



Fountain Valley School District

BOARD OF TRUSTEES
REGULAR MEETING

A G E N D A

Videoconference via Zoom

June 25, 2020

Meeting Link: https://zoom.us/webinar/register/WN_8JAiZLGMRR0XBi42iBmRRQ

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

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2nd _____
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- PLEDGE OF ALLEGIANCE

STAFF REPORTS AND PRESENTATIONS

1. BUDGET UPDATE (ORAL AND WRITTEN)

Assistant Superintendent, Business, Christine Fullerton and Director, Fiscal Services, Isidro Guerra will provide an update for the Board of Trustees on the State Budget and its effect on the Fountain Valley School District.

2. COVID-19 OPERATIONS WRITTEN REPORT REVIEW (ORAL AND WRITTEN)

Assistant Superintendent, Educational Services, Dr. Steve McLaughlin, and Director, Educational Services, Dr. Jerry Gargus, will provide a review for the Board of Trustees of the COVID-19 Operations Written Report for the Fountain Valley School District.

BOARD REPORTS AND COMMUNICATIONS

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

PUBLIC HEARINGS

3. PUBLIC HEARING FOR 2020-21 BUDGET

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.

A public hearing shall be held for the purpose of discussing the proposed 2020-21 final budget prior to approval by the Board of Trustees. Public input is welcomed.

In order to address the Board of Trustees as a part of the public hearing, please email your comments to luccheser@fvsd.us by 6:15PM on Thursday, June 25th. Your comments will be read into the record.

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. 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 in writing after the meeting, or direct that additional information be provided to the Board on a future agenda.

In order to address the Board of Trustees, please email your comments to luccheser@fvsd.us by 6:15PM on Thursday, June 25th. Your comments will be read into the record.

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

LEGISLATIVE SESSION

4. APPROVAL OF THE COVID-19 OPERATIONS WRITTEN REPORT FOR FOUNTAIN VALLEY SCHOOL DISTRICT

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In April 2020, Governor Newsom issued an executive order that made changes to the 2019-20 and 2020-21 state accountability timelines. This included an extension of the 2020-21 Local Control and Accountability Plan (LCAP) timeline to December 2020 and creation of a new requirement, the COVID-19 Operations Written Report. The COVID-19 Operations Written Report's purpose is for the district to explain to the community the changes to program offerings made in response to school closures and the major impacts of such closures on students and families.

Superintendent's Recommendation: It is recommended that the Board of Trustees approves the COVID-19 Operations Written Report for the Fountain Valley School District.

5. APPROVAL OF 2020-21 DISTRICT BUDGET

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The 2020-21 District budget represents the results of the Board's direction of maintaining the current high-quality programs in a fiscally prudent manner. All required reserves are maintained, all funds will end with a positive ending balance and the budget meets State standards and criteria. Pursuant to expected State

Budget passage or within 45 days of the State Budget passing, our budget will be updated and revised in September and throughout the year as needed.

Superintendent's Recommendation: It is recommended that the Board of Trustees approves the budget for fiscal year 2020-21.

6. **CONSENT CALENDAR/ROUTINE ITEMS OF BUSINESS**

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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

- 6-A.** Board Meeting Minutes from June 11th regular meeting
- 6-B.** Personnel Items (Employment Functions, Workshops/Conferences, and Consultants)
- 6-C.** Donations
- 6-D.** Warrants
- 6-E.** Purchase Order Listing
- 6-F.** Budget Transfers and Adjustments

Consent Items

- 6-G. APPROVE THE FIVE-YEAR SERVICE AGREEMENT WITH HOONUIT TO PROVIDE COMMUNITY DEMOGRAPHIC ANALYSIS AND ENROLLMENT PROJECTIONS NOT TO EXCEED \$34,675.00 OVER THE PERIOD OF THE AGREEMENT**

Superintendent's Comments: It is recommended that the Board of Trustees approves the five-year Service Agreement with Hoonuit 1, LLC to provide community demographic analysis and enrollment projections not to exceed \$34,675.00 over the period of the agreement and authorizes the Superintendent or his designee to sign all documents.

- 6-H. WILLIAMS UNIFORM COMPLAINT QUARTERLY REPORT (QUARTER #4: APRIL 1 – JUNE 30, 2020)**

Superintendent's Comments: It is recommended that the Board of Trustees receives and approves the Williams Quarterly Report for the fourth quarter of the 2019-20 year and approves its submittal to the Orange County Department of Education.

6-I. APPROVE THE ANNUAL AGREEMENT FOR FISCAL AND MANAGEMENT INFORMATION SERVICES WITH SCHOOL SERVICES OF CALIFORNIA, INC.

Superintendent's Comments: It is recommended that the Board of Trustees approve the Annual Agreement for Fiscal and Management Information Services with School Services of California, Inc.

6-J. CHILDREN AND FAMILIES COMMISSION OF ORANGE COUNTY CONTRACT, RESOLUTION 2020-21 AUTHORIZING CONTRACT AND SIGNATURE

Superintendent's Comments: It is recommended that the Board of Trustees adopts Resolution 2020-21 approving the Agreement FCI-SD4-07 by and between Children and Families Commission of Orange County and Fountain Valley School District, and authorizing Dr. Steve McLaughlin to sign on behalf of the District.

6-K. APPROVE AMENDMENT TO THE ARCHITECTURAL SCOPE AGREEMENT WITH RACHLIN PARTNERS FOR COX ELEMENTARY SCHOOL

Superintendent's Comments: It is recommended that the Board of Trustees approves Amendment to the Architectural Scope Agreement with Rachlin Partners for Cox Elementary School to increase reimbursable expenses an additional \$30,000.00.

6-L. APPROVE AMENDMENT TO THE ARCHITECTURAL SCOPE AGREEMENT WITH RACHLIN PATRNS FOR FULTON MIDDLE SCHOOL

Superintendent's Comments: It is recommended that the Board of Trustees approves Amendment to the Architectural Scope Agreement with Rachlin Partners for Fulton Middle School to increase reimbursable expenses an additional \$30,000.00.

6-M. APPROVE AMENDMENT TO THE ARCHITECTURAL SCOPE AGREEMENT WITH RACHLIN PARTNERS FOR TAMURA ELEMENTARY SCHOOL

Superintendent's Comments: It is recommended that the Board of Trustees approves the Amendment to the Architectural Scope Agreement with Rachlin Partners for Tamura Elementary School to increase reimbursable expenses an additional \$30,000.00.

6-N. INDEPENDENT CONTRACT FOR BEHAVIOR SOLUTIONS

Superintendent's Comments: It is recommended that the Board of Trustees approves the contract between Fountain Valley School District and Behavior Solutions for the 2020-2021 school year.

6-O. BIO-ACOUSTICAL CORPORATION

Superintendent's Comments: It is recommended that the Board of Trustees approves the contract between Bio-Acoustical Corporation and Fountain Valley School District for the 2020-2021 school year.

6-P. CARE SOLACE

Superintendent's Comments: It is recommended that the Board of Trustees approves the contract between Care Solace and Fountain Valley School District for the 2020-2021 school year.

6-Q. LANGUAGE NETWORK

Superintendent's Comments: It is recommended that the Board of Trustees approves the contract between Language Network and Fountain Valley School District for the 2020-2021 school year.

6-R. 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 providing ST Math to the District's eight schools during the 2020/2021 school year.

6-S. MEMORANDUM OF UNDERSTANDING BETWEEN FOUNTAIN VALLEY SCHOOL DISTRICT AND CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION AND ITS CHAPTER 358

Superintendent's Comments: It is recommended that the Board of Trustees approves the Memorandum of Understanding between Fountain Valley School District and California School Employees Association and its Chapter 358.

6-T. AWARD BID #20-05 MODULAR BUILDINGS SITEWORK ONLY (TAMURA ELEMENTARY SCHOOL)

Superintendent's Comments: It is recommended that the Board of Trustees awards Bid# 20-05 to Incotechnic, Inc., in the amount of \$ 745,816.00 and authorizes the Superintendent or his designee to sign all documents on behalf of the District.

6-U. APPROVE THE 2020-2021 NETWORK SUPPORT SERVICES AGREEMENT # 50012 WITH THE ORANGE COUNTY DEPARTMENT OF EDUCATION IN THE AMOUNT OF \$4,600.00

Superintendent's Comments: It is recommended that the Board of Trustees approves the 2020-2021 Network Support Services Agreement # 50012 with OCDE for \$4,600.00.

6-V. APPROVE SCOPE AMENDMENT 1 TO THE ARCHITECTURAL SERVICE AGREEMENT WITH RACHLIN PARTNERS FOR GISLER ELEMENTARY SCHOOL

Superintendent's Comments: It is recommended that the Board of Trustees approves Scope Amendment 1 to the Master Architectural Service Agreement with Rachlin Partners for Gisler Elementary School.

6-W. APPROVE SCOPE AMENDMENT 1 TO THE ARCHITECTURAL SERVICE AGREEMENT WITH RACHLIN PARTNERS FOR TALBERT MIDDLE SCHOOL

Superintendent's Comments: It is recommended that the Board of Trustees approves Scope Amendment 1 to the Master Architectural Service Agreement with Rachlin Partners for Talbert Middle School.

6-X. APPROVE CHANGE ORDER #3 FOR THE FULTON MIDDLE SCHOOL MEASURE O HVAC AND MODERNIZATION PROJECT

Superintendent's Comments: It is recommended that the Board of Trustees approves Change Order #3 for the Fulton Middle School Measure O HVAC and Modernization Project.

6-Y. APPROVAL OF ORANGE COUNTY DEPARTMENT OF EDUCATION POWERSCHOOL CONTRACTS (FORMERLY KNOWN AS SUNGARD)

Superintendent's Comments: It is recommended that the Board approves Agreement Number 42950 – Amendment #4, “Business-Plus System Support” and Agreement 46315 – Amendment #2 “Human Resources Application” with the Orange County Department of Education and authorizes the Superintendent or designee to sign all documents.

6-Z. APPROVE THREE YEAR AGREEMENT FOR PROFESSIONAL SERVICES WITH ATKINSON, ANDELSON, LOYA, RUUD & ROMO

Superintendent's Comments: It is recommended that the Board of Trustees approves the Agreement For Special Services with Atkinson, Andelson, Loya, Ruud & Romo, through July 31, 2023, and authorizes the Superintendent or designee to sign all documents.

6-AA. 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
Del Sol School	N/A	3/16/20-6/30/20
Olive Crest Academy – Garden Grove	N/A	3/16/20-6/30/20
Olive Crest Academy – Orange	N/A	3/16/20-6/30/20
Blind Children's Learning Center	N/A	3/13/20-6/30/20
Mardan School	N/A	3/16/20-6/30/20
Mardan School	\$1,190	3/16/20-6/30/20
Hiddleson Listening, Lang, & Spch Cntr.	\$1,500	5/22/20-6/30/20
Kimberly J. Hiddleson dba: Hiddleson Listening, Lang, & Spch Cntr.	N/A	7/1/20-6/30/21
Kimberly J. Hiddleson dba: Hiddleson Listening, Lang, & Spch Cntr.	\$6,300	7/1/20-6/30/21
Mardan School	N/A	7/1/20-6/30/21
Mardan School	\$41,356	7/1/20-6/30/21
Olive Crest Academy	N/A	7/1/20-6/30/21
Olive Crest Academy	\$47,542	7/1/20-6/30/21
Logan River Academy, LLC	N/A	7/1/20-6/30/21
Logan River Academy, LLC	\$140,635.68	7/1/20-6/30/21

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**

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.

- APPROVAL TO ADJOURN**

**The next regular meeting of the Fountain Valley School District
Board of Trustees is on Thursday, August 6, 2020 at 6:30PM.**

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 luccheser@fvsd.us or calling 714.843.3255 during normal business hours.

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 at luccheser@fvsd.us or calling 714.843.3255.

Board meeting of June 25, 2020



SO 19-20/B20-31
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: BUDGET UPDATE (ORAL AND WRITTEN)
DATE: June 22, 2020

Background:

Assistant Superintendent, Business, Christine Fullerton and Director, Fiscal Services, Isidro Guerra will provide an update for the Board of Trustees on the State Budget and its effect on the Fountain Valley School District.

Board meeting of June 25, 2020



SO 19-20/B20-32
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: **COVID-19 OPERATIONS WRITTEN REPORT REVIEW (ORAL AND WRITTEN)**
DATE: June 22, 2020

Background:

Assistant Superintendent, Educational Services, Dr. Steve McLaughlin, and Director, Educational Services, Dr. Jerry Gargus, will provide a review for the Board of Trustees of the COVID-19 Operations Written Report for the 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: **Public Hearing of 2020-21 District Budget**
DATE: June 15, 2020

Background:

Education Code § 42103 requires the governing board of each school district to hold a public hearing on the proposed budget for their district. Additionally, Education Code § 42127(d)(2) states that a budget shall not be adopted before an LCAP for the budget year is approved. The recently issued Executive Order (EO) N-56-20 in part extends the 2020–21 LCAP adoption deadline, from July 1 to December 15, 2020, thus waiving the Education Code § 42127(d)(2) requirement for LCAP approval before adoption of the 2020-21 budget.

The enclosed budget document represents the results of the Board’s direction of maintaining the current high quality programs in a fiscally prudent manner.

All required reserves are maintained; all funds will end with a positive ending balance and the budget meets State standards and criteria.

Pursuant to expected State Budget passage or within 45 days of the State Budget passing, our budget will be updated for any material changes. The budget is updated throughout the year and presented to the Board at first and second interim reporting periods.

NOTICE OF PUBLIC HEARING

FOUNTAIN VALLEY SCHOOL DISTRICT

2020-2021 FOUNTAIN VALLEY SCHOOL DISTRICT BUDGET

Notice is hereby given that the Board of Trustees of the Fountain Valley School District, at its virtual meeting to be held on June 25, 2020, at 6:30 p.m. at https://zoom.us/webinar/register/WN_8JAiZLGMRROXBi42iBmRRQ, will conduct a public hearing for the purpose of receiving public comment on the proposed 2020-2021 Fountain Valley School District budget. The public is invited to give testimony on the proposed budget. In order to address the Board of Trustees as a part of the public hearing, please email your comments to luccheser@fvsd.us by 6:15PM on Thursday, June 25th. Your comments will be read into the record.

The proposed budget will be available for public inspection between Monday, June 22, 2020, and Thursday, June 25, 2020, 9:00 a.m. to 2:00 p.m., in the School District Board Room.

Persons desiring additional information concerning the proposed budget should contact Isidro Guerra, Director, Fiscal Services, Fountain Valley School District, 10055 Slater Avenue, Fountain Valley, CA 92708, telephone: (714) 843-3249.

FOUNTAIN VALLEY SCHOOL DISTRICT

By: _____

Isidro Guerra
Director, Fiscal Services
Business Services Division



Fountain Valley School District
Educational Services

M E M O R A N D U M

TO: Board of Trustees
FROM: Jerry Gargus, Ed.D., Director, Educational Services
SUBJECT: **APPROVAL OF COVID-19 OPERATIONS WRITTEN REPORT**
DATE: June 17, 2020

Background:

On April 22, 2020, Governor Newsom issued Executive Order N-56-20, which adjusted timelines related to the Local Control Accountability Plan and Budget Overview adoption process in order to allow school districts to focus on addressing the impact of continued school closures in response to the COVID-19 pandemic. The Executive Order also established the requirement that school districts draft a COVID-19 Operations Written Report explaining to its community the changes to program offerings made in response to school closures.

The COVID-19 Operations Written Report must include:

- An overview explaining the changes to program offerings made in response to school closures to address the COVID-19 emergency and the major impacts of the closures on students and families.
- A description of how the District is meeting the needs of its English learners, foster youth, and low-income students.
- A description of the steps that have been taken by the District to continue delivering high-quality distance learning opportunities.
- A description of the steps that have been taken by the District to provide school meals while maintaining social distancing practices.
- A description of the steps that have been taken by the LEA to arrange for supervision of students during ordinary school hours.

The COVID-19 Operations Written Report must be adopted by the local governing board in conjunction with the adopted annual budget by July 1, 2020. Once adopted, the COVID-19 Operations Written Report must be posted on the homepage of the District's website.

Fiscal Impact:

There is no fiscal impact involved in the approval process.

Recommendation:

It is recommended that the Board of Trustees approve the COVID-19 Operations Written Report, for the Fountain Valley School District.



2020 LCAP COVID-19 Operations Written Report

Provide an overview explaining the changes to program offerings that the LEA has made in response to school closures to address the COVID-19 emergency and the major impacts of the closures on students and families.

Upon the announcement of School Dismissal on March 13, 2020, FVSD expedited program-wide changes to support families/students. FVSD staff have worked diligently to balance a sense of urgency to meet the academic and social-emotional needs of students/families, while maintaining recognition that the COVID-19 school closures also significantly impacted the lives of FVSD team members. FVSD made extensive changes to program offerings for students by focusing on four priority areas - Priority Area #1 - Basic Needs/Social-Emotional Support, Priority Area #2 - Access to eLearning Tools, Priority Area #3 - Access to Distance Learning, and Priority Area #4 - Professional Learning for Staff.

Priority Area #1: Basic Needs

FVSD immediately launched a drive-thru lunch program providing families with access to free meals (breakfast and lunch) throughout the week. FVSD served approximately 2,000 free meals per day to families through our three food distribution locations. Updates to the FVSD's website included information for families about community-based meal support resources, as well as mental health resources, and wellness resources. In addition, FVSD counselors, principals, teachers and staff helped facilitate access to community-based resources to help meet the basic needs of families throughout the COVID-19 School Dismissal period.

Priority Area #2: Technology Access

FVSD distributed over 2,000 Chromebooks to families, provided information about low/no-cost Internet Access options, and helped to onboard several new instructional technology resources to support teachers in the development of weekly Distance Learning plans. FVSD implemented a structured plan to distribute Chromebooks to families during the week of March 23-27, 2020 and provided ongoing help desk services for families.

Priority Area #3:

FVSD took a three-phase approach to developing and delivering Distance Learning for students including a modeling phase, site-based phase, and integrated site-based phase which are all described in detail in a subsequent section of the COVID-19 Operations Written Report. FVSD has worked diligently to connect with families to ensure participation in the Distance Learning program, surveyed parents and students (grade 3-8) regarding their experiences with Distance Learning, utilized delivery platforms with embedded translation capabilities, and provided differentiated supports for FVSD students with special needs.



2020 LCAP COVID-19 Operations Written Report

Priority Area #4:

FVSD transitioned professional development activities for staff to online platforms and focused on helping administrators/teachers build proficiency with Distance Learning tools such as Google Classroom, IXL, NewsELA, and Zoom. Additionally, FVSD provided online training opportunities for classified staff members.



2020 LCAP COVID-19 Operations Written Report

Provide a description of how the LEA is meeting the needs of its English learners, foster youth and low-income students.

FVSD always places high priority on meeting the needs of English learners, foster youth, and low-income students. During COVID-19 School Dismissal, FVSD's approach to supporting these students was built around three core concepts - access, involvement, and differentiation.

Access:

From the beginning of COVID-19 School Dismissal, FVSD leveraged both PDF and HTML formats for distributing essential District communications and weekly Distance Learning plans. This approach ensures resources can be printed out (PDF format) for distribution to families, and that resources are available electronically in a format that is conducive to the use of Google Translate functionality, which supports 105 different languages. FVSD made Chromebooks available for all families to check out during school closure and provided families with "hot-spots" to provide short-term internet access when circumstances necessitate that level of support. FVSD strategically located Chromebook distribution sites and Meal Program distribution sites at schools with the highest concentrations of students identified as English learners, foster youth, and/or low-income.

Involvement:

FVSD closely monitored the participation of all students in Distance Learning throughout School Dismissal period. Collaborative efforts of teachers, counselors, support staff, and principals identified students not participating actively in Distance Learning and reached out strategically to encourage higher levels of involvement in programming. FVSD staff worked diligently to mitigate barriers and ensure that all students had equitable access to Distance learning. FVSD's Director of Support Services worked closely with principals, teachers, and staff to ensure that all measures of contacting students are deployed and that wrap-around services are made available to these student groups.

Differentiation:

Supporting high-needs student groups necessitated that FVSD differentiate both academic and social-emotional programming. In order to best support English learners, FVSD's team of bilingual aides maintained ongoing contact with students/families whose English language skills are still emerging. As a team, they had over 750 individual or small group interactions to support learning and/or social-emotional development needs. During COVID-19 School Dismissal, FVSD's team of bilingual aides also provided translation support for more than 20 virtual Individualized Education Plan (IEP) meetings. FVSD Support Services Team focused on directly supporting students identified as Foster Youth or Homeless. FVSD's counseling team has connected with students individually on a regular basis throughout the COVID-19 pandemic to make sure that students and families are aware of district-provided supports and community-based supports that are available in their time of need.



2020 LCAP COVID-19 Operations Written Report

Provide a description of the steps that have been taken by the LEA to continue delivering high-quality Distance Learning opportunities.

FVSD immediately began providing Distance Learning for students following the announcement of School Dismissal on March 13, 2020. FVSD worked with intent to scale-up Distance Learning as information related to the impact of the COVID-19 pandemic continued to emerge. FVSD's program evolved through three phases including a "Modeling phase," a "Site-based phase," and a "Fully-integrated phase." FVSD took the approach of distributing Distance Learning plans to families on a weekly basis, enabling teachers to continue to improve Distance Learning plans as they became more proficient with online instructional pedagogy and new instructional technologies. District staff communicated expectations to parents including recommended daily schedules for students, guidance on helping students stay engaged with learning, and parent tips for supporting students during COVID-19 School Dismissal.

Modeling Phase (March 16th - March 27th):

For the Modeling Phase, FVSD's cadre of Teachers on Special Assignment (TOSAs) developed weekly distance learning plans that would serve as a model for all classroom teachers in subsequent weeks. A weekly plan template was used to promote consistency of formatting, equitable access, and a model for future work. Distance Learning plans during the modeling phase focused on the core instructional areas English Language Arts and math, and introduced families to a variety of instructional technologies. Plans were distributed to families via email from school principals and were posted on the FVSD website in both PDF and HTML formats.

Site-Based Phase (March 30th - April 10th)

Responsibility for developing and distributing weekly Distance Learning plans transferred to individual grade level/content area teams at each of FVSD's school sites. Teachers utilized the weekly plan template, but expanded content beyond English Language Arts and math to include other content areas. Content during this phase focused on reviewing and extending concepts that had been introduced prior to school dismissal. FVSD entered into agreements with IXL and NewsELA to expand the range of tools available to teachers. The publishing of weekly plans was shifted to each school's website (with links from the district's webpage) providing seamless access for families. Teachers began piloting video-connecting with students using Google Meet and Zoom technologies.

Fully Integrated Phase (April 20th - June 18th)

Teachers continued to utilize the weekly plan template, and expanded content to include review, extension, and introduction of new concepts. During this phase, FVSD established the formal expectation that teachers connect virtually with students a minimum of two times per week. FVSD entered into an enterprise-wide agreement with Zoom Video Communications to provide a more secure platform from which educators could connect with families. Weekly Distance Learning plans continued to be distributed to families on a weekly basis, and the published on school websites.



2020 LCAP COVID-19 Operations Written Report

Provide a description of the steps that have been taken by the LEA to provide school meals while maintaining social distancing practices.

FVSD began drive-thru meal distribution for all children on Wednesday, March 18, 2020 at three locations - Cox Elementary, Oka Elementary, and Tamura Elementary. FVSD selected these locations based on guidelines provided by the California Department of Education to ensure ease of access for school communities with the greatest concentration of low-income students. The food services department applied for all appropriate waivers for these operations. FVSD followed all sanitation regulations associated with the preparation and packaging of meals. In addition, all staff that supported the meal distribution program exercised appropriate safety precautions in both the preparation and distribution of food including the use of masks, food service gloves, and mobile serving tables to ensure the safety of staff and families. As school closure due to COVID-19 continued to extend, FVSD expanded the meal program to include breakfast, and adjusted to a three-day per week distribution schedule to reduce the frequency of interaction between the community and staff members. On average, FVSD distributed 2,000 meals per day across the three distribution sites.



2020 LCAP COVID-19 Operations Written Report

Provide a description of the steps that have been taken by the LEA to arrange for supervision of students during ordinary school hours.

FVSD team members, including the Director of Child Development and Recreational Programs, researched the possibility of providing on-site childcare within the district. It was initially determined that FVSD would work with local agencies, such as the Boys and Girls Clubs of Huntington Valley, to refer families to these agencies during school dismissal. FVSD provided contact information on the school websites and site administrators shared the resources. FVSD continued to monitor the need for childcare within the community and initiated plans to open programming for the summer of 2020. FVSD has developed a comprehensive plan for opening childcare in a manner that is consistent with various state agency guidelines. Beginning on June 29, 2020, FVSD's childcare program will launch on June 29, 2020 with capacity to serve up to 120 students (Pre-school through 6th grade).



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 2020-21 District Budget**
DATE: June 19, 2020

Background:

Education Code § 42103 requires the governing board of each school district to hold a public hearing on the proposed budget for their district. Additionally, Education Code § 42127(d)(2) states that a budget shall not be adopted before an LCAP for the budget year is approved. The recently issued Executive Order (EO) N-56-20 in part extends the 2020–21 LCAP adoption deadline, from July 1 to December 15, 2020, thus waiving the Education Code § 42127(d)(2) requirement for LCAP approval before adoption of the 2020-21 budget.

A public hearing for the budget will be held on June 25, 2020 at the regularly scheduled meeting of the Board of Trustees prior to approval. The budget document represents the results of the Board’s direction of maintaining the current high-quality programs in a fiscally prudent manner using the latest assumptions outlined in the Governor’s May Revise.

All required reserves are maintained; all funds will end with a positive ending balance and the budget meets State standards and criteria.

Pursuant to expected State Budget passage or within 45 days of the State Budget passing, our budget will be updated for any material changes. The budget is updated throughout the year and presented to the Board at first and second interim reporting periods.

Recommendation:

It is recommended that the Board of Trustees approve the budget for fiscal year 2020-21.



PLEASE NOTE:

A copy of the **2020-21 Budget**
for the Fountain Valley School District
is available for review through the District Office
and will be available on our website
subsequent to Board approval.

Please contact the Superintendent's office at 714.843.3255.

**Fountain Valley School District
Superintendent's Office**

REGULAR MEETING OF THE BOARD OF TRUSTEES

Videoconference via Zoom

June 11, 2020

Meeting Link: https://zoom.us/webinar/register/WN_KOXnWia-TMcamhf0rVtnwA

MINUTES

President Galindo 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

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

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

AGENDA APPROVAL

Second: Mr. Collins

Vote: 5-0

Mrs. Schultz led the Pledge of Allegiance.

PLEDGE OF
ALLEGIANCE

BOARD REPORTS AND COMMUNICATIONS

Mr. Cunneen enjoyed filming his intro for the Tamura School student and parent celebration, expressing his pride in the work of his daughter, film student, Delilah. In addition, he expressed his sincere thanks to all of the management in our District, noting the fantastic job they are doing during this unique time.

Mrs. Schultz noted her pleasure in hearing of all of the promotion ceremonies celebrating our students. While not ideal, she is pleased to hear the events that have happened. She commended the work done and continuing to be done. She congratulated all of the students in our community as they continue their educations.

Mrs. Crandall celebrated our ten Teachers of the Year. Her activities since the last meeting included: Newland and Gisler's

reverse parades, certificated years of service and retiree celebration zoom, webinar regarding budget shortfalls, labor negotiations and reopening of school in CA and virtual meeting as OC doctor discussed COVID-19 and minors.

Mr. Collins' activities since the last meeting included: several Rotary meetings, include presentation by Rob Houston, FV City Manager and Rob Groeneveld from the Huntington Valley Boys and Girls Club, lunch service at Oka, and Gisler's reverse parade.

Mrs. Galindo's activities since the last meeting included: reverse parade at Newland, and filming the intro to the spotlight of students and parents at Plavan. She thanked her fellow Trustees for their service this month.

PUBLIC HEARINGS

There were no requests to address the Board of Trustees and so the Public Hearing was closed.

PUBLIC HEARING ON
INITIAL CONTRACT
PROPOSALS
BETWEEN FOUNTAIN
VALLEY SCHOOL
DISTRICT AND
CALIFORNIA SCHOOL
EMPLOYEES
ASSOCIATION,
CHAPTER #358 FOR
2020-21

PUBLIC COMMENTS

There were no requests to address the Board of Trustees.

PUBLIC COMMENTS

LEGISLATIVE SESSION

Motion: Mr. Cunneen moved to adopt Resolution 2020-17 Reserving the Right to Make 2020-21 Employee Compensation Reductions for Employees in Confidential and Management Positions

Second: Mrs. Crandall

Vote: 5-0

RESOLUTION 2020-17 RESERVING THE RIGHT TO MAKE 2020-21 EMPLOYEE COMPENSATION REDUCTIONS FOR EMPLOYEES IN CONFIDENTIAL AND

MANAGEMENT
POSITIONS
CONSENT
CALENDAR

Motion: Mr. Collins moved to approve the Consent Calendar.

Second: Mrs. Schultz

Vote: 5-0

The Consent Calendar included:

- Board Meeting Minutes from May 21st regular meeting
- Personnel Items (Employment Functions, Workshops/Conferences, and Consultants)
- Donations
- Warrants
- Purchase Order Listing
- Resolution 2020-20: Approval of Local Agreement for Child Development Services Contract Number Cspp-0349 And Authorizing Signature
- School-Based Medi-Cal Administrative Activities (SMAA) Participation Agreement
- Receipt of California School Employees Association and Its Fountain Valley Chapter #358 Initial Proposal For 2020-2021
- Presentation of Fountain Valley School District's 2020-2021 Proposal to California School Employees Association and Its Fountain Valley School District Chapter #358
- Resolution 2020-18 Education Protection Account (EPA) Funding and Spending Determinations for the 2020-21 Fiscal Year
- Resolution 2020-19 Temporary Inter-Fund Transfers from Fund 40
- Student Accident Insurance – 2020-21
- Educational Technologies Annual Renewals
- Authorize the Use of The Placentia Yorba Linda (#219-01 Dairy) Bid for The Purchase of Food Service Products
- Review of Investment Policy
- Award Bid #20-03 Modular Buildings-Sitework Only (Fulton Middle School)
- Award Bid #20-04 Roof Replacement – Maintenance Buildings
- Approve the Use of a Piggyback Contract with Class Leasing for The Lease and Relocation of Relocatable Classrooms for Interim Housing Associated with The Measure O HVAC And Modernization Project

- Approval of Agreement with IXL
- Approval of Agreement with Newsela
- Approval of Agreement with Parentsquare
- S.P.I.R.E. Hybrid Reading Curriculum

SUPERINTENDENT'S COMMENTS/NEW ITEMS OF BUSINESS

Dr. Johnson Celebrated our ESP and CDC programs, Director Mona Green and Dr. McLaughlin, noting that these programs will open on June 29th with eight ESP classrooms and two CDC classrooms. In addition, he commended Mrs. Abdel and her team for the recent celebration of our certificated employees, 29 landmark years of service recipients and 7 retirees. He thanked and wished them all the very best. He noted that there are three reverse parades tomorrow at Plavan, Cox and Fulton. To our students, he commended them for their efforts in a situation that many do not understand. He noted his pride for their efforts and adapting to an evolving situation. To our 8th graders, he noted that they are ready and wished them well. To our 5th graders, he noted the fun awaiting them in 6th grade. And to all our students, he expressed his thanks. To our certificated staff, he noted that he cannot express his appreciation enough for their ways of adapting to teach and reach our kids. And to our classified staff, he commended their efforts and support. He expressed his pride for all of our fantastic staff. More so, he expressed his gratitude to our parents as they supported and were there for all of our students in distance learning. He wished everyone continued safety, health and wellbeing. In closing, he addressed returning in the fall, noting the recent survey of parents with results to be shared in Tuesday's communication in addition to a letter to staff. He reviewed the three models, full return in class, full distance learning and a hybrid option. He shared that from the survey, 22% of our families want to stay in distance learning. Given this, we need to provide this as a resource for families. He noted that we continue to research how we can return in a traditional model, in addition to hybrid options. He noted that guidance from CDE and CDPH has been released, in addition to the District forming an advisory committee to study and determine the best options for reopening in the fall. We are unable to make the decision now given the benefits of studying and learning, as well as working with our health care officials and our neighboring districts in order to come up with the best model for our kids, with the opportunity to share this information in late July. Between now and then, families and staff can expect weekly communications and additional opportunities for survey and input.

CLOSED SESSION

Mrs. Galindo 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.

ADJOURNMENT

Motion: Mr. Collins moved to adjourn the meeting at 8:42PM.

Second: Mrs. Schultz

Vote: 5-0

/rl

FOUNTAIN VALLEY SCHOOL DISTRICT
June 25, 2020

1.0 EMPLOYMENT FUNCTIONS:

- 1.1 ASSISTANT SUPERINTENDENT, PERSONNEL REQUESTS APPROVAL OF THE SINGLE SUBJECT/INDUSTRIAL AND TECHNOLOGY LIMITED ASSIGNMENT TEACHING PERMIT FOR ALYSSA BRIGNARDELLO.

2.0 INDEPENDENT CONTRACTOR/CONSULTANT AGREEMENT

- 2.1 ASSISTANT SUPERINTENDENT, PERSONNEL REQUESTS APPROVAL OF STUDENT TEACHING, AND SCHOOL PSYCHOLOGY AND SCHOOL COUNSELOR INTERNSHIP AGREEMENTS WITH BAPTIST UNIVERSITY, EFFECTIVE JUNE 01, 2020 – JUNE 30, 2025.

**FOUNTAIN VALLEY SCHOOL DISTRICT
PERSONNEL ITEMS FOR APPROVAL
June 25, 2020**

3.0 EMPLOYMENT FUNCTIONS

3.1 ASSISTANT SUPERINTENDENT, PERSONNEL REQUESTS APPROVAL OF THE FOLLOWING CLASSIFIED LEAVE OF ABSENCE:

	<u>EMPLOYEE</u>	<u>LOCATION</u>	<u>ASSIGNMENT</u>	<u>REASON</u>	<u>EFFECTIVE</u>
3.1.1	Rivera	Teresita	Food Service Worker	Family Illness	06/01/2020

3.2 ASSISTANT SUPERINTENDENT, PERSONNEL HAS ACCEPTED THE RETIREMENT OF THE FOLLOWING CLASSIFIED EMPLOYEES:

	<u>EMPLOYEE</u>	<u>LOCATION</u>	<u>ASSIGNMENT</u>	<u>EFFECTIVE</u>
3.2.1	Davis, Suzie	Gisler	School Office Manager	06/25/2020
3.2.2	Hopkins, Deborah	Cox & Courreges	ESP Instructor & Assistant	06/18/2020

3.3 ASSISTANT SUPERINTENDENT, PERSONNEL HAS ACCEPTED THE RESIGNATION OF THE FOLLOWING CLASSIFIED EMPLOYEE:

	<u>EMPLOYEE</u>	<u>LOCATION</u>	<u>ASSIGNMENT</u>	<u>EFFECTIVE</u>
3.3.1	Valencia, Kasey	Newland	IA Applied Behavior Analysis	06/25/2020
3.3.2	Tran, Amy	Cox& Tamura	ESP Assistant & IA	06/18/2020

3.4 ASSISTANT SUPERINTENDANT, PERSONNEL REQUESTS APPROVAL OF THE FOLLOWING 2020 SUMMER CAMP CLASSIFIED EMPLOYEES TO WORK AS RECREATION COORDINATORS:

	<u>EMPLOYEE</u>	<u>LOCATION</u>	<u>TERM</u>
3.4.1	Williams, June	Plavan	6/29 – 8/21
3.4.2	Ramirez, Connie	Courreges	6/29 – 8/21

3.5 ASSISTANT SUPERINTENDANT, PERSONNEL REQUESTS APPROVAL OF THE FOLLOWING 2020 SUMMER CAMP CLASSIFIED EMPLOYEES TO WORK AS RECREATION LEADERS:

	<u>EMPLOYEE</u>	<u>TERM</u>
3.5.1	Burns, Megan	6/29 - 8/21
3.5.2	Hightower, Teresa	6/29 - 8/21
3.5.3	De La Cruz, Melanie	6/29 - 8/21
3.5.4	Westfall, Jennifer	6/29 - 8/21
3.5.5	Stinsman, Kristy	6/29 - 8/21
3.5.6	Geertson, Danna	6/29 - 8/21

3.5.7	Perez, Natalie	6/29- 8/21
3.5.8	Tomita, Alice	6/29- 8/21
3.5.9	Layman Hughes, Michelle	6/29- 8/21
3.5.10	Sy, Kristel	6/29- 8/21
3.5.11	Sanchez, Carissa	6/29- 8/21
3.5.12	Burza, Amber	6/29- 8/21
3.5.13	Trieu, Son	6/29- 8/21
3.5.14	Gutierrez, Crystal	6/29- 8/21
3.5.15	Alonso, Alejandra	6/29- 8/21
3.5.16	DeMattos, Adrianna	6/29- 8/21
3.5.17	Silva, Cathy	6/29- 8/21
3.5.18	Navarro, Alexis	6/29- 8/21
3.5.19	Sanden, Robert	6/29- 8/21

3.6 ASSISTANT SUPERINTENDANT, PERSONNEL REQUESTS APPROVAL OF THE FOLLOWING 2020 SUMMER CAMP CLASSIFIED EMPLOYEES TO WORK AS PRESCHOOL ASSISTANTS:

	EMPLOYEE	LOCATION	TERM
3.6.1	Krause, Barbara	Plavan	6/29/-7/31
3.6.2	Betancourt, Yvonne	Plavan	6/29/-7/31
3.6.3	Deutschmann, Kimberly	Plavan	6/29/-7/31
3.6.4	Korhonen, Cayce	Plavan	6/29/-7/31
3.6.5	Ledezma, Candelaria	Plavan	6/29/-7/31
3.6.6	Hayes, Mechele	Plavan	6/29/-7/31
3.6.7	Russo, Donna	Plavan	6/29/-7/31
3.6.8	Sanden. Robert	Plavan	6/29- 7/31

FOUNTAIN VALLEY SCHOOL DISTRICT
DONATIONS

BOARD APPROVAL DATE: June 25, 2020

SCHOOL	DONOR	AMOUNT	DESCRIPTION / INTENDED USE
PLAVAN			
	Plavan PTO	\$2,528.99	Trans. - 4th gr - Honda Center- \$970.00 SA Adapted PE - Bear Mtn Ski Resort- \$1,558.99

**FOUNTAIN VALLEY SCHOOL DISTRICT
BOARD MEETING JUNE 25, 2020**

To: Christine Fullerton

From: Thuong Nguyen

Subject: Warrant Listing and ACH Payments

Warrant Numbers: 88396 - 88515

Dates: 6/3/2020 - 6/16/2020

Fund 01	General Fund	173,261.69
Fund 12	Child Development	462.12
Fund 13	Cafeteria	69,544.78
Fund 14	Deferred Maintenance	7,717.95
Fund 21	GOB 2016 Election	24,739.17
Fund 22	GOB 2016 Election	1,197,376.19
Fund 25	Capital Facilities	-
Fund 40	Special Reserves	20,959.90
Fund 68	Worker Comp	76,914.25
Fund 69	Insurance	3,105.00
TOTAL		\$ 1,574,081.05

FOUNTAIN VALLEY SD
PURCHASE ORDER DETAIL REPORT BY FUND
BOARD OF TRUSTEES MEETING 06/25/2020

FROM 06/01/2020 TO 06/15/2020

<u>PO NUMBER</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>ACCOUNT AMOUNT</u>	<u>ACCOUNT NUMBER</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
N20M4297	TRI STATE FIRE SYSTEMS INC	395.00	395.00	012869390 5645	Maintenance / Outside Srvs-Repairs & Mainten
N20M4298	UNITED PARCEL SERVICE	24.92	24.92	012869390 5930	Maintenance / Postage, Parcel, & Delivery
N20M4360	WESTERN ILLUMINATED PLASTICS	6,982.20	6,982.20	019000089 4315	COVID-19 Custodial / Media/Library Supplies
N20M4361	INDUSTRIAL METAL SUPPLY	116.88	116.88	012899390 4347	Gardening / Repair & Upkeep Equip Supplies
N20M4362	SHIFFLER EQUIPMENT SALES INC.	105.34	105.34	019000089 4345	COVID-19 Custodial / Maintenance Supplies
N20M4363	NORM'S REFRIGERATION & ICE EQU	359.78	359.78	012869390 5645	Maintenance / Outside Srvs-Repairs & Mainten
N20M4364	NORM'S REFRIGERATION & ICE EQU	2,180.16	2,180.16	012869390 5645	Maintenance / Outside Srvs-Repairs & Mainten
N20M4365	DAVE BANG ASSOCIATES	32,196.90	32,196.90	012839390 6110	Maintenance - Cap Facilities / Site Improvement - Playground
N20M4366	TURF STAR INC.	375.00	375.00	012899390 4347	Gardening / Repair & Upkeep Equip Supplies
N20M4367	INDUSTRIAL METAL SUPPLY	167.93	167.93	019000089 4345	COVID-19 Custodial / Maintenance Supplies
N20M4368	ALAN'S LAWNMOWER & GARDEN CENT	10,924.30	10,924.30	012899390 6520	Gardening / Equip.Replace.-Mach./Vehicles
N20M4369	AAA ELECTRIC MOTOR SALES & SER	825.00	825.00	014869390 4347	STAR Building DO-Routine Maint / Repair & Upkeep Equip
N20M4370	FOREST PLYWOOD SALES	343.15	343.15	012869390 4345	Maintenance / Maintenance Supplies
N20M4371	ALAN'S LAWNMOWER & GARDEN CENT	21,848.60	21,848.60	012899390 6520	Gardening / Equip.Replace.-Mach./Vehicles
N20R1622	REFRIGERATION CONTROL COMPANY	1,428.42	1,428.42	019007381 5645	COVID-19 Food Services / Outside Srvs-Repairs & Mainten
N20R1626	SOUTHWEST SCHOOL AND OFFICE SU	578.77	578.77	019000061 4310	COVID-19 Health Serv / Instructional Supplies
N20R1627	ORANGE COUNTY DEPARTMENT OF ED	97.20	97.20	010144949 4310	Sch Site Instr - Masuda / Instructional Supplies
N20R1628	SNA	149.00	149.00	019007381 5210	COVID-19 Food Services / Travel, Conference, Workshop
N20R1629	ORANGE COUNTY DEPARTMENT OF ED	774.00	167.40	010013131 4310	Sch Site Instr - Gisler / Instructional Supplies
			194.40	010013737 4310	Sch Site Instr - Oka / Instructional Supplies
			412.20	010014747 4310	Sch Site Instr - Courreges / Instructional Supplies
N20R1630	AMAZON.COM LLC	2,248.90	2,248.90	019000061 4327	COVID-19 Health Serv / Health Supplies
N20R1631	LEVEL 27 MEDIA	4,241.25	4,241.25	019000061 4325	COVID-19 Health Serv / Office Supplies
N20R1633	AMAZON.COM LLC	1,810.57	1,810.57	019000061 4310	COVID-19 Health Serv / Instructional Supplies
N20R1634	CHEFS' TOYS	598.01	598.01	019007381 4790	COVID-19 Food Services / Food Services Supplies
N20R1635	HARBOTTLE LAW GROUP APC	110.00	110.00	015659860 5830	Special Ed. - Legal Services / Legal Fees
N20R1636	ORANGE COUNTY DEPARTMENT OF ED	2,843.32	2,843.32	012719380 5899	Business Department / Other Operating Expenses
Fund 01 Total:		91,724.60	91,724.60		

FOUNTAIN VALLEY SD
PURCHASE ORDER DETAIL REPORT BY FUND
BOARD OF TRUSTEES MEETING 06/25/2020

FROM 06/01/2020 TO 06/15/2020

<u>PO NUMBER</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>ACCOUNT AMOUNT</u>	<u>ACCOUNT NUMBER</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
N20M4289	PRO-FAB CONSTRUCTION INC	57,650.00	28,825.00	122866098 5645	ESP-Building/Site Improvement / Outside Srvs-Repairs & Main
			28,825.00	122867598 5645	CDC-Building/Site Improvement / Outside Srvs-Repairs & Main
	Fund 12 Total:	57,650.00	57,650.00		

FOUNTAIN VALLEY SD
PURCHASE ORDER DETAIL REPORT BY FUND
BOARD OF TRUSTEES MEETING 06/25/2020

FROM 06/01/2020 TO 06/15/2020

<u>PO NUMBER</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>ACCOUNT AMOUNT</u>	<u>ACCOUNT NUMBER</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
N20R1638	FERGUSON REFRIGERATION COMMERC	3,500.00	3,500.00	133207380 5645	Cafeteria Fund / Outside Srvs-Repairs & Mainten
	Fund 13 Total:	3,500.00	3,500.00		

FOUNTAIN VALLEY SD
PURCHASE ORDER DETAIL REPORT BY FUND
BOARD OF TRUSTEES MEETING 06/25/2020

FROM 06/01/2020 TO 06/15/2020

<u>PO NUMBER</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>ACCOUNT AMOUNT</u>	<u>ACCOUNT NUMBER</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
N20M4377	SANDALWOOD CONSTRUCTION	14,777.00	14,777.00	403004980 6299	MS Science Bldg - Masuda / Other Building & Improvement
	Fund 40 Total:	14,777.00	14,777.00		

FOUNTAIN VALLEY SD
PURCHASE ORDER DETAIL REPORT BY FUND
BOARD OF TRUSTEES MEETING 06/25/2020

FROM 06/01/2020 TO 06/15/2020

<u>PO NUMBER</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>ACCOUNT AMOUNT</u>	<u>ACCOUNT NUMBER</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
N20R1632	TOTAL COMPENSATION SYSTEMS INC	3,105.00	3,105.00	695009470 5813	Insurance Health/Welfare / Consultant
	Fund 69 Total:	3,105.00	3,105.00		

