responsible for the payment of services when a student is absent.

61. INSPECTION AND AUDIT

The CONTRACTOR shall maintain and the LEA shall have the right to examine and audit all of the books, records, documents, accounting procedures and practices and other evidence that reflect all costs claimed to have been incurred or fees claimed to have been earned under this Agreement.

CONTRACTOR shall provide the LEA access to all records including, but not limited to: student records as defined by California Education Code section 49061(b); registers and rollbooks of teachers; daily service logs and notes or other documents used to record the provision of related services; Medi-Cal/daily service logs and notes used to record provision of services provided by instructional assistants, behavior intervention aides, bus aides, and supervisors; absence verification records (parent/doctor notes, telephone logs, and related documents); bus rosters; staff lists specifying credentials held, business licenses held, documents evidencing other qualifications, social security numbers (last four digits unless otherwise required), dates of hire, and dates of termination; staff time sheets; non-paid staff and volunteer sign-in sheets; transportation and other related service subcontracts; school calendars; bell/class schedules when applicable; liability and worker’s compensation insurance policies; state nonpublic school and/or agency certifications; by-laws; lists of current board of directors/trustees, if incorporated; other documents evidencing financial expenditures; federal/state payroll quarterly reports Form 941/DE3DP; and bank statements and canceled checks or facsimile thereof. Such access shall include unannounced inspections by the LEA. CONTRACTOR shall make available to the LEA all budgetary information including operating budgets submitted by CONTRACTOR to the LEA for the relevant contract period being audited.

CONTRACTOR shall make all records available at the office of the LEA or CONTRACTOR’s offices at all reasonable times and without charge. All records shall be provided to the LEA within five (5) working days of a written request from the LEA. CONTRACTOR shall, at no cost to the LEA, provide reasonable assistance for such examination or audit. The LEA’s rights under this section shall also include access to CONTRACTOR’s offices for purposes of interviewing CONTRACTOR’s employees. If any document or evidence is stored in an electronic form, a hard copy shall be made available to the LEA, unless the LEA agrees to the use of the electronic format.

CONTRACTOR shall obtain from its subcontractors and suppliers written agreements to the requirements of this section and shall provide a copy of such agreements to the LEA upon request by the LEA.

If an inspection, review, or audit by the LEA, a state agency, a federal agency, and/or an independent agency/firm determines that CONTRACTOR owes the LEA monies as a result of CONTRACTOR’s over billing or failure to perform, in whole or in part, any of its obligations under this Master Contract, the LEA shall provide to CONTRACTOR written notice demanding payment from CONTRACTOR and specifying the basis or bases for such demand. Unless CONTRACTOR and the

LEA otherwise agree in writing, CONTRACTOR shall pay to the LEA the full amount owed as result of CONTRACTOR's over billing and/or failure to perform, in whole or in part, any of its obligations under this Master Contract, as determined by an inspection, review, or audit by the LEA, a state agency, a federal agency, and/or an independent agency/firm. CONTRACTOR shall make such payment to the LEA within thirty (30) days of receipt of the LEA's written notice demanding payment.

62. RATE SCHEDULE

The attached rate schedule (Exhibit A) limits the number of LEA students that may be enrolled and the maximum dollar amount of the contract. It may also limit the maximum number of students that can be provided specific services. Per Diem rates for LEA students whose IEPs authorize less than a full instructional day may be adjusted proportionally. In such cases only, the adjustments in basic education rate shall be based on the percentage of a 310-minute instructional day.

Special education and/or related services offered by CONTRACTOR shall be provided by qualified personnel as per State and Federal law, and the codes and charges for such educational and/or related services during the term of this contract, shall be as stated in Exhibit A.

63. DEBARMENT CERTIFICATION

By signing this agreement, CONTRACTOR certifies that:

- (a) CONTRACTOR and any of its shareholders, partners, or executive officers are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency, and
- (b) Has/have not, within a three-year period preceding this contract, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses.

The parties hereto have executed this Master Contract by and through their duly authorized agents or representatives. This Master Contract is effective on the 19th day of June 2017 and terminates at 5:00 P.M. on June 30, 2017, unless sooner terminated as provide herein.