FOUNTAIN VALLEY SD
PURCHASE ORDER DETAIL REPORT BY FUND
BOARD OF TRUSTEES MEETING 06/25/2020

FROM 06/01/2020 TO 06/15/2020

<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>NUMBER</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
Total Account Amount:			170,756.60		

FOUNTAIN VALLEY SD
PURCHASE ORDER DETAIL REPORT - CHANGE ORDERS BY FUND
BOARD OF TRUSTEES 06/25/2020

		FRO 06/01/2020 TO 06/15/2020			
PO NUMBE	VENDOR	PO TOTAL	CHANGE AMOUNT	ACCOUNT NUMBER	PSEUDO / OBJECT DESCRIPTION
N20M4004	ALLIED REFRIGERATION INC.	1,100.00	-900.00	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
N20M4005	CALIFORNIA PEST MANAGEMENT	30,660.00	+3,560.00	012899390 5645	Gardening / Outside Srvs-Repairs & Mainten
N20M4028	JOHNSON CONTROLS	2,462.72	+615.68	012869390 5645	Maintenance / Outside Srvs-Repairs & Mainten
			+615.68	014869390 5899	STAR Building DO-Routine Maint / Other Operating Expense
N20M4037	RAMIREZ, JUAN CARLOS	12,536.00	-483.00	016919395 5645	7240 Special Ed Transportation / Outside Srvs-Repairs & Main
			-311.00	016929395 5645	7230 Home-to-Sc Transportation / Outside Srvs-Repairs & Ma
N20M4039	HUNTINGTON BEACH UNION HSD	52,889.00	-11,661.00	016919295 5560	7240 SpEd Transportaion-Fuel / Fuel
			-2,450.00	016929295 5560	7230 Home-to-School Trans-Fuel / Fuel
N20M4041	VOYAGER FLEET SYSTEMS INC.	21,268.00	-6,928.00	016919295 5560	7240 SpEd Transportaion-Fuel / Fuel
			-804.00	016929295 5560	7230 Home-to-School Trans-Fuel / Fuel
N20M4318	EBERHARD EQUIPMENT	5,578.88	+2,878.88	012899390 5610	Gardening / Outside Services - Rentals
N20R0038	CHIDESTER, MARGARET A.	3,500.00	-6,500.00	012159470 5830	Personnel - Legal Services / Legal Fees
N20R0039	STATE OF CA DEPT OF JUSTICE	16,100.00	-2,400.00	012719470 5823	Personnel Department / Fingerprinting
N20R0041	SOUTHWEST SCHOOL AND OFFICE SU	1,750.00	-750.00	012719470 4325	Personnel Department / Office Supplies
N20R0287	PROCARE WORK INJURY CENTER	3,530.00	-2,000.00	012719470 5820	Personnel Department / Physical Exam, Drug testing
N20R0541	WRIGHT, LISA	2,875.00	+1,875.00	010143838 5813	Sch Site Instr - Talbert / Consultant
N20R0546	CORINNE LOSKOT CONSULTING INC.	95,000.00	+30,000.00	012719380 5813	Business Department / Consultant
N20R1623	SOUTHWEST SCHOOL AND OFFICE SU	5,615.31	+4,127.06	019000061 4327	COVID-19 Health Serv / Health Supplies
Fund 01 Total:			+8,485.30		

FOUNTAIN VALLEY SD

PURCHASE ORDER DETAIL REPORT - CHANGE ORDERS BY FUND

BOARD OF TRUSTEES

06/25/2020

FRO 06/01/2020 TO 06/15/2020

<u>PO NUMBE</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>CHANGE AMOUNT</u>	<u>ACCOUNT NUMBER</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
N20R0091	AMECI'S PIZZA	21,339.00	+1,339.00	133207380 4710	Cafeteria Fund / FOOD
N20R0093	CLEARBROOK FARMS INC	95,000.00	+15,000.00	133207380 4710	Cafeteria Fund / FOOD
Fund 13 Total:			+16,339.00		

FOUNTAIN VALLEY SD
PURCHASE ORDER DETAIL REPORT - CHANGE ORDERS BY FUND
BOARD OF TRUSTEES 06/25/2020

FRO 06/01/2020 TO 06/15/2020

<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>NUMBER</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
M20M4090	NINYO & MOORE	115,000.00	+20,000.00	223012980 6222	GOB, ELECTION 2016-Fulton / Inspection Svcs Bldg Improv
M20M4272	WEST COAST AIR CONDITIONING CO	8,063,906.00	+353,663.00	223012980 6200	GOB, ELECTION 2016-Fulton / BUILDINGS & IMPROV O
M20R0443	RACHLIN PARTNERS INC	475,087.54	+61,948.38	223013280 6220	GOB, ELECTION 2016-Cox / Architect/Engineer Fees-Bldg
M20R0444	RACHLIN PARTNERS INC	512,902.62	+70,524.46	223012980 6220	GOB, ELECTION 2016-Fulton / Architect/Engineer Fees-Bldg
M20R0446	RACHLIN PARTNERS INC	467,828.14	+60,563.45	223011080 6220	GOB, ELECTION 2016-Tamura / Architect/Engineer Fees-Bld
N20M4092	WILLIAMS SCOTSMAN INC	20,000.00	+5,000.00	223011080 6299	GOB, ELECTION 2016-Tamura / Other Building &
N20R0573	SANDY PRINGLE ASSOCIATES	102,000.00	+22,000.00	223012980 6222	GOB, ELECTION 2016-Fulton / Inspection Svcs Bldg Improv
N20R1609	RACHLIN PARTNERS INC	55,820.00	+5,820.00	223013880 6299	GOB, ELECTION 2016-Talbert / Other Building &
Fund 22 Total:			+599,519.29		

FOUNTAIN VALLEY SD

PURCHASE ORDER DETAIL REPORT - CHANGE ORDERS BY FUND

BOARD OF TRUSTEES

06/25/2020

FRO 06/01/2020 TO 06/15/2020

<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>NUMBER</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
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Total Account Amount:	+624,343.59
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FOUNTAIN VALLEY SD

Reference #:

Transfer of Funds

2020 11

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	12,559.00	7,959.00
1200	CERTIFICATED PUPIL SUPPORT	34.00	
2100	INSTRUCTIONAL AIDES' SALARIES	23.00	1,618.00
2200	CLASSIFIED SUPPORT		44.00
2400	CLERICAL & OFFICE SALARIES	72.00	115.00
2900	OTHER CLASSIFIED SALARIES	2,800.00	4,294.00
3101	STRS-CERTIFICATED POSITIONS		2,045.00
3201	PERS-CERTIFICATED		23.00
3202	PERS-CLASSIFIED	228.00	88.00
3313	MEDICARE-CERTIFICATED		197.00
3314	MEDICARE-CLASSIFIED		159.00
3353	ARP-CERTIFICATED		11.00
3354	ALTERNATIVE RETIRE-CLASSIFIED		2.00
3355	OASDI-CERTIFICATED		7.00
3356	OASDI-CLASSIFIED		83.00
3501	SUI-CERTIFICATED		6.00
3502	SUI-CLASSIFIED		1.00
3601	WORKERS'COMP-CERTIFICATED		287.00
3602	WORKERS'COMP-CLASSIFIED		32.00
4200	BOOKS OTHER THAN TEXTBOOKS	945.00	10,954.00
4300	MATERIALS & SUPPLIES	88,805.00	42,678.00
4400	NONCAPITALIZATION EQUIPMENT	930.00	
4700	FOOD		370.00
5200	TRAVEL & CONFERENCES	6,106.00	17,003.00
5600	RENTAL,LEASE,REPAIR & NON CAP	969.00	785.00
5713	Direct Cost-Printing & Reprod	1,049.00	1,439.00
5752	Direct Cost - Postage	31.00	
5800	PROF/CONS SERV & OPER EXPENSE	44,311.00	67,182.00
5900	COMMUNICATIONS		5.00
7310	TRANSFER OF INDIRECT COSTS		529.00
9780	OTHER ASSIGNMENTS	39,197.00	915.00
9790	UNASSIGNED/UNAPPROPRIATED		39,228.00

FOUNTAIN VALLEY SD

Reference #:

2020 11

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
Subfund Total:		198,059.00	198,059.00

I certify this is a true excerpt from the Minutes of a regular Board Meeting held by the FOUNTAIN VALLEY SD Board of Trustees, 06/25/2020.

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 #:

2020 12

Transfer of Funds

It has been resolved to make the budget transfers as listed below per Education Code 42600.

Fund: 1313 CAFETERIA FUND

Object	Description	FROM	TO
4400	NONCAPITALIZATION EQUIPMENT	6,730.00	
4700	FOOD		5,660.00
5200	TRAVEL & CONFERENCES		363.00
5400	INSURANCE		62.00
5752	Direct Cost - Postage		31.00
5800	PROF/CONS SERV & OPER EXPENSE		614.00
Subfund Total:		6,730.00	6,730.00

I certify this is a true excerpt from the Minutes of a regular Board Meeting held by the FOUNTAIN VALLEY SD Board of Trustees, 06/25/2020.

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 #:

2020 13

Transfer of Funds

It has been resolved to make the budget transfers as listed below per Education Code 42600.

Fund: 2122 GOB EL 2016 SRS 2019

Object	Description	FROM	TO
5600	RENTAL,LEASE,REPAIR & NON CAP		4,588.00
6200	BUILDING AND IMPROVE OF BLDGS	390,165.00	385,577.00
Subfund Total:		390,165.00	390,165.00

I certify this is a true excerpt from the Minutes of a regular Board Meeting held by the FOUNTAIN VALLEY SD Board of Trustees, 06/25/2020.

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 #:

2020 31

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	102,640.00	30,289.00
1200	CERTIFICATED PUPIL SUPPORT		19,808.00
2100	INSTRUCTIONAL AIDES' SALARIES	105,369.00	13,447.00
2200	CLASSIFIED SUPPORT		2,895.00
2900	OTHER CLASSIFIED SALARIES		10,360.00
3101	STRS-CERTIFICATED POSITIONS	17,942.00	6,750.00
3202	PERS-CLASSIFIED	22,140.00	4,695.00
3313	MEDICARE-CERTIFICATED	1,435.00	573.00
3314	MEDICARE-CLASSIFIED	1,551.00	384.00
3353	ARP-CERTIFICATED		4.00
3354	ALTERNATIVE RETIRE-CLASSIFIED		218.00
3356	OASDI-CLASSIFIED	7,050.00	1,476.00
3401	HEALTH & WELFARE-CERTIFICATED		2,737.00
3402	HEALTH & WELFARE-CLASSIFIED	416.00	
3501	SUI-CERTIFICATED	51.00	20.00
3502	SUI-CLASSIFIED	54.00	14.00
3601	WORKERS'COMP-CERTIFICATED	2,240.00	903.00
3602	WORKERS'COMP-CLASSIFIED	2,305.00	586.00
3901	OTHER BENEFITS-CERTIFICATED		10,000.00
4100	TEXTBOOKS	162,660.00	
4200	BOOKS OTHER THAN TEXTBOOKS	1,202.00	328.00
4300	MATERIALS & SUPPLIES	390,166.00	71,552.00
4400	NONCAPITALIZATION EQUIPMENT	46,413.00	31,841.00
4700	FOOD		3,262.00
5100	SUBAGREEMENTS FOR SERVICE	26,022.00	
5200	TRAVEL & CONFERENCES	34,569.00	13,082.00
5300	DUES AND MEMBERSHIPS	1,543.00	
5400	INSURANCE	21,169.00	4,708.00
5500	OPERATIONS & HOUSEKEEPNG SVCS	264,034.00	11,336.00
5600	RENTAL,LEASE,REPAIR & NON CAP	122,721.00	34,989.00
5713	Direct Cost-Printing & Reprod	5,119.00	4,729.00
5800	PROF/CONS SERV & OPER EXPENSE	480,012.00	301,215.00
5900	COMMUNICATIONS	155,499.00	91,169.00
6100	SITES AND IMPROVEMENT OF SITES		32,197.00
6200	BUILDING AND IMPROVE OF BLDGS	23,000.00	194,539.00
6400	EQUIPMENT	102,936.00	41,859.00
6500	EQUIPMENT REPLACEMENT	32,773.00	65,546.00
7141	Excess Costs/Deficit Pay-Schls		120,574.00
7142	Excess Costs/County Offices		87,227.00
7310	TRANSFER OF INDIRECT COSTS	12,231.00	12,299.00
8000	REVENUE LIMIT SOURCES	1,108,205.00	1,127,877.00

FOUNTAIN VALLEY SD

Reference #:

2020 31

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
8100	FEDERAL INCOME	138,565.00	91,079.00
8500	STATE INCOME	48,400.00	156,028.00
8600	LOCAL INCOME	123,758.00	180,648.00
8700	OTHER REVENUES		150,137.00
9740	RESTRICTED BALANCE	12,172.00	365,343.00
9780	OTHER ASSIGNMENTS	62,684.00	385,423.00
9790	UNASSIGNED/UNAPPROPRIATED	1,687,334.00	2,215,916.00
Subfund Total:		5,326,380.00	5,900,062.00

I certify this is a true excerpt from the Minutes of a regular Board Meeting held by the FOUNTAIN VALLEY SD Board of Trustees, 06/25/2020.

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 #:

2020 32

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
2100	INSTRUCTIONAL AIDES' SALARIES		5,616.00
3602	WORKERS'COMP-CLASSIFIED		56.00
4300	MATERIALS & SUPPLIES		2,000.00
5200	TRAVEL & CONFERENCES		84.00
5600	RENTAL,LEASE,REPAIR & NON CAP		900.00
5800	PROF/CONS SERV & OPER EXPENSE		57.00
5900	COMMUNICATIONS		977.00
8600	LOCAL INCOME		4,172.00
9740	RESTRICTED BALANCE	9,633.00	4,115.00
Subfund Total:		9,633.00	17,977.00

I certify this is a true excerpt from the Minutes of a regular Board Meeting held by the FOUNTAIN VALLEY SD Board of Trustees, 06/25/2020.

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 #:

2020 33

Adjustment of Funds

It has been resolved to make the budget adjustments as listed below per Education Code 42600.

Fund: 1414 DEFERRED MAINTENANCE

Object	Description	FROM	TO
6200	BUILDING AND IMPROVE OF BLDGS		282,113.00
8600	LOCAL INCOME		261.00
9780	OTHER ASSIGNMENTS	282,113.00	261.00
Subfund Total:		282,113.00	282,635.00

I certify this is a true excerpt from the Minutes of a regular Board Meeting held by the FOUNTAIN VALLEY SD Board of Trustees, 06/25/2020.

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 #:

2020 34

Adjustment of Funds

It has been resolved to make the budget adjustments as listed below per Education Code 42600.

Fund: 2121 GOB ELE 2016 SERIES 2017

Object	Description	FROM	TO
6200	BUILDING AND IMPROVE OF BLDGS	882,374.00	1,624,193.00
8600	LOCAL INCOME		10,360.00
9740	RESTRICTED BALANCE	1,600,380.00	868,921.00
Subfund Total:		2,482,754.00	2,503,474.00

I certify this is a true excerpt from the Minutes of a regular Board Meeting held by the FOUNTAIN VALLEY SD Board of Trustees, 06/25/2020.

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 #:

2020 35

Adjustment of Funds

It has been resolved to make the budget adjustments as listed below per Education Code 42600.

Fund: 2122 GOB EL 2016 SRS 2019

Object	Description	FROM	TO
5800	PROF/CONS SERV & OPER EXPENSE		23,958.00
6200	BUILDING AND IMPROVE OF BLDGS	3,740,415.00	1,554,201.00
8600	LOCAL INCOME	143,923.00	287,846.00
9740	RESTRICTED BALANCE	1,286,725.00	3,592,904.00
Subfund Total:		5,171,063.00	5,458,909.00

I certify this is a true excerpt from the Minutes of a regular Board Meeting held by the FOUNTAIN VALLEY SD Board of Trustees, 06/25/2020.

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 #:

2020 36

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	1,844.00	2,705.00
8600	LOCAL INCOME	103,980.00	192,983.00
9740	RESTRICTED BALANCE		102,074.00
9780	OTHER ASSIGNMENTS	102,136.00	88,204.00
Subfund Total:		207,960.00	385,966.00

I certify this is a true excerpt from the Minutes of a regular Board Meeting held by the FOUNTAIN VALLEY SD Board of Trustees, 06/25/2020.

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 #:

2020 37

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
5800	PROF/CONS SERV & OPER EXPENSE		5,023.00
6200	BUILDING AND IMPROVE OF BLDGS	1,043,373.00	1,427,645.00
8600	LOCAL INCOME		156,873.00
9780	OTHER ASSIGNMENTS	1,432,668.00	1,200,246.00
Subfund Total:		2,476,041.00	2,789,787.00

I certify this is a true excerpt from the Minutes of a regular Board Meeting held by the FOUNTAIN VALLEY SD Board of Trustees, 06/25/2020.

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 #:

2020 38

Adjustment of Funds

It has been resolved to make the budget adjustments as listed below per Education Code 42600.

Fund: 6768 INSURANCE-WCI

Object	Description	FROM	TO
5800	PROF/CONS SERV & OPER EXPENSE		1,516.00
8600	LOCAL INCOME		622.00
9790	UNASSIGNED/UNAPPROPRIATED	1,500.00	606.00
Subfund Total:		1,500.00	2,744.00

I certify this is a true excerpt from the Minutes of a regular Board Meeting held by the FOUNTAIN VALLEY SD Board of Trustees, 06/25/2020.

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 #:

2020 39

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
3401	HEALTH & WELFARE-CERTIFICATED		2,690.00
3402	HEALTH & WELFARE-CLASSIFIED		1,670.00
3702	RETIREE BENEFITS-CLASSIFIED		7,300.00
9790	UNASSIGNED/UNAPPROPRIATED	11,660.00	
Subfund Total:		11,660.00	11,660.00

I certify this is a true excerpt from the Minutes of a regular Board Meeting held by the FOUNTAIN VALLEY SD Board of Trustees, 06/25/2020.

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 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 THE FIVE-YEAR SERVICE AGREEMENT WITH HOONUIT TO PROVIDE COMMUNITY DEMOGRAPHIC ANALYSIS AND ENROLLMENT PROJECTIONS NOT TO EXCEED \$34,675.00 OVER THE PERIOD OF THE AGREEMENT**
DATE: June 22, 2020

Background:

The District currently has an agreement with DECISIONINSITE to conduct community and District demographic analysis and provide annual enrollment projections. DECISIONINSITE is now Hoonuit 1, LLC, but still provides the same products and customer service. Each year Hoonuit provides the District with both a conservative and a moderate projection report, by grade level, for each school and the district as a whole. This service is important in making accurate annual staffing decisions and considering future facility needs. This contract also provides the School Locator feature on our web site which allows families to locate the local elementary and/or middle school by simply inputting their address.

Fiscal Impact:

The scope of work in the agreement with Hoonuit 1, LLC will not exceed \$6,935.00 annually and \$34,675.00 over the life of the agreement.

Recommendation:

It is recommended that the Board of Trustees approves the five-year Service Agreement with Hoonuit 1, LLC to provide community demographic analysis and enrollment projections not to exceed \$34,675.00 over the period of the agreement and authorizes the Superintendent or his designee to sign all documents.



210 W. College Avenue, Side 2
Appleton, WI 54911

SaaS Order Form

Customer Information

Name: Fountain Valley School District
Billing Address
10055 Slater Avenue
Fountain Valley, CA 92708

Effective Date: July 1, 2020

Terms*

License Term: 5 years, expires June 30, 2025
Payment Method: Check
Due date: 30 Days
Auto Renew: Yes

Software and Services Ordered	Authorized Users	Record Count Not Exceeding	Product	Term	Fees
Software	See Note 2	6,328	Premier Enrollment Analytics	1 year	Annual License Fee: \$6,935
Maintenance Services					Maintenance Services Fees: Included
Enrollment Analytics Services					Fees: Included
Total Fees Due Now					\$6,935

*Unless otherwise specified on this Order Form or in the Master Software License Subscription and Services Agreement or Software as a Service and Professional Services Agreement.

Notes:

1. This Order Form is subject to the terms of the Master Software License Subscription and Services Agreement by and between Hoonuit I, LLC, and Fountain Valley School District dated July 1, 2020.
2. Users shall be confined to employees or staff members of Fountain Valley School District.
3. Hoonuit will perform the deliverables described in Exhibit A.
4. Agreement will extend for an equivalent period absent any notice of termination.

Authorized Signer

Signature: _____

Print Name: Christine Fullerton

Title: Assistant Superintendent—Business Services

Date: _____

Software as a Service and Professional Services Agreement

This Software as a Service and Professional Services Agreement ("**Agreement**") is entered into as of July 1, 2020 (the "**Effective Date**") by and between Hoonuit I, LLC, a Wisconsin limited liability company with its principal place of business at 210 W. College Avenue, Appleton, Wisconsin 54911 ("**Hoonuit**") and Fountain Valley School District, a California organization with its principal place of business at 10055 Slater Avenue, Fountain Valley, CA 92708 ("**Customer**").

Definitions

For purposes of this Agreement, the following terms will have the following meanings:

"Affiliate" means with respect to an entity, any other entity or person that, now or in the future, either directly or through one or more intermediaries, controls, is controlled by, or is under common control with, such entity. For purposes of this definition, "control" means ownership of more than fifty percent (50%) of the voting stock or equivalent ownership interest in an entity.

"Authorized Users" means any employees, personnel, representatives, and agents of Customer that Customer authorizes to use the SaaS Service.

"Claim" means any demand or any civil, criminal, administrative, or investigative claim, action, or proceeding asserted, commenced or threatened against an entity by an unaffiliated third party.

"Customer Data" means all of Customer's data or information that Hoonuit may be provided with, or have access to, in the course of providing the SaaS Service or performing the Professional Services or Enrollment Analytics Services under this Agreement. For the avoidance of doubt, De-identified Data as defined in Section 19 is not Customer Data.

"Customer Materials" means any of Customer's content, trademarks, service marks, photography, graphics, information, or other materials that Hoonuit may be provided with, or have access to, in the course of providing the SaaS Service or performing the Professional Services or Enrollment Analytics Services under this Agreement.

"Customization" means custom software code created by Hoonuit in connection with this Agreement and as specified in a Statement of Work to enhance or otherwise alter the base SaaS Service.

"Data Privacy Rules" means all: (i) federal, state, and local data privacy and data protection laws and regulations, as amended, and their implementing rules and regulations and (ii) rules, regulations, terms of service, guidelines, standards, or other similar directives issued by non-governmental entities governing or relating to privacy and confidentiality of PII.

"Documentation" means the written materials, including instructions, rules, guidelines, manuals and/or procedures, associated with the SaaS Service that Hoonuit generally makes available to its customers.

"Enrollment Analytics Services" means services provided by Hoonuit and/or its Affiliate, relating to enrollment projections, location intelligence technology, and other data analyses related to student enrollment. Enrollment Analytics Services are described in Exhibit A.

"Enrollment Analytics Fees" means the fees set forth in an Order to be paid by Customer to Hoonuit for Enrollment Analytics Services.

"Intellectual Property Rights" means patents, copyrights, trademarks, trade secrets, trade dress, mask works, moral rights, rights of attribution or integrity, or other intellectual or industrial property rights or proprietary rights.

"Laws" means any statute regulation, ordinance, rule, order, decree, or governmental requirement enacted, promulgated or imposed by any governmental authority at any level (e.g., municipal, county, province, state, or national).

"Losses" means all losses, liabilities, liens, damages, costs, expenses, and charges suffered or incurred as a result of, or in connection with, a Claim, including reasonable attorneys' fees and disbursements, costs of investigation, litigation, settlement, and judgement, and any taxes, interests, and penalties with respect to any of the foregoing.

"Order" means Hoonuit's standard order form documentation for ordering the SaaS Service and other applicable services.

“Professional Services” means consulting services related to the SaaS Service, including, but not limited to: (i) configuration of the SaaS Service; (ii) training; (iii) creation of Customizations; and (iv) creation of Customer Materials.

“Professional Services Fees” means the fees set forth in a Statement of Work to be paid by Customer to Hoonuit for Professional Services.

“PII” means information that identifies or relates to identifiable individuals.

“Record” means a record containing data and information about a particular Student or other individual.

“SaaS Service” means Hoonuit’s software-as-a-service application and any Updates thereto.

“Statement of Work” means a statement of work describing the Professional Services to be performed by Hoonuit pursuant to this Agreement.

“Student” means a student enrolled at Customer’s schools.

“Subscription Fees” means the fees set forth in an Order to be paid by Customer to Hoonuit for Customer’s use of the SaaS Service.

“Subscription Term” means the period set forth in an Order during which Hoonuit will make the SaaS Service available to Customer pursuant to this Agreement.

“Third Party Programs” means proprietary software of third parties that is included with the SaaS Service and provided by Hoonuit.

“Updates” means modifications, improvements and refinements to the SaaS Service that are made generally available to Hoonuit’s customers.

1. **Provision of the SaaS Service.** Subject to the terms and conditions herein, Hoonuit will make the SaaS Service available to Customer during the Subscription Term listed in the applicable Order. Customer is limited to using the SaaS Service to monitor, measure, record, or analyze the performance of only those quantities of Authorized Users and Students set forth in the Order.

- a. **Restrictions.** The SaaS Service is confidential copyrighted property of Hoonuit and other third party owners, and title to all copies thereof is retained by Hoonuit and its licensors as applicable. Customer shall not decompile, disassemble, decrypt, extract, or otherwise reverse engineer the SaaS Service. Customer will not upload any Customer Materials to the SaaS Service that (a) misappropriate or infringe the Intellectual Property Rights of a third party, (b) are defamatory, obscene, pornographic, or that are determined by Hoonuit, acting in its sole discretion, to be offensive, (c) violate the rights of privacy or personality of any third party, or (d) are in violation of any applicable Laws or that cause SaaS Service to be in violation of any applicable Laws.
- b. **Third Party Programs.** Hoonuit may include Third Party Programs in the SaaS Service. Customer shall only use Third Party Programs with the SaaS Service and may not use Third Party Programs as standalone software. Hoonuit shall be responsible for securing all licenses required from third parties to make Third Party Programs available to Customer for Customer’s use under this Agreement, and for paying all fees, if any, in connection therewith. In the event of any claims relating to Intellectual Property Rights or infringement of any Third Party Programs included in the SaaS Service, Customer’s sole and exclusive remedy is set forth in Sections 10 and 13.
- c. **Reservation of Rights.** Hoonuit and its licensors reserve all rights in the SaaS Service and Documentation not expressly granted to Customer under this Agreement.
- d. **Support.** Telephone support at (800) 610-1313 option 2 will be provided by Hoonuit for the SaaS Service during Hoonuit’s standard support hours in effect at the time of the call (as of the Effective Date, 9:00 a.m. to 5:00 p.m. CST); email support is provided during standard support hours at support@Hoonuit.com; and online support is provided through Hoonuit’s online tool that is made available to five (5) approved Customer Authorized Users.
- e. **Customizations.** Hoonuit shall be under no obligation to provide assistance or Updates with respect to any Customizations. If Customer desires for Hoonuit to provide assistance with respect to a Customization, the parties

will negotiate a Statement of Work setting forth the Professional Services to be performed by Hoonuit with respect to the Customization and the fees to be paid by Customer for such Professional Services.

- f. **Suspension of Access.** Hoonuit may immediately suspend Customer's access to or use of the SaaS Service if Hoonuit determines, acting in its sole discretion, that (a) there is a threat or attack on the SaaS Service or other event that may create a significant risk to the SaaS Service, Customer, or any Authorized User; (b) Customer's access to or use of the SaaS Service is reasonably likely to impair the stability of, disrupt, or otherwise harm, the SaaS Service or poses a significant security risk to the SaaS Service, Customer, or any Authorized User; or (c) Customer has materially breached Section 1.a (Restrictions), or Section 21 (Compliance with Laws) of this Agreement.
 - g. **Accessibility.** Customer will be solely responsible for ensuring that Customer Materials comply with all applicable Laws as to the accessibility of a software application or website to persons with disabilities and for performing any necessary accessibility testing as to Customer Materials.
 - h. **Right to Remove.** Hoonuit, acting in its sole discretion and without giving prior notice to Customer, may remove any Customer Materials from the SaaS Service. Hoonuit, however, will not be responsible for reviewing Customer Materials to make sure they comply with applicable Laws or with the terms and conditions of this Agreement.
 - i. **Return of Customer Data.** After the termination of this Agreement for any reason, Hoonuit will return to Customer, at Customer's expense, all Customer Data in its possession within a reasonable amount of time after being requested to do so by Customer. The manner and format in which Customer Data will be returned to Customer will be determined by Hoonuit, acting in its reasonable discretion.
 - j. **Customer Terms of Use and Privacy Policy.** Customer will conspicuously display the terms of use setting forth the terms and conditions governing the use of the SaaS Service by Authorized Users and a privacy policy setting forth the terms and conditions governing the use and disclosure of PII by Customer, and Customer will fully comply with all of its obligations under each such terms of use and privacy policy. Each privacy policy of Customer will be consistent with the Data Privacy Rules and will contain the following sentence (subject to any non-substantive modifications needed to make the references to Customer and Authorized Users, and their related pronouns, fit the context of Customer's privacy policy): "We use Hoonuit to host our website and mobile app. In connection with providing those services, Hoonuit and its Affiliates have access to your personal data and other data collected through the website, mobile app and/or otherwise through the services and may use that information consistent with the terms of Hoonuit's privacy policy, as that privacy policy may be modified or replaced from time to time." If complying with this Section requires any changes to be made to Customer's privacy policy, Customer will obtain from Authorized Users all consents to those changes that it is legally or contractually required to obtain.
 - k. **Compliance with Acceptable Use Policy.** Neither Customer, nor its Authorized Users, may use the SaaS Service: (i) in a way prohibited by Law, regulation, governmental order or decree; (ii) to violate the rights of others; (iii) to try to gain unauthorized access to or disrupt the SaaS Service or any device, data, account, or network; (iv) to spam or distribute malware; (v) in a way that could harm the SaaS Service or impair anyone else's use of the SaaS Service; or (vi) in any application or situation where failure of the SaaS Service could lead to the death or serious bodily injury of any person, or to severe physical or environmental damage.
2. **PROFESSIONAL SERVICES.** If Customer purchases Professional Services pursuant to a Statement of Work, subject to Customer's compliance with the terms and conditions of this Agreement and payment of all fees hereunder, Hoonuit agrees to perform Professional Services pursuant to the following terms:
- a. Any such Professional Services may be evidenced by one or more Statements of Work, which may describe in detail the following information: (i) a detailed description of the Professional Services that Hoonuit is to perform; (ii) an incorporation by reference of this Agreement; (iii) a projected timetable by which each of the identified phases of the Professional Services are to be completed; (iv) Customer conditions of acceptance, if any; (v) the location where the Professional Services are to be performed; (vi) the projected commencement and termination dates; (vii) Hoonuit's compensation rates; (viii) fees for the Professional Services and reimbursable expenses, if any; (ix) names of Hoonuit's and Customers' appointed project representatives; (x) a timetable for invoicing; and/or (xi) such other requirements for the Professional Services as may be agreed to in writing by the parties. Hoonuit shall not be obligated to undertake any Professional Services prior to Customer and Hoonuit each having signed a valid and complete Statement of Work for such Professional Services. In the event of a conflict between the terms and conditions of the main body of this Agreement and a Statement of Work, the Statement of Work shall prevail.
 - b. Hoonuit and Customer may modify the terms of a Statement of Work (or provisions thereof), but only by a written agreement which is signed by both parties (a "**Change Order**"). If Customer delivers to Hoonuit a written request for

a Change Order, Hoonuit will prepare an estimate setting out the proposed changes which will be required to the Professional Services, any increase or decrease in the cost, and any impact to the time frame for delivery and/or completion of the Professional Services. If, after receipt of the foregoing information, Customer elects to continue with the Change Order, the parties hereto shall enter into a written Change Order that will identify the foregoing changes, and the Statement of Work shall be deemed so modified upon the execution of such Change Order by both parties hereto.

- c. **Acceptance.** Without limiting any applicable warranties set forth in the Agreement, the Professional Services will be deemed accepted upon performance and delivery to Customer.
- d. **Cancellation Policy.** Hoonuit will allocate and schedule resources for the Professional Services to be rendered. If Customer cancels, postpones or otherwise changes the Professional Services schedule, the following applies:
 - (i) There is no cancellation fee if the Professional Services to be rendered are cancelled or postponed at any time prior to the tenth (10th) business day before the date when the Professional Services are scheduled to begin.
 - (ii) Customer shall be liable for and obligated to pay to Hoonuit a cancellation fee of fifty percent (50%) of the Professional Services fees if the Professional Services to be rendered are cancelled or postponed at any time beginning on the tenth (10th) business day and ending on the sixth (6th) business day before the date when the Professional Services are scheduled to begin.
 - (iii) Customer shall be liable and obligated to pay to Hoonuit a cancellation fee of one hundred percent (100%) of the Professional Services Fee if the Professional Services to be rendered are cancelled or postponed at any time after the fifth (5th) business day before the date when the Professional Services are scheduled to begin.

3. **ENROLLMENT ANALYTICS SERVICES.** If Customer purchases Enrollment Analytics Services pursuant to an Order, subject to Customer's compliance with the terms and conditions of this Agreement and payment of all fees hereunder, Hoonuit and any applicable Hoonuit Affiliate agree to perform such Enrollment Analytics Services pursuant to the following terms:

- a. **Scope of Services.** Enrollment Analytics Services and website access rights are based upon the mix of products and services selected by Customer. Deliverables to Customer include but are not limited to (1) the generation of enrollment forecasts and (2) the granting of certain access rights to review and manipulate information via a secure web application.
- b. **Obligations of Customer.** Customer shall provide to Hoonuit and any applicable Affiliate, at Customer's own cost, any data available to Customer which are required or requested for providing the selected Enrollment Analytics Services. Customer shall provide Hoonuit and any applicable Affiliate with the contact information for the appropriate Customer staff who will be working on the Enrollment Analytics Services project. Customer shall make reasonable efforts to aid Hoonuit and the applicable Affiliate in obtaining data from other public offices or agencies, local business firms, and private citizens whenever such data is necessary for the compilation of the work outlined in this Section 3 and at Customer's own cost. Customer shall direct its staff to review and respond to the data request documents provided to Customer. Customer agrees to provide this data in the array and format stipulated by Hoonuit and/or its Affiliate. (More information is available at the following website: <https://decisioninsite.com/support/>). Customer agrees to make appropriate attributions to the data source(s) in any written, graphically displayed or orally delivered presentations that include any piece of data, the presentation of the data or the methodologies by which the data is generated that are provided by Hoonuit and/or its Affiliate.
- c. **Term; Project Timeline.** The term for Enrollment Analytics Services shall run pursuant an Order unless renewed by both parties. Customer's project will be put into the production queue within three (3) working days upon receipt of a signed agreement and all required data. Hoonuit and its applicable Affiliate will make reasonable efforts to complete the requested enrollment projections within five (5) weeks from the date of receipt and validation of requested data without compromising the integrity of the projections and output.
- d. **Limitations.** Hoonuit and its Affiliates make no warranties for the ultimate accuracy of the information products related to Enrollment Analytics Services.
- e. **Audits.** Pursuant to, and in accordance with, the provisions of California Government Code section 8546.7, or any amendments thereto, all books, records and files of Hoonuit, any applicable Affiliate or any subcontractor connected with the performance of this Agreement involved in the expenditure of public funds in excess of Ten Thousand Dollars (\$10,000), including, but not limited to the administration thereof, shall be subject to the examination and audit of the

state auditor, at the request of Customer or as part of any audit of Customer, for a period of three (3) years after final payment is made under the Agreement. Hoonuit and/or Hoonuit's applicable Affiliate shall preserve and cause to be preserved such books, records, and files for the audit period.

4. **SUBCONTRACTING.** Hoonuit, at its sole discretion, may subcontract the performance of some or all of the Professional Services or provision of the SaaS Service to third parties ("**Subcontractors**"). Hoonuit will be responsible for managing all Subcontractors and will remain responsible for all services delegated to Subcontractors to the same extent as if such services were performed by Hoonuit. Hoonuit will be Customer's sole point of contact for all services, whether performed by Hoonuit or Subcontractors, including with respect to payment of fees for the SaaS Service or Professional Services.
5. **AUTHORIZED USERS.** Customer shall ensure that its Authorized Users comply with the terms of this Agreement and shall be responsible for the acts and omissions of its Authorized Users.
6. **INTERNAL USE.** Customer shall use the SaaS Service solely for Customer's internal data processing and management needs. Customer shall not: (i) make the SaaS Service available to anyone other than Authorized Users; (ii) use the SaaS Service to process, store, or analyze Records of students that are not enrolled at Customer's schools; or (iii) sell, resell, license, sublicense, distribute, make available, rent or lease the SaaS Service, or include any SaaS Service in a service bureau or outsourcing offering.
7. **PAYMENT.** Customer agrees to pay the fees as set forth in the applicable Order(s) or Statement(s) of Work and as follows:
 - a. **Subscription Fees.** Unless otherwise set forth in an Order, the Subscription Fees for the initial Subscription Term and any renewal Subscription Term are payable in full in advance and shall be invoiced, as applicable, upon Customer's signature of the Order or within thirty (30) days of the beginning of any renewal Subscription Term. For each renewal Subscription Term, Hoonuit may increase the Subscription Fees by five percent (5%) of the previous Subscription Term's Subscription Fees.
 - b. **Professional Services Fees.** Unless otherwise set forth in a Statement of Work, the Professional Services Fees shall be invoiced, as applicable, on the date the Professional Services are delivered.
 - c. **Enrollment Analytics Services Fees.** Unless otherwise set forth in an Order, the Enrollment Analytics Fees shall be invoiced, as applicable, thirty (30) days prior to the date the enrollment Analytics Services are delivered.
 - d. **Payment Terms.** Unless otherwise set forth in an Order or a Statement of Work, all undisputed fees hereunder are payable no later than thirty (30) days after invoice receipt by Customer and are to be paid in U.S. dollars (or other local currency if applicable). All undisputed fees not paid within thirty (30) days after invoice receipt by Customer shall accrue interest at the rate of 1-1/2% per month or the highest rate allowed by Law, whichever is lower.
 - e. **Taxes.** In addition to all fees payable hereunder, Customer is responsible for and shall pay to Hoonuit amounts equal to all federal, state, and/or local governmental use, sales, excise or other taxes which are applicable to or arise out of performance of this Agreement. This provision does not include taxes attributable to taxable income from Hoonuit operations or those taxes related to Hoonuit's personal property.
8. **EXPORT RESTRICTIONS AND REGULATIONS.** The SaaS Service, including technical data, is subject to U.S. export control laws, including the U.S. Export Administration Act and its associated regulations, and may be subject to export or import regulations in other countries.
 - a. In accordance with the foregoing, Hoonuit has notified the appropriate U.S. authorities that License Exception ENC applies to Hoonuit's exports of the SaaS Service. Customer agrees to comply strictly with the terms of License Exception ENC and all applicable regulations and acknowledges that Customer has the responsibility to obtain all applicable licenses to export, re-export, or import the SaaS Service.
 - b. Subject to this acknowledgement and upon receipt of Customer's written request, Hoonuit will provide reasonable levels of assistance to Customer in Customer's efforts to comply with any and all applicable export and/or trade regulations.
 - c. Without limiting the generality of the foregoing, the SaaS Service may not be downloaded, used, sold, resold, sublicensed, diverted, transferred, reshipped, or otherwise exported or re-exported (i) in, into, or through any country designated as a terrorist supporting country by the U.S. government or any of its agencies; (ii) in, into, or through any country with which the U.S. has an embargo or with which the U.S. or any of its agencies maintains

comprehensive trade controls; (iii) to or by a national or resident of the countries described in (i) or (ii); (iv) to or by any party included in the U.S. Department of Commerce's Denied Persons List, Entity List or Unverified List; or the U.S. Department of the Treasury's Specially Designated Nationals, Specially Designated Global Terrorists, Specially Designated Narcotics Traffickers, Specially Designated Narcotic Traffickers, or Specially Designated Terrorists List; or the U.S. Department of State's Designated Foreign Terrorist Organizations or Debarred Persons List; or is otherwise designated by the U.S. government or any of its agencies as a party with which it is unlawful to do business.

9. HOONUIT WARRANTIES.

- a. **SaaS Service Warranty.** Hoonuit warrants that the SaaS Service will perform substantially as described in the Documentation during the initial Subscription Term and any renewal Subscription Term. This warranty shall be immediately terminated if Customer or any third party makes unauthorized modifications to the SaaS Service. Investigations and corrections for defects traceable to Customer's actions and/or errors shall be billed at Hoonuit's standard time and materials charges. Upon receipt of notification from Customer that the SaaS Service fails to comply with the warranty during the warranty period, Hoonuit shall use commercially reasonable efforts to correct or modify such defective SaaS Service so that it will perform according to this warranty. If Hoonuit cannot correct the defect in the SaaS Service within a reasonable time, and such defect materially impairs the performance of the SaaS Service, then Customer may terminate this Agreement and Hoonuit shall refund any prepaid Subscription Fees relating thereto. The remedies set forth in this Section 8.a. shall be Customer's sole and exclusive remedies and Hoonuit's sole liability for breach of the warranty set forth in this Section 8.a.
- b. **Professional Services Warranty.** Hoonuit warrants to Customer that, in performing the Professional Services, it will use the ordinary and reasonable care usually exercised by its profession, on the same type of project, at the same time and in the same place, under similar circumstances and conditions. Hoonuit shall, as its sole obligation and Customer's sole and exclusive remedy for any breach of the warranty set forth in this section, re-perform the Professional Services which gave rise to the breach or, if Hoonuit cannot re-perform such defective Professional Services, Customer may terminate this Agreement pursuant to Section 16, provided that Customer shall notify Hoonuit in writing in reasonable detail.

10. LIMITED WARRANTY AGAINST INFRINGEMENT.

- a. Hoonuit warrants that it has the full power and authority to make the SaaS Service available to Customer, free from infringement, or other violation, of any United States copyright, trademark, or trade secret of any third party. Should Customer's use of the SaaS Service become, or in Hoonuit's opinion be likely to become, enjoined, Hoonuit may, at its option and expense, either: (a) procure for Customer the right to continue using the SaaS Service, (b) replace or modify the SaaS Service to make the SaaS Service non infringing; or (c) terminate this Agreement and Customer's access to the SaaS Service and refund to Customer any prepaid and unused Subscription Fees.
- b. Hoonuit shall have no obligation to take any of the actions enumerated above for any Claim of United States copyright, trademark, or trade secret infringement based on either: (a) use of other than a current unaltered release of the SaaS Service available from Hoonuit if such infringement would have been avoided by the use as supported by Documentation of a current unaltered release of the SaaS Service available from Hoonuit, or (b) use or combination of the SaaS Service with any software, hardware, or data, in each case, not provided by Hoonuit.

11. DISCLAIMER/EXCLUSION OF WARRANTIES. EXCEPT FOR THE LIMITED WARRANTIES SET FORTH IN SECTION 9 (HOONUIT WARRANTIES) AND SECTION 10 (LIMITED WARRANTY AGAINST INFRINGEMENT), THE SAAS SERVICE, PROFESSIONAL SERVICES, AND ENROLLMENT ANALYTICS SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT REPRESENTATIONS OR WARRANTIES OF ANY KIND. HOONUIT DOES NOT WARRANT THAT THE SAAS SERVICE, PROFESSIONAL SERVICES, OR ENROLLMENT ANALYTICS SERVICES WILL BE ERROR FREE OR UNINTERRUPTED. HOONUIT EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR THE SELECTION, INSTALLATION, USE, EFFICIENCY AND SUITABILITY OF THE SAAS SERVICE AND HOONUIT SHALL HAVE NO LIABILITY THEREFOR.

12. CUSTOMER REPRESENTATIONS AND WARRANTIES. Customer represents, warrants, and covenants to Hoonuit as follows:

- a. **Legal Authority.** Customer has all necessary legal authority to enter into this Agreement and to grant Hoonuit and Hoonuit's Affiliates and Subcontractors the rights and privileges set forth in this Agreement.

- b. **Consents.** At the time Hoonuit is provided, or given access to, any Customer Data or Customer Materials, Customer will have obtained all consents and permissions from Authorized Users or other third parties that are required (a) to provide, or give access to, such Customer Data or Customer Materials to Hoonuit and Hoonuit's Affiliates and Subcontractors, and (b) to enable Hoonuit and Hoonuit's Affiliates to fully exercise all the rights and privileges as to such Customer Data and Customer Materials which are granted to them under this Agreement.
- c. **Viruses.** Neither Customer, nor any of its Affiliates, nor any employee or other personnel of Customer or any of its Affiliates will (directly or indirectly) introduce a virus or other harmful code into the SaaS Service.

13. INDEMNIFICATION.

- a. **Indemnification by Hoonuit.** Hoonuit will defend, indemnify, and hold harmless Customer, Customer's Affiliates, all officers, directors, employees, agents, and representatives of Customer or Customer's Affiliates, and the successors and assigns of the foregoing (collectively "**Customer Indemnitees**") from any and all Losses arising from, connected with, or based on any of the following: (a) any Claim based on allegations that the SaaS Service misappropriates or infringes the Intellectual Property Rights of any third party, except to the extent that such Claim is based on the use of the SaaS Service in any manner not expressly authorized by this Agreement, the modification by Customer of the SaaS Service without the express approval or participation of Hoonuit, or the use by Customer of the SaaS Service with any product, service, or materials without Hoonuit's prior written consent; or (b) any Claim based on allegations of gross negligence or willful misconduct by Hoonuit or its Affiliates.
- b. **Indemnification by Customer.** Customer will, at its sole cost and expense, indemnify, defend, and hold harmless Hoonuit, Hoonuit's Affiliates, all officers, directors, employees, agents, and representatives of Hoonuit or Hoonuit's Affiliates, and the successors and assigns of the foregoing (collectively, the "**Hoonuit Indemnitees**") from any and all Losses arising from, connected with, or based on any of the following: (a) any Claim based on allegations that, if true, would constitute a breach of any of Customer's representations, warranties, or obligations under this Agreement; or (b) any Claim based on allegations that any Customer Materials or Customer Data misappropriate a trade secret or infringes a patent, copyright, trademark, or other proprietary right of a third party.
- c. **Procedure.** If a Customer Indemnitee or a Hoonuit Indemnitee (each an "**Indemnified Party**") desires to be indemnified pursuant to this Section 13, it shall give notice of the Claim to the other party ("**Indemnitor**"). Notwithstanding anything contained herein to the contrary, an Indemnified Party may, at its option, assume the defense of a Claim, in which event Indemnitor will cooperate fully in such defense and may participate in such defense at its own expense with counsel of its own choice. Upon written confirmation by Indemnitor that it will perform its obligations hereunder with respect to a Claim, Indemnified Party will provide to Indemnitor, at Indemnitor's expense, reasonable information and assistance, and Indemnified Party may participate in such defense at its own expense with counsel of its own choice. Notwithstanding the foregoing, should Indemnitor fail or refuse to promptly acknowledge its acceptance of the indemnity obligation, or in the event that Indemnitor or its counsel shall fail to take, or refuse to confirm that it will take in a timely manner, any action to avoid any loss of rights or prevent prejudice to any position of an Indemnified Party, then the Indemnified Party shall be free to act in its own behalf to avoid any such prejudice or loss of rights without jeopardizing its right to its indemnity hereunder. The cost including reasonable attorney's fees for an Indemnified Party to take any such acts shall be paid for by Indemnitor. Indemnitor shall not settle any Claim without the Indemnified Party's written approval, not to be unreasonably withheld, unless the settlement terms are strictly a monetary payment made by Indemnitor to claimant.

- 14. **LIMITATION OF LIABILITY.** UNDER NO CIRCUMSTANCES WILL HOONUIT OR ITS SUBCONTRACTORS BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, USE, REVENUE, OR GOODWILL AND DAMAGES FOR BUSINESS INTERRUPTION, THAT ARISE OUT OF, OR HAVE TO DO WITH, THE SAAS SERVICE, THE PROFESSIONAL SERVICES, THE ENROLLMENT ANALYTICS SERVICES, THIS AGREEMENT, OR THE BREACH OF THIS AGREEMENT, WHETHER BASED ON CONTRACT, TORT, STATUTE, OR ANY OTHER THEORY OF LIABILITY OR RECOVERY, EVEN IF HOONUIT OR IS SUBCONTRACTORS HAVE BEEN ADVISED OF THE POSSIBILITY OF THOSE DAMAGES. UNDER NO CIRCUMSTANCES WILL HOONUIT'S OR ITS SUBCONTRACTORS' AGGREGATE LIABILITY TO CUSTOMER OR TO ANY THIRD PARTY ARISING OUT OF, OR HAVING TO DO WITH, THE SAAS SERVICE, THE PROFESSIONAL SERVICES, THE ENROLLMENT ANALYTICS SERVICES, THIS AGREEMENT, OR THE PERFORMANCE OR BREACH OF THIS AGREEMENT, WHETHER THAT LIABILITY IS ACTIONABLE UNDER CONTRACT, TORT, STATUTE, OR OTHERWISE, EXCEED THE AMOUNT OF THE FEES PAID BY CUSTOMER TO HOONUIT UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE MOST RECENT EVENT GIVING RISE TO LIABILITY OCCURRED.

15. **PUBLICITY.** Hoonuit agrees to obtain prior written approval from Customer, which shall not be reasonably withheld, before using Customer's and/or any of its Affiliates' or subsidiaries' names, logos or trademarks orally or in writing in press releases, advertising, media articles and/or interviews, including customer lists or for any other promotional purposes.
16. **TERM AND TERMINATION.**
- a. **Term of the Agreement.** This Agreement begins on the Effective Date and, unless terminated pursuant to Sections 16.e. or 16.f, continues until all Orders and Statements of Work hereunder have expired or been terminated.
 - b. **Subscription Term.** The initial Subscription Term will be set forth in the applicable Order. The Subscription Term for each Order will automatically renew for successive one (1) year periods unless either party provides the other party with written notice of its intent not to renew at least sixty (60) days prior to the end of the then current Subscription Term.
 - c. **Term for Professional Services.** The period for performance of Professional Services will be set forth in the applicable Statement of Work.
 - d. **Term for Enrollment Analytics Services.** The term for Enrollment Analytics Services will be set forth in an Order.
 - e. **Termination by Customer.** Customer may terminate this Agreement if Hoonuit materially breaches an obligation under this Agreement and fails to cure such breach within sixty (60) days of Hoonuit's receipt of written notice from Customer of such material breach.
 - f. **Termination by Hoonuit.** Hoonuit may terminate this Agreement if Customer: (i) fails to make undisputed payments when due and such failure is not cured within thirty (30) days of receipt of notice by Customer; (ii) becomes insolvent, is adjudged bankrupt, makes a general assignment for the benefit of creditors, voluntarily files for bankruptcy or has a receiver or bankruptcy trustee (or the like) appointed by reason of its insolvency or alleged insolvency; or (iii) materially breaches an obligation under this Agreement and fails to cures such breach with sixty (60) days of Customer's receipt of written notice from Hoonuit of such material breach.
 - g. **Effect of Termination.** Termination of this Agreement terminates all then-current Orders and Statements of Work.
 - (i) If Customer terminates this Agreement pursuant to Section 16.e, Hoonuit will issue a refund to Customer for any pre-paid Subscription Fees for the period of time from the effective date of termination to the end of the then-current Subscription Term.
 - (ii) If Hoonuit terminates this Agreement pursuant to Section 16.f Customer shall remain liable for all fees set forth in the terminated Orders and Statements of Work. Customer shall make prompt payment in full to Hoonuit for all such fees and all previously invoiced and undisputed amounts due and owing as of the effective date of termination.
 - (iii) Upon Hoonuit's request, Customer shall either immediately return all copies of Confidential Information to Hoonuit or shall destroy such Confidential Information and certify as to such destruction.
 - h. **Survival.** The following provisions shall survive expiration or termination of this Agreement: Definitions, 1.a., 1.c., 1.i., 7 (with respect to any payment obligations arising prior to expiration or termination), 11, 13, 14, 15, 16.h., 18-34.
17. **ASSIGNMENT.** Neither party may assign any or all portions of its rights or obligations under this Agreement to any third party without the prior written consent of the other party to this Agreement. Notwithstanding the foregoing, Customer and Hoonuit may assign all or any portion of its rights and obligations under this Agreement to any Affiliate and/or to any successor by way of merger or consolidation or in connection with the sale or transfer of all or substantially all of its business and assets relating to this Agreement without the consent of the other party to this Agreement. Notwithstanding the foregoing, Customer may only assign and/or transfer access to the SaaS Service for the quantities of Authorized Users and Records that are the subject of this Agreement. However, with respect to any use of the SaaS Service purchased by Customer prior to assignment under merger or consolidation, if the surviving corporation or entity desires to purchase use of any SaaS Service from Hoonuit or any Hoonuit Affiliate under this Agreement, it will be obligated to purchase the SaaS Service from Hoonuit if the surviving corporation's number of full time equivalent employees ("**FTEs**") under the to-be-assigned Agreement terms exceeds Customer's number of FTEs in existence sixty (60) days prior to the assignment by more than ten percent (10%).

18. CONFIDENTIALITY.

- a. **Definition of Confidential Information.** “Confidential Information” means all information disclosed by a party (“Disclosing Party”) to the other party (“Receiving Party”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Customer’s Confidential Information includes Customer Data. Hoonuit Confidential Information includes the SaaS Service and Documentation. Confidential Information of each party includes the terms and conditions of this Agreement and any Order or Statement of Work (including pricing), as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. Confidential Information, however, does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by or for the Receiving Party.
- b. **Obligations with respect to Confidential Information.** The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own Confidential Information, but in no event, less than reasonable care. The Receiving Party shall: (i) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement; and (ii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates’ employees and contractors who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections not materially less protective of the Confidential Information than those herein. Neither party will disclose the terms of this Agreement to any third party other than its Affiliates, legal counsel, and accountants without the other party’s prior written consent, provided that a party that makes any such disclosure to its Affiliate, legal counsel or accountants will remain responsible for such Affiliate’s, legal counsel’s or accountant’s compliance with this Section 18. Notwithstanding the foregoing, Hoonuit may disclose the terms of this Agreement and any applicable Order or Statement of Work to a Subcontractor to the extent necessary to perform its obligations to Customer under this Agreement, under terms of confidentiality materially as protective as set forth herein.
- c. **Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by Law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party’s cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by Law to disclose the Disclosing Party’s Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.

19. OWNERSHIP.

- a. **SaaS Service, Documentation, Professional Services, and Enrollment Analytics Services.** Customer recognizes that the SaaS Service and the Enrollment Analytics Services may be owned in whole or in part by third parties (“Third Party Owner(s)”) other than Hoonuit and in that case Third Party Owner(s) and Hoonuit have entered into agreements permitting Hoonuit to license the Third Party Programs. All limitations in this Agreement in favor of Hoonuit, including the limitations of warranty, remedy, and liability set forth herein, apply equally to any rights or claims Customer might try to assert against Third Party Owner(s). The Documentation, SaaS Service, and Enrollment Analytics Services and all copyrights, patents, trade secrets or other intellectual property subsisting therein shall at all times be, as between the parties, the sole and exclusive property of Hoonuit. Customer shall have no right of ownership or title therein. Customer recognizes and will protect Third Party Owner(s)’ proprietary rights in the Third Party Programs in the same manner as it has agreed to protect Hoonuit’s rights. Any developments derived from the Documentation, SaaS Service, Professional Services, or Enrollment Analytics Services shall be the sole and exclusive property of Hoonuit and Customer will cooperate with Hoonuit, at Hoonuit’s expense, as is necessary to perfect such ownership including, but not limited to, executing any and all documents reasonably necessary to effect and/or provide evidence of such ownership. All duties of Hoonuit to Customer under this Agreement are duties solely of Hoonuit and in no way duties of any Third Party Owner.
- b. **Customer Materials.** As between Customer and Hoonuit, the Customer Materials will be the sole and exclusive property of Customer. Any use by Hoonuit or its Affiliates of Customer’s trademarks or service marks will inure to the benefit of Customer. Customer hereby grants to Hoonuit and its Affiliates a worldwide, non-exclusive, non-transferable, royalty-free right and license to use, copy, modify, display, distribute, and perform the Customer Materials in connection with provision of the SaaS Service and performance of the Professional Services and any of

Hoonuit's other obligations under this Agreement. The foregoing license may be exercised on behalf of Hoonuit by its Subcontractors.

- c. **Customer Data.** As between Customer and Hoonuit, the Customer Data will be the sole and exclusive property of Customer. Customer grants Hoonuit and Hoonuit's Affiliates and Subcontractors an irrevocable, worldwide, royalty-free, perpetual license to use Customer Data and disclose it to third parties for the purpose of providing the SaaS Service, performing the Professional Services, and performing any other obligations of Hoonuit under this Agreement and for any other lawful business purpose of Hoonuit including, without limitation, the supplying and administering of the SaaS Service. Customer acknowledges that Hoonuit may receive compensation in exchange for disclosing Customer Data to third parties and Customer will have no right or entitlement to share in such compensation. Despite any provisions of this Section 19.c. to the contrary, (a) Hoonuit, without first obtaining Customer's written consent, will not disclose Customer Data to any third party (other than its officers, directors, employees, Subcontractors, agents, and representatives) in any manner that would allow that Customer Data to be identified with Customer or any of its Authorized Users, unless such disclosure is made for the purpose of providing the SaaS Service or performing the Professional Services or any other obligations of Hoonuit under this Agreement, and (b) Hoonuit will not use or disclose any Customer Data that is the PII of any Authorized User or Student in any manner that violates the Data Privacy Rules applicable to it or that is inconsistent with the applicable Hoonuit Privacy Policy available at <https://www.hoonuit.com/privacy-policy>, as revised from time to time.
- d. **De-identified Data.** Notwithstanding anything to the contrary in this Agreement, Customer acknowledges and agrees that Hoonuit and its Affiliates may de-identify Customer Data such that it does not contain PII and does not identify Customer, or any of its Authorized Users ("**De-identified Data**"). Such De-identified Data shall be exclusively owned by Hoonuit, and Hoonuit shall be free to use De-identified Data for Hoonuit's machine learning algorithms and other business purposes.

20. **INSPECTIONS AND AUDITS.** Customer shall maintain adequate books and records necessary for an accurate determination and assessment of the Customer's compliance with the terms of this Agreement and of the fees due to Hoonuit pursuant to this Agreement.

- a. The books and records related to this Agreement may be audited by internal auditors of Hoonuit no more than once per twelve (12) consecutive months during the term by providing thirty (30) days written notice to Customer. Such notice of intent to audit shall include, without limitation, the scope, location and expected duration of the audit. Such audit may occur during reasonable business hours during the term of this Agreement and for three (3) months thereafter.
- b. Hoonuit has the right to verify compliance with this Agreement, at Hoonuit's expense, by reviewing Customer's records and Customer's facilities during the term of this Agreement and for two (2) years after this Agreement expires or terminates. If a reporting or payment shortage of five percent (5%) or more is found, Customer will promptly reimburse Hoonuit for the shortage and the audit expenses incurred.
- c. In the event such an audit reveals any discrepancy or error, Hoonuit shall provide Customer with written notification detailing such discrepancy within ten (10) days after such audit or finding, which is first to occur. Upon such notification, Customer will investigate the claim. After such investigation, and in no event later than one hundred twenty (120) days from the date of notification, Customer and Hoonuit shall convene to develop a mutual resolution regarding such claim which shall be agreed to by the parties in writing.
- d. All information learned or discovered as a result of any audit shall be kept as confidential by Hoonuit and shall only be disclosed where required by Law and only to the extent required by Law and after prior written notice to Customer.

21. **COMPLIANCE WITH LAWS.** Customer, at its expense, will comply with, all Laws applicable to its business, to its use of the SaaS Service or any Professional Services provided under this Agreement, to the Customer Data, or to the Customer Materials. Without limiting the generality of the foregoing, Customer agrees to comply with all Data Privacy Rules with respect to any PII of Authorized Users and Students.

22. **GOVERNMENT CONTRACT PROVISIONS.** If the SaaS Service is being licensed and delivered to the United States Government, the SaaS Service is provided subject to Restricted Rights as listed and defined in, as applicable, DFARS 252.227 7013 and FAR 52.227 14, 19. Government use, duplication or disclosure is restricted by DFARS 252.227 7013(c) and FAR 52.227 19.

23. **INDEPENDENT CONTRACTORS.** In making and performing under this Agreement, the parties are acting as independent contractors. Neither party is, nor will be deemed to be, an agent, legal representative, joint venturer, or partner of the other party for any purpose.
- a. Neither party shall have any authority to act for or to bind the other party in any respect. Hoonuit's personnel shall not be considered employees of Customer, and shall not be entitled to participate in, or receive benefits under, any of Customer's employee benefit or welfare plans.
 - b. Without limiting the generality of the foregoing, Hoonuit's personnel shall not be considered employees of Customer for purposes of any state or federal Laws relating to unemployment insurance, social security, workers compensation or any regulations which may impute any obligation or liability to Customer by reason of an employment relationship.
 - c. Hoonuit shall be solely responsible for providing any salary or other compensation or benefits to each of its employees and other personnel and for any insurance and taxes, including health insurance, taxes, FICA, and other governmental levies on monies in connection therewith.
24. **CAPTIONS.** The captions used in this Agreement are for reference only and do not constitute substantive matter to be considered in construing the terms of this Agreement.
25. **COUNTERPARTS.** This Agreement and any Orders or Statements of Work may be executed and delivered in counterparts, and by each party in a separate counterpart, each of which when so executed and delivered shall constitute an original and all of which taken together shall constitute one and the same instrument.
26. **GOVERNING LAW, JURISDICTION, AND VENUE.** This Agreement shall be governed by and construed in accordance with the substantive law of the State of Wisconsin, without giving effect to principles governing conflicts of law. The parties agree that the Uniform Computer Information Transactions Act shall not apply to this Agreement. Any action arising from or relating to this Agreement shall be brought exclusively in the state courts located within Outagamie County, Wisconsin or the federal courts located within the United States District Court for the Eastern District of Wisconsin. The parties hereby waive and agree to waive all objections or defenses of lack of personal jurisdiction or improper venue that otherwise might have been available in any such action, consent to the jurisdiction of such courts, and agree that they shall not bring any action in any other court.
27. **LEGAL CONSTRUCTION.** In any case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein as long as this Agreement remains a workable instrument to accomplish the intent and purposes of the parties.
28. **AMENDMENT.** The terms and conditions of this Agreement cannot be altered, amended, or modified except by a written instrument executed by all of the parties.
29. **NOTICES.** Any notices to be given hereunder by either party to the other shall be in writing and deemed delivered if delivered personally or if by mail, registered or certified, postage prepaid with return receipt requested, then three (3) days after deposit in the mail. Notices shall be addressed to the addresses of the parties first set forth above or to such other address as a party may specify from time to time.
30. **NO WAIVER.** Failure of Hoonuit to enforce at any time any provision of this Agreement shall not be construed as a waiver of such provision or of any other provision or of the right of Hoonuit to enforce such provision.
31. **INTEGRATION.** This Agreement and any Order or Statement of Work referencing this Agreement constitute the entire, final, and exclusive agreement between the parties with respect to the subject matter hereof and supersede all previous written and oral proposals, negotiations, representations, commitments, writings, agreements, and all other communications between the parties with respect thereto. Customer further agrees that any terms and conditions of any purchase order or other instrument issued by Customer in connection with this Agreement, which are in addition to or inconsistent with the terms and conditions of this Agreement, shall not be binding on Hoonuit and shall not apply to this Agreement. In the event of a conflict between an Order or Statement of Work and this Agreement, this Agreement shall control.
32. **FORCE MAJEURE.** Neither party shall be liable to the other for any damages from causes beyond its reasonable control, including, but not limited to, acts of God or the public enemy, labor disputes, freight embargoes, and unusually severe

weather; but in every case the delays must be beyond the control and without fault or negligence of Hoonuit and Customer.

33. **ATTORNEY FEES.** In the event any court action is commenced by one party against the other with respect to any dispute arising out of this Agreement or any Order or Statement of Work, the prevailing party will be entitled to recover its out-of-pocket and court costs and reasonable attorney fees relating thereto. The cost of in-house legal staff will be valued at market rates for comparable services from private practitioners.
34. **NON-SOLICITATION.** During the term of this Agreement and for a period extending one (1) year after termination or expiration of the Agreement, each party agrees that it shall not either directly or indirectly solicit, recruit or hire as an employee, consultant, or independent contractor, any personnel of the other party. Remedy for any violation of this provision shall be liquidated damages in the amount equal to 100% of the employee's annual salary, including bonuses, currently in effect for the employee. The parties agree that any damages from the breach of this provision would be difficult to determine and that the remedy set forth herein is a reasonable estimate of such damages.
35. **INSURANCE.** Hoonuit agrees to maintain at its own expense, during the term of this Agreement, insurance coverage in the following minimum amounts: (a) Worker's Compensation insurance in respect of all of its employees with limits of liability and coverage not less than is required by all applicable laws, (b) Comprehensive General Liability insurance which provides coverage and insurer's liability of no less than \$1,000,000 combined single limit for injury, death and property damage resulting from each occurrence, and (c) Automobile Liability, including non-owned and hired vehicles no less than \$1,000,000 each accident. Upon request, Hoonuit shall promptly furnish to Customer valid Certificates of Insurance naming Customer as an additional insured and/or loss payee properly executed by Hoonuit's insurance company.
36. **AFFIRMATIVE ACTION AND EQUAL OPPORTUNITY:** To the extent applicable, this contract incorporates by reference the Affirmative Action for Disabled Veterans and Veterans of the Vietnam-Era clause, 41 C.F.R. § 60- 250.4; the Affirmative Action for Handicapped Workers clause, 41 C.F.R. § 60-741.4; the Equal Opportunity clause, 41 C.F.R. § 60-1.4; and the Discrimination on the Basis of Age clause, 18 C.F.R. § 1316.6; and all amendments thereto and all applicable regulations, rules, and orders issued thereunder.

IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives, have entered into this Agreement as of the date first written above.

HOONUIT I, LLC

FOUNTAIN VALLEY SCHOOL DISTRICT

Signature: _____

Signature: _____

Print Name: _____

Print Name: Christine Fullerton

Title: _____

Title: Assistant Superintendent—Business Services

Date: _____

Date: _____

EXHIBIT A
ENROLLMENT ANALYTICS SERVICES DESCRIPTION

- The Premier Services Package
 - Description:
 - The Premier package integrates the professional development of student enrollment projections with full access to location analytic features.
 - Premier features include:
 - Two 10-year Districtwide and School-by-grade Projections annually; one conservative and the other moderate. In districts funded on a per pupil basis, the conservative projection is suitable for budget planning and staffing, and the moderate projection suitable for facilities planning.
 - Intra-district (open enrollment/school-of-choice) and inter-district enrollment patterns. Enrollment projections generation timetable:
 - Fall 2020 (Projection Year 2021/2022)
 - Fall 2021 (Projection Year 2022/2023)
 - Fall 2022 (Projection Year 2023/2024)
 - Fall 2023 (Projection Year 2024/2025)
 - Fall 2024 (Projection Year 2025/2026)
 - Projections by attendance area
 - A final executive report on findings designed for use with Customer administrative staff and boards.
 - Full access to all functions in the Software applicable to Enrollment Analytics Services.
 - Full access to the boundary change analysis tools which allow the development of alternative geographic attendance areas and derive a report of future projected enrollment within the defined scenario area.
 - Full access to all of the unique efficiency calculators.
 - Full access to all of the community demographic variables that are integrated into the system along with all of the predefined reports.
 - Parent assigned school lookup.



**EXHIBIT D
SUBCONTRACTOR TERMS AND CONDITIONS**

Microsoft Customer Agreement

This Microsoft Customer Agreement (the "Agreement") is between Customer and Microsoft and consists of these General Terms, the applicable Use Rights and SLAs, and any additional terms Microsoft presents when an order is placed. This Agreement takes effect when the Customer accepts these General Terms. The individual who accepts these General Terms represents that he or she is authorized to enter into this Agreement on behalf of the Customer.

General Terms

These General Terms apply to all of Customer's orders under this Agreement. Capitalized terms have the meanings given under "Definitions."

License to use Microsoft Products

- a. **License grant.** Products are licensed and not sold. Upon Microsoft's acceptance of each order and subject to Customer's compliance with this Agreement, Microsoft grants Customer a nonexclusive and limited license to use the Products ordered as provided in the applicable Use Rights and this Agreement. These licenses are solely for Customer's own use and business purposes and are nontransferable except as expressly permitted under this Agreement or applicable law.
- b. **Duration of licenses.** Licenses granted on a subscription basis expire at the end of the applicable subscription period unless renewed. Licenses granted for metered Products billed periodically based on usage continue as long as Customer continues to pay for its usage of the Product. All other licenses become perpetual upon payment in full.
- c. **Applicable Use Rights.** For perpetual licenses, the Use Rights in effect when Customer orders a Product will apply. For subscriptions, the Use Rights in effect at the start of each subscription period will apply. Customers with subscriptions for Software may use new versions released during the subscription period subject to the Use Rights in effect when those versions are released. For metered Products billed periodically based on usage, the Use Rights in effect at the start of each billing period will apply during that period. Microsoft may update the Use Rights periodically, but material adverse changes for a particular version will not apply during the applicable license, subscription, or billing period.
- d. **End Users.** Customer will control access to and use of the Products by End Users and is responsible for any use of the Products that does not comply with this Agreement.
- e. **Affiliates.** Customer may order Products for use by its Affiliates. If it does, the licenses granted to Customer under this Agreement will apply to such Affiliates, but Customer will have the sole right to enforce this Agreement against Microsoft. Customer will remain responsible for all obligations under this Agreement and for its Affiliates' compliance with this Agreement.
- f. **Reservation of Rights.** Microsoft reserves all rights not expressly granted in this Agreement. Products are protected by copyright and other intellectual property laws and international treaties. No rights will be granted or implied by waiver or estoppel. Rights to access or use a



Product on a device do not give Customer any right to implement Microsoft patents or other Microsoft intellectual property in the device itself or in any other software or devices.

- g. Restrictions.** Except as expressly permitted in this Agreement or Product documentation, Customer must not (and is not licensed to):
- (1) reverse engineer, decompile, or disassemble any Product, or attempt to do so;
 - (2) install or use non-Microsoft software or technology in any way that would subject Microsoft's intellectual property or technology to any other license terms;
 - (3) work around any technical limitations in a Product or restrictions in Product documentation;
 - (4) separate and run parts of a Product on more than one device;
 - (5) upgrade or downgrade parts of a Product at different times;
 - (6) transfer parts of a Product separately; or
 - (7) distribute, sublicense, rent, lease, or lend any Products, in whole or in part, or use them to offer hosting services to a third party.
- h. License transfers.** Customer may only transfer fully-paid, perpetual licenses to (1) an Affiliate or (2) a third party solely in connection with the transfer of hardware to which, or employees to whom, the licenses have been assigned as part of (a) a divestiture of all or part of an Affiliate or (b) a merger involving Customer or an Affiliate. Upon such transfer, Customer must uninstall and discontinue using the licensed Product and render any copies unusable. Customer must notify Microsoft of a License transfer and provide the transferee a copy of these General Terms, the applicable Use Rights and any other documents necessary to show the scope, purpose and limitations of the licenses transferred. Attempted license transfers that do not comply with this section are void.
- i. Customer Eligibility.** Customer agrees that if it is purchasing academic, government or nonprofit offers, Customer meets the respective eligibility requirements (<https://aka.ms/eligibilitydefinition>). Microsoft reserves the right to verify eligibility and suspend product use if requirements are not met.

Non-Microsoft Products.

Non-Microsoft Products are provided under separate terms by the Publishers of such products. Customer will have an opportunity to review those terms prior to placing an order for a Non-Microsoft Product through a Microsoft online store or Online Service. Microsoft is not a party to the terms between Customer and the Publisher. Microsoft may provide Customer's contact information and transaction details to the Publisher. Microsoft makes no warranties and assumes no responsibility or liability whatsoever for Non-Microsoft Products. Customer is solely responsible for its use of any Non-Microsoft Product.

Verifying compliance.



Customer must keep records relating to Products it and its Affiliates use or distribute. At Microsoft's expense, Microsoft may verify Customer's and its Affiliates' compliance with this Agreement at any time upon 30 days' notice. To do so, Microsoft may engage an independent auditor (under nondisclosure obligations) or ask Customer to complete a self-audit process. Customer must promptly provide any information and documents that Microsoft or the auditor reasonably requests related to the verification and access to systems running the Products. If verification or self-audit reveals any unlicensed use, Customer must, within 30 days, order sufficient licenses to cover the period of its unlicensed use. Without limiting Microsoft's other remedies, if unlicensed use is 5% or more of Customer's total use of all Products, Customer must reimburse Microsoft for its costs incurred in verification and acquire sufficient licenses to cover its unlicensed use at 125% of the then-current Customer price or the maximum allowed under applicable law, if less. All information and reports related to the verification process will be Confidential Information and used solely to verify compliance.

Privacy.

- a. **Personal Data.** Customer consents to the processing of Personal Data by Microsoft and its Affiliates, and their respective agents and subcontractors, as provided in this Agreement. Before providing Personal Data to Microsoft, Customer will obtain all required consents from third parties (including Customer's contacts, Partners, distributors, administrators, and employees) under applicable privacy and data protection laws.
- b. **Location of Personal Data.** To the extent permitted by applicable law, Personal Data collected under this Agreement may be transferred, stored and processed in the United States or any other country in which Microsoft or its Affiliates, or their respective agents and subcontractors, maintain facilities. Microsoft will abide by the requirements of European Economic Area and Swiss data protection law regarding the collection, use, transfer, retention, and other processing of Personal Data from the European Economic Area and Switzerland.

Confidentiality.

- a. **Confidential Information.** "Confidential Information" is non-public information that is designated "confidential" or that a reasonable person should understand is confidential, including, but not limited to, Customer Data, the terms of this Agreement, and Customer's account authentication credentials. Confidential Information does not include information that (1) becomes publicly available without a breach of a confidentiality obligation; (2) the receiving party received lawfully from another source without a confidentiality obligation; (3) is independently developed; or (4) is a comment or suggestion volunteered about the other party's business, products or services.
- b. **Protection of Confidential Information.** Each party will take reasonable steps to protect the other's Confidential Information and will use the other party's Confidential Information only for purposes of the parties' business relationship. Neither party will disclose Confidential Information to third parties, except to its Representatives, and then only on a need-to-know basis under nondisclosure obligations at least as protective as this Agreement. Each



party remains responsible for the use of Confidential Information by its Representatives and, in the event of discovery of any unauthorized use or disclosure, must promptly notify the other party. The Online Services Terms may provide additional terms regarding the disclosure and use of Customer Data.

- c. **Disclosure required by law.** A party may disclose the other's Confidential Information if required by law, but only after it notifies the other party (if legally permissible) to enable the other party to seek a protective order.
- d. **Residual information.** Neither party is required to restrict work assignments of its Representatives who have had access to Confidential Information. Each party agrees that the use of information retained in Representatives' unaided memories in the development or deployment of the parties' respective products or services does not create liability under this Agreement or trade secret law, and each party agrees to limit what it discloses to the other accordingly.
- e. **Duration of Confidentiality obligation.** These obligations apply (1) for Customer Data, until it is deleted from the Online Services; and (2) for all other Confidential Information, for a period of five years after a party receives the Confidential Information.

Product warranties.

- a. **Limited warranties and remedies.**

- (1) **Online Services.** Microsoft warrants that each Online Service will perform in accordance with the applicable SLA during Customer's use. Customer's remedies for breach of this warranty are described in the SLA.

- (2) **Software.** Microsoft warrants that the Software version that is current at the time will perform substantially as described in the applicable Product documentation for one year from the date Customer acquires a license for that version. If it does not, and Customer notifies Microsoft within the warranty term, Microsoft will, at its option, (a) return the price Customer paid for the Software license or (b) repair or replace the Software.

The remedies above are Customer's sole remedies for breach of the warranties in this section. Customer waives any warranty claims not made during the warranty period.

- b. **Exclusions.** The warranties in this Agreement do not apply to problems caused by accident, abuse, or use inconsistent with this Agreement, including failure to meet minimum system requirements. These warranties do not apply to free, trial, preview, or prerelease products, or to components of Products that Customer is permitted to redistribute.
- c. **Disclaimer.** Except for the limited warranties above and subject to applicable law, Microsoft provides no other warranties or conditions for Products and disclaims any other express, implied or statutory warranties for Products, including warranties of quality, title, non-infringement, merchantability, and fitness for a particular purpose.



Defense of third-party claims.

The parties will defend each other against the third-party claims described in this section and will pay the amount of any resulting adverse final judgment or approved settlement, but only if the defending party is promptly notified in writing of the claim and has the right to control the defense and any settlement of it. The party being defended must provide the defending party with all requested assistance, information, and authority. The defending party will reimburse the other party for reasonable out-of-pocket expenses it incurs in providing assistance. This section describes the parties' sole remedies and entire liability for such claims.

- a. **By Microsoft.** Microsoft will defend Customer against any third-party claim to the extent it alleges that a Product made available by Microsoft for a fee and used within the scope of the license granted under this Agreement (unmodified from the form provided by Microsoft and not combined with anything else), misappropriates a trade secret or directly infringes a patent, copyright, trademark, or other proprietary right of a third party. If Microsoft is unable to resolve a claim of misappropriation or infringement, it may, at its option, either (1) modify or replace the Product with a functional equivalent or (2) terminate Customer's license and refund any license fees (less depreciation for perpetual licenses), including amounts paid in advance for unused consumption for any usage period after the termination date. Microsoft will not be liable for any claims or damages due to Customer's continued use of a Product after being notified to stop due to a third-party claim.
- b. **By Customer.** To the extent permitted by applicable law, Customer will defend Microsoft and its Affiliates against any third-party claim to the extent it alleges that: (1) any Customer Data or Non-Microsoft Product hosted in an Online Service by Microsoft on Customer's behalf misappropriates a trade secret or directly infringes a patent, copyright, trademark, or other proprietary right of a third party; or (2) Customer's use of any Product, alone or in combination with anything else, violates the law or harms a third party.

Limitation of liability.

For each Product, each party's maximum, aggregate liability to the other under this Agreement is limited to direct damages finally awarded in an amount not to exceed the amounts Customer was required to pay for the Products during the term of the applicable licenses, subject to the following:

- a. **Subscriptions.** For Products ordered on a subscription basis, Microsoft's maximum liability to Customer for any incident giving rise to a claim will not exceed the amount Customer paid for the Product during the 12 months before the incident.
- b. **Free Products and distributable code.** For Products provided free of charge and code that Customer is authorized to redistribute to third parties without separate payment to Microsoft, Microsoft's liability is limited to direct damages finally awarded up to US\$5,000.
- c. **Exclusions.** In no event will either party be liable for indirect, incidental, special, punitive, or consequential damages, or loss of use, loss of profits, or interruption of business, however caused or on any theory of liability.
- d. **Exceptions.** No limitation or exclusions will apply to liability arising out of either party's (1) confidentiality obligations (except for liability related to Customer Data, which will remain



subject to the limitations and exclusions above); (2) defense obligations; or (3) violation of the other party's intellectual property rights.

Partners.

- a. **Selecting a Partner.** Customer may authorize a Partner to place orders on Customer's behalf and manage Customer's purchases by associating the Partner with its account. If the Partner's distribution right is terminated, Customer must select an authorized replacement Partner or purchase directly from Microsoft. Partners and other third parties are not agents of Microsoft and are not authorized to enter into any agreement with Customer on behalf of Microsoft.
- b. **Partner Administrator privileges and access to Customer Data.** If Customer purchases Online Services from a Partner or chooses to provide a Partner with administrator privileges, that Partner will be the primary administrator of the Online Services and will have administrative privileges and access to Customer Data and Administrator Data. Customer consents to Microsoft and its Affiliates providing the Partner with Customer Data and Administrator Data for purposes of provisioning, administering and supporting (as applicable) the Online Services. Partner may process such data according to the terms of Partner's agreement with Customer, and its privacy commitments may differ from Microsoft's. Customer appoints Partner as its agent for purposes of providing and receiving notices and other communications to and from Microsoft. Customer may terminate the Partner's administrative privileges at any time.
- c. **Support and Professional Services.** Customer's Partner will provide details on support services available for Products purchased under this agreement. Support services may be performed by Partner or its designee, which in some cases may be Microsoft. If Customer purchases Professional Services under this agreement, the performance of those Professional Services will be subject to the terms and conditions in the Use Rights.

Pricing and payment.

If Customer orders from a Partner, the Partner will set Customer's pricing and payment terms for that order, and Customer will pay the amount due to the Partner. Pricing and payment terms related to orders placed by Customer directly with Microsoft are set by Microsoft, and Customer will pay the amount due as described in this section.

- a. **Payment method.** Customer must provide a payment method or, if eligible, choose to be invoiced for purchases made on its account. By providing Microsoft with a payment method, Customer (1) consents to Microsoft's use of account information regarding the selected payment method provided by the issuing bank or applicable payment network; (2) represents that it is authorized to use that payment method and that any payment information it provides is true and accurate; (3) represents that the payment method was established and is used primarily for commercial purposes and not for personal, family or household use; and (4) authorizes Microsoft to charge Customer using that payment method for orders under this Agreement.



- b. **Invoices.** Microsoft may invoice eligible Customers. Customer's ability to elect payment by invoice is subject to Microsoft's approval of Customer's financial condition. Customer authorizes Microsoft to obtain information about Customer's financial condition, which may include credit reports, to assess Customer's eligibility for invoicing. Unless the Customer's financial statements are publicly available, Customer may be required to provide their balance sheet, profit and loss and cash flow statements to Microsoft. Customer may be required to provide security in a form acceptable to Microsoft to be eligible for invoicing. Microsoft may withdraw Customer's eligibility at any time and for any reason. Customer must promptly notify Microsoft of any changes in its company name or location and of any significant changes in the ownership, structure, or operational activities of the organization.
- c. **Invoice Payment terms.** Each invoice will identify the amounts payable by Customer to Microsoft for the period corresponding to the invoice. Customer will pay all amounts due within thirty (30) calendar days following the invoice date.
- d. **Late Payment.** Microsoft may, at its option, assess a late fee on any payments to Microsoft that are more than fifteen (15) calendar days past due at a rate of two percent (2%) of the total amount payable, calculated and payable monthly, or the highest amount allowed by law, if less.
- e. **Cancellation fee.** If a subscription permits early termination and Customer cancels the subscription before the end of the subscription or billing period, Customer may be charged a cancellation fee.
- f. **Recurring Payments.** For subscriptions that renew automatically, Customer authorizes Microsoft to charge Customer's payment method periodically for each subscription or billing period until the subscription is terminated. By authorizing recurring payments, Customer authorizes Microsoft to process such payments as either electronic debits or fund transfers, or as electronic drafts from the designated bank account (in the case of Automated Clearing House or similar debits), as charges to the designated card account (in the case of credit card or similar payments) (collectively, "Electronic Payments"). If any payment is returned unpaid or if any credit card or similar transaction is rejected or denied, Microsoft or its service providers reserve the right to collect any applicable return item, rejection or insufficient funds fee to the maximum extent permitted by applicable law and to process any such fees as an Electronic Payment or to invoice Customer for the amount due.
- g. **Taxes.** Microsoft prices exclude applicable taxes unless identified as tax inclusive. If any amounts are to be paid to Microsoft, Customer shall also pay any applicable value added, goods and services, sales, gross receipts, or other transaction taxes, fees, charges, or surcharges, or any regulatory cost recovery surcharges or similar amounts that are owed under this Agreement and that Microsoft is permitted to collect from Customer. Customer shall be responsible for any applicable stamp taxes and for all other taxes that it is legally obligated to pay including any taxes that arise on the distribution or provision of Products by Customer to its Affiliates. Microsoft shall be responsible for all taxes based upon its net income, gross receipts taxes imposed in lieu of taxes on income or profits, and taxes on its property ownership.



If any taxes are required to be withheld on payments invoiced by Microsoft, Customer may deduct such taxes from the amount owed and pay them to the appropriate taxing authority, but only if Customer promptly provides Microsoft an official receipt for those withholdings and other documents reasonably requested to allow Microsoft to claim a foreign tax credit or refund. Customer will ensure that any taxes withheld are minimized to the extent possible under applicable law.

Term and termination.

- a. **Term.** This Agreement is effective until terminated by a party, as described below.
- b. **Termination without cause.** Either party may terminate this Agreement without cause on 60 days' notice. Termination without cause will not affect Customer's perpetual licenses, and licenses granted on a subscription basis will continue for the duration of the subscription period(s), subject to the terms of this Agreement.
- c. **Termination for cause.** Without limiting other remedies it may have, either party may terminate this Agreement on 30 days' notice for material breach if the other party fails to cure the breach within the 30-day notice period. Upon such termination, the following will apply:
 - (1) All licenses granted under this Agreement will terminate immediately except for fully-paid, perpetual licenses.
 - (2) All amounts due under any unpaid invoices shall become due and payable immediately. For metered Products billed periodically based on usage, Customer must immediately pay for unpaid usage as of the termination date.
 - (3) If Microsoft is in breach, Customer will receive a credit for any subscription fees, including amounts paid in advance for unused consumption for any usage period after the termination date.
- d. **Suspension.** Microsoft may suspend use of an Online Service without terminating this Agreement during any period of material breach. Microsoft will give Customer notice before suspending an Online Service when reasonable.
- e. **Termination for regulatory reasons.** Microsoft may modify, discontinue, or terminate a Product in any country or jurisdiction where there is any current or future government regulation, obligation, or other requirement, that (1) is not generally applicable to businesses operating there; (2) presents a hardship for Microsoft to continue offering the Product without modification; or (3) causes Microsoft to believe these terms or the Product may conflict with any such regulation, obligation, or requirement. If Microsoft terminates a subscription for regulatory reasons, Customer will receive, as its sole remedy, a credit for any subscription fees, including amounts paid in advance for unused consumption for any usage period after the termination date.

Miscellaneous.

- a. **Independent contractors.** The parties are independent contractors. Customer and Microsoft each may develop products independently without using the other's Confidential Information.



- b. **Agreement not exclusive.** Customer is free to enter into agreements to license, use, and promote the products and services of others.
- c. **Amendments.** Microsoft may modify this Agreement from time to time. Changes to the Use Rights will apply as provided in this Agreement. Changes to other terms will not apply until Customer accepts them. Microsoft may require Customer to accept revised or additional terms before processing a new order. Any additional or conflicting terms and conditions contained in a purchase order or otherwise presented by Customer are expressly rejected and will not apply.
- d. **Assignment.** Either party may assign this Agreement to an Affiliate, but it must notify the other party in writing of the assignment. Customer consents to the assignment to an Affiliate or third party, without prior notice, of any rights Microsoft may have under this Agreement to receive payment and enforce Customer's payment obligations, and all assignees may further assign such rights without further consent. Any other proposed assignment of this Agreement must be approved by the non-assigning party in writing. Assignment will not relieve the assigning party of its obligations under the assigned Agreement. Any attempted assignment without required approval will be void.
- e. **U.S. export.** Products are subject to U.S. export jurisdiction. Customer must comply with all applicable international and national laws, including the U.S. Export Administration Regulations, the International Traffic in Arms Regulations, and end-user, end use and destination restrictions by U.S. and other governments related to Microsoft products, services, and technologies.
- f. **Severability.** If any part of this Agreement is held to be unenforceable, the rest of the Agreement will remain in full force and effect.
- g. **Waiver.** Failure to enforce any provision of this Agreement will not constitute a waiver. Any waiver must be in writing and signed by the waiving party.
- h. **No third-party beneficiaries.** This Agreement does not create any third-party beneficiary rights except as expressly provided by its terms.
- i. **Survival.** All provisions survive termination of this Agreement except those requiring performance only during the term of the Agreement.
- j. **Notices.** Notices must be in writing and will be treated as delivered on the date received at the address, date shown on the return receipt, email transmission date, or date on the courier or fax confirmation of delivery. Notices to Microsoft must be sent to the following address:

Microsoft Corporation
Dept. 551, Volume Licensing
6100 Neil Road, Suite 210
Reno, Nevada 89511-1137
USA



Notices to Customer will be sent to the individual at the address Customer identifies on its account as its contact for notices. Microsoft may send notices and other information to Customer by email or other electronic form.

- k. **Applicable law.** This Agreement will be governed by and construed in accordance with the laws of the State of Washington and federal laws of the United States. The 1980 United Nations Convention on Contracts for the International Sale of Goods and its related instruments will not apply to this Agreement.
- l. **Dispute resolution.** When bringing any action arising under this Agreement, the parties agree to the following exclusive venues:
 - (1) If Microsoft brings the action, the venue will be where Customer has its headquarters.
 - (2) If Customer brings the action against Microsoft or any Microsoft Affiliate located outside of Europe, the venue will be the state or federal courts in King County, State of Washington, USA.
 - (3) If Customer brings the action against Microsoft or any Microsoft Affiliate located in Europe, and not also against Microsoft or a Microsoft Affiliate located outside of Europe, the venue will be the Republic of Ireland.
- The parties consent to personal jurisdiction in the agreed venue. This choice of venue does not prevent either party from seeking injunctive relief in any jurisdiction with respect to a violation of intellectual property rights or confidentiality obligations.
- m. **Order of precedence.** These General Terms will take precedence over any conflicting terms in other documents that are part of this Agreement that are not expressly resolved in those documents, except that conflicting terms in the Use Rights take precedence over these General Terms as to the applicable Products. Terms in the Online Services Terms take precedence over conflicting terms in the Product Terms. Terms in an amendment control over the amended document and any prior amendments concerning the same subject matter.
- n. **Microsoft Affiliates and contractors.** Microsoft may perform its obligations under this Agreement through its Affiliates and use contractors to provide certain services. Microsoft remains responsible for their performance.
- o. **Government procurement rules.** By accepting this agreement, Customer represents and warrants that (i) it has complied and will comply with all applicable government procurement laws and regulations; (ii) it is authorized to enter into this Agreement; and (iii) this Agreement satisfies all applicable procurement requirements.

Definitions.

"Administrator Data" means the information provided to Microsoft or its Affiliates during sign-up, purchase, or administration of Products.

"Affiliate" means any legal entity that controls, is controlled by, or is under common control with a party. "Control" means ownership of more than a 50% interest of voting securities in an entity or the power to direct the management and policies of an entity.



“Confidential Information” is defined in the “Confidentiality” section.

“Customer” means the entity identified as such on the account associated with this Agreement.

“Customer Data” means all data, including all text, sound, software, image or video files that are provided to Microsoft or its Affiliates by, or on behalf of, Customer and its Affiliates through use of Online Services.

“End User” means any person Customer permits to use a Product or access Customer Data.

“Licensing Site” means <http://www.microsoft.com/licensing/contracts> or a successor site.

“Microsoft” means Microsoft Corporation.

“Non-Microsoft Product” means any third-party-branded software, data, service, website or product, unless incorporated by Microsoft in a Product.