CONTRACTOR,

Del Sol School

Nonpublic School/Agency

LEA,

Fountain Valley School District

By:

Signature

Date

Name and Title of Authorized
Representative

By:

Signature

Date

Dr. Mark Johnson, Superintendent

Name and Title of Authorized
Representative

Notices to CONTRACTOR shall be addressed to:			Notices to LEA shall be addressed to:		
Name			Rachel Rios, Fiscal Manager		
Nonpublic School/Agency/Related Service Provider			Name and Title WOCCE		
Address			LEA 5832 Bolsa Avenue		
City State Zip			Address Huntington Beach CA 92649		
Phone Fax			City State Zip 714-903-7000, ext 4615 714-372-8109		
Email			Phone Fax		
			Email		

**Additional LEA Notification
(Required if completed)**

Name and Title		
Address		
City	State	Zip
Phone	Fax	
Email		

EXHIBIT A: RATES

CONTRACTOR Del Sol School CONTRACTOR NUMBER W17225 2016-2017
(NONPUBLIC SCHOOL OR AGENCY) (CONTRACT YEAR)

Per CDE Certification, total enrollment may not exceed _____

If blank, the number shall be as determine by CDE Certification.

Rate Schedule. This rate schedule limits the number of LEA students that may be enrolled and the maximum dollar amount of the contract. It may also limit the maximum number of students that can be provided specific services. Special education and/or related services offered by CONTRACTOR, and the charges for such educational and/or related services during the term of this contract shall be as follows:

Payment under this contract may not exceed _____

Total LEA enrollment may not exceed _____

A. Basic Education Program/Special Education Instruction
Basic Education Program/Dual Enrollment

Rate	Period
234.00	Per Diem

Per Diem rates for LEA students whose IEPs authorize less than a full instructional day may be adjusted proportionally.

B. Related Services

(1)	a. Transportation – Round Trip	_____	_____
	b. Transportation – One Way	_____	_____
	c. Transportation – Dual Enrollment	_____	_____
	d. Public Transportation	_____	_____
	e. Parent*	_____	_____
(2)	a. Educational Counseling – Individual	_____	_____
	b. Educational Counseling – Group of _____	_____	_____
	c. Counseling – Parent	_____	_____
(3)	a. Adapted Physical Education – Individual	_____	_____
	b. Adapted Physical Education – Group of _____	_____	_____
	c. Adapted Physical Education – Group of _____	_____	_____
(4)	a. Language and Speech Therapy – Individual	110.00	Hourly
	b. Language and Speech Therapy – Group of 2	110.00	Hourly
	c. Language and Speech Therapy – Group of 3	110.00	Hourly
	d. Language and Speech Therapy – Per diem	_____	_____
	e. Language and Speech – Consultation Rate	_____	_____
(5)	a. Additional Classroom Aide – Individual (must be authorized on IEP)	_____	_____
	b. Additional Instructional Assistant – Group of 2	_____	_____
	c. Additional Instructional Assistant – Group of 3	_____	_____
(6)	Intensive Special Education Instruction**	_____	_____
(7)	a. Occupational Therapy – Individual	_____	_____
	b. Occupational Therapy – Group of 2	_____	_____
	c. Occupational Therapy – Group of 3	_____	_____
	d. Occupational Therapy – Group of 4 - 7	_____	_____
	e. Occupational Therapy – Consultation Rate	_____	_____
(8)	Physical Therapy	_____	_____
(9)	a. Behavior Intervention	_____	_____
	b. Behavior Intervention – Supervision	_____	_____
	Provided by: _____	_____	_____
	c. Behavior Intervention – Design or Planning (BID) Individual	90.00	Hourly
	d. Behavior Intervention and Implementation (BII) 1:1 Individual	48.00	Hourly
	e. Behavior Intervention and Implementation 1:2 ratio (BII/2) Group	38.00	Hourly
(10)	Psychological Services/Mental Health	170.00	Hourly
(11)	Residential Board and Care	_____	_____
(12)	Residential Mental Health Services	_____	_____

*Parent transportation reimbursement rates are to be determined by the LEA.

**By credentialed Special Education Teacher.

2016/2017

HBUHSD Contract # W17226

Please refer to this number on correspondence, invoices, etc.

INDIVIDUAL SERVICE AGREEMENT FOR NONPUBLIC, NONSECTARIAN SCHOOL/AGENCY SERVICES
(Education Code 56365 et seq.)