“Online Services” means Microsoft-hosted services to which Customer subscribes under this Agreement. It does not include software and services provided under separate license terms.

“Online Services Terms” means the additional terms that apply to Customer’s use of Online Services published on the Licensing Site and updated from time to time.

“Partner” means a company Microsoft has authorized to distribute Products to Customer.

“Personal Data” means any information relating to an identified or identifiable natural person.

“Product” means all Software and Online Services identified in the Product Terms that Microsoft offers under this Agreement, including previews, prerelease versions, updates, patches and bug fixes from Microsoft. Product availability may vary by region. “Product” does not include Non-Microsoft Products.

“Product Terms” means the document that provides information about Products available under this Agreement. The Product Terms document is published on the Licensing Site and is updated from time to time.

“Publisher” means a provider of a Non-Microsoft Product.

“Representatives” means a party’s employees, Affiliates, contractors, advisors and consultants.

“SLA” means Service Level Agreement, which specifies the minimum service level for the Online Services and is published on the Licensing Site.

“Software” means licensed copies of Microsoft software identified in the Product Terms. Software does not include Online Services, but Software may be part of an Online Service.

“use” means to copy, download, install, run, access, display, use or otherwise interact with.

“Use Rights” means the license terms and terms of service for each Product published on the Licensing Site and updated from time to time. The Use Rights supersede the terms of any end user license agreement that accompanies a Product. License terms for all Products are published in the Product Terms. Terms of service for Online Services are published in the Online Services Terms.



SO: 2019-20/B20-30
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, 2020)**
DATE: June 22, 2020

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.

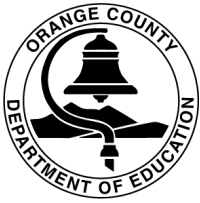
- **Instructional materials**
- **Teacher vacancy or mis-assignment**
- **Facilities**

Williams Quarterly Report: April 1 through June 30, 2020

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 2019-20 year and approves its submittal to the Orange County Department of Education.



Orange County Department of Education
Educational Services Division

**Williams Settlement Legislation
Quarterly Report of Uniform Complaints
2019-20**

District: _____

District Contact: _____

Title: _____

- | | | |
|-------------------------------------|-------------------------------|---------------------------------------|
| <input type="checkbox"/> Quarter #1 | July 1 – September 30, 2019 | Report due by October 25, 2019 |
| <input type="checkbox"/> Quarter #2 | October 1 – December 31, 2019 | Report due by January 31, 2020 |
| <input type="checkbox"/> Quarter #3 | January 1 – March 31, 2020 | Report due by April 24, 2020 |
| <input type="checkbox"/> Quarter #4 | April 1 – June 30, 2020 | Report due by July 31, 2020 |

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 Missassignments			
Facility Conditions			
TOTALS			

Name of Superintendent: _____

Signature of Superintendent: _____ Date: _____

Please submit to:

Alicia Gonzalez, Sr. Administrative Assistant
Orange County Department of Education
200 Kalmus Drive, B-1009
P.O. Box 9050, Costa Mesa, CA 92628-9050

Phone: (714) 966-4336 Email: aliciagonzalez@ocde.us Fax: (714) 327-1371



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 THE ANNUAL AGREEMENT FOR FISCAL AND
MANAGEMENT INFORMATION SERVICES WITH SCHOOL
SERVICES OF CALIFORNIA, INC.**
DATE: June 22, 2020

Background:

Each year the District contracts with School Services of California (SSC) for fiscal and management 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 electronic copy of the Analysis of the Governor's Proposals for the State Budget and K-12 Education and electronic delivery of the Fiscal Services Report, containing information on issues of finance, budget, or public policy related to 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, 2020 to July 31, 2021.

Fiscal Impact:

The annual membership fee is \$3,900 which has not changed from the previous year, and an additional \$800 for the Comparative Analysis of District Income and Expenditures (CADIE) Report and the Salary And Benefits Report (SABRE).

Recommendation:

It is recommended that the Board of Trustees approve the Annual Agreement for Fiscal and Management Information Services with School Services of California, Inc.

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, 2020.

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. The Consultant agrees to perform such duties relating to issues of school finance, including:
 - a. Electronic delivery of the *Fiscal Report* containing information on issues of school finance, budgets, or practices and policy issues that impact local educational agency fiscal policies, and an electronic 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. An analysis of all major school finance/fiscal legislation and reports on its legislative/executive branch progress
 - d. Participation at the Consultant's school finance conferences and workshops at the Consultant's client rate
 - e. 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 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 local educational agency 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 local educational agency legal issues; major customized research projects or studies; or, on-site speeches or presentations.

3. The Client agrees to pay to the Consultant for services rendered under this Agreement:
 - a. \$3,900 annually, plus expenses, or payable at \$325 per month, plus expenses, upon receipt of a billing from the Consultant
 - b. For all requested services in excess of 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, 2020, and terminating July 31, 2021. This Agreement may be terminated prior to July 31, 2021, by either party on 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. The 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 the Consultant 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 the 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:  _____

Date: June 8, 2020

John D. Gray

President

School Services of California Inc.



Fountain Valley School District
Curriculum and Instruction
Child Care Programs Department

M E M O R A N D U M

TO: Board of Trustees
FROM: Mona Green, Director
SUBJECT: **CHILDREN AND FAMILIES COMMISSION OF ORANGE
COUNTY CONTRACT, RESOLUTION 2020-21 AUTHORIZING
CONTRACT AND SIGNATURE**
DATE: June 22, 2020

Background:

The Children and Families Commission of Orange County requires a resolution to approve the agreement between our two agencies. Attached is the contract in addition to Resolution 2020-21 approving Agreement FCI-SD4-07 by and between Children and Families Commission of Orange County and Fountain Valley School District, and authorizing Dr. Steve McLaughlin to sign on behalf of the District.

Fiscal Impact:

The Commission has awarded an amount not to exceed \$397,200 to the Fountain Valley School District for three years of Kindergarten Readiness Initiative (KRI) for the period July 1, 2020 through June 30, 2023.

Recommendation:

It is recommended that the Board of Trustees adopts Resolution 2020-21 approving the Agreement FCI-SD4-07 by and between Children and Families Commission of Orange County and Fountain Valley School District, and authorizing Dr. Steve McLaughlin to sign on behalf of the District.

Fountain Valley School District
Childcare and Development Services
CA State Preschool Program

This resolution must be adopted in order to certify the approval of the Governing Board of the contract between Children and Families Commission of Orange County and the Fountain Valley School District for the purpose of providing child care and development services, **and to authorize the designated personnel to sign contract documents for Fiscal Year 2020-2021.**

RESOLUTION 2020-21

BE IT RESOLVED THAT the Governing Board of the Fountain Valley School District authorizes the Agreement by and between Children and Families Commission of Orange County and Fountain Valley School District, for the period July 1, 2020 through June 30, 2023 and the amount of \$397,200, awarded February 5, 2020; and that the person/s who is/are listed below, is/are authorized to sign the transaction for the Governing Board.

Name

Title

Signature

Steve McLaughlin, Ed.D.	Asst. Superintendent, Ed. Services
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PASSED AND ADOPTED THIS 25th day of June, 2020, by the governing Board of the Fountain Valley School District of Orange County, California.

I, Lisa Schultz, Clerk of the Governing Board of the Fountain Valley School District of Orange County, California, certify that the foregoing is a full, true and correct copy of a resolution adopted by said Board at a regular meeting therefore held at a regular public place of meeting and the resolution is on file in the office of said Board.

Board Clerk

Date

AGREEMENT FCI-SD4-07

BY AND BETWEEN

CHILDREN AND FAMILIES COMMISSION OF ORANGE COUNTY

AND

FOUNTAIN VALLEY SCHOOL DISTRICT

FOR THE PROVISION OF SERVICES

This **AGREEMENT** (“Agreement”) entered into as of the 1st day of July, 2020 (“Date of Agreement”) is by and between the **CHILDREN AND FAMILIES COMMISSION OF ORANGE COUNTY**, a public body and legal public entity (“COMMISSION”), and **FOUNTAIN VALLEY SCHOOL DISTRICT**, a California public school district organized and existing under the laws of the State of California (“CONTRACTOR”). This Agreement shall be administered by the President/CEO of COMMISSION or his or her authorized designee (“ADMINISTRATOR”).

RECITALS

A. In order to facilitate the creation and implementation of an integrated, comprehensive, and collaborative system of information and services to enhance optimal early childhood development, the legislature adopted legislation set forth in the California Children and Families Act of 1998, Health and Safety Code Section 130100, *et seq.* (as amended, the “Act”), implementing the Children and Families First Initiative passed by the California electorate in November of 1998, establishing the California Children and Families Commission and providing for establishment in each county of Children and Families Commissions, including COMMISSION.

B. COMMISSION adopted its Strategic Plan to define how funds authorized under the Act should best be used to meet the critical needs of Orange County’s children prenatal through age five as codified in the Act, which plan has been amended and after the Date of Agreement may be further amended, updated, or revised (“Strategic Plan”).

C. CONTRACTOR is a public school district organized and existing under the laws of the State of California, and its powers include without limitation, provision of services to and activities for the benefit of Orange County’s children through age five (5).

D. On February 5, 2020, COMMISSION took action and awarded an amount not to exceed \$397,200 to CONTRACTOR for three years of Kindergarten Readiness Initiative (KRI) for the period July 1, 2020 through June 30, 2023.

E. COMMISSION desires to contract with CONTRACTOR to provide services, carry out certain performance obligations, and achieve certain outcomes, while promoting the purposes of the Act and the Strategic Plan on the terms and conditions set forth in this Agreement and the Project Summary, Exhibit A; Work Plan, Exhibit A-1; and Project Budget, Exhibit B (together, “Services”).

F. As and if applicable, COMMISSION and CONTRACTOR desire to enter into a matching fund program opportunities with the California Children and Families Commission (“First 5 California”) and other matching fund opportunities as may become available.

G. CONTRACTOR desires to provide the services in furtherance of the purposes of the Act and the Strategic Plan on the terms and conditions set forth in this Agreement.

NOW THEREFORE, based on the Recitals, which are a substantive part of this Agreement, and agreed mutual consideration, COMMISSION and CONTRACTOR agree as follows:

1. TERM OF AGREEMENT. The term of this Agreement shall commence on July 1, 2020 and terminate on June 30, 2023, unless earlier terminated pursuant to the provisions of Paragraph 23 of this Agreement. CONTRACTOR and ADMINISTRATOR may mutually agree in writing to extend the term of this Agreement, provided that COMMISSION’s Maximum Payment Obligation in this Agreement does not increase as a result.

2. ALTERATION OF TERMS. This Agreement, together with and including any Exhibits fully express all understanding of the parties with respect to the subject matter of this Agreement and shall constitute the total Agreement between the parties, except as otherwise expressly provided in this Paragraph 2 and in Subparagraph 8.5. No amendment, addition to, or alteration of, the terms of this Agreement, whether written or oral, shall be valid unless the amendment is made in writing and formally approved and executed by both parties, except as provided in this Paragraph 2 or Subparagraph 8.5 of this Agreement.

2.1 CONTRACTOR work plans, budgets and scopes of services will be subject to an annual review to determine consistency with the COMMISSION's strategic direction. Changes to the work plan, budgets, and scopes of services may be directed by ADMINISTRATOR to bring the Agreement scope into better alignment with the COMMISSION's evolving strategic direction. These changes may include, but are not limited to, reprioritization of the targeted service population, redirection of resources to provide more intensive services, and increased focus on sustainability strategies. If CONTRACTOR is unable to redirect its program to be consistent with this direction, COMMISSION may reduce funding provided in successive years of this agreement.

2.2 Administrator Modification Authority. Notwithstanding anything to the contrary, provided any modifications do not alter the overall goals and basic purpose of the Agreement, and do not increase COMMISSION’s Maximum Payment Obligation during the term of the Agreement, ADMINISTRATOR has the authority to, with the agreement of CONTRACTOR, make modification(s) to the activities, tasks, deliverables, and performance timeframes specified in the Project Summary as set forth in the Scope of Work, Exhibit A; the Work Plan, Exhibit A-1; the funding allocation between and among the line items and/or the “Funds Due” period(s) budgeted in the Project Budget, Exhibit B; the Payment interval; the percentage of Initial Payment(s); the percentage of Retention Amount(s); and the timing of the Retention Amount(s) withheld as described in this Agreement.

3. STATUS OF CONTRACTOR. CONTRACTOR is and shall at all times be deemed to be an independent CONTRACTOR and shall be wholly responsible for the manner in which it performs the Services required of it by the terms of this Agreement. As a condition to commencing performance of any Services for this Agreement and to be eligible for any compensation for services rendered for this

Agreement, CONTRACTOR shall execute an Acknowledgment of Independent Contractor Status, Exhibit C, attached hereto and fully incorporated by this reference. Nothing in this Agreement shall be construed as creating the relationship of employer and employee or principal and agent between COMMISSION and CONTRACTOR or any of CONTRACTOR's agents or employees. CONTRACTOR knowingly, voluntarily, and expressly assumes exclusively the responsibility for the acts of its employees or agents as they relate to the Services to be provided during the course and scope of their employment, whether the employee(s) are compensated through the funds received by CONTRACTOR through this Agreement, or otherwise related directly or indirectly to the performance of Services under this Agreement. CONTRACTOR, its elected or appointed officials, officers, agents, employees, and Subcontractors shall not, in any respect whatsoever, be entitled to any rights or privileges of COMMISSION employees and shall not be considered in any manner to be COMMISSION employees. COMMISSION shall neither have nor exercise any control or direction over the methods by which CONTRACTOR shall perform its obligations under this Agreement. COMMISSION shall not be responsible or liable for the acts or failure to act, whether intentional or negligent, of any employee, agent, or volunteer of CONTRACTOR. CONTRACTOR shall pay all wages, salaries, and other amounts due its employees in connection with this Agreement and shall be responsible for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation, and similar matters. CONTRACTOR shall indemnify and hold harmless COMMISSION and the County of Orange ("County") from any liability, damages, costs, and expenses of any nature arising from alleged violations of personnel practices and employment laws.

3.1 COMMISSION as Independent Entity. Notwithstanding other provisions in this Agreement, such as insurance and indemnity provisions protecting COMMISSION and the County of Orange, CONTRACTOR acknowledges that pursuant to the Act, specifically Health & Safety Code Section 130140.1(a)(1), COMMISSION is a legal public entity separate from the County of Orange with independent powers and that in no event will CONTRACTOR look to the County of Orange for performance or indemnity under this Agreement, and CONTRACTOR expressly waives any rights it may have against the County of Orange in any way related to this Agreement. With respect to the above provisions CONTRACTOR agrees all rights under Section 1542 of the California Civil Code and any similar law of any state or territory of the United States are expressly waived. Section 1542 reads as follows:

CIVIL CODE SECTION 1542. GENERAL RELEASE; EXTENT. A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

4. CONTRACTOR DELEGATION AND ASSIGNMENT. Neither this Agreement nor any interest herein nor claim hereunder may be assigned by CONTRACTOR either voluntarily or by operation of law, nor may all or any part of this Agreement be subcontracted by CONTRACTOR, without the prior written consent of ADMINISTRATOR. Consent by COMMISSION shall not be deemed to relieve CONTRACTOR of its obligations to comply fully with all terms and conditions of this Agreement.

5. SUBCONTRACTS. Except to the extent expressly provided for in the Project Summary, Exhibit A, or as approved by ADMINISTRATOR, CONTRACTOR shall not enter into a subcontract, consulting agreement, or agreement for professional services (each and all referred to as a “Subcontract”) for the provision of services or performance of tasks included within the scope of the Services required by this Agreement without the prior written consent of ADMINISTRATOR. Any Subcontracts approved by ADMINISTRATOR shall not alter in any way any legal responsibility or performance obligation of CONTRACTOR to COMMISSION to perform or cause performance of the Services required under this Agreement. ADMINISTRATOR may require CONTRACTOR to submit a true copy of any permitted Subcontract. All records related to each Subcontract, if any, are subject to examination and audit by ADMINISTRATOR or his or her designee and must be retained for a period of (i) three (3) years after the date of final disbursement of funds under this Agreement, or (ii) three (3) years after any pending audit is completed, whichever occurs later.

5.1 Minimum Subcontract Terms. Each permitted Subcontract, including all terms and provisions shall be independently negotiated between CONTRACTOR and its Subcontractor. Each Subcontract shall include provisions that meet or exceed the following requirements: (i) any specific requirements set forth in the Project Summary, Exhibit A; (ii) a clear and complete description of the nature, extent, and tasks of the work to be performed by the Subcontractor and the relation of the work to the Services required under this Agreement; (iii) identification of the personnel by classification, and, if available by name, who will work or provide services to CONTRACTOR under the Subcontract, including a description of the minimum qualifications, education, experience, and any required licensing for each classification of personnel and number of hours described in relation to full time equivalent (e.g., 1.0 FTE or 0.5 FTE); (iv) a compensation schedule, including hourly rates or fees for each classification of personnel and a maximum payment obligation under the Subcontract, which total amount shall in no event exceed the amounts set forth in the Project Budget, Exhibit B; (v) insurance and indemnification comparable to the requirements and provisions set forth in this Agreement, which insurance shall protect CONTRACTOR, COMMISSION, and the County of Orange from any Claims and other liabilities that arise out of the Subcontract and performance of Subcontractor under the Subcontract; (vi) the term of Subcontract, which term shall not exceed the term of this Agreement; (vii) obligation to maintain and retain accurate and complete client and financial records, which recordkeeping shall be fully compliant with applicable laws and regulations and obligation to maintain records related to work and services provided under the Subcontract for the same retention period referenced in Paragraph 5 above, (viii) remedies and termination provisions which may be available to CONTRACTOR in the event Subcontractor fails to perform under the Subcontract; (ix) compliance with laws and regulations applicable to CONTRACTOR, as a public entity, entering into contracts, including without limitation that any subcontract is duly authorized, approved, and executed and in compliance with notice and bidding and contracting requirements, if any, and prevailing wage laws, if applicable, pursuant to applicable laws and regulations; and (x) any and all other requirements expressly provided in this Agreement.

6. GENERAL INDEMNIFICATION

CONTRACTOR agrees to and shall indemnify, defend with counsel approved in writing by COMMISSION, hold harmless COMMISSION, the County of Orange, and their officers, Commissioners, agents, and employees from and against all liability, claims, losses, demands, injuries to or death of any person or persons, or damages to property, including but not limited to property of Commissioners, officers, employees, or agents of COMMISSION or the County of Orange (together, “Claims”), including defense costs, resulting from court action or in any manner arising out of,

pertaining to, related to, or incident to any intentional, malicious, negligent acts, inactions, errors, or omissions of CONTRACTOR, its officers, employees, agents, or Subcontractors in the performance of this Agreement.

6.1 No elected official, no public official, no Commissioner, no officer, no committee member, no employee, and no agent of COMMISSION or the County of Orange shall be personally liable to CONTRACTOR, any successor in interest, or to any Subcontractor in the event of any default or breach by COMMISSION or for any amount that may become due to CONTRACTOR or to its successor or Subcontractor or for breach of any obligation of the terms of this Agreement.

7. INSURANCE. Without limiting CONTRACTOR's liability for indemnification of COMMISSION as set forth in Paragraph 6 above, CONTRACTOR shall obtain and maintain, in effect, during the term of this Agreement, certain minimum coverage of insurance through any or all of the following types of insurance, as further described, and as applicable, in Subparagraphs 7.1, 7.2, and 7.3 below: (a) self-insurance through the State or as otherwise approved by ADMINISTRATOR or his or her Risk Management designee; (b) insurance via a pooled or joint powers insurance authority; or (c) insurance policies secured from insurance companies that are admitted in California and rated A-:VIII or better or FPR Ratings of 9 through 7 and have a Financial Size Category (FSC) of VIII or better according to the current Best's Key Rating Guide/Property-Casualty/United States, ambest.com, or from an insurance company of equal financial stability as approved by ADMINISTRATOR or his or her Risk Management designee. Evidence of required insurance coverages obtained under (a), (b), or (c) in this Paragraph 7 shall be submitted to ADMINISTRATOR prior to and as a condition precedent to commencement of any Services or proceeding with any work under this Agreement. Submittal and approval of insurance coverage, including self-insurance or pooled coverage, shall neither relieve nor decrease the liability of CONTRACTOR.

7.1 Certificate of Self-Insurance Coverage. In lieu of maintaining insurance coverage by separate insurance policies secured through third party insurance companies as described in Paragraph 7 above and Subparagraph 7.3 below, CONTRACTOR may be self-insured with respect to the minimum amounts and types of required insurance coverage under this Agreement.

7.1.1 Certificate of Self-Insurance. A certificate signed by a duly authorized officer or member of CONTRACTOR shall be submitted to ADMINISTRATOR evidencing self-insurance prior to and as a condition precedent to commencement of Services or proceeding with any work under this Agreement. Further, during the term of this Agreement ADMINISTRATOR may, in his or her reasonable discretion, request reconfirmation of CONTRACTOR's status as self-insured for the required coverage. The self-insurance certificates shall verify that on behalf of Fountain Valley School District, CONTRACTOR has and maintains self-insurance in the following categories and amounts of coverage, including the amounts and companies, if any, that may provide any secondary or additional level of coverage. Further the certification shall state that the self-insurance is intended to cover as additional insureds (or the equivalent of being an additional insured) COMMISSION, its Commissioners, the County of Orange, the members of COMMISSION, the Board of Supervisors of the County of Orange, and their respective officers, agents, and employees, individually and collectively, and that the self-insurance shall apply as primary insurance and that other insurance maintained by COMMISSION or the County of Orange (whether through insurance policies, self-insurance, or pooled/joint powers coverage) shall be excess only and not contributing with insurance provided under the self-insurance. In the event CONTRACTOR elects to no longer self-insure under any of the required types of coverage in this Subparagraph 7.1, then CONTRACTOR shall provide to

ADMINISTRATOR not less than thirty (30) days prior written notice of the cancellation or change in coverage. In this event, CONTRACTOR shall obtain and maintain insurance coverages pursuant to Subparagraphs 7.2 or 7.3 below.

7.1.2 Types of Self-Insurance Coverage. CONTRACTOR shall evidence it is self-insured through the State or as otherwise approved by ADMINISTRATOR or his or her Risk Management designee in his or her sole discretion for the following required coverage:

(a) **Comprehensive General Liability** coverage for bodily injury, including death, and property damage which provides total limits of not less than One Million Dollars (\$1,000,000) CSL per occurrence and One Million Dollars (\$1,000,000) annual aggregate applicable to all owned, non-owned, and hired vehicles/watercraft.

(b) **Comprehensive Automobile Liability** coverage for bodily injury (including death) and property damage equivalent to not less than One Million Dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned, and hired vehicles/watercraft, with not less than One Million Dollars (\$1,000,000) annual aggregate.

(c) **Workers' Compensation** coverage shall be maintained for workers' compensation risk Claims in amounts equivalent to coverage required by the State of California, applicable statutory requirements, and including the equivalent of a broad form all-states endorsement and waiver of subrogation.

(d) **Employers' Liability coverage** for all employees engaged in Services or operations under this Agreement equivalent to not less than One Million Dollars (\$1,000,000) per occurrence.

(e) **Professional Liability.** If the Project Summary, Exhibit A, includes or requires staffing or Services by a licensed professional, such as physician, dentist, pharmacist, registered nurse, psychologist, engineer, architect, etc., then coverage for professional liability/errors and omissions is required equivalent to not less than One Million Dollars (\$1,000,000) per claims made or per occurrence and One Million Dollars (\$1,000,000) annual aggregate. If CONTRACTOR's professional liability policy is a "claims made" policy, CONTRACTOR shall agree to maintain professional liability coverage for two (2) years following the termination of this Agreement.

(f) **Sexual Misconduct Liability.** If the Project Summary, Exhibit A, includes services which require custody, transportation or unsupervised contact by CONTRACTOR, or any Subcontractor, with recipients of services under this agreement, then insurance policy(ies) and coverage for Sexual Misconduct Liability is required in an amount not less than One Million Dollars (\$1,000,000) per occurrence and One Million Dollars (\$1,000,000) annual aggregate.

7.2 Pooled or Joint Powers Insurance Coverage. CONTRACTOR may provide insurance coverage through membership and participation in a pooled insurance cooperative or joint powers insurance authority, or both, with respect to the minimum amounts and types of required insurance coverage under this Agreement.

7.2.1 Certificate of Pooled/Joint Powers Insurance. A certificate signed by an authorized officer or member of CONTRACTOR and by an authorized officer of the pooled or joint powers insurance authority shall be submitted to ADMINISTRATOR evidencing membership and

participation in pooled or joint powers insurance prior to and as a condition precedent to commencement of Services or proceeding with any work under this Agreement. Further, during the term of this Agreement ADMINISTRATOR may in his or her reasonable discretion request reconfirmation of CONTRACTOR's status as a member in good standing and participant in pooled or joint powers insurance for the required coverage. The certificate shall verify that on behalf of Fountain Valley School District, CONTRACTOR has and maintains insurance in the categories and amounts of coverage described for self-insurance above in Subparagraph 7.1, including the amounts and companies, if any, that may provide any secondary or additional level of coverage. Further the certificate shall state that the pooled or joint powers insurance is intended to cover as additional insureds (or the equivalent of being an additional insured) COMMISSION, its Commissioners, the County of Orange, the members of COMMISSION, the Board of Supervisors of the County of Orange, and their respective officers, agents, and employees, individually and collectively, and that the pooled and/or joint powers insurance shall apply as primary insurance and other insurance maintained by COMMISSION or the County of Orange (whether through insurance policies, self-insurance, or pooled/joint powers coverage) shall be excess only and not contributing with insurance provided under the pooled or joint powers insurance. Pooled or joint powers insurance provided under this Subparagraph 7.2 shall not be canceled or changed so as to no longer meet the specified COMMISSION or County insurance requirements without thirty (30) days prior written notice of the cancellation or change being delivered to ADMINISTRATOR.

7.3 Insurance Policies through Independent Insurance Companies. CONTRACTOR may obtain and maintain insurance policies for the required coverage under this Agreement.

7.3.1 Evidence of Coverage. Prior to commencement of any Services or proceeding with any work under this Agreement, CONTRACTOR shall provide on an insurance industry approved form a Certificate of Insurance (COI) certifying that coverage as required in this Subparagraph 7.3 has been obtained and remains in force for the period required by this Agreement. In addition, a certified copy of the policy or policies shall be provided by CONTRACTOR upon request of ADMINISTRATOR at the address specified in Paragraph 22. Each policy shall meet the following requirements.

(a) Required Coverage Forms

(i) Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

(ii) Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

(b) Required Endorsements. Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

(i) An Additional Insured endorsement using ISO form CG 2010 or CG 2033 or a form at least as broad naming the COMMISSION, the County of Orange, and their elected and appointed officials, officers, employees, agents as Additional Insureds.

(ii) A primary non-contributing endorsement evidencing that CONTRACTOR's insurance is primary and any insurance or self-insurance maintained by the COMMISSION and by the County of Orange shall be excess and non-contributing.

(c) **Notice of Cancellation or Change of Coverage Endorsement:** Each policy shall include an endorsement evidencing that the policy shall not be canceled or changed so as to no longer meet the specified COMMISSION or County insurance requirements without thirty (30) days prior written notice of the cancellation or change being delivered to ADMINISTRATOR at the address shown on the COI; or ten (10) days notice for non-payment of premium. This shall be evidenced by policy provisions or an endorsement separate from the COI.

(d) **Separation Clause Endorsement:** Each policy shall include an endorsement evidencing that the policy provides coverage separately to each insured who is seeking coverage or against whom a Claim is made or a suit is brought, except with respect to the company's limit of liability (standard in the ISO CG 0001 policy).

(e) **Termination of Insurance.** If insurance is terminated for any reason, CONTRACTOR agrees to purchase an extended reporting provision of at least two (2) years to report Claims arising from work performed, or any action or any inaction in connection with this Agreement.

(f) **Qualifying Insurers.** All coverages shall be issued by qualified insurance companies meeting the criteria described in Paragraph 7 above.

(g) **Deductible Amounts in Standard Policy.** COMMISSION acknowledges that a deductible amount on a policy of insurance is acceptable, but only as approved in writing in the sole discretion of ADMINISTRATOR or his or her Risk Management designee; provided no approved deductible shall in any way limit liabilities assumed by CONTRACTOR under this Agreement, including:

(i) Any policy deductible or self-insured retention on any insurance policy (except auto) which exceeds \$25,000. Such policy requires prior written approval of ADMINISTRATOR or his or her Risk Management designee.

(ii) Any policy deductible or self-insured retention on automobile liability over \$5,000. Such policy requires prior written approval of ADMINISTRATOR or his/her Risk Management designee.

(iii) All self-insured retentions or deductibles shall be clearly stated on the COI. If no self-insured retentions or deductibles apply, indicate this on the COI.

(h) **Subcontractor Insurance Requirements.** Should any of the Services under this Agreement be provided by a Subcontract, CONTRACTOR shall require each Subcontractor (of any tier) to provide the coverages mentioned in this Paragraph 7, or CONTRACTOR may insure any Subcontractor under its own policies.

(i) **Occurrence Versus Claims Made Coverage.** It is the intent of COMMISSION to secure "occurrence" rather than "claims made" coverage whenever possible. If coverage is written on a "claims made" basis, the COI shall clearly so state. In addition to coverage requirements above, each policy shall provide that:

(i) Policy retroactive date coincides with or precedes CONTRACTOR's start of work (including subsequent policies purchased as renewals or replacements).

(ii) CONTRACTOR will make every effort to maintain similar insurance during the required extended period of coverage following completion of services, including the requirement of adding all additional insureds.

(iii) Policy allows for reporting of circumstances or incidents that might give rise to future claims.

7.3.2 Types of Insurance Policies/Coverages. If CONTRACTOR provides insurance through a policy or policies, then the following types and coverages are required.

(a) **Comprehensive General Liability Insurance.** Comprehensive General Liability Insurance for bodily injury, including death and property damage which provides not less than One Million Dollars (\$1,000,000) combined single limit (CSL) per occurrence and not less than Two Million Dollars (\$2,000,000) annual aggregate.

(i) The coverage shall include:

(A) Premises and Operations.

(B) Products/Completed Operations with limits of One Million Dollars (\$1,000,000) per occurrence One Million Dollars (\$1,000,000) annual aggregate to be maintained for two (2) years following the end of the term of this Agreement.

(C) Contractual Liability expressly including liability assumed under this agreement, except such requirement does not apply to service contracts.

(D) Personal Injury Liability.

(b) **Comprehensive Automobile Liability Insurance.** Comprehensive Automobile Liability Insurance for bodily injury, including death, and property damage which provides total limits of not less than One Million Dollars (\$1,000,000) CSL per occurrence and One Million Dollars (\$1,000,000) annual aggregate applicable to all owned, non-owned and hired vehicles/watercraft.

(c) **Workers' Compensation Insurance.** Workers' Compensation Insurance shall be maintained. Statutory California Workers' Compensation coverage shall include a broad form all-states endorsement and waiver of subrogation.

(d) **Employers' Liability Coverage.** Employers' Liability Coverage of not less than One Million Dollars (\$1,000,000) per occurrence for all employees engaged in Services or operations under this Agreement.

(e) **Professional Liability.** If the Project Summary, Exhibit A, includes or requires staffing or services by a licensed professional, such as physician, dentist, pharmacist, registered nurse, psychologist, accountant, engineer, architect, etc., then insurance policy(ies) and

coverage for professional liability/errors and omissions is required in an amount not less than One Million Dollars (\$1,000,000) per claims made or per occurrence and One Million Dollars (\$1,000,000) aggregate. If CONTRACTOR's professional liability policy is a "claims made" policy, CONTRACTOR shall agree to maintain professional liability coverage for two (2) years following the termination of this Agreement.

(f) **Sexual Misconduct Liability.** If the Project Summary, Exhibit A, includes services which require custody, transportation or unsupervised contact by CONTRACTOR, or any Subcontractor, with recipients of services under this Agreement, then insurance policies and coverage for Sexual Misconduct Liability is required in an amount not less than One Million Dollars (\$1,000,000) per occurrence and One Million Dollars (\$1,000,000) annual aggregate.

7.4 Change in Coverage. COMMISSION expressly retains the right to require CONTRACTOR to increase or decrease insurance of any of the above insurance types throughout the term of this Agreement. Any increase or decrease in insurance will be as deemed by ADMINISTRATOR or his or her Risk Management designee as appropriate to adequately protect COMMISSION. COMMISSION shall notify CONTRACTOR in writing of changes in the insurance requirements. If CONTRACTOR does not provide copies of acceptable COIs and endorsements incorporating such changes within thirty (30) days of receipt of such notice, this Agreement may be in breach without further notice to CONTRACTOR, and COMMISSION shall be entitled to all legal remedies.

7.5 Duration of Insurance. CONTRACTOR shall maintain all coverage and insurance for the entire term and for any extended period agreed upon within this Agreement.

7.6 Maintain Records of Insurance Coverage. CONTRACTOR shall maintain records regarding all coverage and insurance for the term of this Agreement and for any extended period agreed upon within this Agreement.

7.7 Withhold Payment for Lack of Required Coverage. COMMISSION reserves the right to withhold payments to CONTRACTOR in the event of material noncompliance with the applicable insurance requirements outlined in this Paragraph 7.

7.8 Remedies for Failure to Provide or Maintain Required Coverage, Insurance, or Endorsements. In addition to any other remedies COMMISSION may have if CONTRACTOR (or any Subcontractor) fails to provide or maintain any insurance required by this Paragraph 7 to the extent and within the time required by this Agreement, COMMISSION may, at its sole option:

(a) Obtain the insurance and deduct and retain the amount of the premiums for the insurance from any monies due under this Agreement.

(b) Order CONTRACTOR and any Subcontractor to cease performance of the Services and withhold any payments which become due to CONTRACTOR or any Subcontractor until CONTRACTOR or Subcontractor demonstrates compliance with the insurance requirements of this Agreement.

(c) Immediately and without further cause terminate this Agreement.

7.9 Exercise of any of the above remedies are in addition to any other remedies COMMISSION may have and are not the exclusive remedies for CONTRACTOR's or its Subcontractor's failure to maintain or secure appropriate policies or endorsements. Nothing in this Agreement shall be construed as limiting in any way the extent to which CONTRACTOR or any Subcontractor may be held responsible for payments of damages to persons or property resulting from CONTRACTOR's or any Subcontractor's performance under this Agreement.

8. RESPONSIBILITIES OF CONTRACTOR

8.1 Conditions to COMMISSION's Obligation to Proceed under Agreement. COMMISSION's obligation to proceed with performance and the payment of each invoice payment under this Agreement is expressly conditioned upon the satisfaction by CONTRACTOR of each of the following conditions precedent ("Conditions") below. These Conditions may be waived in writing by ADMINISTRATOR, in his or her sole discretion, or expressly waived in the Project Summary, Exhibit A. CONTRACTOR may satisfy one or more of the Conditions at any time prior or subsequent to the Date of Agreement, provided that all Conditions shall be satisfied prior to the date the first COMMISSION payment to CONTRACTOR is due. CONTRACTOR shall provide satisfactory evidence of compliance with each of the Conditions.

8.1.1 Evidence of CONTRACTOR Approval of Agreement. CONTRACTOR shall submit evidence of the approval of this Agreement by resolution of CONTRACTOR's governing board, or a true copy of the minutes of the public meeting at which this Agreement was considered and approved, or other evidence of approval satisfactory to ADMINISTRATOR.

8.1.2 Insurance. All provisions and submittal of endorsements or other evidence of insurance required by Paragraph 7 shall be in place and approved by ADMINISTRATOR or his or her Risk Management designee.

8.1.3 Other Conditions. CONTRACTOR has complied with the other Conditions listed in the Project Summary, Exhibit A, if any.

8.2 No Supplanting Government Funds. CONTRACTOR shall not supplant government funds intended for the purposes of this Agreement with any other funds intended for the purposes of this Agreement. CONTRACTOR shall not submit an invoice for payment from COMMISSION or apply sums received from COMMISSION with respect to that portion of its obligations which have been paid by another governmental source of revenue. As a material provision of this Agreement and substantive criterion in COMMISSION's selection of CONTRACTOR for the Services provided under this Agreement and in furtherance of the express directives of the Act, CONTRACTOR is required to ensure that in the performance of this Agreement all funding shall be expended and used to supplement, not supplant, existing levels of service.

8.3 Technical Requirements for PCs and Software Used by CONTRACTOR for all Recordkeeping and Reporting for the Services and Agreement. CONTRACTOR agrees to obtain and maintain all computer hardware and software necessary to meet the requirements of Paragraph 19 in its entirety with respect to COMMISSION's evaluation and contracts management system. CONTRACTOR is required to contact COMMISSION's designated contractor for its evaluation and contract management system prior to the commencement of work pursuant to this Agreement to ensure

that CONTRACTOR's computer hardware and software is capable of meeting CONTRACTOR's evaluation and contract management system obligations.

8.4 Staffing Obligations for Services. COMMISSION and CONTRACTOR agree that the Scope of Work, the level and description of Services, and the classification, number, and qualifications of personnel and staff necessary for the Services, and budget for staffing to be provided by CONTRACTOR in furtherance of the Strategic Plan and the Act are set forth in the Exhibits. CONTRACTOR agrees to provide the level and type of staffing, facilities, equipment and supplies necessary to provide the Services and to meet the outcomes set forth in these Exhibits.

8.4.1 Staffing Conferences. At ADMINISTRATOR's request, CONTRACTOR agrees to send appropriate staff to attend orientation session(s) and/or progress meeting(s) arranged or given by COMMISSION or ADMINISTRATOR.

8.4.2 Personnel Disclosure. If requested by ADMINISTRATOR, CONTRACTOR shall make available to ADMINISTRATOR a current list of all personnel providing Services or performing any work under this Agreement, including personnel of any Subcontractor. Changes to the list shall be immediately provided to ADMINISTRATOR. CONTRACTOR shall prepare and maintain up-to-date personnel records and information about its employees and, if requested by ADMINISTRATOR and to the extent permitted by applicable laws, make available to ADMINISTRATOR the following information/records:

(a) The required list of personnel, including any Subcontractor, which shall include each of the following:

(i) All full time staff positions and all part-time staff positions by name and title, including volunteer positions, who are assigned to, performing under, or providing Services.

(ii) The qualifications and experience, including professional degree(s) and required licensing, if applicable, required for each position.

(iii) The language skill(s), if applicable, of the personnel, such as bi-lingual, sign language, Braille, or other communication skills.

(b) CONTRACTOR shall immediately notify ADMINISTRATOR concerning the arrest or subsequent conviction, for other than minor traffic offenses, of any employee or volunteer staff providing Services under this Agreement when the information becomes known to CONTRACTOR.

8.4.3 CONTRACTOR to Maintain Complete Personnel Records. CONTRACTOR shall maintain complete and accurate records relating to all personnel listed (or required to be listed) in Subparagraph 8.4.2 above. The record keeping shall include evidence that CONTRACTOR has conducted adequate pre-employment and pre-volunteer screening, such as information that CONTRACTOR has conducted or caused to be conducted on each employee or volunteer a pre-employment/hiring background check and that CONTRACTOR has taken all reasonable steps to assure all employees and volunteers assigned to perform Services under this Agreement are suitable to perform the work and do not pose a reasonably foreseeable risk of harm to children or other persons receiving or participating in the Services. CONTRACTOR acknowledges it

has a duty to disclose to COMMISSION and ADMINISTRATOR information within its knowledge that may pose a reasonably foreseeable risk of harm to children. Nothing in the above provisions shall obligate CONTRACTOR to disclose to COMMISSION or ADMINISTRATOR confidential personnel information about employees (or volunteers) except and to the extent disclosure is permitted by applicable laws or authorized by judicial or administrative order. Nothing in the above provisions shall affect or modify the provisions of this Agreement affirming the independent contractor status of CONTRACTOR.

8.5 Implementing Exhibits. As directed by ADMINISTRATOR during the term of this Agreement and pursuant to the Exhibits CONTRACTOR will be required to prepare and submit to ADMINISTRATOR certain planning and implementing documents regarding the Services under this Agreement aimed toward achieving the outcomes set forth in the Work Plan, Exhibit A-1. The planning and implementing documents may include, but are not limited to, service plans, business plans, and supplements to the Work Plan, each of which may clarify or further describe and define the Services required under this Agreement and required dates for performance of certain Services. Each implementing document approved by ADMINISTRATOR, shall become part of the Exhibits and shall be attached to and incorporated into this Agreement. CONTRACTOR shall perform and meet the tasks and requirements set forth in all Exhibits as performance obligations of this Agreement.

9. GENERAL TERMS AND CONDITIONS

9.1 Compliance with Laws. CONTRACTOR shall provide all Services in accordance with all applicable federal and state laws, statutes, regulations, and local ordinances and resolutions. CONTRACTOR shall comply with the Act, and all laws, rules or regulations, applicable to the Scope of Work and provision of Services, as any may now exist or as amended or added after the Date of Agreement.

9.2 Familiarity with Work. By executing this Agreement and prior to performing or providing any Services, CONTRACTOR warrants and shall be satisfied that (a) it has thoroughly investigated and considered the Services, (b) it has carefully considered how the Services should be performed, will be implemented, and will be completed, and (c) it fully understands the facilities, difficulties, and restrictions, attending carrying out the performance obligations of this Agreement. Should CONTRACTOR discover any latent or unknown conditions materially differing from those inherent in the work or as represented by COMMISSION or ADMINISTRATOR, it shall immediately inform COMMISSION in writing of this fact and shall not proceed except at CONTRACTOR's risk until written instructions are received from ADMINISTRATOR.

9.3 Care of Work. CONTRACTOR shall adopt reasonable methods during the term of this Agreement to furnish continuous protection to the property (real and personal property), facilities, equipment, persons providing or receiving Services, work product, records, and other papers to prevent losses or damages. CONTRACTOR shall be responsible for all losses or damages to persons or property (including real property, personal property, both tangible and intangible), except the losses or damages caused by COMMISSION's sole negligence. The performance of Services by CONTRACTOR shall not relieve CONTRACTOR from any obligation to correct any incomplete, inaccurate, or defective work or service at no further cost to COMMISSION when the inaccuracies are due to the negligence, action, inaction, or intentional misconduct of CONTRACTOR.

9.4 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be determined to be invalid by a final judgment or decree of a court of competent jurisdiction, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of that provision, or the remaining provisions of this Agreement unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

9.5 California Law. This Agreement shall be construed and interpreted both as to validity and to performance in accordance with the laws of the State of California. Legal actions concerning any default, dispute, interpretation, declaration of rights, or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Orange, State of California, and CONTRACTOR covenants and agrees to submit to the personal jurisdiction of the court in the event of any action.

9.6 Waiver. No delay or omission in the exercise of any right or remedy of a non-defaulting party on any default shall impair any right or remedy or be construed as a waiver. One party's consent or approval of any act by the other party requiring the other party's consent or approval shall not be deemed to waive or render unnecessary the party's consent to or approval of any subsequent act of the party. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

9.7 Rights and Remedies Cumulative. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of the rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

9.8 Covenant Against Discrimination. In the performance of this Agreement, CONTRACTOR shall not engage in, nor permit any employee or agent to engage in, discrimination in employment of persons or provision of Services or assistance, nor exclude any person from participation in, nor deny any person the benefits of, nor or subject any person to discrimination under any program or activity funded in whole or in part with COMMISSION funds on the grounds of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, gender or sexual orientation, except as permitted by applicable provisions of federal and state law. CONTRACTOR shall comply with Title II of the Americans with Disabilities Act, (42 U.S.C. §12101, *et. seq.*) as it relates to public accommodations.

9.9 Legal Action. In addition to any other rights or remedies, either party may take legal action, at law or at equity, to cure, correct, or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

9.10 Attorneys' Fees. If either party commences an action against the other party arising out of or in connection with this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs of suit from the non-prevailing party.

9.11 Waiver of Jury Trial. Both COMMISSION and CONTRACTOR agree and acknowledge that each is aware of and has had the opportunity to seek advice of counsel of its choice with respect to its rights to trial by jury, and each party, for itself and its successors, creditors, and assigns, expressly and knowingly waives and releases all rights to trial by jury in any action, proceeding, or counterclaim brought by any party against the other or against its officers, Commissioners directors, employees, agents, or subsidiary or affiliated entities on or with regard to any matters of any kind or type arising out of or in any way connected with this Agreement or any other claim of injury or damage.

9.12 Use of Commission Name and Logo. Funded and partnering organizations are required to use COMMISSION's name and logo on all materials, promotional information and products that relate to Commission-funded programs, unless otherwise agreed to between CONTRACTOR and ADMINISTRATOR at ADMINISTRATOR's sole discretion. CONTRACTOR shall comply with COMMISSION's guidelines related to the use of COMMISSION's name and logo as stated in its Policies and Procedures Guide.

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

9.14 No Broker or Finders' Fee. CONTRACTOR warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

9.15 No Use of Funds for Lobbying. CONTRACTOR shall not expend any monies paid or payable under this Agreement for the purpose of influencing or attempting to influence an officer, member, or employee of COMMISSION, a member of the Orange County Board of Supervisors, any County of Orange officer or employee, any member or employee of the State Commission, any member of the State legislature or member of Congress, or any other officer or employee of any public agency or entity, in connection with the awarding of any contract, the making of any contract, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any contract, grant, loan, or cooperative agreement.

9.16 Constitutional Use of Funds. As an express condition to this Agreement, CONTRACTOR agrees that the funds provided by COMMISSION to CONTRACTOR shall not be used to promote any religion, religious creed or cult, denomination, sectarian organization or religious belief or to fund any proselytizing activities. The parties agree the above covenant is intended to and shall be construed for the limited purpose of assuring compliance with respect to the use of COMMISSION funds by CONTRACTOR with applicable constitutional limitations respecting the establishment of religion as set forth in the establishment clause under the First Amendment of the United States Constitution and Article I, Section 4 of California Constitution, and is not in any manner intended to restrict other activities of CONTRACTOR.

9.17 Child Abuse Reporting. CONTRACTOR shall establish a procedure to ensure that all employees, volunteers, consultants, agents, or Subcontractors performing Services under this Agreement, report child abuse or neglect to a child protective agency as defined in Penal Code Section 11165.9 to the extent required by applicable law. CONTRACTOR shall require each employee, volunteer, agent, and Subcontractor who provides Services to or for CONTRACTOR in implementation of the Scope of Work described in Exhibit A and funded by this Agreement to the extent each person is legally subject to the requirements, to sign a statement acknowledging these

reporting requirements and to comply with the reporting requirements to the extent required by applicable law.

9.18 CONTRACTOR Cooperation with Other COMMISSION Contractors CONTRACTOR acknowledges that the goal of COMMISSION and its Strategic Plan is to develop an integrated quality service system to ensure access to a quality child and family support services delivery system for Orange County children from the prenatal stage to age five. CONTRACTOR agrees to cooperate reasonably with COMMISSION and ADMINISTRATOR to achieve the objectives of the Strategic Plan and support COMMISSION by forming cooperative partnerships to serve children prenatal through age five and their families with other services funded through COMMISSION.

9.19 Political Activity. CONTRACTOR agrees that the funds provided by this Agreement shall not be used to promote, directly or indirectly, any political party, political candidate or political activity, except as permitted by law.

9.20 Child Care Provider Notification; Admission Procedures and Parental and Authorized Representative's Rights. If applicable to the Services, CONTRACTOR shall establish and carry out the requirements of California Code of Regulations (CCR) Title 22 relating to child care providers and provision of licensed child care, day care, or other early care and education. To the extent required by applicable laws and regulations, CONTRACTOR shall complete the following:

9.20.1 CONTRACTOR shall comply with CCR Title 22, Section 101218.1 to ensure all parents and authorized representatives of minor children receiving Services under this Agreement, are notified regarding any employee, volunteer, consultant, or agent of CONTRACTOR with a criminal record exemption.

9.20.2 CONTRACTOR shall (i) post a current copy of the California Department of Social Services (CDSS) Parents' Rights Poster in a prominent location; (ii) provide all parents and authorized representatives current copies of all CDSS notification forms and retain all parent signature or acknowledgement portions of those forms in the child's file; (iii) upon request, provide parents and authorized representatives with the name of any person associated with CONTRACTOR (including any employee, volunteer, consultant or agent of CONTRACTOR) who has been granted a criminal record exemption and that person's relationship to CONTRACTOR.

9.20.3 CONTRACTOR shall document all requests by parents or authorized representatives for criminal exemption information. Such documentation shall be jointly signed by an authorized representative of CONTRACTOR and the parent or authorized representative and maintained in the child's file.

9.21 Suspension and Debarment. CONTRACTOR certifies that CONTRACTOR's officers and principals are not debarred or suspended from federal financial assistance programs or activities.

10. REPRESENTATIONS AND WARRANTIES OF CONTRACTOR. CONTRACTOR makes the following representations and warranties to COMMISSION. These representations and warranties are ongoing and CONTRACTOR shall advise ADMINISTRATOR in writing if there is any change pertaining to any matters set forth or referenced in the following Subparagraphs 10.1 through 10.6, inclusive.

10.1 No Conflict. To the best of CONTRACTOR's knowledge, participation by public officials of CONTRACTOR in the negotiation, consideration, and action on this Agreement and CONTRACTOR's execution, delivery, and performance of its obligations under this Agreement will not constitute a default or a breach under any contract, agreement, or order to which CONTRACTOR is a party or by which it is bound, nor is there a conflict of interest under the California Political Reform Act, Government Code Section 81000, *et seq.* and Section 87100, *et seq.* or Government Code Section 1090, *et seq.*

10.1.1 CONTRACTOR agrees that no officer, Commissioners, employee, agent, or assignee of COMMISSION having direct or indirect control of any monies allocated by COMMISSION, inclusive of the subject funds, shall serve as an officer or director of CONTRACTOR without the express written acknowledgement of COMMISSION.

10.1.2 Any conflict or potential conflict of interest of any public official of CONTRACTOR shall be fully disclosed in writing prior to the execution of this Agreement and shall be attached to and become a part of this Agreement.

10.2 No Bankruptcy. CONTRACTOR is not the subject of any current or threatened bankruptcy.

10.3 No Pending Legal Proceedings. CONTRACTOR is not the subject of a current or threatened litigation that would or may materially affect CONTRACTOR's performance under this Agreement.

10.4 Application Veracity. All provisions of and information provided in CONTRACTOR's application for funding submitted to COMMISSION including exhibits are true and correct in all material respects.

10.5 No Pending Investigation. CONTRACTOR is not aware that it is the subject of any current or threatened criminal or civil action investigation by any public agency, including, without limitation, a police agency or prosecuting authority, related, directly or indirectly, to the provision of Services under this Agreement.

10.6 Licenses, Permits, and Standards. CONTRACTOR warrants that it has all necessary licenses and permits required by the laws of the United States, State of California, County of Orange, any local jurisdiction in which it may do business or provide Services, and all other appropriate governmental agencies. CONTRACTOR agrees to maintain these licenses and permits in effect for the duration of this Agreement. CONTRACTOR shall only contract with Subcontractors that are duly licensed, insured, and qualified to provide Services under this Agreement, as applicable. CONTRACTOR warrants that its employees, agents, contractors, and Subcontractors shall conduct themselves in compliance with the laws and licensure requirements including, without limitation, compliance with laws applicable to nondiscrimination, sexual harassment, and ethical behavior.

10.6.1 Failure to Obtain or Maintain Licenses. CONTRACTOR shall notify ADMINISTRATOR immediately and in writing of its inability to obtain or maintain, irrespective of the pendency of any appeal, any of the permits, licenses, approvals, certificates, waivers, and exemptions. The inability shall be cause for termination of this Agreement by COMMISSION or ADMINISTRATOR.

11. CONFIDENTIALITY. CONTRACTOR shall maintain the confidentiality of all records, including any hard copies, electronic or computer-based data, and audio and video recordings, in accordance with all applicable state and federal codes and regulations relating to privacy and confidentiality, with COMMISSION's adopted Confidentiality and Data Sharing Protocol attached hereto and incorporated by this reference as each now exists or may be amended after the Date of Agreement, and as may be required by any other funding sources allocated through this Agreement.

11.1 CONTRACTOR Obligation

11.1.1 All records and information concerning any and all persons referred to CONTRACTOR by COMMISSION, or COMMISSION's designee, shall be considered and kept confidential by CONTRACTOR and CONTRACTOR's staff, agents, employees, subcontractors, and volunteers.

11.1.2 CONTRACTOR shall require its employees, agents and volunteers to sign an acknowledgement or other certification which certifies that each will keep the identities and any information with respect to any and all service recipients of CONTRACTOR related to services authorized under this Agreement confidential except as may be required to provide Services under this Agreement, to comply with any reporting and auditing requirements specified in this Agreement, as required by COMMISSION in the administration of this Agreement, and as otherwise permitted by law.

11.1.3 CONTRACTOR agrees that any and all approved subcontracts entered into shall include the confidentiality requirements of this Agreement.

11.1.4 CONTRACTOR shall inform all of its employees, agents, subcontractors, volunteers, and partners of this provision that any person who knowingly and intentionally violates the provisions of federal, state or local confidentiality laws may be guilty of a crime and subject to civil action.

11.2 Authorized Data Sharing. The provisions of Subparagraphs 11.1.1 through 11.1.4 are not applicable to authorized data sharing pursuant to COMMISSION-funded projects or as permitted by law.

12. DISPUTES.

12.1 Except as otherwise provided in this Agreement, when a dispute arises between CONTRACTOR and COMMISSION, the parties shall meet to resolve the issue. If the parties do not reach a resolution, the dispute will be decided by the ADMINISTRATOR, who shall reduce the decision to writing and mail or otherwise furnish a copy thereof to CONTRACTOR. The decision of the ADMINISTRATOR shall be the final and conclusive administrative decision.

12.2 Pending final decision of a dispute hereunder, CONTRACTOR shall proceed diligently with the performance of this Agreement and in accordance with the decision of ADMINISTRATOR. Nothing in this Agreement, however, shall be construed as making final the decision of any COMMISSION official or representative on a question of law, which questions shall be settled in accordance with the laws of the state of California.

13. REPORTING REQUIREMENTS

13.1 Reports. Separate from any other reports required in the Project Summary, Exhibit A, or the Work Plan, Exhibit A-1, CONTRACTOR shall prepare and submit to ADMINISTRATOR reports concerning the performance of the Services required by this Agreement and any other reports as ADMINISTRATOR may reasonably require.

13.2 Ancillary Reporting Requirement Related to Enforcement of Child Support Obligations.

13.2.1 County Requirements. In order to comply with child support enforcement requirements of the County of Orange, CONTRACTOR agrees to furnish to ADMINISTRATOR within thirty (30) days of the award of this Agreement:

(a) in the case of an individual contractor, his or her name, date of birth, Social Security number, and residence address;

(b) in the case of a contractor doing business in a form other than as an individual, the name, date of birth, Social Security number, and residence address of each individual who owns an interest of ten percent (10%) or more in the contracting entity;

(c) a certification that contractor has fully complied with all applicable federal and state reporting requirements regarding its employees; and

(d) a certification that contractor has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment, and will continue to so comply.

13.2.2 Failure to Comply Breach. The failure of CONTRACTOR to timely submit the data or certifications required by Subparagraphs 13.2.1 (a), (b), (c), or (d); to comply with all federal and state employee reporting requirements for child support enforcement; or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of this Agreement. Failure to cure such breach within sixty (60) calendar days of notice from the County of Orange or COMMISSION shall constitute grounds for termination of this Agreement.

13.2.3 Use of Data Solely for Government Enforcement of Child Support Orders. It is expressly understood that this data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders, and for no other purpose.

13.2.4 Exemptions. Agreements with public entities shall be exempt from the requirements of Subparagraph 13.2, above. Agreements with non-profit organizations which have no owners; shall be exempt from the requirements of Subparagraph 13.2.1(b) above.

14. AUDITS. CONTRACTOR shall prepare and maintain adequate records of its performance under this Agreement in sufficient detail to permit an evaluation of the work and Services and an audit of records as described in this Agreement.

14.1 Fiscal Audit of Contract. CONTRACTOR shall employ an independent, licensed Certified Public Accountant (“CPA”) who shall prepare and file with ADMINISTRATOR a “Fiscal Audit” of this Agreement that shall include a review of the invoices submitted and paid for the

reasonable cost of Services under this Agreement and a sampling (test) of the supporting documentation.

14.1.1 Multi-Year Funding. There shall be a Fiscal Audit completed for each year of this Agreement. Each annual Fiscal Audit shall become due within sixty (60) days after the anniversary date of the Date of this Agreement. The final Fiscal Audit shall become due within sixty (60) days after the end of the term of the Agreement or the date of termination of this Agreement, whichever occurs earlier. CONTRACTOR and ADMINISTRATOR may mutually agree in writing to extend the date by which each Fiscal Audit is due.

14.1.2 Retention Amount. Upon successful completion of each Fiscal Audit, ADMINISTRATOR shall release the applicable Retention Amount.

14.1.3 Scope of CPA Opinion for Fiscal Audit. CONTRACTOR shall require the CPA who completes each Fiscal Audit to provide an unqualified professional written opinion that states whether the invoices for payment submitted by CONTRACTOR under this Agreement were for actual and reasonably necessary costs and expenses to pay for work performed or goods purchased pursuant to the terms and conditions of this Agreement and whether the indirect cost rate applied to staffing for invoices submitted and paid, if any, is in accordance with the requirements of Subparagraph 15.5. CONTRACTOR shall ensure that corrective action is taken with respect to audit exceptions for lack of internal controls or adequate procedures noted in the Fiscal Audit within six (6) months after issuance of the applicable Fiscal Audit report.

14.2 Retention Amount Withheld Pending Timely and Successful Completion of Each Fiscal Audit. The Retention Amount shall be withheld pending timely and successful completion of each Fiscal Audit described in this Paragraph 14.

14.3 Other and Additional Auditing Authority—Retention of Rights to Audit Performance under Agreement. COMMISSION and ADMINISTRATOR and their authorized representatives, and First 5 California and any of its authorized representatives, (collectively “Representatives”), reserve all rights and shall have access to any books, documents, papers and records, including medical records, of CONTRACTOR and any Subcontractor performing Services under this Agreement for the purpose of financial monitoring or auditing conducted by an independent CPA concerning CONTRACTOR’s and Subcontractors’ performance under this Agreement. The Representatives have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed under this Agreement and the premises in which it is being performed.

14.4 Availability of Records for Auditing Purposes. In the event that CONTRACTOR’s corporate headquarters and its financial records are located outside the borders of Orange County, California, then CONTRACTOR shall make available its books and financial records within the borders of Orange County within ten (10) days after receipt of written demand by ADMINISTRATOR for any audit purposes under this Agreement. All CONTRACTOR’s books of accounts and records related and applicable to any costs of Services, client fees, charges, billings, and revenues received directly or indirectly related to the Services shall be made available at one (1) location within the limits of the County of Orange. All records specified in this Subparagraph 14.4 and maintained pursuant to the terms of this Agreement shall be made available, after appropriate advance notice and during the party’s normal business hours, to designated representatives of the Auditor General of the State of California; First 5 California, an entity independent of the State of California; COMMISSION, an

entity independent from the County of Orange, and any other entities as required by state statute or court order. In the event CONTRACTOR does not make available its books and financial records for the Services within the borders of Orange County for the Fiscal Audit, CONTRACTOR agrees to pay all necessary and reasonable expenses incurred by COMMISSION, ADMINISTRATOR, or their designee necessary to obtain, review, and audit CONTRACTOR's books and financial records.

14.5 Monitoring. COMMISSION, ADMINISTRATOR, and First 5 California, and respective representatives, are authorized to conduct on-site monitoring at their discretion during reasonable times, including unannounced on-site monitoring as elected in the Exhibits. Monitoring activities may also include, but are not limited to, questioning employees, volunteers, and participants for the subject Services and entering any premises or any site in which any of the Services funded by this Agreement are conducted or in which any of the records of CONTRACTOR or any Subcontractor are kept. Nothing in this Agreement shall be construed to require access to any privileged or confidential information as set forth in federal or state law.

14.6 Compliance with Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. If CONTRACTOR receives federal funding under this Agreement, CONTRACTOR shall comply with 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. CONTRACTOR shall employ a licensed certified public accountant who shall prepare and file with ADMINISTRATOR an annual organization-wide audit of related expenditures during the term of this Agreement in compliance with the Audit requirements in 2 CFR Part 200.500, *et seq.* The audit must be performed in accordance with generally accepted government auditing standards and 2 CFR Part 200.500, *et seq.*

15. MAXIMUM PAYMENT OBLIGATION. The "Maximum Payment Obligation" of COMMISSION to CONTRACTOR under this Agreement shall be Three Hundred Ninety-Seven Thousand Two Hundred Dollars (\$397,200) or the actual reasonable cost incurred and paid for performance of the Services, whichever is less.

15.1 Multi-Year Contracts. For multi-year contracts, the Maximum Payment Obligation for each period shall be as follows:

15.1.1 The Maximum Payment Obligation of COMMISSION to CONTRACTOR for the services to be provided for the period July 1, 2020 through June 30, 2021 shall be \$129,400.

15.1.2 The Maximum Payment Obligation of COMMISSION to CONTRACTOR for the services to be provided for the period July 1, 2021 through June 30, 2022 shall be \$129,400.

15.1.3 The Maximum Payment Obligation of COMMISSION to CONTRACTOR for the services to be provided for the period July 1, 2022 through June 30, 2023 shall be \$129,400.

15.1.4 The Maximum Payment Obligation of COMMISSION to CONTRACTOR for EDI services to be provided for the period July 1, 2020 through June 30, 2023 shall be \$9,000.

15.2 Initial Payment. ADMINISTRATOR may, in his or her sole discretion, make an initial payment to CONTRACTOR in an amount not to exceed 8.33% per year of COMMISSION's Maximum Payment Obligation described in Paragraph 15 above, upon receipt of a written request(s) by CONTRACTOR, which request(s) shall be accompanied by the justification as ADMINISTRATOR may require. ADMINISTRATOR may approve subsequent requests for initial payment not to exceed

twenty-five percent (25%) of any budget period, contingent upon CONTRACTOR having repaid all prior initial payment amounts in any prior budget period. The initial payment is intended to cover initial costs that are estimated to have been incurred or are expected to be incurred in the performance of Services by CONTRACTOR. ADMINISTRATOR may, in his or her sole discretion, deduct the initial payment(s) from any one or more subsequent payments owed to CONTRACTOR during the term of this Agreement. If, at the end of the term of this Agreement, there is any balance of the initial payment not deducted from subsequent payment requests, CONTRACTOR shall owe and shall immediately refund said monies to COMMISSION.

15.3 Provisional Payment. At ADMINISTRATOR's sole discretion, CONTRACTOR may submit an invoice prior to the beginning of the mutually agreed upon billing period to perform the Services required by this Agreement, and COMMISSION shall pay CONTRACTOR's provisional payment invoice within a reasonable period of time estimated to be thirty (30) days after receipt of a correctly completed invoice. CONTRACTOR shall submit to ADMINISTRATOR a reconciliation of actual costs incurred during the billing period covered by the provisional payment no later than ninety (90) days after the provisional payment invoice is submitted or within thirty (30) days of the end date of this Agreement, whichever occurs earlier. Any overpayment resulting from a Provisional Payment(s) and subsequent reconciliation of actual cost incurred for the period shall be deducted from subsequent invoices submitted by CONTRACTOR or repaid by CONTRACTOR to COMMISSION in accordance with the provisions of Paragraph 16 below.

15.4 Billing/Payment Interval. COMMISSION shall pay CONTRACTOR invoice payments monthly or quarterly in arrears, at ADMINISTRATOR's sole discretion, as specified in Exhibit A, for actual reasonable costs incurred and paid by CONTRACTOR to perform the Services required by this Agreement in accordance with the amounts and categories specified in the Project Budget, Exhibit B, for the Services; provided, however, that payments for each line item shall not exceed the amount specified, and ADMINISTRATOR may approve adjustments of the amount set forth within each line item, so long as the total of all amounts within all line items, as adjusted, shall not exceed COMMISSION's Maximum Payment Obligation. Notwithstanding the monthly or quarterly invoice payments and exclusive of the initial payment or the provisional payment, if any, an amount equal to ten percent (10%) of each monthly or quarterly invoice shall be withheld by COMMISSION through ADMINISTRATOR as the Retention Amount (defined in Subparagraph 15.8 below) pending the timely and successful completion of each Fiscal Audit as described above in Paragraph 14. The total of all invoice payments and provisional payments shall not exceed COMMISSION's Maximum Payment Obligation.

15.5 Indirect Cost Rate. Notwithstanding anything to the contrary, CONTRACTOR's indirect cost rate shall in no event exceed ten percent (10%) of the applicable funding under this Agreement. CONTRACTOR and ADMINISTRATOR may mutually agree to an annual increase or decrease of the indirect cost rate listed in Exhibit B (Budget) to this Agreement based on a review of the State of California Department of Education independently assigned indirect cost rate(s), provided that COMMISSION's Maximum Payment Obligation in this Agreement does not increase as a result.

15.6 Facilities/Lease Costs. In the event that CONTRACTOR has an ownership interest in real property where Services are to be provided under this Agreement, CONTRACTOR shall only be entitled to the proportionate share of depreciation of the improvements at the rate of no more than four percent (4%) each year plus the proportionate share of real property taxes and maintenance.

15.7 Invoices. CONTRACTOR shall submit completed invoices monthly or quarterly upon a form approved or supplied by ADMINISTRATOR.

15.7.1 Each monthly or quarterly invoice shall be submitted with an express written certification by CONTRACTOR representing and affirming to COMMISSION the following:

(a) CONTRACTOR has and maintains accurate records evidencing the requested monthly or quarterly payment, including, without limitation, the following: (1) original invoice(s), (2) original or true copies of source documents including, *inter alia*, statement of work performed, itemized on a monthly basis, general ledgers, supporting journals, time sheets, invoices, canceled checks (if received), or bank statements, receipts, and receiving records, and (3) originals or true copies of other receipts, agreement(s), or other documentation supporting and evidencing how the funds have been expended during the applicable quarter; provided, however, for the first monthly or quarterly payment, ADMINISTRATOR, in his or her sole discretion, may consider and approve an invoice from CONTRACTOR that includes reimbursement of CONTRACTOR expenses incurred prior to the Date of Agreement, as more fully set forth in the Project Budget, Exhibit B; and

(b) the Services provided during the preceding quarter (or other period for which payment is requested) have not and do not supplant existing services but in fact enhance or establish new services to Orange County's prenatal through age five children.

15.7.2 CONTRACTOR shall maintain, at CONTRACTOR's facility, source documentation for all invoices including, but not limited to, ledgers, journals, time sheets, invoices, bank statements, canceled checks, receipts, receiving records, and records of services provided.

15.7.3 COMMISSION shall exercise reasonable efforts to cause the monthly or quarterly installment payments to be released within a reasonable time period from submittal of a complete invoice and current compliance with reporting obligations of Paragraph 19, approximately thirty (30) days after receipt of the invoice.

15.8 Retention Amount. CONTRACTOR expressly acknowledges and agrees that an amount equal to ten percent (10%) of each quarterly invoice attributable and allocable to Services ("Retention Amount") may be withheld by COMMISSION through ADMINISTRATOR pending the timely and successful completion and performance of each Fiscal Audit for the Services as described in Paragraph 14. At ADMINISTRATOR's sole discretion, in place of an amount equal to ten percent (10%), CONTRACTOR's entire final monthly or quarterly invoice in each fiscal year may be withheld as the Retention Amount pending the timely and successful completion and performance of each Fiscal Audit for the Services as described in Paragraph 14.

15.9 Final Invoice/Settlement. With the exception of the Retention Amount payment, any and all final invoices for Services must be received by ADMINISTRATOR no later than sixty (60) days after the end of the term of this Agreement or sixty (60) days from the date of the earlier termination of this Agreement. Invoices for Services received after this date and time may not be processed for payment or reimbursed. CONTRACTOR and ADMINISTRATOR may mutually agree in writing to modify the date upon which the final invoice must be received.

15.10 Source of COMMISSION Funding. CONTRACTOR knowingly and expressly acknowledges and agrees that the sole source of funding provided and to be provided pursuant to this

Agreement is and shall only be from monies allocated, received, and available to COMMISSION from the surcharges, taxes, and revenues collected and allocated to COMMISSION through the provisions of the Act, unless otherwise expressly stated in Exhibit A. To the extent, if at all, any or all provisions of the Act are found invalid, stayed, tolled, or are modified by litigation, subsequent initiative, or legislation, and the funding provided for under this Agreement is affected, then COMMISSION is and shall be relieved of obligations under this Agreement, or this Agreement shall be modified or amended to conform to the changes to the Act, as elected by COMMISSION. If COMMISSION is not allocated or does not receive adequate funding for its performance under this Agreement, then COMMISSION shall be relieved of obligations under this Agreement, or this Agreement shall be amended to conform to the changes, in funding allocations or changes to the Act, as elected by COMMISSION.

15.11 Leveraging Funds. For program sustainability, CONTRACTOR shall make all reasonable efforts to secure State of California or federal funds including, but not limited to, certain State of California programs known to both parties as County-based Medi-Cal Administrative Activities (CMAA) and Targeted Case Management (TCM) where COMMISSION funds may be properly identified and used as a required eligible funding source to draw down such other funds. CONTRACTOR agrees that funds from this Agreement shall be used to perform CMAA and TCM claimable activities and that state and federal funds received, including funds received outside the term of this Agreement, as the direct result of its leveraging efforts shall be used for sustainability of and be reinvested in CONTRACTOR's COMMISSION funded programs. In order to receive CMAA or TCM funds, CONTRACTOR shall sign and maintain an agreement for the provision of CMAA or TCM Services with the County of Orange Health Care Agency and comply with all County contracting requirements. CONTRACTOR shall not use COMMISSION funds identified as a match for another funding source for the purposes of drawing down CMAA or TCM funds. This covenant shall survive the termination or expiration of this Agreement and shall be actionable at law or in equity by COMMISSION against CONTRACTOR and its successors in interest.

15.12 PROGRAM FEES

15.12.1 The parties agree that the following guidelines apply in the event fees of any amount are charged by CONTRACTOR to COMMISSION's target population of Orange County's children ages prenatal to five years and their families ("Program Participants") for any service(s) provided under this Agreement.

15.12.2 CONTRACTOR shall not charge fees to COMMISSION's Program Participants prior to obtaining ADMINISTRATOR's acknowledgement in writing.

15.12.3 CONTRACTOR shall advise each COMMISSION Program Participant that fees may be charged and shall notify the Program Participant of any such fees prior to rendering services.

15.12.4 CONTRACTOR shall advise each COMMISSION Program Participant that all fees will be waived if the Program Participant indicates an inability to pay and CONTRACTOR shall waive all fees if the Program Participant is unable to pay.

15.12.5 CONTRACTOR shall not deny services to any COMMISSION Program Participant for any reason, including Program Participant's inability to pay for services.

15.12.6 A full accounting of all fees charged and collected shall be documented by CONTRACTOR and shall be provided to ADMINISTRATOR upon request. At no time is CONTRACTOR permitted to collect fees for any purpose other than to continually provide services identified in this Agreement.

15.12.7 All fees collected shall be fully accounted for and included in CONTRACTOR's Fiscal Audit as described in Paragraph 14.1 of this Agreement.

16. OVERPAYMENTS. Any payment(s) made by COMMISSION to CONTRACTOR in excess of that to which CONTRACTOR is entitled under this Agreement shall be immediately due to COMMISSION and repaid by CONTRACTOR. CONTRACTOR shall make repayment on any overpayment within thirty (30) days of COMMISSION's request. CONTRACTOR agrees to pay all fees and costs, including attorneys' fees, incurred by COMMISSION necessary to enforce the provisions set forth in this Agreement.

16.1 Offset Permitted. In the event an overpayment has been made or exists, ADMINISTRATOR may reconcile and offset the amount of the overpayment against the next installment payment due or against the final invoice amount due and to be paid, as elected in the sole discretion of ADMINISTRATOR. In the event the overpayment exceeds the final payment, the amount is immediately due and payable, and CONTRACTOR shall pay COMMISSION the sum within five (5) days of written notice from ADMINISTRATOR. Nothing in this Agreement shall be construed as limiting the remedies of COMMISSION in the event that an overpayment has been made.

16.2 Offset Permitted under Subsequent Renewal or Other Pending Contract. COMMISSION's Strategic Plan is implemented through funding of various initiatives and certain contractors/funding recipients are and have been awarded multiple or renewed funding for services related to or comparable to the Services provided under this Agreement. CONTRACTOR agrees that if this Agreement is either (i) a renewal contract related to prior funding to CONTRACTOR for services comparable to the Services, or (ii) CONTRACTOR has one or more other contracts pending with COMMISSION with a term or terms concurrent in whole or in part with this Agreement, then in the event an overpayment has been made or exists under this Agreement ADMINISTRATOR may reconcile and offset the amount of the overpayment against monies payable under the renewal contract or other contract pending with COMMISSION.

17. RECORDS

17.1 Maintain Complete Books and Records. CONTRACTOR shall keep the books and records as shall be necessary relating to the Services so as to enable ADMINISTRATOR to evaluate the cost and the performance under this Agreement. Books and records pertaining to costs shall be kept and prepared in accordance with Generally Accepted Accounting Principles (GAAP). ADMINISTRATOR, COMMISSION, and their staff, general legal counsel, and other COMMISSION consultants, as approved by ADMINISTRATOR, shall have full and free access to all books and records of CONTRACTOR and any Subcontractor arising out of this Agreement, at all reasonable times, including the right to inspect, copy, audit, and make records and transcripts from the records.

17.1.1 CONTRACTOR shall prepare and maintain accurate and complete financial records of its business operations and in particular all records related to the Services. Financial records shall be retained by CONTRACTOR for a minimum of three (3) years from the date of payment on

the final invoice submitted by CONTRACTOR to ADMINISTRATOR under this Agreement or three (3) years after all pending audits are completed, whichever is *later*.

17.2 Separation of Accounts. All funds received by CONTRACTOR from COMMISSION pursuant to this Agreement shall be maintained in an account in a federally insured banking or savings and loan institution with record keeping of the accounts maintained pursuant to reasonable and prudent business practices. CONTRACTOR is not required to maintain separate depository accounts for funds; provided however, CONTRACTOR must be able to account for receipt, obligation, and expenditure of all COMMISSION funds.

17.3 Form of Records. CONTRACTOR may retain records in any reasonable and customary format as mutually determined in writing between CONTRACTOR and ADMINISTRATOR. The following forms of records are acceptable and pre-approved between the parties:

- (a) original hard copies;
- (b) information may be saved/retained electronically in a readily retrievable basis through a Microsoft Word™ 2007 or comparable or compatible format in accordance and consistent with standard business practices, customs, and records retention procedures of businesses in Orange County, California;
- (c) financial data and other spreadsheet information may be saved/retained electronically in a readily retrievable basis through a Microsoft Excel™ or comparable or compatible format in accordance and consistent with standard business practices, customs, and records retention procedures of businesses in Orange County, California; or
- (d) other technology for maintaining and transmitting records as approved in advance by ADMINISTRATOR.

17.4 Release of Records. The records of Services, data, surveys, drawings, specifications, reports, records, documents, evaluation reports, and other materials prepared by CONTRACTOR in the performance of this Agreement shall not be released publicly without the prior written approval of ADMINISTRATOR or as required by law. CONTRACTOR shall not disclose any information regarding the activities of COMMISSION, except as required by law or as authorized by ADMINISTRATOR.

17.5 Ownership of Records. Specialized methodology, formulae, software programs of CONTRACTOR and other intellectual processes which have been specifically designed and developed by CONTRACTOR and which were not funded by or assisted in the development by COMMISSION or its agents which shall be deemed proprietary in nature and shall be and remain the proprietary property of CONTRACTOR. All other documents, information, software, and intellectual property and records, including, without limitation, the originals of all drawings, specifications, reports, records, data, surveys, documents, and other materials, whether in hard copy or electronic form, which are prepared by CONTRACTOR, its employees, Subcontractors, or agents in the performance of this Agreement, are and shall remain the property of COMMISSION and shall be delivered to ADMINISTRATOR, as appropriate, upon the termination of this Agreement or upon the earlier request of ADMINISTRATOR. CONTRACTOR shall have no right to further contracts, additional

employment or employees, or additional compensation of whatever kind or nature as a result of the exercise by COMMISSION of its full rights of ownership of the documents and materials under this Agreement. CONTRACTOR may retain copies of the documents and materials for its own use, but shall not enter into any contract or license for use or for payment of the documents. CONTRACTOR shall cause each Subcontractor to assign to COMMISSION any documents or materials prepared by it. In the event CONTRACTOR fails to secure the assignment, CONTRACTOR shall indemnify COMMISSION for all damages suffered by the failure to obtain the assignment. COMMISSION agrees that, if necessary, it will undertake reasonable and appropriate steps to maintain the proprietary nature of CONTRACTOR's proprietary property, except as may be required by applicable laws.

17.6 Inspection and Access to Records. ADMINISTRATOR and any authorized COMMISSION representatives, any authorized representatives of the State of California, and any authorized representatives of First 5 California shall have access to CONTRACTOR's records for the purpose of monitoring performance and provision of the Services pursuant to this Agreement. CONTRACTOR shall make available its records within the borders of Orange County within ten (10) days after receipt of written demand by ADMINISTRATOR. In the event CONTRACTOR does not make available its records within the borders of Orange County, CONTRACTOR agrees to pay all necessary and reasonable direct and indirect expenses incurred by COMMISSION or COMMISSION's designee(s) necessary to obtain CONTRACTOR's records.

18. PATENT AND COPYRIGHT INFRINGEMENT.

18.1 In lieu of any other warranty by COMMISSION or CONTRACTOR against patent or copyright infringement, statutory or otherwise, it is agreed that CONTRACTOR shall defend at its expense any claim or suit against COMMISSION on account of any allegation that any item furnished under this Agreement or the normal use or sale thereof arising out of the performance of this Agreement, infringes upon any presently existing U. S. letters patent or copyright, and CONTRACTOR shall pay all costs and damages finally awarded in any such suit or claim, provided that CONTRACTOR is promptly notified in writing of the suit or claim and given authority, information, and assistance at CONTRACTOR's expense for the defense of same. CONTRACTOR will not indemnify COMMISSION if the suit or claim results from: (1) COMMISSION's alteration of a deliverable, such that said deliverable in its altered form infringes upon any presently existing U.S. letters patent or copyright; or (2) the use of a deliverable in combination with other material not provided by CONTRACTOR when such use in combination infringes upon an existing U.S. letters patent or copyright.

18.2 CONTRACTOR shall have sole control of the defense of any such claim or suit and all negotiations for settlement thereof. CONTRACTOR shall not be obligated to indemnify COMMISSION under any settlement made without CONTRACTOR's consent or in the event COMMISSION fails to cooperate fully in the defense of any suit or claim, provided, however, that said defense shall be at CONTRACTOR's expense. If the use or sale of said item is enjoined as a result of such suit or claim, CONTRACTOR, at no expense to COMMISSION, shall obtain for COMMISSION the right to use and sell said item, or shall substitute an equivalent item acceptable to COMMISSION and extend this patent and copyright indemnity thereto.

19. CONTRACTOR OBLIGATION TO PROVIDE DATA FOR COMMISSION'S EVALUATION AND CONTRACTS MANAGEMENT SYSTEM.

19.1 Evaluation and Contracts Management System. Services under this Agreement include tracking service data related to client outcomes about Orange County children from prenatal through age five in furtherance of the goals and objectives of COMMISSION's Strategic Plan adopted pursuant to the Act. CONTRACTOR acknowledges and agrees that as a part of the integrated data structure of the evaluation and contract management system in its performance under this Agreement, there may be individual client-shared core data elements. It is the responsibility of each funding recipient, including CONTRACTOR, to participate in the evaluation and contract management system using the COMMISSION Confidentiality and Data Sharing Protocol. CONTRACTOR agrees it shall cooperate with COMMISSION, ADMINISTRATOR, and COMMISSION's designated contractor/consultant for its evaluation and contract management system and other information technology contractors; it shall provide data to COMMISSION's designated contractor/consultant for its evaluation and contract management system; and it shall utilize the evaluation and contract management system, or other data system, as elected by COMMISSION and its ADMINISTRATOR in their sole discretion, for reporting data related to or created by the Services provided under this Agreement in order for COMMISSION to track, analyze, and evaluate all services provided by CONTRACTOR and each and all of COMMISSION's funding recipients. The level of participation with the evaluation and contract management system required by CONTRACTOR shall be determined by ADMINISTRATOR.

19.1.1 CONTRACTOR acknowledges and agrees that as a part of the integrated data structure of the evaluation and contract management system in its performance under this Agreement, there shall be project-level reporting to COMMISSION with respect to CONTRACTOR's work plan through the evaluation and contract management system's Administrative Management Module ("AMM"), and, in some instances, through the evaluation and contract management system's Client Level Data Module ("CLDM"), as set forth in the Work Plan, Exhibit A-1. CONTRACTOR agrees to participate in AMM, and, if applicable to the Services to CLDM, and to cooperate with COMMISSION, ADMINISTRATOR, and COMMISSION's designated contractor/consultant for its evaluation and contract management system and other information technology contractors. CONTRACTOR shall provide data to COMMISSION's designated contractor/consultant for its evaluation and contract management system, utilize the AMM, and, if applicable, provide data of Services to CLDM, for reporting data related to or created by the Services provided under this Agreement in order for COMMISSION to track, analyze, and evaluate all Services provided by CONTRACTOR and each and all of COMMISSION's funding recipients.

19.2 Confidentiality. Nothing in the above provisions relating to collection and reporting to the evaluation and contracts management system shall require CONTRACTOR to release or disclose confidential health data or other patient identification which is expressly protected from disclosure by applicable federal and state laws; provided however, any applicable exception set forth in applicable federal or state laws which permits disclosure by CONTRACTOR to COMMISSION of health or other data shall require disclosure by CONTRACTOR to COMMISSION and ADMINISTRATOR in order to input to the evaluation and contracts management system.

20. OWNERSHIP OF INTELLECTUAL PROPERTY RIGHTS. To the extent any intellectual property, tangible or intangible, is developed, created, or modified with the monies provided by COMMISSION under this Agreement, or is otherwise separately funded by COMMISSION under other projects, programs, contracts, or agreements and utilized by CONTRACTOR under this Agreement, COMMISSION does and shall own all right, title and interest (including patent rights, copyrights, trade secret rights, and other intellectual property rights throughout

the world) relating to any and all the inventions (whether or not patentable), works of authorship, designs, know-how, ideas, and information made or conceived or reduced to practice, in whole or in part, by CONTRACTOR pursuant to the scope of Services provided by CONTRACTOR to COMMISSION under this Agreement (collectively the "Inventions"). CONTRACTOR agrees it shall promptly disclose all Inventions to COMMISSION. CONTRACTOR agrees to make all assignments and execute the legal documents necessary to accomplish the ownership and control for the benefit of COMMISSION. CONTRACTOR shall further assist COMMISSION, at COMMISSION's expense, to further evidence, record, and perfect the assignments and documentation, and to perfect, obtain, maintain, enforce, and defend any rights relating to the Inventions. CONTRACTOR irrevocably designates and appoints COMMISSION as its agent to lawfully perfect ownership and control of the Inventions (and if legally required for force and effect in order to perfect the ownership and control of the Inventions as its attorney-in-fact). As agent, COMMISSION may act for and on CONTRACTOR's behalf to execute and file any document and to do all other lawfully permitted and required acts to effect the ownership and control of the Inventions. If CONTRACTOR uses, provides, or discloses any of the Inventions when acting within the scope of CONTRACTOR's performance of Services or otherwise on behalf of COMMISSION, COMMISSION will have and CONTRACTOR grants COMMISSION a perpetual, irrevocable, worldwide royalty-free, non-exclusive, sublicensable right and license to exercise all rights to the Inventions.

21. COPYRIGHT ACCESS. COMMISSION, the County of Orange, the State of California, and First 5 California shall have a royalty-free, nonexclusive, and irrevocable license to publish, translate, or use all material and work product (both tangible and intangible), if any, developed under this Agreement including those materials covered by copyright.

22. NOTICES

22.1 Method and Form of Notice. Unless otherwise specified, all formal notices, invoices, claims, correspondence, or reports shall be addressed as follows:

COMMISSION: **Children and Families Commission of Orange County**
Contracts Manager
1505 E. 17th Street, Suite 230
Santa Ana, CA 92705

CONTRACTOR: See Exhibit A

All notices shall be deemed effective when in writing and personally delivered or deposited in the United States mail, express, priority, or first class, postage prepaid and addressed as above. ADMINISTRATOR and CONTRACTOR may mutually agree in writing to change the addresses to which notices are sent.

22.2 Advisory Notices Required. Notwithstanding the provisions of this Agreement relating to Claims, CONTRACTOR shall notify COMMISSION, in writing, within twenty-four (24) hours of becoming aware of any occurrence of a serious nature which may expose COMMISSION to liability. These occurrences shall include, but not be limited to, accidents, injuries, or acts of negligence, or loss or damage to any COMMISSION property in possession of CONTRACTOR.

23. RIGHTS OF TERMINATION

23.1 Termination for Convenience Prior to Expiration of Term.

23.1.1 COMMISSION may terminate this Agreement for its convenience at any time upon fifteen (15) days' written notice to CONTRACTOR. Upon receipt of a notice of termination for convenience, CONTRACTOR shall immediately cease performance under this Agreement, including all Services, except the Services that may be specifically approved by ADMINISTRATOR. CONTRACTOR shall be entitled to compensation for that part of the Services rendered prior to receipt of the notice of termination and for the part of the Services authorized by ADMINISTRATOR after the notice in accordance with the Project Budget, Exhibit B, or other arrangement for compensation as may be approved by the ADMINISTRATOR in writing.

23.2 Termination for Cause Due to Default of CONTRACTOR. COMMISSION reserves the express right to terminate this Agreement for cause due to the default, as defined in Paragraph 24, by CONTRACTOR in its performance obligations under this Agreement. In the event of termination, CONTRACTOR shall immediately cease performance and provision of Services as of the date the notice of default is received or deemed received, whichever occurs earlier. COMMISSION may take over the work and prosecute the same to completion by contract or otherwise. CONTRACTOR shall be liable to the extent that the total cost for completion of the Services required by this Agreement exceeds the compensation stipulated in this Agreement, provided that COMMISSION shall use reasonable efforts to mitigate damages. COMMISSION expressly reserves the right to withhold any outstanding payments to CONTRACTOR for the purpose of set off or partial payment of the amounts owed COMMISSION as previously set forth in this Agreement.

24. DEFAULT

24.1 Default by CONTRACTOR. Failure by CONTRACTOR to perform or comply with any provision, covenant, or condition of this Agreement shall be a default of this Agreement. In addition to immediate termination as set forth above in Paragraph 23.2 and any other remedies available at law, in equity, or otherwise specified in this Agreement, ADMINISTRATOR, in his or her sole discretion, may elect any or all of the following:

24.1.1 Afford CONTRACTOR a time period of fifteen (15) days from the date notice is mailed to cure the default, or to commence to cure the breach and diligently pursue to completion the cure of the breach within thirty (30) days of date notice is mailed;

24.1.2 Discontinue payment and eligibility for payment to CONTRACTOR for and during the period in which CONTRACTOR is in breach, which payment may not be entitled to later recovery;

24.1.3 Offset against any funds invoiced by CONTRACTOR but yet unpaid by COMMISSION those monies disallowed pursuant to the above offset authority; and

24.1.4 Withhold from any monies payable to CONTRACTOR sufficient funds to compensate COMMISSION for any losses, costs, liabilities, or damages it reasonably believes were suffered by or have been incurred by COMMISSION due to the default of CONTRACTOR in the performance of the Services required by this Agreement.

25. REVERSION OF ASSETS

25.1 Unencumbered or Unexpended Funds. Upon the termination or expiration of the term of this Agreement, CONTRACTOR shall transfer to COMMISSION any unexpended and unencumbered COMMISSION funds on hand at the time of the termination or expiration and any accounts receivable attributable to the use of subject funds.

25.2 Real or Personal Property Assets. Any real property or moveable or immovable personal property under CONTRACTOR's control or ownership that was acquired or improved in whole or in part with COMMISSION funds disbursed under this Agreement, the original cost of the property exceeded five thousand dollars (\$5,000) shall either be, at the election of ADMINISTRATOR: (1) used by CONTRACTOR for the Services or comparable services meeting the purposes of the Act and Strategic Plan for a period of five (5) years after termination or expiration of this Agreement, unless a longer period is specified in the Project Summary, Exhibit A; or (2) disposed of and proceeds paid to COMMISSION in a manner that results in COMMISSION being reimbursed in the amount of the fair market value at the time of termination or expiration of this Agreement (assuming depreciation in accordance with customary business practices) of the real or personal property less any portion of the value attributable to CONTRACTOR's out of pocket expenditures using non-COMMISSION funds for acquisition of, or improvements to, the real or personal property and less any direct and reasonable costs of disposition, including a reasonable and customary broker's fee incurred in listing and completion of sale of the asset.

25.2.1 In furtherance of the above provisions, if ADMINISTRATOR selects continued use of the capital asset, then CONTRACTOR agrees that it shall be subject to an ongoing operating and use covenant relating to the subject real or personal property. This covenant shall survive the termination or expiration of this Agreement and shall be actionable at law or in equity by COMMISSION against CONTRACTOR and its successors in interest.

25.2.2 In the event ADMINISTRATOR selects disposition of the subject real or personal property, then CONTRACTOR shall exercise due diligence to dispose of the property in conformity with applicable laws and regulations and in accordance with customary business practices. The net proceeds of the disposition shall be disbursed directly to and be payable to COMMISSION upon the close of the applicable disposition transaction, such as close of escrow for the sale of real property, transfer of motor vehicle "pink slip" in accordance with applicable California Vehicle Code requirements, or completion of sale of personal property by bill of sale in accordance with UCC requirements.

26. COUNTERPARTS. This Agreement may be executed in several counterparts, all of which shall constitute but one and the same instrument. Faxed or electronically scanned signatures shall have the same force and effect as an original signature.

27. FORCE MAJEURE

Either party shall be excused from performing its obligations under this Agreement during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood; acts of God; commandeering of material, products, plants or facilities by the federal, state or local government; national fuel shortage; or a material act or omission by the other party; when satisfactory evidence of such cause is presented to

the other party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the party not performing.

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IN WITNESS WHEREOF, COMMISSION and CONTRACTOR have caused this Agreement to be effective in the County of Orange, State of California, on the date first above written.

COMMISSION

**CHILDREN AND FAMILIES
COMMISSION OF ORANGE COUNTY,**
a public body and legal public entity

Dated: _____

By: _____
Chair

SIGNED AND CERTIFIED THAT A COPY
OF THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIR OF COMMISSION

By: _____
Robin Stieler
Clerk of the Commission

Dated: _____

APPROVED AS TO FORM:

WOODRUFF, SPRADLIN & SMART

By: _____
James M. Donich, Commission Counsel

[Signature block for CONTRACTOR on next page.]

[Signature block continued from previous page.]