This agreement is effective on June 19, 2017 or the date student begins attending a nonpublic school or begins receiving services from a nonpublic agency, if after the date identified, and terminates at 5:00 P.M. on June 30, 2017, unless sooner terminated as provided in the Master Contract and by applicable law.

Local Education Agency (LEA)	FOUNTAIN VALLEY SCHOOL DISTRICT			Nonpublic School/Agency	DEL SOL SCHOOL		
Address	10055 SLATER AVENUE			Address	5340 MYRA AVENUE, SUITE A		
City, State Zip	FOUNTAIN VALLEY, CA 92708			City, State, Zip	CYPRESS, CA 90630		
LEA Case Manager				Phone	714-828-6409	Fax	714-828-3400
				E-Mail	DRKIM@DELSOLSCHOOL.COM		
Student Last Name		Student First Name		Program Contact Name	DR. KIM B. HUYNEN		
D.O.B.		I.D. #		Phone	714-828-6409	Fax	714-828-3400
				E-Mail	WWW.DELSOLSCHOOL.COM		
Grade Level		Sex (M or F)		Education Schedule – Regular School Year			
Parent/Guardian Last Name		Parent/Guardian First Name		Number of Days		Number of Weeks	
Address				Education Schedule – Extended School Year			
City, State Zip				Number of Days	9	Number of Weeks	2
				Contract Begins	06/19/17	Ends	06/30/17
Home Phone	Business/Mobile Phone	Master Contract	Approve by the Governing Board on: d	07/13/17			

DESIGNATED INSTRUCTION AND SERVICES/RELATED SERVICES:

SERVICES	PROVIDER				Cost and Duration of Session	Number of Sessions per dy/wk/mo/yr	Maximum Number of Sessions		Estimated Maximum Total Cost for Contracted Period
	LEA	NPS	NPA	OTHER (Specify)			Reg School Year	ESY	
A. BASIC EDUCATION		X			\$ 234.00	PER DIEM		9	\$ 2,106.00
B. RELATED SERVICES									
1. Transportation									
a. Paid to NPS/A									
b. Reimburse Parent									
2. Counseling									
a. Group									
b. Individual									
c. Family									
3. Adapted P.E.									
4. Speech/Language									
a. Therapy - Individual - ESY Only		X			\$110.00/hr	2x30min/wk		2	\$ 220.00
b. Consultation		X			\$110.00/hr	1x30min/wk		2	\$ 110.00
5. Occupational Therapy									
a. Therapy									
b. Consultation									

2016/2017

HBUHSD Contract # W17226

Please refer to this number on correspondence, invoices, etc.

B. RELATED SERVICES (cont'd)	PROVIDER				Cost and Duration of Session	Number of Sessions per dy/wk/mo/yr	Maximum Number of Sessions		Estimated Maximum Total Cost for Contracted Period
	LEA	NPS	NPA	OTHER (Specify)			Reg School Year	ESY	
6. Physical Therapy									
a. Therapy									
b. Consultation									
7. ABA - Behavior Intervention		X			\$90.00/hr	1x240min/mo		0.5	\$ 180.00
a. Consult									
b. Direct									
c. Supervision									
d. Assessment									
8. One-to-One Aide - BII (1:1 Support) - First 30 days only		X			\$48.00/hr	1x315min/day		9	\$ 2,268.00
9. Other									
10. Residential Services									
a. Board and Care									
b. Mental Health Services									
c. Transportation Public Carrier									
							A + B TOTAL COST		\$ 4,884.00

ESTIMATED MAXIMUM RELATED SERVICES COST (B) \$ 2,778.00

TOTAL ESTIMATED MAXIMUM BASIC EDUCATION/RELATED SERVICES COSTS (A+B) \$ 4,884.00

Other Provisions/Attachments:

Progress Reporting Requirements: _____ Quarterly _____ Monthly X Trimester _____ Other (Specify) _____

APPROVED BY THE GOVERNING BOARD ON: 07/13/17

The parties hereto have executed this Individual Services Agreement by and through their duly authorized agents or representatives as set forth below.

-CONTRACTOR-

-LEA-

DEL SOL SCHOOL
(Name of Nonpublic School/Agency)

FOUNTAIN VALLEY SCHOOL DISTRICT
(Name of School District)

(Contracting Officer's Signature)

(Date)

(Signature)

(Date)

(Name and Title)

DR. MARK JOHNSON, SUPERINTENDENT
(Name of Superintendent or Authorized Designee)