CONTRACTOR

FOUNTAIN VALLEY SCHOOL DISTRICT, a
California public school district, organized and
existing under the laws of the State of California

Dated: _____

By: _____
Steve McLaughlin, Assistant Superintendent

EXHIBIT A
PROJECT SUMMARY
FOUNTAIN VALLEY SCHOOL DISTRICT
Agreement # FCI-SD4-07
Kindergarten Readiness Initiative (KRI)
Term: July 1, 2020 through June 30, 2023

1. FUNDING RECIPIENT

Fountain Valley School District
a California Public School District
10055 Slater
Fountain Valley, CA 92708

Contact: Mona Green, Director Child Development, 714-962-4065, greenm@fvsd.us

Work Plan and Data Entry Contact: Jill Martin, Administrative Assistant, 714-962-4099, martinj@fvsd.us

Invoices/Documentation Contact: Isidro Guerra, Director Fiscal Services, 714-843-3200, guerrai@fvsd.us

Signatories: Steve McLaughlin, Assistant Superintendent, Educational Services 714-843-3200, mclaughlins@fvsd.us

2. BACKGROUND

The Commission has invested in school readiness since 2000 to provide early care and education opportunities to meet critically important early childhood development needs and maximize potential and success in school. Based on the updated First 5 Orange County Strategic Plan, the new scope of work for the Kindergarten Readiness Initiative focuses on the following strategic directions for early learning success: a formal early childhood leadership team, engaging neighborhoods, data and service delivery integration, and sustained early childhood and family services, all demonstrating the strategic use of EDI data for meaningful district planning and outreach.

3. PURPOSE AND SCOPE OF WORK

3.1 COMMITTED LEADERSHIP: Early Childhood Leadership Team

3.1.1 (ECLT1) Designate a District Early Childhood Leadership Team (ECLT). Name individuals from the following positions to participate on the Early Childhood Leadership Team: superintendent, assistant superintendent, or director, representatives from various departments and staff teams including, but not limited to: assessment and evaluation, early learning, educational services, fiscal services, health and wellness, human resources, and special education. Annually, provide an updated organizational chart that includes the Kindergarten Readiness Initiative (KRI) positions included, showing how early childhood (age 0-5) is structured and integrated within the District Administration.

3.1.2 (ECLT2) Using the Early Development Index (EDI) data, the ECLT will develop an Early Childhood Accountability Plan (ECAP) with annual and multi-year goals. The goals shall focus on children ages 0-5 the District serves and supports in a formalized setting such as part-day state preschool, full-day state preschool, fee for services, dual immersion, full inclusion between early learning and special education children, and other program services, as well as community early care providers as described in “Engaged Neighborhoods,” below.

3.1.3 (ECLT3) Include an early childhood presence on the District website, social media and communications materials that include the following: 1) a whole-child early childhood description (health and development, early learning, family resilience), 2) information on the EDI (with link to First 5 OC website), 3) information on how the District is integrating early childhood into their organizational system, and 4) include First 5 Orange County logo denoting partnership.

3.1.4 (ECLT4) Present EDI data, related ECAP and early childhood program information to an appropriate District leadership group (i.e., Cabinet or Board of Trustees, Principals and/or Leadership Teams, Multi-Tiered System of Support (MTSS) Team and/or other key leadership group).

3.1.5 (ECLT5) Share EDI data with school level teaching and administrative staff with the intention of school site teams using the data to inform the development of specific action plans, interventions, and supports for children and families.

3.1.6 Deliverables/Outcomes for Reporting

3.1.6.1 ECLT will develop, implement and be responsible for the Early Childhood Accountability Plan (ECAP).

3.1.6.2 Early childhood integration into the District system(s) including organizational charts, team meeting information, website and social media presence, ECAP goal actions, status updates, and evaluation reports.

3.1.6.3 Development of a District continuum of support for early childhood documented through the ECAP quarterly/annual updates, including, but not limited to, the following elements: learning links, Kid Builders, and other preschool resources, program development, professional learning and network development, fiscal support and sustainability actions, facility usage, staff and resource allocation, other actions and planning.

3.1.6.4 District’s ECAP demonstrates the use of EDI data to guide District in early childhood action planning and sharing of information within the District and parent learning community.

- EDI information included on the District website, social media and shared through displays in District print materials.
- EDI data presentation materials, meeting agendas, sign-in sheets, and other documentation from meetings with various groups (District, community, providers and parents).

3.2 ENGAGED NEIGHBORHOODS: Community and Parents Engagement

3.2.1 (EN1) Identify and engage targeted community early care and education providers (private, faith-based, family, friend and neighbor providers and alternative community settings) with early childhood education quality improvement programs and training.

3.2.2 (EN2) Identify and engage healthcare providers and community health promotion programs serving the largest proportion of ages 0 – 5 children residing in the District boundary to build awareness of kindergarten readiness programs and create linkage between District and community health resources.

3.2.3 (EN3) Identify and engage community family support providers (Family Resource Centers, Bridges Maternal Child Health Network, homeless prevention services, etc.) to build awareness of kindergarten readiness programs and create linkage between District and family support resources.

3.2.4 (EN4) Identify and document parent and community assets (where are parents already gathering, networking, advocating. ex: health clinics, preschools, childcare centers, parent & me classes, family resource centers) within District boundaries.

3.2.5 (EN5) Share EDI data with parents and community groups with the intention of creating a shared vision of improving early childhood outcomes as measured by the EDI. Working with nonprofits, community groups and parents to establish measurable objectives or actions to address community-identified priorities to improve outcomes.

3.2.6 (EN6) Increase small group parent engagement opportunities (provided separately from traditional parent education classes) by leveraging community assets to accomplish the following: present EDI data; educate on quality early learning experiences; provide comprehensive health and development information; and share wellness and family resilience resources.

3.2.7 (EN7) Link targeted children and families to quality early learning opportunities, health promotion resources, and family support services as well as linking these providers to each other.

3.2.8 (EN8) Align District resources to better address what is learned through the community engagement to improve outcomes for children and families.

3.2.9 Deliverables/Outcomes for Reporting

3.2.9.1 District's ECAP outlines strategies to engage with community providers to create linkages among and between early education, health, and family support systems:

- Identify and engage targeted community early care and education providers (private, faith-based, family friend and neighbor providers and alternative community settings).
- Identify and engage healthcare providers and community health promotion.
- Identify and engage family support providers and resources.

3.2.9.2 District's ECAP documents specific actions and activities that have taken place connecting within the local community and engaging parents.

3.2.9.3 District's ECAP reflects the use of EDI data to guide District in early childhood action planning and the sharing of information within the parent learning community and broader community as a whole.

3.3 CONNECTED SYSTEMS: Data and Service Delivery Integration

3.3.1 (CS1) Administer the Early Development Index (EDI) in every school in the District with one (1) kindergarten class within designated administration timelines during the term of the Agreement.

3.3.2 (CS2) Track preschools, organizations, and community locations for opportunities for outreach, strategic programming.

3.3.3 (CS3) Develop plan by June 30, 2023 to utilize online databases to link developmental screenings with the *OC Children's Screening Registry*.

3.3.4 (CS4) Explore and develop a plan to connect information systems and increase data-sharing by June 30, 2023.

Examples of connecting systems and increasing data sharing:

3.3.4.1 Utilize current early learning data points to longitudinally track District served children through 3rd and 5th grade (and beyond) achievement data.

3.3.4.2 Analyzing EDI data to provide targeted interventions in District operated preschools.

3.3.4.3 Providing community outreach related to outcomes data that will inform early learning providers about the status of children coming from their program.

3.3.4.4 Utilizing data regarding preschool enrollment to increase articulation between District and community programs in an effort to increase quality.

3.3.4.5 Deliverables/Outcomes for Reporting

- District's ECAP includes:
 - Planning for the usage of *OC Children's Screening Registry*.
 - Specific actions about data sharing and integration of early childhood data within District based on system capacity, structure and resources.
 - Administration of the EDI as required per Agreement.
 - Report on the number of children entering kindergarten with an early care or early learning experience (*e.g.*, participation in a District offered early learning program, or participation in an outside-of-District early learning program [including, but not limited to, private, faith-based, family, friend and neighbor providers, alternative community settings, Learning Link, other community offered programs]).

3.4 SUSTAINED SERVICES: Sustained Early Childhood and Family Services

3.4.1 (SS1) Document and monitor the outcomes of annual measureable goals related to early childhood programs over the multi-year agreement period in the ECAP quarterly and annual reports.

3.4.2 (SS2) Describe the existing systems and resources available within the District to support the delivery of services to children ages 0-5.

3.4.3 (SS3) Describe how the District will continue to meet the needs of the community for early childhood and family services provided over time.

3.4.4 (SS4) Describe how the District has or will maximize all fiscal leveraging opportunities to sustain early childhood services.

3.4.5 (SS5) Deliverables/Outcomes for Reporting District's ECAP includes:

- Document all early childhood and family sustained services.
- Documentation of leverage funding received, other than First 5 OC, and report of usage and outcomes of funding in ECAP annual updates.

4. ATTACHMENTS TO EXHIBIT B

4.1 Staffing

5. WAIVERS/AMENDMENTS TO AGREEMENT

None.

6. INVOICING/PAYMENT ELECTIONS

As of the Date of Agreement, the Parties mutually agree to the following invoicing/payment elections. Notwithstanding anything to the contrary and provided that any modifications to these elections do not alter the overall goals and basic purpose of the Agreement, and provided these modifications do not increase COMMISSION's Maximum Payment Obligation during the term of the Agreement, ADMINISTRATOR and CONTRACTOR may, in accordance with the authority described in Section 2.2 of this Agreement; make future modifications to the following invoicing/payment elections.

6.1 Initial Payment. The Parties do not anticipate an Initial Payment request as described in Paragraph 15.2 of this Agreement.

6.2 Billing/Payment Interval. The Parties agree that the interval for Billing and/or Payment for this Agreement as described in Paragraph 15.4 is quarterly.

6.3 Retention Timing. The Parties agree an amount equal to ten percent (10%) of each quarterly invoice attributable and allocable to Services ("Retention Amount") as described in Paragraph 15.8 shall be withheld by COMMISSION through ADMINISTRATOR pending the timely and successful completion and performance of each Fiscal Audit for the Services as described in Paragraph 14 of this Agreement.

EXHIBIT A-1
First 5 Orange County
Early Childhood Accountability Plan (ECAP) Quarterly Progress Report 2020-21

Date:	
Agency Name:	
Person Submitting Form/Title:	
Email:	
Phone:	
<div style="display: flex; justify-content: space-between;"><div><input type="checkbox"/> Q1 Due October 15th</div><div><input type="checkbox"/> Q2 Due January 15th</div><div><input type="checkbox"/> Q3 Due April 15th</div><div><input type="checkbox"/> Q4 Due July 15th</div></div>	

What have we accomplished that is noteworthy for this reporting period?

What lessons have we learned that we want to share?

Were there any mid-course corrections needed? If so, describe.

EXHIBIT A-1
First 5 Orange County
Early Childhood Accountability Plan (ECAP) Quarterly Progress Report 2020-21

COMMITTED LEADERSHIP:
Early Childhood Leadership Team

<p>ECAP Goal #1:</p> <p>Convene an Early Childhood Leadership Team that will develop an Early Childhood Accountability Plan (ECAP) with evidence of implementation and support.</p>	<p>Anticipated Outcomes for Goal #1:</p>
<p>Evidence/Measures of Progress Toward Meeting Goal #1: (Provide documentation of the current status and/or outcomes of progress toward meeting measurable goals related to the early childhood program in this reporting period.)</p>	

EXHIBIT A-1
First 5 Orange County
Early Childhood Accountability Plan (ECAP) Quarterly Progress Report 2020-21

COMMITTED LEADERSHIP:
Early Childhood Leadership Team

Action Steps <i>How is this activity relevant to the indicator?</i>	Responsible Person(s) <i>Who will provide oversight? Who implements the activity?</i>	First 5 OC funding <i>Will First 5 OC funded staff support this action? If so, indicate name of position(s)</i>	Timeline <i>What is the estimated completion date? Q1,Q2,Q3,Q4</i>	Technical Assistance <i>What resources are required? What support is needed?</i>

EXHIBIT A-1
First 5 Orange County
Early Childhood Accountability Plan (ECAP) Quarterly Progress Report 2020-21

ENGAGED NEIGHBORHOODS:
Community and Parent Engagement

<p>ECAP Goal #2:</p> <p>Engage with community providers, parent groups and individuals to support early learners.</p>	<p>Anticipated Outcomes for Goal #2:</p>
<p>Evidence/Measures of Progress Toward Meeting Goal #2: (Provide documentation of the current status and/or outcomes of progress toward meeting measurable goals related to the early childhood program in this reporting period.)</p>	

EXHIBIT A-1
First 5 Orange County
Early Childhood Accountability Plan (ECAP) Quarterly Progress Report 2020-21

ENGAGED NEIGHBORHOODS:
Community and Parent Engagement

Action Steps <i>How is this activity relevant to the indicator?</i>	Responsible Person(s) <i>Who will provide oversight?</i> <i>Who implements the activity?</i>	First 5 OC funding <i>Will First 5 OC funded staff support this action?</i> <i>If so, indicate name of position(s)</i>	Timeline <i>What is the estimated completion date?</i> <i>Q1, Q2, Q3, Q4</i>	Technical Assistance <i>What resources are required?</i> <i>What support is needed?</i>

EXHIBIT A-1
First 5 Orange County
Early Childhood Accountability Plan (ECAP) Quarterly Progress Report 2020-21

CONNECTED SYSTEMS:

Community Providers

<p>ECAP Goal #3:</p> <p>Engage with community providers to create linkages between early education, health and family support systems.</p>	<p>Anticipated Outcomes for Goal #3:</p>
<p>Evidence/Measures of Progress Toward Meeting Goal #3: (Provide documentation of the current status and/or outcomes of progress toward meeting measurable goals related to the early childhood program in this reporting period.)</p>	

EXHIBIT A-1
First 5 Orange County
Early Childhood Accountability Plan (ECAP) Quarterly Progress Report 2020-21

CONNECTED SYSTEMS:

Community Providers

Action Steps <i>How is this activity relevant to the indicator?</i>	Responsible Person(s) <i>Who will provide oversight?</i> <i>Who implements the activity?</i>	First 5 OC funding <i>Will First 5 OC funded staff support this action?</i> <i>If so, indicate name of position(s)</i>	Timeline <i>What is the estimated completion date?</i> <i>Q1, Q2, Q3, Q4</i>	Technical Assistance <i>What resources are required?</i> <i>What support is needed?</i>

EXHIBIT A-1
First 5 Orange County
Early Childhood Accountability Plan (ECAP) Quarterly Progress Report 2020-21

CONNECTED SYSTEMS:

Data and Service Delivery Integration

<p>ECAP Goal #4:</p> <p>Increase the use of data related to Kindergarten readiness, including EDI and other district data sources.</p>	<p>Anticipated Outcomes for Goal #4:</p>
<p>Evidence/Measures of Progress Toward Meeting Goal #4: (Provide documentation of the current status and/or outcomes of progress toward meeting measurable goals related to the early childhood program in this reporting period.)</p>	

EXHIBIT A-1
First 5 Orange County
Early Childhood Accountability Plan (ECAP) Quarterly Progress Report 2020-21

CONNECTED SYSTEMS:
Data and Service Delivery Integration

Action Steps <i>How is this activity relevant to the indicator?</i>	Responsible Person(s) <i>Who will provide oversight?</i> <i>Who implements the activity?</i>	First 5 OC funding <i>Will First 5 OC funded staff support this action?</i> <i>If so, indicate name of position(s)</i>	Timeline <i>What is the estimated completion date?</i> <i>Q1,Q2,Q3,Q4</i>	Technical Assistance <i>What resources are required?</i> <i>What support is needed?</i>

EXHIBIT A-1
First 5 Orange County
Early Childhood Accountability Plan (ECAP) Quarterly Progress Report 2020-21

SUSTAINED SERVICES:

Sustained Early Childhood and Family Services

<p>ECAP Goal #5:</p> <p>Develop and support goals, systems, and resources that sustain early childhood and family services.</p>	<p>Anticipated Outcomes for Goal #5:</p>
<p>Evidence/Measures of Progress Toward Meeting Goal #5: (Provide documentation of the current status and/or outcomes of progress toward meeting measurable goals related to the early childhood program in this reporting period.)</p>	

EXHIBIT A-1
First 5 Orange County
Early Childhood Accountability Plan (ECAP) Quarterly Progress Report 2020-21

SUSTAINED SERVICES:

Sustained Early Childhood and Family Services

Action Steps <i>How is this activity relevant to the indicator?</i>	Responsible Person(s) <i>Who will provide oversight?</i> <i>Who implements the activity?</i>	First 5 OC funding <i>Will First 5 OC funded staff support this action?</i> <i>If so, indicate name of position(s)</i>	Timeline <i>What is the estimated completion date?</i> <i>Q1, Q2, Q3, Q4</i>	Technical Assistance <i>What resources are required?</i> <i>What support is needed?</i>

EXHIBIT A-1
First 5 OC: Kindergarten Readiness Initiative (KRI)
Early Childhood Accountability Plan (ECAP) Annual Summary Report

Early Childhood Accountability Plan (ECAP) INSTRUCTIONS:

- Districts are expected to update progress on their First 5 OC ECAP Goals on a Quarterly basis with this Annual Summary Report being due each September reflecting on the previous school year.
- Quarterly First 5 OC ECAP Goal updates and periodic survey data submissions will generate the release of requested quarterly expenditures (via the invoice process).

District/LEA Name:	
Early Childhood Lead Representative Name:	
Early Childhood Lead Contact Information:	
Date of Quarterly Goal Update #1:	
Date of Quarterly Goal Update #2:	
Date of Quarterly Goal Update #3:	
Date of Quarterly Goal Update #4:	
Date of Annual Summary Report: (due each Sept.)	

Early Childhood Leadership Team (ECLT) Membership Roster

Name:	District Role/Job Title:
	Superintendent, Assistant Superintendent, and/or Director

EXHIBIT A-1
First 5 OC: Kindergarten Readiness Initiative (KRI)
Early Childhood Accountability Plan (ECAP) Annual Summary Report

	Early Childhood Lead Representative
	Business/Fiscal Services
	Educational/Instructional Services
	Human Resources/Personnel Services
	Health Services
	Special Education Services
	Additional Staff and/or Parent Community Representatives

EXHIBIT A-1
First 5 OC: Kindergarten Readiness Initiative (KRI)
Early Childhood Accountability Plan (ECAP) Annual Summary Report

Early Childhood Accountability Plan (ECAP) Annual Summary Report

Using your most recent Strategic Direction Self-Assessment Scale, <u>briefly</u> describe the current status of early childhood and early learning in the District (limited to 200 words):	
Describe how EDI data has been analyzed and utilized as an integrated part of District planning for early learners and been shared within the local learning and broader community.	
Describe how early childhood and early learning are referenced in your District Local Control Accountability Plan (LCAP).	

EXHIBIT A-1
First 5 OC: Kindergarten Readiness Initiative (KRI)
Early Childhood Accountability Plan (ECAP) Annual Summary Report

Describe the strategies used to identify and engage targeted community partners to create linkages between early care and education, health and family support systems.	
Describe how the district has made progress toward the planning for and/or utilization of the OC Children's Screening Registry.	
Describe how the district has made progress to explore and develop a plan to connect information systems and increase data-sharing.	
Describe the existing systems and resources available within the district and how the district will continue to support and to meet the needs of 0 – 5 services.	

EXHIBIT A-1
First 5 OC: Kindergarten Readiness Initiative (KRI)
Early Childhood Accountability Plan (ECAP) Annual Summary Report

<p>Describe how the District has currently, or will, maximize all fiscal leveraging opportunities to provide and sustain early childhood services</p> <p>Be sure to provide a detailed, brief, explanation of how the District coordinates First 5 OC funding and resources with other programs and funding sources to provide and sustain early childhood services.</p>	
<p>Provide attachments, or a link to, district documents and samples of evidence aligned to the ECAP and SOW requirements:</p> <ul style="list-style-type: none"> 1) District organizational chart 2) Website and social media accounts 3) If applicable, other information and resources based on early childhood district goals. 	

EXHIBIT B
PROJECT BUDGET

Fountain Valley School District	Funds Due 7/1/20 – 6/30/21	Funds Due 7/1/21 – 6/30/22	Funds Due 7/1/22 – 6/30/23
Staffing	\$129,400	\$129,400	\$129,400
Direct Project Expenses	\$	\$	\$
Capital Equipment	\$0	\$0	\$0
Subcontracts	\$0	\$0	\$0
Indirect/Administrative	\$0	\$0	\$0
TOTAL FUNDS DUE	\$129,400	\$129,400	\$129,400

Early Developmental Index	Funds Due 7/1/20 - 6/30/23
EDI Expenses*	\$9,000

* EDI budget may be expended at any time over the three year term in any incremental amounts subject to approval in writing by ADMINISTRATOR.

MAXIMUM PAYMENT OBLIGATION: \$397,200

Attachment 1 to Exhibit B

STAFFING TABLE

	7/1/20 - 6/30/21	7/1/21 - 6/30/22	7/1/22 - 6/30/23
	FTE	FTE	FTE
Position Title: School Readiness Nurse	Salary & Benefits	Salary & Benefits	Salary & Benefits
	1.0 FTE	1.0 FTE	1.0 FTE
	\$95,799	\$95,799	\$95,799

Minimum Qualifications: Licensed Registered Nurse with a valid California School Nurse Services Credential or a Licensed Registered Nurse with a Preliminary School Nurse Credential with enrollment in a School Nurse Credential Program, certified in first aid and CPR; knowledgeable in the areas of prevention, early identification and treatment of health problems, disease and disorders, and promoting lifelong health and health practices in children through age five and their families.

Job Duties: Provide services as described in Exhibit A to this Agreement.

Position Title: Lead Preschool Instructor	.44 FTE	.44 FTE	.44 FTE
	\$33,601	\$33,601	\$33,601

Minimum Qualifications: Bachelor of Arts in child development, early childhood education or related fields and three years of experience in early childhood education programs. Early Childhood Education Certificate – Site Supervisor Permit. CPR/First Aid Certificate.

Job Duties: Provide services as described in Exhibit A to this Agreement.

Summary Table of Staffing Costs

7/1/20 - 6/30/21	7/1/21 - 6/30/22	7/1/22 - 6/30/23
\$129,400	\$129,400	\$129,400

Attachment 1 to Exhibit B

Page 1 of 1

EXHIBIT C

ACKNOWLEDGMENT OF INDEPENDENT CONTRACTOR STATUS

This **Acknowledgment of Independent Contractor Status** ("Acknowledgment") is an exhibit and fully incorporated into that certain Agreement for provision of Services ("Agreement") dated July 1, 2020 by and between **Children and Families Commission of Orange County** ("COMMISSION") and **Fountain Valley School District**, a California public school district organized and existing under the laws of the State of California ("CONTRACTOR"). This Acknowledgment is intended to define and affirm the relationship between COMMISSION and CONTRACTOR as set forth in the Agreement. CONTRACTOR has been fully informed, has had the opportunity to be advised or has been advised by counsel of its choosing, and knowingly and willingly acknowledges and agrees as follows:

1. CONTRACTOR on behalf of itself and each and every person acting by, through, or for CONTRACTOR (together, "CONTRACTOR"), is not an employee of COMMISSION.
2. CONTRACTOR is an independent contractor to COMMISSION.
3. Because CONTRACTOR is not an employee of COMMISSION, CONTRACTOR is not entitled to receive health benefits or any other benefits provided by COMMISSION to its regular employees.
4. CONTRACTOR is not eligible to join in or participate in any benefit plans offered to those individuals listed on COMMISSION's payroll as regular employees.
5. CONTRACTOR is and shall remain ineligible for employment benefits provided to COMMISSION's regular employees, or for participation in such benefit plans, even if it is later determined that COMMISSION has misclassified CONTRACTOR as an independent contractor for tax or other purposes.
6. CONTRACTOR hereby waives any right it may have to claim it is an employee or challenge its status as an independent contractor of COMMISSION.
7. CONTRACTOR releases COMMISSION and its Commissioners, officers, board members, employees and agents (together, "COMMISSION") from any and all obligations, liabilities, causes of action, and/or claims that exist or may arise under applicable laws that relate to CONTRACTOR's acknowledgement, release, and agreement of its status as an independent contractor (not an employee) of COMMISSION.
8. In making this Acknowledgment and the release and waiver for this Agreement, CONTRACTOR acknowledges it has been advised concerning the content and meaning or and understands and is familiar with the provisions of California Civil Code Paragraph 1542, which provides as follows:

EXHIBIT C

ACKNOWLEDGMENT OF INDEPENDENT CONTRACTOR STATUS

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

CONTRACTOR represents and warrants it understands the purpose, meaning, and effect of Paragraph 1542 above, but nevertheless freely and knowingly waives and relinquishes any right or benefit that it has or may have under Paragraph 1542 of the Civil Code of the State of California, or any similar provision of law as such relates to the status of CONTRACTOR as an independent contractor, not an employee, of COMMISSION.

CONTRACTOR

FOUNTAIN VALLEY SCHOOL DISTRICT, a
California public school district organized and
existing under the laws of the State of California

By: _____
Steve McLaughlin, Assistant Superintendent

Date: _____



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: **APPROVE AMENDMENT TO THE ARCHITECTURAL SCOPE
AGREEMENT WITH RACHLIN PARTNERS FOR COX
ELEMENTARY SCHOOL**
DATE: June 22, 2020

Background:

The District entered into a Master Architectural Services Agreement with Rachlin Partners, for the entire scope of the Measure O work in March of 2017, which included a per fee schedule based on the total cost of work at each individual school. Rachlin estimated their fees for Cox Elementary School based on the budgeted cost of the preliminary scope of work and final architectural fees for the project were determined once the GMP for the project was approved. In addition, Rachlin is providing Enhanced Construction Administration Services; these fees are determined based on project timelines and scope.

Due to the additional administration services the reimbursable expenses need to be increased by \$30,000.00.

Fiscal Impact:

The additional \$30,000.00 would be paid using with Measure O Bond funds.

Recommendation:

It is recommended that the Board of Trustees approves Amendment to the Architectural Scope Agreement with Rachlin Partners for Cox Elementary School to increase reimbursable expenses an additional \$30,000.00.



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: **APPROVE AMENDMENT TO THE ARCHITECTURAL SCOPE
AGREEMENT WITH RACHLIN PARTNERS FOR FULTON
MIDDLE SCHOOL**
DATE: June 22, 2020

Background:

The District entered into a Master Architectural Services Agreement with Rachlin Partners, for the entire scope of the Measure O work in March of 2017, which included a per fee schedule based on the total cost of work at each individual school. Rachlin estimated their fees for Fulton Middle School based on the budgeted cost of the preliminary scope of work and final architectural fees for the project were determined once the GMP for the project was approved. In addition, Rachlin is providing Enhanced Construction Administration Services; these fees are determined based on project timelines and scope.

Due to the additional administration services the reimbursable expenses need to be increased by \$30,000.00.

Fiscal Impact:

The additional \$30,000.00 would be paid using with Measure O Bond funds.

Recommendation:

It is recommended that the Board of Trustees approves Amendment to the Architectural Scope Agreement with Rachlin Partners for Fulton Middle School to increase reimbursable expenses an additional \$30,000.00.



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: **APPROVE AMENDMENT TO THE ARCHITECTURAL SCOPE
AGREEMENT WITH RACHLIN PARTNERS FOR TAMURA
ELEMENTARY SCHOOL**
DATE: June 22, 2020

Background:

The District entered into a Master Architectural Services Agreement with Rachlin Partners, for the entire scope of the Measure O work in March of 2017, which included a per fee schedule based on the total cost of work at each individual school. Rachlin estimated their fees for Tamura Elementary School based on the budgeted cost of the preliminary scope of work and final architectural fees for the project were determined once the GMP for the project was approved. In addition, Rachlin is providing Enhanced Construction Administration Services; these fees are determined based on project timelines and scope.

Due to the additional administration services the reimbursable expenses need to be increased by \$30,000.00.

Fiscal Impact:

The additional \$30,000.00 would be paid using with Measure O Bond funds.

Recommendation:

It is recommended that the Board of Trustees approves the Amendment to the Architectural Scope Agreement with Rachlin Partners for Tamura Elementary School to increase reimbursable expenses an additional \$30,000.00.



Fountain Valley School District
Support Services

MEMORANDUM

TO: Board of Trustees
FROM: Kate Smith, Director, Support Services
SUBJECT: **INDEPENDENT CONTRACT FOR BEHAVIOR SOLUTIONS**
DATE: June 11, 2020

Background:

In the past, WOCCE has contracted with Leigh Perales from Behavior Solutions to support students with Autism that require behavioral supervision and support. In the 2020-2021 school year, WOCCE will no longer contract directly with Behavior Solutions due to the fact that individual districts within the SELPA are now opting out of this service, while others have their own contracts with the company.

Fountain Valley still wishes to contract with Leigh as she provides staff consultation and student supervision on current students that attend Newland Elementary. These are services that are bound by previous IEP agreement and, therefore, need to continue until other decisions in IEP meetings are made. Terms of agreement begin July 1, 2020 through June 30, 2021.

Fiscal Impact:

Not to exceed \$7,000.00

Recommendation:

It is recommended that the Board of Trustees approves the contract between Fountain Valley School District and Behavior Solutions for the 2020-2021 school year.



**INDEPENDENT CONTRACTOR / PROFESSIONAL SERVICES AGREEMENT
2020-2021**

This AGREEMENT is hereby entered into between the **Fountain Valley School District**, hereafter referred to as "DISTRICT", and **Behavior Solutions, Inc.**, hereafter referred to as "CONTRACTOR". DISTRICT and CONTRACTOR may hereafter be referred to as "PARTY" or collectively as the "PARTIES".

RECITALS

WHEREAS, DISTRICT is authorized by Section 53060 of the California Government Code to contract with and employ any persons for the furnishing of special services and advice, if such persons are specially trained and experienced and competent to perform the special services required; and

WHEREAS, DISTRICT is in need of such special services and advice; and

WHEREAS, CONTRACTOR is specially trained, experienced, qualified, competent and authorized under State and Federal law as applicable, to provide the special services required by the DISTRICT, and such services are needed on a limited basis;

NOW, THEREFORE, the parties agree as follows:

AGREEMENTS

1. **SERVICES.** In consultation and cooperation with the DISTRICT, the CONTRACTOR shall provide professional and diligent services consistent with generally acceptable industry practices or better as follows:

Provide teacher training and consultations.

Attachments to this agreement - please check, if applicable:

- ☐ Statement of Work
- ☒ Proposal/Price Quotations
- ☐ Fee Schedule
- ☐ Other attachment described as: _____

Any attachment is hereby incorporated into this AGREEMENT and made a part of it. In the event of any conflict between the language in this AGREEMENT and any attachment incorporated herein, the language in this AGREEMENT will govern and take precedence over any attachment.

2. **TERM.** The CONTRACTOR will commence providing services under this AGREEMENT on **July 1, 2020** and will diligently, properly and in full compliance perform as required and complete the performance of services by **June 30, 2021**. Time shall be of the essence in the performance of this AGREEMENT. If the CONTRACTOR, at any time during the term of this agreement becomes

noncompliant with any of the terms and conditions hereof or noncompliant with any applicable regulatory requirement including any suspension, revocation or termination of any permit, certification or license which is required in order for the CONTRACTOR to properly perform under this AGREEMENT, then the CONTRACTOR shall immediately notify the DISTRICT'S Purchasing and Contracts Department in writing.

3. **INDEPENDENT CONTRACTOR.** The CONTRACTOR is an independent contractor and will perform said services as an independent contractor and not as an employee of the DISTRICT. Accordingly, nothing in this AGREEMENT shall be construed as establishing a relationship of employer and employee, or principal and agent between the DISTRICT and the CONTRACTOR or between the DISTRICT and any of the CONTRACTOR'S agents or employees. CONTRACTOR is solely responsible for its own acts and the acts of any of its agents or employees as they relate to any services provided. CONTRACTOR and its agents and employees shall not be entitled to any rights and or privileges of the DISTRICT'S employees and shall not be considered in any way to be the employees of the DISTRICT. Each party acknowledges that the CONTRACTOR is not an employee for state or federal tax purposes or any other purpose.
4. **MATERIALS.** The DISTRICT will prepare and furnish to the CONTRACTOR upon request such existing information as is reasonable necessary for the performance of the CONTRACTOR. The CONTRACTOR shall provide its own equipment, vehicle, materials, supplies, food, incidentals and tools, etc. which may be required for the proper performance of this AGREEMENT. Each PARTY shall cooperate with the other party.
5. **COMPENSATION.** DISTRICT agrees to pay the CONTRACTOR for services satisfactorily rendered inclusive of all expenses, supplies and materials pursuant to this AGREEMENT a total fee not to exceed \$7,000.

0 If this is an AGREEMENT to pay the CONTRACTOR by the hour, then this box shall be checked and the hourly rate indicated as follows: **see attachment of consultation rates**. It is the sole obligation of the CONTRACTOR to ensure that the sum of the hours worked multiplied by the hourly rate does not exceed the total not to exceed amount authorized under this AGREEMENT.
6. **PAYMENT.** Payment shall be made to the CONTRACTOR within thirty (30) days after receipt of fully supported and detailed invoice(s) which clearly indicates as applicable any progress completed, milestones achieved, any reports (draft, preliminary or final) issued, dates worked, increments of hourly work (rounded to the nearest quarter hour increment), subcontract cost, etc. The DISTRICT will not be obligated to make more than one (1) payment to the CONTRACTOR each month.
7. **PRODUCT OF SERVICES.** All reports, studies, information, data, statistics, forms, designs, plans, procedures, systems, work products and other materials produced by CONTRACTOR under this AGREEMENT shall be the sole and exclusive property of DISTRICT.

8. **COPYRIGHT/TRADEMARK/PATENT.** No such materials produced, either in whole or in part, under this AGREEMENT shall be subject to private use, copyright or patent right by CONTRACTOR in the United States or in any county without the prior written consent of the DISTRICT. The DISTRICT shall have unrestricted authority to publish, disclose, distribute, transfer and use copyright or patent any such materials produced by CONTRACTOR under this agreement.
9. **TERMINATION.** The District may at any time and for any reason suspend performance by the CONTRACTOR or terminate this AGREEMENT and compensate CONTRACTOR only for services satisfactorily rendered to the date of such suspension or termination. Written notice by the DISTRICT shall be sufficient to suspend or terminate any further performance of services by the CONTRACTOR. The notice shall be deemed given when received, upon electronic confirmation of a facsimile transmission, or not later than three days after the day of mailing, whichever is soonest. Upon receipt of any notification of termination by the DISTRICT, the CONTRACTOR shall promptly provide and deliver to the DISTRICT any and all product in progress or completed to date including any reports, drafts, electronic information or the like to the DISTRICT. Unless otherwise identified, notice will be provided to the address shown at the signature block area on the last page of this AGREEMENT. Facsimile notices shall be accepted.
10. **HOLD HARMLESS.** The CONTRACTOR agrees to and shall hold harmless and indemnify the DISTRICT, its officers, agents, employees, and volunteers 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 CONTRACTOR or any person, firm or corporation employed by the CONTRACTOR 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, agents, employees, or volunteers.
 - 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 damage which result from the sole negligence or willful misconduct of the DISTRICT, its officers, agents, employees, or volunteers.

The CONTRACTOR, at CONTRACTOR'S expense, cost, and risk, shall defend any and all actions, suits, or other proceedings 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, employees, or volunteers in any action, suit or other proceedings as a result thereof.

11. **INSURANCE.** During the term of this AGREEMENT, the CONTRACTOR shall maintain BOTH GENERAL & PROFESSIONAL liability insurance in an amount not less than \$1,000,000 per occurrence, \$2,000,000 aggregate, unless otherwise agreed in writing by the DISTRICT, automobile liability insurance to the amount required under California State law or more, and Workers Compensation as required under California State law. The CONTRACTOR shall provide Certificates of Insurance indicating applicable insurance coverage, with Additional Insured Endorsements naming the District, its officers, agents, employees, volunteers as additional insured prior to the commencement of work.
12. **RECORDS.** The CONTRACTOR shall maintain and preserve any and all written and electronic records relating to this AGREEMENT, including without limitation, invoice support (e.g. hours and days worked and other detail) for a period of not less than three (3) years after final payment under this AGREEMENT. The DISTRICT, its employees and agents and the Office of the State Auditor shall have the right to audit, examine, inspect and copy any and all of the CONTRACTOR'S records relating to this AGREEMENT at any time during normal business hours. Additionally, pursuant to Government Code Section 8546.7, the CONTRACTOR is hereby advised that every contract involving the expenditure of public funds in excess of ten thousand dollars (\$10,000) shall be subject to examination and audit of the State Auditor as specified in the code.
13. **ASSIGNMENT.** This AGREEMENT is not assignable or delegable by either party, except upon the prior written consent of the other party.
14. **COMPLIANCE WITH APPLICABLE LAWS.** The CONTRACTOR shall comply with all applicable DISTRICT, federal, state, and local laws, rules, regulations, policies and ordinances and workers' compensation laws. The CONTRACTOR represents and warrants that it does not have any potential, apparent or actual conflict of interest relating in any way to this AGREEMENT.
15. **NONDISCRIMINATION.** CONTRACTOR agrees that it will not engage in unlawful discrimination in employment of persons because of race, ethnicity, religion, nationality, disability, gender, marital status or age of such persons.
16. **CRIMINAL RECORDS CHECK.** CONTRACTOR shall NOT permit an employee to come in contact with pupils until BOTH the Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI) have ascertained that the employee has not been convicted of a violent or serious felony. CONTRACTOR shall contemporaneously execute, as a part of this AGREEMENT, the attached "Criminal Records Check Fingerprinting Certification" form and submit to the DISTRICT.
17. **EMPLOYMENT WITH PUBLIC AGENCY.** CONTRACTOR, if an employee of another public agency, certifies that CONTRACTOR 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 performed pursuant to this AGREEMENT.

18. **AGREEMENT MODIFICATIONS.** Any modification of this AGREEMENT shall be effective only if It is In writing and signed by the parties, except that the DISTRICT may unilaterally amend this AGREEMENT in writing to accomplish the following changes:
 - a. Increase dollar amounts;
 - b. Effect administrative changes; and
 - c. Effect other changes as required by law.
19. **ENTIRE AGREEMENT.** This AGREEMENT incorporates by this reference, any exhibits, which are attached hereto and incorporated herein constitutes the entire AGREEMENT between the parties and supersedes any and all prior or contemporaneous oral or written AGREEMENTS.
20. **SEVERABIUTY.** If any term, condition, or provision of this AGREEMENT is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in anyway.
21. **GOVERNING LAW.** This AGREEMENT shall be governed and construed by the law of the State of California regardless of any conflicts of laws or rules that would require the application of the laws of another jurisdiction. Venue shall be in Orange County, California.

Authorized representatives of the parties have executed this AGREEMENT as indicated below:

CONTRACTOR:

Behavior Solutions, Inc.
25795 Via Lomas, #190
Laguna Hills, CA 92653

DISTRICT:

Fountain Valley School District
10055 Slater Avenue
Fountain Valley, CA 92708

(Signature, Authorized Representative)

(Signature, Authorized Representative)

Printed Name: _____

(Date)

Title: _____

(Date)

(SSN or Federal ID Number)

(Telephone)

(Email Address)

NOTICE TO CONTRACTORS REGARDING CRIMINAL RECORDS CHECK

EDUCATION CODE SECTION 45125.1

Education Code Section 45125.1 provides if the employees of any entity that has a contract with a school district may have any contact with pupils, those employees shall submit or have submitted their fingerprints in a manner authorized by the Department of Justice together with a fee determined by the Department of Justice to be sufficient to reimburse the Department for its costs incurred in processing the application.

The Department of Justice shall ascertain whether the individual whose fingerprints were submitted to It has been arrested or convicted of any crime insofar as that fact can be ascertained from information available to the Department. When the Department of Justice ascertains that an individual whose fingerprints were submitted to It has a pending criminal proceeding for a violent felony listed in Penal Code Section 11972.7(c), or has been convicted of such a felony, the Department shall notify the employer designated by the individual of the criminal information pertaining to the individual. The notification shall be delivered by telephone and shall be confirmed in writing and delivered to the employer by first-class mail.

PENAL CODE SECTION 667.5(C)- Penal Code Section 667.5(c) lists the following "violent" felonies: murder; voluntary manslaughter; mayhem; rape; sodomy by force; oral copulation by force; lewd acts on a child under the age of 14 years; any felony punishable by death or imprisonment in the state prison for life; any felony in which the defendant inflicts great bodily injury on another; any robbery perpetrated in an inhabited dwelling; arson; penetration of a person's genital or anal openings by foreign or unknown objects against the victim's will; attempted murder; explosion or attempt to explode or ignite a destructive device or explosive with the intent to commit murder; kidnapping; continuous sexual abuse of a child; and carjacking.

PENAL CODE SECTION 1192.7 - Penal Code Section 1192.7 lists the following "serious" felonies: murder; voluntary manslaughter; mayhem; rape; sodomy by force; oral copulation by force; a lewd or lascivious act on a child under the age of 14 years; any felony punishable by death or imprisonment in the state prison for life; any felony in which the defendant personally inflicts great bodily injury on another, or in which the defendant personally uses a firearm: attempted murder; assault with intent to commit rape or robbery; assault with a deadly weapon on a peace officer; assault by a destructive device with intent to injure or to murder, or explosion causing great bodily injury or mayhem; burglary of an inhabited dwelling; robbery or bank robbery; kidnapping; holding of a hostage by a person confined in a state prison; attempt to commit a felony punishable by death or imprisonment in the state prison for life; any felony in which the defendant personally uses a dangerous or deadly weapon; selling for furnishing specified controlled substances to a minor; penetration of genital or anal opening by foreign objects against the victim's will; grand theft involving a firearm; carjacking; and a conspiracy to commit specified controlled substances offenses.

The CONTRACTOR shall not permit an employee to come in contact with pupils until BOTH the Department of Justice and the Federal Bureau of Investigation have ascertained that the employee has not been convicted of a violent or serious felony. The contractor shall certify in writing to the governing board of the school district that none of its employees who may come in contact with pupils have been convicted of a violent or serious felony.



Fountain Valley School District
Support Services

M E M O R A N D U M

TO: Board of Trustees
FROM: Kate Smith, Director, Support Services
SUBJECT: **Bio-Acoustical Corporation**
DATE: June 22, 2020

Background:

Bio-Acoustical's custom mobile hearing testing units can test up to six people at one time, one group every 15 minutes. Testing is conducted in ventilated, individual sound treated rooms by bilingual (English/Spanish) CAOHC certified audiometric technicians. All mobile hearing testing and training materials are available in both English and Spanish. Their audiometers are calibrated to ensure that measurements are accurate and conform to OSHA regulations. Bio-Acoustical will perform near, far, and color vision screenings and hearing screenings for students designated by the School District. They will also perform retesting if necessary. Agreement is effective for the 2020-2021 school year.

Fiscal Impact:

\$17,500.00

Recommendation:

It is recommended that the Board of Trustees approves the contract between Bio-Acoustical Corporation and Fountain Valley School District for the 2020-2021 school year.

SCREENING SERVICES CONTRACT PROPOSAL

THIS CONTRACT, BY AND BETWEEN **BIO-ACOUSTICAL CORPORATION** AND THE **FOUNTAIN VALLEY SCHOOL DISTRICT** SHALL BE IN EFFECT FOR THE **2020-2021** **SCHOOL YEAR**

SECTION I:

HEARING SCREENING

Bio-Acoustical Corporation, herein known as Contractor, shall:

- (a) Perform the following service: Hearing screening on designated students at designated districts school sites. Such services shall be performed in accordance with, and subject to, all applicable requirements for the Education Code, Health and Safety Code, the reasonable regulations adopted by the School District, and all other applications of law.
- (b) Perform the hearing screenings in accordance with procedures prescribed in Section 2951, California Public Health Administrative Code, Title 17. The following screening(s) will be administered:

Please check appropriate boxes:



Initial Screenings with First Thresholds



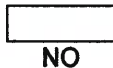
Second Thresholds (Retests)

- (c) Permit only properly licensed and certified personnel to conduct such screening of pupils. Such personnel shall meet the requirements and standards of the State Board of Public Health, Section 1685 and Section 1686 of the Health and Safety Code of California and shall be registered in the State Department of Education and the County Schools office.
 - (d) Utilize the adequate equipment and audiometers necessary to conduct adequate screening and testing. Audiometers used shall be calibrated to the ANSI 1989 Standards.
-

SECTION II: (optional)

VISION SCREENING

CHECK ONE: Bio-Acoustical Corporation, herein known as Contractor shall:



- (a) Perform the following service: Near and Far Vision Screening of pupils designated by the School District. Such service shall be performed in accordance with, and subject to, all applicable requirements for the Education Code, Health and Safety Code, the reasonable regulations adopted by the School District, and all other applications of law.



- (b) Conduct far vision screening by use of a procedure known as Snellen Screening. Conduct near vision screening as prescribed by State guidelines.
- (c) Attest that Contractor is currently registered with the State Department of Education and County School's office, and that qualified personnel shall give vision services.
- (d) Utilize the adequate equipment necessary to conduct adequate screening: Good-Lite Snellen test charts, hyperopia glasses, near vision charts etc.

SECTION III: (optional) COLOR VISION SCREENING

CHECK ONE: Bio-Acoustical Corporation, herein known as Contractor shall:

☒ YES
 ☐ NO

- (a) Perform the following service: Color vision screening of pupils designated by the School District. Such service shall be performed in accordance with and subject to, all applicable requirements for the Education Code, Health and Safety Code, the reasonable regulations adopted by the School District, and all other applications of law.
- (b) Conduct color vision screening using Ishihara or Pseudo-isocromatic color plates and shall be conducted in the one grade level designated by the School District, preferably male students, as well as any referrals.

SECTION IV: PRICING

The School District shall pay Contractor the following daily rates based on 350 or more hearing and vision screenings per day. There are 10 schools that need testing in grades K, 2, 5 & 8.

PER DAY RATE: \$1,100 hearing only
 \$1,450 with two vision screeners

PER DAY RATE FOR RETESTING: \$700 without truck scheduling 2 schools per day

SECTION V: REPORTING

Submit the results of all screenings and thresholds at the end of the testing schedule. This will include overall statistical reports for the District and each school, and individual results for each student.

SECTION VI: BILLING

Bio will submit detailed billing to the school district's office. This billing will be submitted at the end of the testing schedule or as progress billing for work already completed to date.



SECTION VII:

CONDITIONS

- (a) It is expressly understood and agreed upon by both parties hereto, that the Contractor, while engaged in carrying out and complying with any and all of the terms of this contract, is an independent contractor and is not an officer, agent, or employee of the aforesaid School District.
- (b) The reports submitted by the Contractor to the School District shall only contain the results of the tests conducted and shall not include any suggestions or diagnoses. Contractor shall have no responsibility or obligation with respect to the existence of any impaired hearing or vision of any student, and results will not be released except to authorized personnel of the School District and shall be maintained always as confidential and secret by Contractor.
- (c) The School District shall be solely responsible for the conduct and supervision of the students during the testing and related on-site activities conducted by the Contractor. The School District shall provide adequate personnel to control and supervise such students at all times during the course of testing being conducted at any/all of the schools of the School District. The School District shall also be responsible for getting students from classes to the testing area, making them available for testing in a reasonable and timely fashion, and returning them to their classes at each of the school sites. The School District shall designate a Health Supervisor or Coordinator as its authorized agent to coordinate the implementation of this contract with Contractor, as specified in Sections 44879 inclusive, and Section 49422 of the California Education Code.
- (d) The School District shall provide a safe place to park and store the mobile testing vehicle of the Contractor during the testing schedule when said vehicle is being utilized within the District. The School District bus yard or other suitable location shall be made available after each test day, on holidays and weekends.
- (e) Contractor agrees to, and does hereby indemnify and hold harmless, the School District, its officers, agents, and employees from every claim or demand made and every liability, loss, damage, or expense of any nature whatsoever, which may be incurred by reason of any injury to or death of persons or damage to property, sustained by any person arising out of or in any way connected with the actions of Contractor in conducting the hearing and/or vision tests under this contract, except for liability for damages which result from the sole negligence or willful misconduct of the School District, its officers, employees or agents who are directly employed by the School District, or its students.
- (f) In the event of cancellation of this contract, after execution and scheduling of the actual testing, the School District shall give Contractor proper consideration at the rate of 10% of the total revenues expected from the contract for that school year. A ninety- (90) day written cancellation is required to make an executed contract null and void. If rescheduling is necessary due to either party, a minimum of one-day notice is requested. Schools rescheduled must be completed by the date indicated in Section (j). In the event a scheduled screening day is canceled or postponed by the School District or an agent thereof, after the start of that day, the School District will reimburse Contractor for expenses incurred that day, limited to cost of actual mileage reimbursements and salaries paid to employees of Contractor who were scheduled to work and arrived at School District site in good faith.

- (g) Upon acceptance of this contract, the School District shall issue an applicable **Purchase Order** to cover services provided by this contract. **Purchase orders must be received with the signed contracts, or no later than three weeks prior to date testing schedule commences**, indicating approximate numbers of students to be tested, and price ranges for test to be administered. Terms of payment will be Net-15 days (1 ½% interest will be charged to all invoices not paid after thirty (30) days). Purchase orders may include "NOT TO EXCEED" LIMITATIONS but must take any prior year's billing total plus any enrollment increases, or current enrollment figures multiplied by the applicable hearing and/or vision charges into consideration.
- (h) School District is responsible for: 1) Reporting failures and/or and School District recommendations to parents of students, and reporting to any applicable State Agencies any/all total district figures, as well as filing any annual mandated screening compliance reports to applicable agencies, and 2) Filing "intent to contract" with applicable Agencies of County and State.
- (i) Completion date: All screening services under this contract will be completed on or before

June 30, 2021

SECTION VI:

ACCEPTANCE

IN WITNESS WHEREOF, the parties signing below have executed this Contract as of the date transcribed here below.


Bio-Acoustical Corporation

Date:

5/7/2020

Fountain Valley School District
School District

Date:

Authorized Agent's Signature

Purchase Order Number (PO must be on file prior to testing)

Term of this contract is for 1 year (s).

2020-2021

BIOACOUSTICAL
CORPORATION



Fountain Valley School District
Support Services

M E M O R A N D U M

TO: Board of Trustees
FROM: Kate Smith, Director, Support Services
SUBJECT: **CARE SOLACE**
DATE: June 22, 2020

Background:

Care Solace is an online care navigation and coordination system which provides information related to treatment options for various forms of mental health. Care Solace will provide FVSD with non-personally identifiable data including number of visitors, matches, and phone appointments. Care Solace operates in compliance with HIPPA and FERPA privacy laws. FVSD will receive a dedicated URL for students and families to access Care Solace. Care Solace provides online set-up support and technical assistance. Term of agreement will be for 3 years beginning on July 1, 2020 through June 30, 2021.

Fiscal Impact:

\$9,808 per annual term based on enrollment 6,328 (\$1.55/student)

Recommendation:

It is recommended that the Board of Trustees approves the contract between Care Solace and Fountain Valley School District for the 2020-2021 school year.

GENERAL SERVICE AGREEMENT

This General Service Agreement (the “Agreement”) dated the 1st of July, 2020 between Fountain Valley School District a California public school district (the “Client”) and Addiction Treatment Technologies, LLC DBA Care Solace, a Delaware limited liability company (the “Provider”). The Client and the Provider may be referred to individually as “Party,” or collectively as “Parties.”

RECITALS

WHEREAS, the Client believes that the Provider has the necessary qualifications, experience and abilities to provide services to the Client.

WHEREAS, the Provider agrees to provide such services to the Client on the terms and conditions set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the matters described above and of the mutual benefits and obligations set forth in this Agreement, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Services/Scope of Work**. Provider owns and operates a website located at the URL caresolace.com which provides information related to treatment options for various forms of mental health (the “Main Site”). Pursuant to the terms and conditions of this Agreement, Provider will provide a collection of tools and services (the “Services”) to manage and operate a version of the Main Site that is branded with Client’s name (the “Branded Site”). Provider will do everything to ensure site is live in July 2020. Provider will provide access to the Branded Site to Authorized Users, consisting of staff and students (and their parents) of Client (the “Client Community”), on a Software-as-a-Service (“SaaS”) basis pursuant to the terms and conditions set forth in Exhibit A. In the event of any conflict between the provisions of this Agreement and Exhibit A, the terms of Exhibit A shall control.

1.1. The Provider will provide access to the Client to the following non-personally identifiable data collected from the Client Community: number of visitors, matches and phone appointments. Personally identifiable data collected by Provider pursuant to this Agreement will be handled by Provider in accordance with the privacy policy and terms of use posted on the Branded Site. Provider and Client each agree to comply with all data privacy laws and requirements to which they are each subject, which may include, without limitation, California Education Code section 49073.1, the Student Online Personal Information Protection Act (California Business & Professions Code § 22584), the Children’s Online Privacy Protection Act, and The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99).

1.2. Provider shall staff its customer support center during the hours from 7:30am to 8:30pm Pacific Time, Monday through Friday (the “Business Hours”) to provide telephone support. Through such representatives, Provider will use reasonable efforts to resolve computer and software malfunctions and user errors promptly, in response to

technical support requests made by Authorized Users. In addition, email support will be provided during non-Business Hours and Provider will use commercially reasonable efforts to respond to email support inquiries in a timely manner.

1.3. The Provider will ensure that each treatment provider whose information is included in the Branded Site (“Treatment Providers”) satisfies the Provider’s vetting process, which shall include, at a minimum, the following elements:

1.3.1. Confirmation that the treatment provider has provided services for no less than five (5) years;

1.3.2. A review of the treatment providers’ licensure status with the applicable State licensing authority;

1.3.3. Confirmation that the treatment providers are accredited by JACHO, CARF or similar accreditation organization;

1.3.4. Review of listing surveys from accreditation organizations to determine pending lawsuits;

1.3.5. Review by Provider’s ethics and standards advisory board.

2. Implementation for Client.

2.1. Client agrees to the following implementation plan for those in need through the following channels:

2.1.1. Provider will provide access to the Services through a dedicated URL for Client (example: caresolace.com/district/[Client name]) (the “URL”). Designated representatives of Client will be provided with access to a dashboard to track non-individually identifiable information related to the number of visitors to the URL, number of matches and number of phone appointments scheduled via the Services. In the event that Client desires to obtain individually identifiable information from Provider related to an Authorized User, Client shall obtain and deliver to Provider a duly executed written authorization from such Authorize User, or his or her legal guardian (if applicable), in a form acceptable to Provider. With respect to the use by Client, or by Client’s agents or employees, of the Branded Site or the Services, Client agrees to comply, and to cause its employee and agents to comply with The Family Educational Rights and Privacy Act (“FERPA”) (20 U.S.C. § 1232g; 34 CFR Part 99).

2.1.2. Provider will provide the URL to the Client Community to include: mental health, counselors, principals, HR directors, PTAs, students and parents.

2.1.3. Provider to set up onsite or virtual walk thru of the Services so personnel know about the features and functionality of the Services.

2.1.4. Provider to assist in implementing the URL on school websites and the Client site as a resource for parents and students, as desired. Provider grants Client a

non-exclusive, non-transferable, limited, revocable and royalty-free license to provide a hypertext reference link ("Link") to the initial, top level display of the Branded Site, as identified by the URL solely for the purpose of linking any website owned or controlled by Client to the Branded Site.

2.1.5. Client may send out parent and student notification to every email and text with the URL and short template of the new and accessible resource for anybody in need every quarter.

2.1.6. Provider to provide backpack mailer templates and email/text templates for delivery each quarter or 4 times per year so people are reminded there is a tool that is confidential for anyone in need.

2.1.7. Provider will provide all the professional development, training, coaching and on-going support to key stakeholders to include: mental health team, psychs, counselors, assistant principals, principals, HR staff, district leadership and PTAs.

2.1.8. On boarding district staff requires (2-4) 30-40 minute sessions to get set up and showcase how the system works.

3. Term of Agreement.

3.1. The initial term of this Agreement (the "Term") will begin on July 1, 2020 through June 30, 2021. After the initial term is complete there will be a 1-year renewal (each a "Renewal Term"), however client can opt out of any renewal term by giving Provider a 30-day written notification prior to the renewal date. However, the maximum term is 5 years, pursuant to Education Code section 17596.

3.2. At any time, Client can cancel the Agreement after 30-days' written notice to the Provider.

4. Performance. The Parties agree to do everything necessary to ensure that the terms of this Agreement take effect and will use their best efforts to ensure the awareness and positioning of the Provider tool is accessible throughout the community.

5. Currency. Except as otherwise provided in this Agreement, all monetary amounts referred to in this Agreement are in USD (US Dollars).

6. Compensation. For services rendered by the Provider under this Agreement, the Client will provide compensation to the Provider as follows:

- \$9,808 per annual term based on enrollment 6,328 (source: ed-data.org) for 24X7 mental health services; FVSD will pay full amount to Care Solace.
- The amounts set forth above shall be earned by Provider when paid and shall not be subject to pro-ration in the event of the termination of this Agreement prior to the end of any Term or Renewal Term.

7. **Notices.** All notices, requests, demands or other communications between the Provider and the Client shall be in writing and shall be deemed given and served upon delivery, if delivered personally or by email, or three (3) days after mailing by U.S. mail as follows:

If to the Client: Fountain Valley School District
10055 Slater Avenue
Fountain Valley, CA 92708
Attention: Dr. Mark Johnson –
Superintendent
Email: johnsonm@fvsd.us

If to the Provider: Addiction Treatment Technologies, LLC
DBA: Care Solace
1596 North Coast Hwy 101
Encinitas, CA 92024
Attention: Chad A. Castruita
Email: chad@caresolace.org

Any Party may change the address or persons to which notices are to be sent to it by giving written notice that such change of address or persons to the other Party in the manner provided for giving notice in this paragraph.

8. **Dispute Resolution.**

8.1. In the event a dispute arises out of or in connection with this Agreement, the Parties will attempt to resolve the dispute through friendly consultation.

8.2. If the dispute is not resolved within a reasonable period, then any or all outstanding issues may be submitted to a court of law representing the laws of the State of California. The court award will be final, and judgment may be entered upon it by any court having jurisdiction within the State of California.

9. **Indemnification.**

9.1. Each Party (the “Indemnifying Party”) shall at all times indemnify and hold harmless the other Party and said other Party’s successors, assigns, shareholders, partners, directors, officers, agents, affiliates, subsidiaries, parent company, volunteers and employees (collectively, the “Indemnified Parties”) from and against any and all liabilities, damages, penalties, settlements, judgments, orders, losses, costs, charges, attorney’s fees, and all other legal and/or equitable proceedings resulting from or relating to (whether directly or indirectly) injury to, loss of, theft of or unauthorized access to personally identifiable information or documents containing such information, as most broadly defined under state or federal law; or any actual or alleged failure to comply with any provision of law. However, neither Party shall be obligated to indemnify an Indemnified Party for liability to the extent it is established by final adjudication that such Indemnified Party contributed to the liability via willful misconduct, or sole negligence for which that

Indemnified Party is legally responsible. Each Party's obligations under this indemnity contract shall survive the completion or termination of the project.

9.2. During the term of this Agreement, Provider shall obtain and maintain commercial general liability insurance and Errors & Omissions (E&O) insurance, with policy limits having minimum coverage of \$1,000,000 per occurrence, which can be met through an umbrella or standard policy or any combination thereof. The insurance shall be evidenced by a Certificate of Insurance naming Client as an "Additional Insured."

10. **Conflict of Interest Provision.** Provider shall comply with all state and federal healthcare referral and anti-kickback statutes. Provider represents and warrants that it does not have an ownership interest in any of the treatment providers whose information appears on the Branded Site.

11. **Privacy Policy/Terms of Use.** The Branded Site will include links to a privacy policy and terms of use which will comply with applicable law.

12. **Prevailing Party.** In the event that legal action is brought to enforce or interpret any term of this Agreement, the prevailing party will be entitled to recover, in addition to any other damages or award, all reasonable attorneys' fees and costs associated with the action.

13. **Modification of Agreement.** Any amendment or modification of this Agreement or additional obligation assumed by either Party in connection with this Agreement will only be binding if evidenced in writing signed by each Party or an authorized representative of each Party.

14. **Assignment.** The Provider will not assign or otherwise transfer its obligations under this Agreement without the written consent of Client.

15. **Entire Agreement.** This Agreement contains the entire agreement with respect to the subject matter hereof and supersedes all prior negotiations, understandings, or agreements, written or oral. It is agreed that there is no representation, warranty, collateral agreement or condition affecting this Agreement except as expressly provided in this Agreement.

16. **Titles/Headings.** Headings are inserted for the convenience of the Parties only and are not to be considered when interpreting this Agreement.

17. **Governing Law.** It is the intention of the Parties that this Agreement and the performance under this Agreement, and all suits and special proceedings under this Agreement, be construed in accordance with and governed, to the exclusion of the law of any other forum, by the laws of the State of California, without regard to the jurisdiction in which any action or special proceeding may be instituted.

18. **Severability.** In the event that any of the provisions of this Agreement are held to be invalid or unenforceable in whole or in part, all other provisions will nevertheless

continue to be valid and enforceable with the invalid or unenforceable parts severed from the remainder of this Agreement.

19. **Counterparts.** This Agreement may be executed in counterparts which, taken together, shall constitute one original document.

20. **Waiver.** The waiver by either Party of a breach, default, delay or omission of any of the provisions of this Agreement by the other Party will not be construed as a waiver of any subsequent breach of the same or other provisions.

21. **Authority to Execute Agreement.** Each individual signing this Agreement warrants and represents that he or she has been authorized to enter into this Agreement on behalf of the Party.

IN WITNESS WHEREOF the Parties hereto have executed this Agreement as of the date first set forth above.

**Addiction Treatment Technologies, LLC (“Provider”)
DBA: Care Solace**

Chad A. Castruita, CEO

Printed Full Name: Chad A. Castruita

Signature:  _____

FVSD (“Client”)

Printed Full Name: _____

Title: _____

Signature: _____

Board Approval Date: _____

EXHIBIT A

SaaS TERMS AND CONDITIONS

This Exhibit is attached to and made a part of the General Service Agreement between the parties. The terms and conditions set forth below apply to the use of the Services, along with any amendments to the Terms and any operating rules or procedures that may be published from time to time by Provider. Capitalized terms used in this Exhibit which are not defined here shall have the meaning ascribed to them in the Agreement.

1. Definitions.

1.1 "Client Data." Client's information or other data processed, stored or transmitted by, in or through the Services.

1.2 "Proprietary Rights." Any and all rights, whether registered or unregistered, in and with respect to patents, copyrights, confidential information, know-how, trade secrets, moral rights, contract or licensing rights, confidential and proprietary information protected under contract or otherwise under law, trade names, domain names, trade dress, logos, animated characters, trademarks, service marks, and other similar rights or interests in intellectual or industrial property.

1.3 "Provider Technology." The computer hardware, software and other tangible equipment and intangible computer code necessary to deploy and serve the Services.

1.4 "Third-Party Vendor." Provider's vendors who provide products, services and other resources to enable the Services.

2. Services and Terms. The Services are provided to Client subject to these Terms and Conditions. This is an Agreement for Services, and Client is not granted a license to any software by this Agreement.

3. Use Restrictions. Client covenants and agrees that its use of the Services will be in a manner consistent with this Agreement and with all applicable laws and regulations, including trade secret, copyright, trademark, and export control laws. Without limiting the generality of the foregoing, Client will not, directly or indirectly: reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code, object code, or underlying structure, ideas, or algorithms of or included in the Services or any software, documentation or data related to the Services ("Software"); modify, translate or create derivative works based on the Services or any Software; or copy (except for archival purposes), distribute, pledge, assign or otherwise transfer or encumber rights to the Services or any Software; use the Services or any Software for timesharing or service bureau purposes or otherwise for the benefit of a third party; or remove any proprietary notices or labels.

4. Security. Client and the Authorized Users shall be solely responsible for acquiring and maintaining technology and procedures for maintaining the security of their links to the Internet. As part of the Services, Provider shall implement reasonable security procedures consistent with prevailing industry standards to protect Client Data from unauthorized access; provided,

however, unless resulting from the failure of Provider to perform the forgoing obligations, the parties agree that Provider shall not, under any circumstances, be held responsible or liable for situations (i) where data or transmissions are accessed by third parties through illegal or illicit means, or (ii) where the data or transmissions are accessed through the exploitation of security gaps, weaknesses, or flaws unknown to Provider at the time. Provider will promptly report to Client any unauthorized access to Client Data promptly upon discovery by Provider, and Provider will use diligent efforts to promptly remedy any breach of security that permitted such unauthorized access. In the event notification to persons included in such Client Data is required, Client shall be solely responsible for any and all such notifications at its expense.

5. Monitoring of Client's Use. Provider reserves the right to internally monitor Client's usage of the Branded Site and Services.

6. No Commingling of Client Data. The Services shall be operated in an environment where (i) all Client Data shall be stored on files totally separate from those of other customers of Provider, or (ii) all files containing Client Data are partitioned sufficient to protect the security and privacy of Client Data.

7. Content.

7.1 Content Entry. "Content" means any information that Client may generate, provide, store, post, transmit or upload in connection with the Service, such as data files, written text, software, music, graphics, stylized logos, photographs, images, sounds, videos, messages and similar materials. As between Provider and Client, Client retains title to Content. Client agree that Client shall not include Content that is or gives rise to, and Provider may (but is not required to) refuse or remove Content that it determines in its sole discretion to be, (a) unlawful, offensive, threatening, harmful, libelous, defamatory, pornographic, gambling-related, obscene, racist, infringing or otherwise objectionable; (b) not wholly-owned by or validly licensed to Client; (c) a violation of a third party's intellectual property rights; (d) a breach of this Agreement; and/or (e) a violation of the terms and conditions, as modified from time to time, of Provider or its vendors who provide products, services, and other resources to enable the Services.

7.2 Submission. Once Client submits required Content to Provider, Client (a) authorizes and appoints Provider to integrate the Content with its proprietary solution to create the Branded Site; (b) will provide Provider with all information including modified Content that it requests in connection with such

integration; (c) grant Provider the right to distribute or otherwise make the Branded Site available in accordance with the terms of the Agreement.

8. Technical Contacts. Client shall designate one of its employees as its principal contact for communicating with Provider regarding technical issues hereunder. Client may change its technical contact from time to time by written notice to Provider.

9. Proprietary Rights Ownership. Ownership of the Proprietary Rights embodied in the Branded Site, Services, and Provider Technology shall remain exclusively vested in and be the sole and exclusive property of Provider and its licensors. In addition Client hereby transfers and assigns to Provider any rights Client may have to any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Client personnel relating to the Service.

10. Mutual Exchange of Confidential Information. The parties anticipate that each may disclose confidential information to the other. Accordingly, the parties desire to establish in this Section terms governing the use and protection of certain information one party ("Owner") may disclose to the other party ("Recipient"). For purposes hereof, "Confidential Information" means (i) the terms and conditions hereof, (i) non-public aspects of Provider's Site and the operation thereof, Provider Technology, and the Services and additional services provided by Provider, and Provider's business and technical information, and data, and (iii) Client Data. In addition, Confidential Information includes information which, although not related to the Services or this Agreement, is nevertheless disclosed hereunder, and which, in any case, is disclosed by an Owner or an affiliate to Recipient in document or other tangible form bearing an appropriate legend indicating its confidential or proprietary nature, or which, if initially disclosed orally or visually is identified as confidential at the time of disclosure and a written summary hereof, also marked with such a legend, is provided to Recipient within fifteen (15) days of the initial disclosure. Recipient may use Confidential Information of Owner only for the purposes of this Agreement and shall protect such Confidential Information from disclosure to others, using the same degree of care used to protect its own proprietary information of like importance, but in any case using no less than a reasonable degree of care. Recipient may disclose Confidential Information received hereunder only as reasonably required to perform its obligations under this Agreement and only to its employees who have a need to know for such purposes and who are bound by signed, written agreements to protect the received Confidential

Information from unauthorized use and disclosure. The restrictions of this Agreement on use and disclosure of Confidential Information shall not apply to information that: (i) is in the possession or control of Recipient at the time of its disclosure hereunder; (ii) is, or becomes publicly known, through no wrongful act of Recipient; (iii) is received by Recipient from a third party free to disclose it without obligation to Owner, (iv) is independently developed by a party as evidenced by its written and dated records and without any breach of this Agreement; or (v) is the subject of a written permission to disclose provided by Owner. The Recipient may disclose Confidential Information of Owner pursuant to the requirements of a governmental agency or by operation of law, provided that such Recipient gives Owner written notice thereof as soon as practicable and reasonably cooperates with Owner to contest such disclosure.

11. General Skills and Knowledge. Notwithstanding anything to the contrary in this Agreement, Client agrees that Provider is not prohibited from utilizing any skills or knowledge of a general nature acquired during the course of providing the Services, including information publicly known or available or that could reasonably be acquired in similar work performed for another customer of Provider.

12. Client Representations and Warranties.

12.1 Client represents and warrants that: (a) the Content does not and will not infringe, misappropriate, or otherwise violate any intellectual property right or right of privacy or publicity of any third party; and (b) the performance of its obligations and use of the Services (by Client and its Authorized Users) will not (i) violate any applicable laws, or regulations, or (ii) cause a breach of any agreements with any third parties.

12.2 In the event of any breach by Client of any of the foregoing representations or warranties, in addition to any other remedies available at law or in equity, Provider will have the right to suspend immediately any Services if deemed reasonably necessary by Provider to prevent any harm to Provider and its business. Provider will provide notice to Client and an opportunity to cure, if practicable, depending on the nature of the breach.

13. Provider Representations and Warranties. Provider represents and warrants that (i) it has the legal right to enter into this Agreement and perform its obligations hereunder, and (ii) the performance of its obligations and delivery of the Services to Client will not violate any applicable laws or regulations of the United States. In the event of a breach by Provider of the

foregoing warranties, Client's sole remedy is termination of this Agreement upon written notice to Provider.

14. Indemnity. Each Party (the "Indemnifying Party") shall at all times indemnify and hold harmless the other Party and said other Party's successors, assigns, shareholders, partners, directors, officers, agents, affiliates, subsidiaries, parent company, volunteers and employees (collectively, the "Indemnified Parties") from and against any and all liabilities, damages, penalties, settlements, judgments, orders, losses, costs, charges, attorney's fees, and all other legal and/or equitable proceedings resulting from or relating to (whether directly or indirectly) injury to, loss of, theft of or unauthorized access to personally identifiable information or documents containing such information, as most broadly defined under state or federal law; or any actual or alleged failure to comply with any provision of law. However, neither Party shall be obligated to indemnify an Indemnified Party for liability to the extent it is established by final adjudication that such Indemnified Party contributed to the liability via willful misconduct, or sole negligence for which that Indemnified Party is legally responsible. Each Party's obligations under this indemnity contract shall survive the completion or termination of the project.

15. Warranty. Except as expressly set forth herein, the Services are provided on an "as is" and "as available" basis, and without warranties of any kind either express or implied. PROVIDER HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED, NONINFRINGEMENT AND IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. PROVIDER DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE OR THAT DEFECTS WILL BE CORRECTED. PROVIDER DOES NOT OFFER A WARRANTY OR MAKE ANY REPRESENTATION REGARDING THE RESULTS OR THE USE OF THE SERVICES IN TERMS OF THEIR CORRECTNESS, ACCURACY, RELIABILITY, RISK OF INJURY TO CUSTOMER'S OR ANY USER'S COMPUTER, NETWORK, MARKET, OR CUSTOMER BASE OR COMMERCIAL ADVANTAGE. Applicable law may not allow the exclusion of certain warranties, so to that extent such exclusions may not apply.

16. Disclaimer of Incidental and Consequential Damages. EXCEPT FOR INDEMNITY OBLIGATIONS EXPRESSLY PROVIDED HEREIN AND ANY VIOLATION OF CONFIDENTIALITY OBLIGATIONS, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER UNDER ANY

THEORY INCLUDING CONTRACT AND TORT (INCLUDING NEGLIGENCE AND STRICT PRODUCTS LIABILITY) FOR ANY INDIRECT, SPECIAL OR INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN IF THE PARTY CAUSING SUCH DAMAGES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY.

17. Liability Cap. Liability will not exceed the total general liability insurance amount in the provider's certificate of insurance pursuant to the Agreement.

18. Publicity and Branding. Client agrees that Provider may (a) publicize Client's name, the fact of the Branded Site and Client's use of the Services; and (b) brand the Branded Site with a "powered by Caresolace.com" or similar legend and/or copyright notice.

19. Options for Infringement Claims. If any party is enjoined from using the Provider Technology, or if Provider believes that the Provider Technology may become the subject of a claim of intellectual property infringement, Provider, at its option and expense, may: (i) procure the right for Client to continue to use the Services; (ii) replace or modify the Provider Technology so as to make it non-infringing; or (iii) terminate this Agreement, in which case Provider shall refund to Client any and all subscription fees paid in advance by Client for those Services not provided by Provider and provide, at Client's request and free of charge, the Client Data in a database document format. This Section and the preceding Section sets forth the entire liability of Provider to Client for any infringement by the Provider Technology or Services of any intellectual property right of any third party.

20. Termination for End of Life. Notwithstanding anything contained in this Agreement to the contrary, in the event that Provider determines, in its sole and absolute discretion, to cease to offer the Services to new clients and to discontinue support of the Services for existing customers, Provider may terminate this Agreement at any time by providing thirty (30) days prior written notice to Client.

21. Termination For Cause. If either party fails to comply with any of the material terms and conditions of this Agreement, including without limitation the payment of any subscription license fee or reimbursement due and payable to Provider under this Agreement, the non-defaulting party may terminate this

Agreement upon fifteen (15) days' written notice to the defaulting party specifying any such breach, unless within the period of such notice, all breaches specified therein shall have been remedied.

provision of this Agreement, and this Agreement shall continue in full force and effect, and be construed and enforced, as if such provision had not been included, or had been modified as above provided, as the case may be.

22. Transition Services. If Client is current in all payments due to Provider at the time of expiration or termination hereof, Provider shall provide to Client its Client Data in a standard database document format readily available to Provider at no additional charge. If Client requests the Client Data in a non-standard format, Client shall pay to Provider a reasonable fee for technical services as determined by Provider.

23. Continuing Obligations. The following obligations shall survive the expiration or termination hereof and the distribution grace period provided above: (i) any and all warranty disclaimers, limitations of liability and indemnities granted by either party herein, (iv) any covenant granted herein for the purpose of determining ownership of, or protecting, the Proprietary Rights, including without limitation, the Confidential Information of either party, or any remedy for breach thereof, and (v) the payment of taxes, duties, or any money to Provider hereunder.

24. Force Majeure. Neither party shall be liable for damages for any delay or failure of delivery arising out of causes beyond their reasonable control and without their fault or negligence, including, but not limited to, Acts of God, acts of civil or military authority, fires, riots, wars, embargoes, Internet disruptions, hacker attacks, or communications failures. Notwithstanding anything to the contrary contained herein, if either party is unable to perform hereunder for a period of thirty (30) consecutive days, then the other party may terminate this Agreement immediately without liability by ten (10) days written notice to the other.

25. Miscellaneous. This Agreement shall be construed under the laws of the State of California, without regard to its principles of conflicts of law. This Agreement constitutes the entire understanding of the parties with respect to the subject matter of this Agreement and merges all prior communications, understandings, and agreements. This Agreement may be modified only by a written agreement signed by the parties. The failure of either party to enforce at any time any of the provisions hereof shall not be a waiver of such provision, or any other provision, or of the right of such party thereafter to enforce any provision hereof. If any provision of this Agreement is declared invalid or unenforceable, such provision shall be deemed modified to the extent necessary and possible to render it valid and enforceable. In any event, the unenforceability or invalidity of any provision shall not affect any other



Fountain Valley School District
Support Services

M E M O R A N D U M

TO: Board of Trustees
FROM: Kate Smith, Director, Support Services
SUBJECT: **Language Network**
DATE: June 22, 2020

Background:

Due to increasing requests for interpreter and translator services for parent conferences/meetings, assessments, IEP's, etc., there is a need to contract with an outside agency to meet these requests. These requests will be filled and charged on a case by case basis. This company has the ability to service a wide variety of languages that may be requested for interpretation and/or translation. The terms of agreement will be July 1, 2020 through June 30, 2021.

Fiscal Impact:

Not to exceed \$2,000.00

Recommendation:

It is recommended that the Board of Trustees approves the contract between Language Network and Fountain Valley School District for the 2020-2021 school year.



Language Services Agreement

This agreement, is generated by Language Network, Inc

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[ACCEPTANCE](#)

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INTRODUCTION

Thank you for reaching out to Language Network. Please find a two-page no obligation Language Services Agreement, Language List, and Rate Sheet for the language services we can offer you.

COMPANY BIO

Language Network is a leading California provider of on-demand language services specializing in on-site interpreting, over-the-phone interpreting, and translation. We proudly offer language solutions in 200 languages such as Arabic, Chinese, Farsi, Vietnamese, Spanish, and ASL just to name a few. It's our mission to be the language support partner you can trust to deliver your message across language barriers. Our team and network of 2000 California interpreters have 28+ years of experience serving Healthcare, Education, Legal, Government, Social Services, and Private Business clients.

We believe there is no substitute for cultural and linguistic relevance and accuracy. As a professional organization we are active members of the American Translators Association (ATA), Association of Language Companies (ALC), and the California Healthcare Interpreters Association (CHIA). We hope to support your organization with outstanding language services.

EXECUTIVE SUMMARY

The following agreement presents the full scope of language services we can provide you. We believe as your language support partner we can help your

organization drive increased satisfaction, compliance and engagement with your consumers in other languages. This agreement provides a complete overview of the language services available to you.

LANGUAGE SERVICES AGREEMENT

This AGREEMENT (the "Agreement") is made and entered into on ("Effective Date") by and between _____ and Language Network, Inc referred to as ("Language Network").

Recitals

WHEREAS, "**CLIENT**" has entered into contract with Language Network, a language service provider.

WHEREAS, "**CLIENT**" has agreed under the terms establish herewith to engage the services of linguists to perform language services, including, but not limited to, in-person interpretation, telephone interpretation and document translation; and

WHEREAS, "**CLIENT**" desires to engage Language Network to perform language services; and

WHEREAS, Language Network desires to enter into this Memorandum of Understanding (MOU) to perform such interpreting services according to the terms and conditions of this Agreement;

NOW THEREFORE, the parties agree as follows:

TERMS AND CONDITIONS

1. Nature of the Service: Language Network will provide interpreting/translating services as required by "Client"

2. Term of Agreement: This agreement will become effective upon signing of both parties, and will continue in effect unless terminated, with or without cause, upon

thirty days written notice by either party. Rates will increase 3% annually, beginning one year from date of contract execution.

3. Charges, Invoices and Payment: In consideration of these services, "CLIENT" will pay Language Network the amount in the manner set forth in pricing schedule. Payment is due within 30 day of invoice date. Late payment will be subject to penalties equating to 5% of the invoice amount.

4. Privacy of Communication: The linguist shall keep all information that they may come across in the course of their work confidential and will not communicate it to a third party.

5. Arbitration: Any dispute, claim or controversy arising out of or relating to this Agreement shall be settled by a binding arbitration in accordance with the rules and regulations for the Judicial Arbitration and Mediation Services ("JAMS"). Arbitration shall be before a single arbitrator who shall be a retired judge of the State of California. Any award shall be final and binding upon the parties and judgement upon any such award may be entered in any court having jurisdiction thereof. The fees and expenses of the arbitrators shall be born equally by the parties. Each party shall pay its own fees and costs relating to any arbitration proceeding, including attorney's fees.

6. HIPAA/HITECH/FERPA Compliance: Language Network is fully compliant with the Health Insurance Portability and Accountability Act of 1996 (HIPAA)/Health Information Technology for Economic and Clinical Health (HITECH) guidelines for healthcare transactions and Family Educational Rights and Privacy Act (FERPA) for academic transactions.

7. Miscellaneous Provisions:

7.3. Entire Agreement: This Agreement, including any Exhibits attached hereto, is the entire agreement between two parties hereto relating to the subject matter addressed herein and supersedes all prior representations, promises or agreements, whether oral or written.

7.4. Amendments: This Agreement may not be amended absent a written agreement by the parties, except that "**CLIENT**" may provide of a proposed amendment to this Agreement and Language Network shall be deemed to have

accepted the proposed amendment unless Language Network provides "**CLIENT**" with written notice rejecting the proposed amendment within fifteen (15) days of receiving such notice.

7.6. Governing Law: This Agreement shall be interpreted and construed in accordance with the laws of the State of California.

7.8. Notices: Any notice required to be provided under this Agreement shall be sent by United States Postal Service, postage prepaid, return receipt requested, addressed as follows:

To "Client"

Contact Person:

Address:

City/State/Zip:

Phone:

Email:

If to Language Network:

Language Network, Inc

Mailing Address: 8605 Santa Monica Blvd, #65575

West Hollywood, CA 90069

Tel (949)-733-2446

7.9 Invoices: Invoices for services rendered will be sent to:

Contact person:

Address:

City/State/Zip:

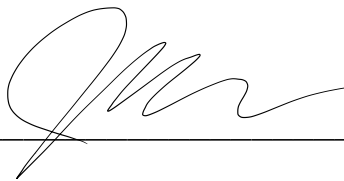
Phone:

Email:

ACCEPTANCE

Your signature below indicates acceptance of this agreement , and entrance into an agreement with Language Network beginning on the date of signature.

Language Network

Signature: _____

Date: _____

Client:

Signature: _____

Date: _____



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 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: June 22, 2020

Background:

ST Math continues to be active at eight school sites throughout the District, including all seven elementary schools, and Masuda middle school. Initial funding and set up for the first seven sites were covered by a series of grants received from Hyundai over a number of years ago. Up until, and through the 2019/20 school year, costs for ST Math were shared between 50% site donation or instructional funds and 50% district funds. As a result of the work by our teachers and students with ST Math, FVSD has seen an overall increase in statewide accountability schools in math for the past five years.

With the outbreak of the novel coronavirus, COVID-19, in March of 2019, the need for effective online resources continues to be essential for delivering a rigorous curriculum for both in-person and remote learning.

Fiscal Impact:

For the 2020/2021 school year, the district funds will cover the 100%, or the entire cost, of ST Math for all 8 school site utilizing specific state funds dedicate to support instructional programs during the COVID-19 outbreak.

Recommendation:

It is recommended that the Board of Trustees approves the contract between Fountain Valley School District and Mind Research Institute to continue providing ST Math to the District's eight schools during the 2020/2021 school year.



Fountain Valley School District
Personnel Department

M E M O R A N D U M

TO: Board of Trustees
FROM: Cathie Abdel, Assistant Superintendent, Personnel
SUBJECT: **MEMORANDUM OF UNDERSTANDING BETWEEN FOUNTAIN VALLEY SCHOOL DISTRICT AND CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION AND ITS CHAPTER 358**
DATE: June 22, 2020

Background:

In a response to the coronavirus (Covid-19) pandemic and school dismissal, the District has taken steps to ensure the safety of staff and implemented preventative measures to ensure the continued safety of District employees. The MOU documents the measure the District has taken, while working collaboratively with its local association, and will expire on June 30, 2020.

Recommendation:

It is recommended that the Board of Trustees approves the Memorandum of Understanding between Fountain Valley School District and California School Employees Association and its Chapter 358.

MEMORANDUM OF UNDERSTANDING
Between
Fountain Valley School District
And
The California School Employees Association and its Fountain Valley Chapter 358

CORONAVIRUS RESPONSE
June 16, 2020

This memorandum is agreed between the Fountain Valley School District (District) and the California School Employees Association and its Fountain Valley Chapter 358 (CSEA) concerning the District's response to the coronavirus (COVID-19) pandemic.

The District and CSEA recognize that the District has taken steps to ensure the safety of students, staff and the communities served by the District. We collectively recognize the importance of taking preventative measures to ensure continued safety of District employees, students, families and other people using District facilities. We agree that continuity of District operations should be maintained and that provisions should be made for District employees impacted by the pandemic.

We agree that the District has taken the following appropriate steps to protect employees, students and the community.

- **Pay Status during school dismissal/distance learning**
All classified employees will remain in paid status per Governor Newsom's Executive Order N-26-20 issued on March 4, 2020, which ensured schools would continue to receive state funding to support, "...delivering high quality educational opportunities", "...provide school meals", and provide the essential functions of the district.
- **Essential Services**
All classified employees are "essential" during school dismissal. It is necessary for the district office, school sites and Maintenance and Operations to remain open, and for employees to be permitted access to their respective workplace/school sites to support the essential services of the district, including providing meal programs and distance learning for students and maintain district operations.
- **Reporting to work**
Employees must remain available to report to work during their regular schedule if notified by their supervisor. If they are not available to report, they may use leave applicable to their circumstances per the collective bargaining agreement or Board policy. Reporting to the worksite site is dependent upon their job responsibilities.

If classified employees are required to physically report to work, they will be contacted directly by their supervisor. The District is working diligently to minimize the number of employees reporting to work daily, utilizing remote meetings/trainings through online technology, rotating schedules and non-workdays to support employees and implement the guidelines provided by the CDPH while providing the essential services to students.

Please note: The majority of employees will be working remotely through June 18, 2020.

- **Schedule changes**

During school dismissal, classified employees must be available during their regular assigned work hours to support and provide meal programs and distance learning for students, maintain the operations of the school district, engage in professional growth, and communicate with district administrators and supervisors.

It is necessary for some employees to report to his/her school site/workplace to perform the duties of their job including food service workers, custodians, maintenance, grounds and warehouse employees. Others will be performing their duties remotely to support the essential services of the district including meal programs and distance learning for our students, and to maintain the operations of the district and will report to their work site/schools on an as needed basis.

- **“At Risk” group per the CDPH’s guidelines**

Per recommendation provided by the California Department of Public Health (CDPH), employees who are 65 years of age or older are expected to stay home in self-isolation. FVSD agrees that employees will not experience a loss of leave or pay through June 19, 2020. Effective June 22, 2020, employees who are 65 years of age or older and are unable to work remotely will be eligible to utilize appropriate, available leaves outlined in the Leaves section below.

The CDPH also identifies those with serious chronic medical conditions including heart disease, diabetes and lung disease and individuals who have compromised immune system as at-risk and recommends they remain home. Employees with chronic medical conditions or compromised immune systems shall be allowed to self-quarantine at no loss to the employee’s leave or pay, upon written medical certification of such need by the employee’s physician, through June 19, 2020. Effective June 22, 2020, employees with serious chronic medical conditions and individuals who have compromised immune system, and are unable to work remotely will be eligible to utilize appropriate available leaves outlined in the Leaves section below upon written certification of such need by the employee’s physician.

If a classified employee falls into the “At Risk” group and will not be able to report to their school site or workplace or work remotely after June 19, 2020, they must notify their supervisor and Cathie Abdel at Abdelc@fvsd.us to start the reasonable accommodation process. If after completing the reasonable accommodations process the employee cannot safely report to the worksite, then the employee shall utilize applicable leaves. Questions should be directed to Cathie Abdel, Assistant Superintendent Personnel.

- **Workplace Protocol**

In order to keep everyone healthy, classified employees should follow the protocols below when coming into the building:

- Respect social distancing rules
 - Stay 6 feet away from coworkers
 - Do not go into another staff member’s workspace
- Wash hands often and do not touch their face
- Do not answer anyone else’s phone. If a classified employee answers someone else’s phone, they must disinfect the phone.
- The District will provide appropriate Personal Protective Equipment (PPE)

- Hand sanitizer and gloves are available at the front desk/school office for classified that need them.
- Masks are available from supervisors.
- Classified employees should contact their supervisor for any additional PPE required for their job tasks
- Custodians are wiping down high touch surfaces daily. Classified employees may contact their Supervisors for additional cleaning supplies.
 - Unit members who are sick should not report to work even if the illness is not COVID-19 related.

- **Leaves**

- **Sick Leave**

If a classified employee is sick or needs to care for a sick family member and cannot fulfill their daily obligation, they should notify their supervisor via email or phone and enter an absence for sick leave into Frontline. If a classified employee does not have a Frontline account, they should email Riley Rodriguez at RodriguezR@fvds.us, and their supervisor to report the absence.

- **Personal Leave**

Employees may take personal necessity time off work in accordance with the regular provisions of the bargaining agreement.

- **Vacation Leave**

Classified employees may take vacation time as previously scheduled and in accordance with the bargaining agreement, if mutually agreed upon with the supervisor.

- **Emergency Family and Medical Leave Expansion Act (EFMLA)**

Effective April 1, 2020, H.R. 6201 temporarily adds a paid leave under normally unpaid FMLA, Emergency Family and Medical Leave (EFMLA). The following are qualifying reasons an employee may be eligible for EFMLA:

1. An eligible employee unable to work due to a need to care for a son or daughter of the employee because the school or childcare provider is closed or unavailable is entitled to up to 12 workweeks of leave.
 - a. Children must be under the age of 18.
 - b. The closure or unavailability must be due to a Covid-19 related public health emergency declared by a Federal, State, or local authority.
 - c. School is defined as “elementary” or “secondary” school.
 - d. “Childcare provider” means a provider who receives compensation for providing childcare services on a regular basis.
2. An employee is deemed eligible if he or she has been employed for at least 30 calendar days.
3. Eligible employees are entitled to 12 workweeks of leave under the following conditions:
 - a. The first 10 days are unpaid unless the employee substitutes vacation, personal leave, or sick leave for unpaid FMLA.

- b. The remainder of the leave is paid at not less than 2/3 pay, which shall not exceed \$200.00 a day and \$10,000 total.
- c. If the employee has used FMLA in the last 12 months, he/she may only use up to the remaining balance of the annual 12 weeks.

○ **Emergency Paid Sick Leave Act**

The Family First Coronavirus Response Act provides for Emergency Paid Sick Leave to an employee who is unable to work for specified reasons. The following are qualifying reasons an employee may be eligible for Emergency Paid Sick Leave:


1. In order to be eligible for Emergency Paid Sick Leave an employee must be deemed unable to work for one of the following reasons related to Covid-19:
 - a. The employee is subject to a quarantine or isolation order by Federal, State or local government due to COVID-19.
 - b. The employee has been advised to self-quarantine by a healthcare provider due to COVID-19.
 - c. The employee is experiencing COVID-19 like symptoms and is seeking medical diagnosis.
 - d. The employee is caring for someone subject to (a) or (b).
 - e. The employee is caring for the employee's son or daughter age 18 or under whose school or childcare is closed or unavailable "due to Covid-19 precautions".
 - f. The employee is experiencing a "substantially similar condition" as specified by the Secretary of Health and Human Services.
2. Full time employees are eligible for 80 hours of Emergency Paid Sick Leave; part-time employees get a prorated amount.
3. Effective April 1, 2020, Emergency Paid Sick Leave is available immediately (not retroactively), regardless how long the employee has been employed.
4. Compensation for Emergency Paid Sick Leave is dependent upon the reason for the leave.
 - a. If the leave is due to a COVID-19 related government quarantine or isolation order or healthcare provider's recommendation for a quarantine or isolation of the employee, the employee is paid based on the employee's regular rate of pay, not to exceed \$511 per day and a total of \$5,111.
 - b. If the employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis, the employee is paid based on the employee's regular rate of pay, not to exceed \$511 per day and a total of \$5,111.
 - c. If the leave is due to the employee caring for someone under COVID-19 related quarantine or isolation orders, the employee is paid based on two-thirds (2/3) of the employee's regular rate of pay, up to a maximum of \$200 per day and a total of \$2000.
 - d. If the leave is due to the employee caring for the employee's son or daughter age 18 or under whose school or childcare is unavailable due to the COVID-19 emergency, the employee is paid based on two-thirds (2/3) of the employee's regular rate of pay, up to a maximum of \$200 per day and a total of \$2000.

5. For leaves under items a, b, or c, please provide a doctor's confirmation of the applicable circumstance.
6. An eligible employee may first use Emergency Paid Sick Leave before using any other paid leaves.


District Communications from March 23, 2020 and April 1, 2020 as well as the workplace protocol notice sent to employees contain the items agreed to above.

This MOU will expire June 30, 2020. The parties agree to reopen this MOU, if requested by either party, to negotiate evolving situations or other conditions not addressed in this MOU related to effects on unit members because of COVID-19.

Dated: 6/16/20

By: 
Cathie Abdel
Assistant Superintendent, Personnel
Fountain Valley School District

Dated: 6-16-20

By: 
Gordon Llanos
President, CSEA Chapter 358

Dated: 6-16-20

By: 
Amy Gonzales
CSEA, Labor Relations Representative



Fountain Valley School District
BUSINESS SERVICES

M E M O R A N D U M

TO: Board of Trustees
FROM: Christine Fullerton, Assistant Superintendent, Business Services
Joe Hastie, Director, Maintenance & Operations
SUBJECT: AWARD BID #20-05 MODULAR BUILDINGS
SITWORK ONLY (TAMURA ELEMENTARY SCHOOL)
DATE: June 17, 2020

Background:

On November 12, 2015 the Board of Trustees approved the design and engineering of modular buildings and parking lot at Tamura Elementary. This recommendation to award is for all site work required prior to the delivery and installation of modular buildings and construction of a parking lot at Tamura Elementary School.

An advertisement to bid was placed in the Orange County Daily Pilot on April 25, 2020 and May 2, 2020 pursuant to Public Contract Code 20011 and Government Code 6066. Twelve (12) Contractors attended the mandatory job walk held on May 28th, 2020 at 9:00 am. and Ten (10) submitted proposals on the advertised bid date of June 4, 2020 at 1:00 pm

Bid Recap

<u>Contractor</u>	<u>Bid Amount</u>
Astra Builders	\$ 1,025,000.00
BuiltAll	\$ 1,035,000.00
C.S. Legacy	\$ 938,992.00
Fast Track Construction	\$ 1,290,500.00
Golden Phoenix	\$ 1,661,000.00
Horizons Construction	\$ 1,027,000.00
Incotechnic, Inc.	\$ 745,816.00
Kazoni, Inc.	\$ 1,648,745.00
R. Jensen Co., Inc	\$ 1,205,000.00
Sandalwood Construction	\$ 1,324,000.00

At bid opening Incotechnic was deemed the apparent lowest bidder at \$ 745,816.00. On June 5, 2020 a formal bid protest was filed by BuiltAll. In accordance with bidding documents the District responded to the protest request within the prescribed time and after legal consultation

the District has DENIED the bid protest by BuiltAll and has deemed Incotechnic, Inc. the lowest responsible bidder for Project FVSD 20-05.

Fiscal Impact:

Funding for this project will come from the Childcare Program Fund and Developer Fees.

Recommendation:

It is recommended that the Board of Trustees awards Bid# 20-05 to Incotechnic, Inc., in the amount of \$ 745,816.00 and authorizes the Superintendent or his designee to sign all documents on behalf of the District.



Fountain Valley School District
Information Technology

M E M O R A N D U M

TO: Board of Trustees
FROM: Christine Fullerton, Assistant Superintendent, Business Services
Parham Sadegh, IT Supervisor
SUBJECT: **APPROVE THE 2020-2021 NETWORK SUPPORT SERVICES
AGREEMENT # 50012 WITH THE ORANGE COUNTY
DEPARTMENT OF EDUCATION IN THE AMOUNT OF \$4,600.00**
DATE: June 22, 2020

Background:

The Orange County Department of Education (OCDE) provides Internet Access to The Fountain Valley School District through a dedicated 10 GB fiber optic circuit. OCDE charges \$4,600.00 per year to provide network management and monitoring services for this circuit. The monitoring services include, access to a web-based dashboard, outage notification and technical support.

Fiscal Impact:

OCDE's data circuit network management services are a cost not to exceed \$4,600.00. The funds will be paid out of IT department's 2020-2021 budget.

Recommendation:

It is recommended that the Board of Trustees approves the 2020-2021 Network Support Services Agreement # 50012 with OCDE for \$4,600.00.

2020-2021
NETWORK SUPPORT SERVICES AGREEMENT
FOUNTAIN VALLEY SCHOOL DISTRICT

This Network Support Services Agreement is hereby entered into this 1st day of July, 2020, 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, Fountain Valley, California 92708, hereinafter referred to as DISTRICT. SUPERINTENDENT and DISTRICT shall be collectively referred to as the Parties.

Now, THEREFORE, the Parties hereto mutually agree as follows:

1.0 BASIS OF AGREEMENT. Provide network support services for data connectivity and support along with DISTRICT internet circuit(s) handoff and Distributed Denial of Services (DDoS) Protection to school districts within Orange County in accordance with the terms and conditions set forth in this AGREEMENT.

2.0 NETWORK SUPPORT. SUPERINTENDENT agrees to provide DISTRICT access to applications and services via the SUPERINTENDENT'S network utilized by the SUPERINTENDENT. Applications and services shall include access to the following:

1. Payroll Services
2. Financial (Separate contract required)
3. Human Resources (Separate contract required)
4. Time and Attendance (Separate contract required)

5. Imaging/Workflow (i.e. Pan, etc.) (Separate contract required)
6. Data Center Site Services-California (Separate contract required)
7. Data Center Site Services-Arizona (Separate contract required)
8. Technical Support/Professional Services (Separate contract required)
9. Security Consulting Services (Separate contract required)

3.0 DDoS PROTECTION. SUPERINTENDENT shall make the best effort to protect against a Distributed Denial of Services (DDoS) attack against the DISTRICT. DISTRICT agrees that network traffic for the DISTRICT may be rerouted during a DDoS attack to a third party entity for protection. DISTRICT also agrees that SUPERINTENDENT may use alternative methods for DDoS protection. DDoS protection mechanism will only need to inspect META Data.

4.0 TERM. This AGREEMENT shall be in full force and effect for the period commencing July 1, 2020, and ending on June 30, 2021, subject to termination as set forth in this AGREEMENT.

5.0 PAYMENT. DISTRICT agrees to pay SUPERINTENDENT for services rendered pursuant to Section 2.0 of this AGREEMENT a total amount not to exceed Four thousand six hundred dollars (\$4,600.00). The charges are based on the actual expenses incurred by SUPERINTENDENT in supporting the connectivity between DISTRICT and SUPERINTENDENT through the circuit, Internet service providers, and vendors providing equipment, lines, services and DDoS Protection. DISTRICT

1 shall be notified in writing of any increase in charges incurred by
2 SUPERINTENDENT in supporting the network. DISTRICT agrees to pay
3 SUPERINTENDENT the actual charges within thirty (30) days upon
4 receipt of an itemized invoice from the SUPERINTENDENT.

5 6.0 TECHNICAL SUPPORT. DISTRICT shall be entitled to ongoing
6 technical support and assistance on SUPERINTENDENT'S Network between
7 the DISTRICT and SUPERINTENDENT, provided however, that the
8 availability or performance of this technical support service shall
9 not be construed as altering or affecting SUPERINTENDENT'S
10 obligations as set forth in this AGREEMENT. SUPERINTENDENT'S
11 technical support via telephone shall be provided to DISTRICT
12 without charge Monday through Friday from 7:00 A.M. - 5:00 P.M.,
13 excluding SUPERINTENDENT'S holidays. Technical support outside of
14 this timeframe will require prior authorization.

15 7.0 INDEPENDENT CONTRACTOR. SUPERINTENDENT is and at all times
16 shall be an independent contractor and shall be wholly responsible
17 for the manner in which the services required by the terms of this
18 AGREEMENT are performed. Nothing herein contained shall be
19 construed as creating the relationship of employer and employee, or
20 principal and agent, between SUPERINTENDENT and DISTRICT.
21 SUPERINTENDENT assumes the responsibility for the acts of its
22 employees or agents as they relate to the services to be provided.
23 SUPERINTENDENT, its officers, agents, and employees, shall not be
24 entitled to any rights, and/or privileges of DISTRICT'S employees
25 and shall not be considered in any manner to be DISTRICT'S
employees.

1 8.0 HOLD HARMLESS.

2 A. SUPERINTENDENT hereby agrees to indemnify, defend, and
3 hold harmless DISTRICT, its Governing Board, officers, agents, and
4 employees from every claim or demand and every liability loss,
5 damage, or expense of any nature whatsoever which may be incurred by
6 reason of any negligent acts or omissions of employees, agents or
7 officers of SUPERINTENDENT or the Orange County Board of Education
8 during the period of this AGREEMENT.

9 B. DISTRICT hereby agrees to indemnify, defend, and hold
10 harmless SUPERINTENDENT, the Orange County Board of Education, and
11 its officers, agents, and employees from every claim or demand and
12 every liability, loss, damage, or expense of any nature whatsoever
13 which may be incurred by reason of any negligent acts or omissions
14 of employees, agents or officers of DISTRICT during the period of
15 this AGREEMENT.

16 9.0 NON-DISCRIMINATION. SUPERINTENDENT and DISTRICT agree that
17 they will not engage in unlawful discrimination of persons because
18 of race, color, religious creed, national origin, ancestry, physical
19 handicap, medical condition, marital status, or sex of such persons.

20 10.0 APPLICABLE LAW. The services completed herein must meet the
21 approval of the DISTRICT's general right of inspection to secure the
22 satisfactory completion thereof. SUPERINTENDENT and DISTRICT agree
23 to comply with all federal, state and local laws, rules, regulations
24 and ordinances that are now or may in the future become applicable
25 to SUPERINTENDENT or DISTRICT'S business, equipment and personnel

engaged in operations covered by this AGREEMENT or occurring out of the performance of such operations.

11.0 ASSIGNMENT. Neither party shall subcontract or assign this AGREEMENT or the performance of any of the services set forth in this AGREEMENT without prior written approval of the non-assigning party.

12.0 TERMINATION. This AGREEMENT may be terminated by SUPERINTENDENT or DISTRICT with or without cause, upon the giving of sixty (60) days prior written notice to the other party.

13.0 TOBACCO USE POLICY. In the interest of public health, the SUPERINTENDENT provides a tobacco-free environment. Smoking or the use of any tobacco products are prohibited in buildings and vehicles, and on any property owned, leased or contracted for by the SUPERINTENDENT. Failure to abide with conditions of this policy could result in the termination of this AGREEMENT.

14.0 NOTICES. All notices or demands to be given under this AGREEMENT by either party to the other shall be in writing and given either by: i) Personal service, or ii) U.S. Mail, mailed either by registered or certified mail, return receipt requested, with postage prepaid. Service shall be considered given when received if personally served or, if mailed, on the third (3rd) day after deposit in any U.S. Post Office. The address to which notices or demands may be given by either party may be changed by written notice given in accordance with the notice provisions of this section. As of the date of this AGREEMENT the addresses of the parties are as follows:

DISTRICT: Fountain Valley School District
10055 Slater Avenue
Fountain Valley, California 92708
Attn: _____

SUPERINTENDENT: Orange County Superintendent of Schools
200 Kalmus Drive
P.O. Box 9050
Costa Mesa, California 92628-9050
Attn: Patricia McCaughey

15.0 SEVERABILITY. If any term, condition or provision of this AGREEMENT is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect and shall not be affected, impaired or invalidated in any way.

16.0 GOVERNING LAW. The terms and conditions of this AGREEMENT shall be governed by the laws of the State of California, with venue in Orange County, California.

17.0 ENTIRE AGREEMENT/AMENDMENT. This AGREEMENT and any exhibits attached hereto constitute the entire AGREEMENT between SUPERINTENDENT and DISTRICT regarding the services and any agreement made shall be ineffective to modify this AGREEMENT in whole or in part unless such agreement is embodied in an Amendment to this AGREEMENT which has been signed by both Parties. This AGREEMENT supersedes all prior negotiations, understandings, representations and agreements.

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1 IN WITNESS WHEREOF, the Parties hereto have caused this
2 AGREEMENT to be executed.

3 DISTRICT: FOUNTAIN VALLEY
4 SCHOOL DISTRICT

ORANGE COUNTY SUPERINTENDENT
OF SCHOOLS

5 BY: _____
6 Authorized Signature

BY:  _____
Authorized Signature

7 PRINT NAME: _____

PRINT NAME: Patricia McCaughey

8 TITLE: _____

TITLE: Administrator

9 DATE: _____

DATE: March 31, 2020

10
11 FVSD(50012)-Network Support Services 2020-2021
12 ZIP4



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: **APPROVE SCOPE AMENDMENT 1 TO THE ARCHITECTURAL
SERVICE AGREEMENT WITH RACHLIN PARTNERS FOR
GISLER ELEMENTARY SCHOOL**
DATE: June 22, 2020

Background:

The District entered into a Master Architectural Services Agreement with Rachlin Partners, for the entire scope of the Measure O work in March of 2017, which included a per fee schedule based on the total cost of work at each individual school. Rachlin estimated their fees for Gisler based on the budgeted cost of the preliminary scope of work; however, final architectural fees for the project were not determined until the GMP for the project was approved. Rachlin will be providing Enhanced Construction Administration Services; these fees are determined based on project timelines and scope.

Fiscal Impact:

The architectural fees for Gisler Elementary School shall not exceed \$628,580.00 for Gisler design. Enhanced Construction Administration Services for Gisler are not to exceed \$171,400.00. Measure O Bond proceeds shall be used for these services.

Recommendation:

It is recommended that the Board of Trustees approves Scope Amendment 1 to the Master Architectural Service Agreement with Rachlin Partners for Gisler Elementary School.

SCOPE AMENDMENT NO. 1 TO ARCHITECTURAL SERVICES AGREEMENT

(Master Agreement)

This Amendment No. 1 (“Amendment”) to the Architectural Services Agreement (“Agreement”) by and between the Fountain Valley School District, a school district duly organized and validly existing under the laws of the State of California (“District”) and Rachlin Partners (“Rachlin”) dated June 18, 2020, and is hereby made and entered into this 1st day of July, 2020 (“Effective Date”) as follows:

WHEREAS, the District and the Rachlin have entered into the Agreement, a true and correct copy is attached hereto as Exhibit “A,” in which the District contracted with Rachlin to provide both architectural and enhanced construction administration services for the modernization of Gisler Elementary School as more particularly described in the Agreement (“Project”); and

WHEREAS, Section XIII.13 of the Agreement provides that the Agreement may be amended by an agreement in writing signed by both the District and Rachlin.

NOW THEREFORE, THE DISTRICT AND RACHLIN HEREBY AGREE AS FOLLOWS:

1. **Agreement.** The District and Rachlin hereto represent that the aforementioned Agreement is the true, correct and complete agreement between the Parties and that there have been no written or oral amendment(s) to the Agreement. All capitalized terms not otherwise defined herein shall have the same meanings given in the Agreement.

2. **Incorporation of the Final Adjusted Cost of the Architectural Fee.** The District shall compensate Rachlin for the Final Adjusted Cost required by this Amendment No. 1 for the contract regarding the existing Gisler Elementary School Campus as set forth in Exhibit “B” hereto, now that the final Guaranteed Maximum Price for construction has been determined. Compensation shall not exceed Six Hundred Twenty-Eight Thousand Five Hundred Eighty Dollars and No Cents (\$628,580.00) for Architectural Services and Twenty-Three Thousand Three Hundred Sixty-Five Dollars and No Cents (\$16,393.00) for Reimbursable Expenses.

3. **Cost of Additional Work – Design Change Orders.** The District shall compensate Rachlin for the Additional Work – Design Change Orders required by this Amendment for the contract regarding the existing Gisler Elementary School Campus as set forth in Exhibit “B” hereto, now that the final Guaranteed Maximum Price for construction has been determined. Compensation shall not exceed No Dollars and No Cents (\$00.00) for Design Change Orders and No Dollars and Cents (\$0.00) for Reimbursable Expenses.

4. **Cost of Additional Work – Enhanced Construction Administration Services.** The District shall compensate Rachlin for the Additional Work – Enhanced Construction Administration Services required by this Amendment for the contract regarding the existing Gisler Elementary School Campus as set forth in Exhibit “C” hereto, now that the final Guaranteed Maximum Price for construction has been determined. Compensation shall not exceed One Hundred Seventy-One Thousand Four Hundred Dollars and No Cents (\$171,400.00) for Architectural Services and Nine Thousand Four Hundred Twenty-Seven Dollars and No Cents (\$9,427.00) for Reimbursable Expenses.

5. **Binding Effect; Partial Invalidity.** This Amendment shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns. If any provision of this Amendment shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Amendment or the Agreement.

6. **Full Force and Effect; No Other Amendments.** The Agreement is hereby modified with respect to the terms set forth herein, and any other portion thereof as necessary to implement the foregoing. Except as specifically set forth in this Amendment, the Agreement shall remain unmodified and in full force and effect as executed by the Parties.

7. **Facsimile Signatures.** In order to expedite the execution of this Amendment, telecopied signatures may be used in place of original signatures on this document. The Parties intend to be bound by the signatures on the telecopied document, are aware that the other Party will rely on the telecopied signatures, and hereby waive any defenses to the enforcement of the terms of this Amendment based on the form of signature.

8. **Counterparts.** This Amendment may be executed and delivered in any number of counterparts, each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument.

9. **Inconsistencies.** In the event of any inconsistency between the terms of this Amendment and those of the Agreement, the terms of this Amendment shall control.

IN WITNESS WHEREOF, the Parties have, by their duly authorized representatives, executed this Amendment, as of the Effective Date set forth above, and agree that this Amendment shall constitute binding modifications to the Agreement.

FOUNTAIN VALLEY SCHOOL DISTRICT

By: _____
Name: _____
Its: _____

RACHLIN PARTNERS

By: _____
Name: _____
Its: _____

EXHIBIT “A”

AGREEMENT

(To Be Inserted)

EXHIBIT “B”

FINAL ADJUSTED COST OF THE ARCHITECTURAL FEE

(To Be Inserted)

EXHIBIT “C”

ENHANCED CONSTRUCTION ADMINISTRATION SERVICES
COMPENSATION SUMMARY AND SCHEDULE

(To Be Inserted)



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: **APPROVE SCOPE AMENDMENT 1 TO THE ARCHITECTURAL
SERVICE AGREEMENT WITH RACHLIN PARTNERS FOR
TALBERT MIDDLE SCHOOL**
DATE: June 22, 2020

Background:

The District entered into a Master Architectural Services Agreement with Rachlin Partners, for the entire scope of the Measure O work in March of 2017, which included a per fee schedule based on the total cost of work at each individual school. Rachlin estimated their fees for Talbert based on the budgeted cost of the preliminary scope of work; however, final architectural fees for the project were not determined until the GMP for the project was approved. Rachlin will also be providing Enhance Construction Administration Services; these fees are determined based on project timelines and scope.

Fiscal Impact:

The architectural fees for Talbert Middle School shall not exceed \$746,548.00 for architectural services. Enhanced Construction Administration Services for Talbert are not to exceed \$171,400.00. Measure O Bond proceeds shall be used for these services.

Recommendation:

It is recommended that the Board of Trustees approves Scope Amendment 1 to the Master Architectural Service Agreement with Rachlin Partners for Talbert Middle School.

SCOPE AMENDMENT NO. 1 TO ARCHITECTURAL SERVICES AGREEMENT

(Master Agreement)

This Amendment No. 1 ("Amendment") to the Architectural Services Agreement ("Agreement") by and between the Fountain Valley School District, a school district duly organized and validly existing under the laws of the State of California ("District") and Rachlin Partners ("Rachlin") dated June 18, 2020, and is hereby made and entered into this 1st day of July, 2020 ("Effective Date") as follows:

WHEREAS, the District and the Rachlin have entered into the Agreement, a true and correct copy is attached hereto as Exhibit "A," in which the District contracted with Rachlin to provide both architectural and enhanced construction administration services for the modernization of Talbert Middle School as more particularly described in the Agreement ("Project"); and

WHEREAS, Section XIII.13 of the Agreement provides that the Agreement may be amended by an agreement in writing signed by both the District and Rachlin.

NOW THEREFORE, THE DISTRICT AND RACHLIN HEREBY AGREE AS FOLLOWS:

1. **Agreement.** The District and Rachlin hereto represent that the aforementioned Agreement is the true, correct and complete agreement between the Parties and that there have been no written or oral amendment(s) to the Agreement. All capitalized terms not otherwise defined herein shall have the same meanings given in the Agreement.
2. **Incorporation of the Final Adjusted Cost of the Architectural Fee.** The District shall compensate Rachlin for the Final Adjusted Cost required by this Amendment No. 1 for the contract regarding the existing Talbert Middle School Campus as set forth in Exhibit "B" hereto, now that the final Guaranteed Maximum Price for construction has been determined. Compensation shall not exceed Seven Hundred Forty-Six Thousand Five Hundred Forty-Eight Dollars and No Cents (\$746,548.00.00) for Architectural Services and Twenty-Three Thousand Three Hundred Sixty-Five Dollars and No Cents (\$23,365.00) for Reimbursable Expenses.
3. **Cost of Additional Work – Design Change Orders.** The District shall compensate Rachlin for the Additional Work – Design Change Orders required by this Amendment for the contract regarding the existing Talbert Middle School Campus as set forth in Exhibit "B" hereto, now that the final Guaranteed Maximum Price for construction has been determined. Compensation shall not exceed Four Thousand Five Hundred Dollars and No Cents (\$4,500.00) for Design Change Orders and No Dollars and Cents (\$0.00) for Reimbursable Expenses.
4. **Cost of Additional Work – Enhanced Construction Administration Services.** The District shall compensate Rachlin for the Additional Work – Enhanced Construction Administration Services required by this Amendment for the contract regarding the existing Talbert Middle School Campus as set forth in Exhibit "C" hereto, now that the final Guaranteed Maximum Price for construction has been determined. Compensation shall not exceed One Hundred Seventy-One Thousand Four Hundred Dollars and No Cents (\$171,400.00) for Architectural Services and Nine Thousand Four Hundred Twenty-Seven Dollars and No Cents (\$9,427.00) for Reimbursable Expenses.

5. **Binding Effect; Partial Invalidity.** This Amendment shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns. If any provision of this Amendment shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Amendment or the Agreement.

6. **Full Force and Effect; No Other Amendments.** The Agreement is hereby modified with respect to the terms set forth herein, and any other portion thereof as necessary to implement the foregoing. Except as specifically set forth in this Amendment, the Agreement shall remain unmodified and in full force and effect as executed by the Parties.

7. **Facsimile Signatures.** In order to expedite the execution of this Amendment, telecopied signatures may be used in place of original signatures on this document. The Parties intend to be bound by the signatures on the telecopied document, are aware that the other Party will rely on the telecopied signatures, and hereby waive any defenses to the enforcement of the terms of this Amendment based on the form of signature.

8. **Counterparts.** This Amendment may be executed and delivered in any number of counterparts, each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument.

9. **Inconsistencies.** In the event of any inconsistency between the terms of this Amendment and those of the Agreement, the terms of this Amendment shall control.

IN WITNESS WHEREOF, the Parties have, by their duly authorized representatives, executed this Amendment, as of the Effective Date set forth above, and agree that this Amendment shall constitute binding modifications to the Agreement.

FOUNTAIN VALLEY SCHOOL DISTRICT

By: _____
Name: _____
Its: _____

RACHLIN PARTNERS

By: _____
Name: _____
Its: _____

EXHIBIT “A”

AGREEMENT

(To Be Inserted)

EXHIBIT “B”

FINAL ADJUSTED COST OF THE ARCHITECTURAL FEE

(To Be Inserted)

EXHIBIT “C”

ENHANCED CONSTRUCTION ADMINISTRATION SERVICES
COMPENSATION SUMMARY AND SCHEDULE

(To Be Inserted)



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: **APPROVE CHANGE ORDER #3 FOR THE FULTON MIDDLE
SCHOOL MEASURE O HVAC AND MODERNIZATION
PROJECT**
DATE: June 22, 2020

Background:

On March 14, 2019, the Board of Trustees approve the Guaranteed Maximum Price (GMP) for the Measure O HVAC and Modernization at Fulton Middle School. At the same time the Board approved District Contingencies for unforeseen conditions and owner changes.

Fiscal Impact:

The total for Change Order #3 is (\$187,056.00) and will modify the total contingency budget for the Fulton project of \$625,000.

Recommendation:

It is recommended that the Board of Trustees approves Change Order #3 for the Fulton Middle School Measure O HVAC and Modernization Project.



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 PowerSchool
Contracts (formerly known as SunGard)**
DATE: June 19, 2020

Background:

Business-Plus System Support Agreement #42950 Amendment #4

The Orange County Department of Education (OCDE) provides professional services for the operation of the PowerSchool (formerly known as 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 2020-21 school year is \$60,000, an increase of \$5,643 from 2019-20.

Human Resources Application Agreement #46315 Amendment #2

The Orange County Department of Education (OCDE) provides system as well as software support for the District's PowerSchool (formerly known as SunGard) Human Resources System package. The cost for the 2020-21 school year is \$35,000, an increase of \$7,326 from 2019-20.

Recommendation

It is recommended that the Board approves Agreement Number 42950 – Amendment #4, “Business-Plus System Support” and Agreement 46315 – Amendment #2 “Human Resources Application” with the Orange County Department of Education and authorizes the Superintendent or designee to sign all documents.

2 AMENDMENT #2
3 FOUNTAIN VALLEY SCHOOL DISTRICT
4 HUMAN RESOURCES APPLICATION
5 SOFTWARE SUPPORT SERVICE AGREEMENT

6 The AGREEMENT entered into July 1, 2018, 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, Fountain
10 Valley, California 92708, hereinafter referred to as DISTRICT, is
11 hereby further amended as follows:

12 1.0 Section 5.0 PAYMENT shall be amended to read: DISTRICT agrees to
13 pay SUPERINTENDENT the sum of Thirty-five thousand dollars
14 (\$35,000.00) for SUPERINTENDENT'S Human Resources Application annual
15 software support service fees for fiscal year 2020-2021. Annual
16 software support service fees due for each fiscal year shall be paid
17 by DISTRICT on or before August 1st of that fiscal year upon receipt
18 of an itemized invoice from SUPERINTENDENT. Annual Human Resources
19 Application software support service fees will be evaluated annually
20 for possible upward or downward adjustments. SUPERINTENDENT will
21 provide DISTRICT written notice of the annual Human Resources
22 Application software support service fees due for the renewal period
23 ninety (90) days prior to the end of each renewal period. Renewal
24 fees shall be based on the actual costs incurred by SUPERINTENDENT to
25 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 8, 2020

FVSD(46315)-Amendment #2-Human Resources Application 2020-2021
ZIP4

2 AMENDMENT #4
3 FOUNTAIN VALLEY SCHOOL DISTRICT
4 BUSINESS-PLUS SYSTEM SUPPORT
5 AND SOFTWARE SUPPORT SERVICE AGREEMENT

6 The AGREEMENT entered into April 27, 2016, by and between the
7 Orange County Superintendent of Schools, 200 Kalmus Drive, Costa
8 Mesa, California 92626, hereinafter referred to as SUPERINTENDENT,
9 and Fountain Valley School District, 10055 Slater Avenue, Fountain
10 Valley, California 92708, hereinafter referred to as DISTRICT, is
11 hereby further amended as follows:

12 1.0 Section 5.0 PAYMENT shall be amended to read: DISTRICT agrees
13 to pay SUPERINTENDENT the sum of Sixty thousand Dollars (\$60,000.00)
14 for annual software support service fees for fiscal year 2020-2021.
15 Annual software support service fees due for each fiscal year shall
16 be paid by DISTRICT on or before August 1st of that fiscal year upon
17 receipt of an itemized invoice from SUPERINTENDENT. SUPERINTENDENT
18 shall evaluate software support service charges annually, for
19 possible upward or downward adjustments, based on SUPERINTENDENT'S
20 actual costs to support Business-Plus software. SUPERINTENDENT will
21 provide DISTRICT written notice of the annual software support
22 service fees due for the renewal period ninety (90) days prior to the
23 end of each renewal period.

24 2.0 Except as expressly herein amended, including any amendments
25 thereto, said AGREEMENT of April 27, 2016, shall in all respects be
and remain in full force and effect.

1 IN WITNESS WHEREOF, the Parties hereto set their hands.

2 DISTRICT: FOUNTAIN VALLEY
3 SCHOOL DISTRICT

ORANGE COUNTY SUPERINTENDENT
OF SCHOOLS

4 BY: _____
Authorized Signature

BY: Patricia McCaughey
Authorized Signature

5 PRINTED NAME: _____

PRINTED NAME: Patricia McCaughey

6 TITLE: _____

TITLE: Administrator

7 DATE: _____

DATE: June 8, 2020

8
9
10 FVSD(42950)-Amendment #4-Financial-Business Plus 2020-2021
ZIP4



Fountain Valley School District
Business Service Division

MEMORANDUM

TO: Board of Trustees
FROM: Christine Fullerton, Assistant Superintendent Business Services
SUBJECT: **APPOVE THREE YEAR AGREEMENT FOR PROFESSIONAL SERVICES WITH ATKINSON, ANDELSON, LOYA, RUUD & ROMO**
DATE: June 22, 2020

Background:

The law firm of Atkinson, Andelson, Loya, Ruud & Romo has provide legal services for the District for a number of years. Services include legal advice relating to any and all aspects of the District's educational, property and business concerns. The previous agreement was for three years (2017-2020). The new agreement is for three years, July 1, 2020 through July 31, 2023, and can be terminated at any time by the District.

Fiscal Impact:

The new agreement includes modest annual increases. Billing rates from the last year of the prior agreement, as well as each year of the new agreement are outlined in the chart below. In addition to hourly billing rates, the District agrees to pay a 5% per month administrative charge based on monthly fees billed, to cover related operational expenses incurred by the law firm.

	2019-20	2020-21	2021-22	2022-23
Senior Partners	\$310.00	\$315.00	\$320.00	\$325.00
Partners/Senior Council	\$280.00	\$290.00	\$300.00	\$305.00
Senior Associates	\$265.00	\$275.00	\$280.00	\$285.00
Associates	\$235.00	\$245.00	\$255.00	\$265.00
Electronic Technology Litigation Specialist	\$220.00	\$235.00	\$245.00	\$255.00
Non-Legal Consultant	\$200.00	\$210.00	\$210.00	\$210.00
Senior Paralegals/Law Clerks	\$175.00	\$175.00	\$175.00	\$175.00

Paralegals/Legal Assistants	\$160.00	\$165.00	\$170.00	\$170.00
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Recommendation:

It is recommended that the Board of Trustees approves the Agreement For Special Services with Atkinson, Andelson, Loya, Ruud & Romo, through July 31, 2023, and authorizes the Superintendent or designee to sign all documents.

AGREEMENT FOR SPECIAL SERVICES

I. PARTIES

This Agreement for Special Services (the “Agreement”) is made this 1st day of July, 2020, between the law firm of ATKINSON, ANDELSON, LOYA, RUUD & ROMO, a Professional Law Corporation, hereinafter referred to as the “Law Firm,” and FOUNTAIN VALLEY SCHOOL DISTRICT, hereinafter referred to as “District.”

II. RECITALS; PURPOSE; MATTERS

The District desires to retain and engage the Law Firm to perform legal and, upon request, non-legal consultant services on the District’s behalf, and the Law Firm is willing to accept said engagement on the terms and conditions contained in this Agreement. The Law Firm agrees to provide such services to the District, including representation in administrative and court proceedings, as requested by the District. The place and time for such services are to be designated by the Superintendent of the District or designee.

III. TERMS AND CONDITIONS

A. The term of this Agreement shall be for three years, commencing July 1, 2020, through June 30, 2023. For the period July 1, 2020, through June 30, 2023, the District hereby agrees to pay the Law Firm in connection with the above-referenced services as authorized at the following hourly rates:

	<u>July 1, 2020- June 30, 2021</u>	<u>July 1, 2021- June 30, 2022</u>	<u>July 1, 2022- June 30, 2023</u>
Senior Partners	\$315.00	\$320.00	\$325.00
Partners/Senior Counsel	\$290.00	\$300.00	\$305.00
Senior Associates	\$275.00	\$280.00	\$285.00
Associates	\$245.00	\$255.00	\$265.00
Electronic Technology Litigation Specialist	\$235.00	\$245.00	\$255.00
Non-Legal Consultants	\$210.00	\$210.00	\$210.00
Senior Paralegals/Law Clerks	\$175.00	\$175.00	\$175.00
Paralegals/Legal Assistants	\$165.00	\$170.00	\$170.00

The Law Firm shall bill in quarter-hour increments. A fixed rate may be established for specially identified projects, subject to prior approval by the District.

B. In addition, the District hereby agrees to pay a 5% per month administrative charge calculated and based on monthly fees billed to cover related operational expenses incurred by the Law Firm. This administrative fee is in lieu of charging the District for Westlaw, photocopies, automobile mileage, parking, facsimiles, telephone, document preparation, and postage. This does not include items listed in paragraph D below.

C. The Law Firm may charge the full hourly rate to more than one client for services provided concurrently during the same time period. For example, in the course of traveling to the District or while providing legal services at the District, it may be necessary for the Law Firm to provide billable services to other clients.

D. The Law Firm shall not be obligated to advance costs on behalf of the District; however, for purposes of convenience and in order to expedite matters, the Law Firm reserves the right to advance costs on behalf of the District with the Superintendent's or designee's prior approval in the event a particular cost item exceeds \$2,000.00 in amount, and without the prior approval of the District in the event a particular cost item totals \$2,000.00 or less. Typical cost advances include, but are not limited to, messenger fees, travel costs, bonds, witness fees, overnight delivery, deposition and court reporter fees, transcript costs, expert witness fees, investigative fees, etc. If the Law Firm retains, with authorization from the District, experts or consultants for the benefit of the District, rather than the District contracting directly with any expert or consultant, it is agreed that the District shall pay a five percent (5%) fee ("consultant processing fee") on such expert and consultant costs paid by the Law Firm in order to offset certain costs to the Law Firm resulting from administering and initially paying such expert and consultant fees on behalf of the District.

E. A detailed description of the attorney work performed and the costs advanced by the Law Firm will be prepared on a monthly basis as of the last day of the month and will be mailed to the District on or about the 15th of the following month. Payment of the full amount due, as reflected on the monthly statements, will be due to the Law Firm from the District by the 10th of each month, unless other arrangements are made. In the event there are retainer funds of the District in the Law Firm's Trust account at the time a monthly billing statement is prepared, funds will be transferred from the Law Firm's Trust Account to the Law Firm's General Account to the extent of the balance due on the monthly statement and a credit therefor will be reflected on the monthly statement. Any balance of fees or costs advanced remaining unpaid for a period of 30 days will be subject to a 1% per month service charge.

F. The District agrees to review the Law Firm's monthly statements promptly upon receipt and to notify the Law Firm, in writing, with respect to any disagreement with the monthly statement. Failure to communicate written disagreement with the Law Firm's monthly statement within thirty (30) days of the District's receipt thereof shall be deemed to signify the District's agreement that the monthly billing statement accurately reflects: (a) the legal services performed; and (b) the proper charge for those legal services.

G. The District agrees to fully cooperate with the Law Firm in connection with the Law Firm's representation of the District including, but not limited to, attending mandatory court hearings and other appearances and providing necessary information and documentation to enable the Law Firm to adequately represent the District.

H. The District has the right, at any time, and either with or without good cause, to discharge the Law Firm as the District's attorneys. In the event of such a discharge of the Law Firm by the District, however, any and all unpaid attorneys' fees and costs owing to the Law Firm from the District shall be immediately due and payable.

I. The Law Firm reserves the right to discontinue the performance of legal services on behalf of the District upon the occurrence of any one or more of the following events:

1. Upon order of Court requiring the Law Firm to discontinue the performance of said legal services;

2. Upon a determination by the Law Firm in the exercise of its reasonable and sole discretion, that state or federal legal ethical principles require it to discontinue legal services for the District;

3. Upon the failure of the District to perform any of the District's obligations hereunder with respect to the payment of the Law Firm's fees and costs advanced; or

4. Upon the failure of the District to perform any of the District's obligations hereunder with respect to cooperation with the Law Firm in connection with the Law Firm's representation of the District.

J. In the event that the Law Firm ceases to perform legal services for the District as hereinabove provided, the District agrees that it will promptly pay to the Law Firm any and all unpaid fees or costs advanced, and retrieve all of its files, signing a receipt therefor. Further, the District agrees that, with respect to any litigation where the Law Firm has made an appearance in Court on its behalf, the District will promptly execute an appropriate Substitution of Attorney form.

K. The Law Firm maintains errors and omissions insurance coverage applicable to the services to be rendered.

L. It is understood and agreed that the Law Firm, while engaged in 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 District.

IV. SPECIALIZED LEGAL SERVICES

For specialized litigation and transactional services in the areas of construction, procurement, technology, prevailing wage, real property, intellectual property, CEQA, mitigation negotiations, school and college finance, tax, bankruptcy, copyright, trademark, non-profit organizations, immigration, and appellate law, the District agrees to pay the Law Firm at rates higher than the standard hourly rates for special projects or particular scopes of work. The Law Firm shall inform the District of the rates for specialized services and the Superintendent or designee shall agree to such rates in writing prior to any billings for specialized legal services by the Law Firm.

V. RELATED POST-INVESTIGATION SERVICES

If an attorney who conducted an investigation for the District is subsequently asked or required to prepare for and/or testify, including, without limitation, at deposition, trial, arbitration or any other proceeding, because of services rendered under this Agreement, and/or if the investigating attorney must respond to subpoenas or discovery or otherwise respond or perform services with respect to any matter relating to or arising out of services performed for the District, the District agrees to pay the Law Firm for all time expended (including preparation time) at the investigating attorney's then current regular hourly rate and to reimburse the Law Firm for reasonable costs and expenses incurred.

VI. CONSENT TO JOINT REPRESENTATION

The District acknowledges that from time to time Law Firm may be asked to perform legal services on a matter affecting two or more public education local agencies. In such situations before proceeding with representation, Law Firm shall provide the District with a written disclosure of the relevant circumstances and of the actual and reasonably foreseeable adverse consequences to the District, and shall seek separate written consent to joint representation from all involved parties if permissible according to ethical principles applicable to attorneys. The District acknowledges that it is often in the best interest of the District for such representation to commence without undue delay which may result from waiting until a regularly-scheduled Board meeting. Therefore, the Governing Board of the District hereby delegates to the Superintendent or designee authority to consent to joint representation in the circumstances described in this paragraph, and to execute such written consent on behalf of the Board and District.

VII. SERVICES PERFORMED BY LAW FIRM-PROVIDED NON-LEGAL CONSULTANTS

The Law Firm has an affiliation with non-legal education consultants who are available to assist the District in areas including, but not limited to, personnel/business office audits, human resources/collective bargaining consultation, public/employee relations surveys and communications, media and public relations, budget analysis/support services, instructional coaching/counseling at school improvement sites, special education, student discipline, leadership coaching, board/superintendent relations and best practices, and interim management placement.

Because the Law Firm has a financial interest in the District's use of these affiliated non-legal consultants, the rules of the State Bar of California require that the District provide its informed written consent to this arrangement prior to utilizing these services. Execution of this Agreement shall be deemed "informed consent" for the purposes of this paragraph. The District is hereby advised that it may seek the advice of an independent attorney of its choice prior to providing such written consent.

Please also be advised that because the services of these non-legal consultants are provided to the District outside of the attorney-client relationship, communications with these non-legal consultants will not be protected from disclosure by the attorney-client privilege.

VIII. CONSENT TO LAW FIRM COMMUNICATION

As part of our commitment to client service, the Law Firm will send the District periodic alerts on case developments and legislative changes, and notices of Breakfast Briefings, conferences, and other training opportunities designed to help the District with daily legal concerns. The Law Firm will send those and other additional service notices to the District via regular mail and/or electronic mail at the email address which you designate or the email used in your daily communications with us. These email notices are a convenient way to keep the District administrators apprised of important legal changes. By execution of this Agreement, the District and designated contact(s) consent to receive such communications by electronic mail subject to the right to unsubscribe at any time.

IX. IDENTIFICATION OF INSURANCE COVERAGE

With respect to insurance coverage for any matters covered by the scope of services under this Agreement, the District agrees that it is its own responsibility, rather than the Law Firm's responsibility, to identify potential insurance coverage and to tender legal matters to any appropriate insurance companies that may insure it. If the District desires that the Law Firm become involved in identifying potential insurers and/or the tender of legal disputes, then a separate written agreement between the District and the Law Firm to that effect will be required.

X. BINDING ARBITRATION

If any dispute arises out of, or related to, a claimed breach of this Agreement, the professional services rendered by attorneys, or any other disagreement of any nature, type, or description, regardless of the facts or the legal theories which may be involved, including attorney malpractice, such dispute shall be resolved by binding arbitration by a single arbitrator. Each side will bear its own costs and attorney fees. The parties agree to waive their right to a jury and to an appeal.

XI. DURATION

This Agreement shall be effective July 1, 2020, through June 20, 2023, and thereafter shall continue from month-to-month at the then current hourly rate set forth herein until modified in writing by mutual agreement or terminated by either party upon thirty (30) days' written notice.

XII. EXECUTION DATE

This Agreement is entered into this _____ day of _____, 2020.

“Law Firm”

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

Dated: _____

By: _____
ANDREAS C. CHIALTAS

“District”

FOUNTAIN VALLEY SCHOOL DISTRICT

Dated: _____

By: _____

2019/2020

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: June 11, 2020

Subject: **Non-Public Agency/School Contracts – Amendments**

Board Meeting Date: June 25, 2020

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 / Amendment	Effective Dates
N/A	Del Sol School W20109	N/A	March 16, 2020 to June 30, 2020
N/A	Olive Crest Academy – Garden Grove W20112	N/A	March 16, 2020 to June 30, 2020
N/A	Olive Crest Academy – Orange W20113	N/A	March 16, 2020 to June 30, 2020
N/A	Blind Children's Learning Center W20170	N/A	March 16, 2020 to June 30, 2020
N/A	Mardan School W20231	N/A	March 16, 2020 to June 30, 2020
	Mardan School W20232	\$1,190.00	March 16, 2020 to June 30, 2020
	Hiddleston Listening, Language, and Speech Center W20234	\$1,500.00	May 22, 2020 to June 30, 2020

Approved by the FVSD Board of Trustees
June 25, 2020

Dr. Mark Johnson
Superintendent

Date:

AMENDMENT NO. 1
TO
MASTER CONTRACT #W20109, DATED JUNE 27, 2019
BETWEEN
FOUNTAIN VALLEY SCHOOL DISTRICT
AND
DEL SOL SCHOOL

THIS AMENDMENT NO. 1 to the Nonpublic, Nonsectarian School/Agency Services Master Contract 2019-2020 ("Master Contract") is entered into this 25th day of June, 2020, by and between Fountain Valley School District (hereinafter referred to as "District" or local educational agency "LEA") and Del Sol School (hereinafter referred to as "NPS" or "CONTRACTOR") ("Amendment"). LEA and CONTRACTOR are collectively referred to herein as the "Parties".

WHEREAS, LEA and CONTRACTOR have entered into a Master Contract dated July 1, 2019 for the purpose of providing special education and related services to LEA students with exceptional needs under the authorization of the California Education Code and California state laws; and

WHEREAS, on March 4, 2020, California Governor Newsom declared a State of Emergency as a result of the threat of the novel coronavirus/COVID-19; and

WHEREAS, on March 11, 2020, the World Health Organization declared the novel coronavirus/COVID-19 to be a pandemic; and

WHEREAS, on March 16, 2020, as a result of the COVID-19 pandemic and based on recommendations from the Orange County Health Care Agency, California Department of Public Health, and the Centers for Disease Control and Prevention, the District closed its schools; and

WHEREAS, California Governor Newsom issued Executive Order N-26-20 to provide ongoing state funding for school districts that initiate a school closure to address COVID-19 and continue delivering high-quality educational opportunities to students through distance learning; and

WHEREAS, state legislation, Senate Bill 117, states that it is the intent of the Legislature that a LEA receiving a hold harmless apportionment ensures that its' employees and contractors are paid during a period of time a school is closed due to COVID-19, as reasonably anticipated if the school has not been closed due to COVID-19; and

WHEREAS, federal legislation, H.R. 748, also referred to as the CARES Act, provides funding to States through a federal Education Stabilization Fund that requires a school district, to the greatest extent practicable to continue to pay its contractors during the period of any closures related to coronavirus; and

WHEREAS, the purpose of the continued payments to contractors is to ensure that essential contractors remain in business and the employees of contractors continue to receive their regular salaries; and

WHEREAS, LEA students attending nonpublic schools must continue to receive special education and related services during school closures; and

WHEREAS, although the Master Contract provides for the LEA and/or NPS school closure due to an emergency in accordance with Education Code section 41422, the Parties disagree as to whether the provision contemplates or addresses the long term closure of the physical school buildings with continued academic instruction provided through distance learning as a result of a global health pandemic; and

WHEREAS, the Parties desire to amend the Master Contract to address CONTRACTOR's continued provision of special education and related services to LEA students through distance learning and CONTRACTOR's compensation for such services; and

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, LEA and CONTRACTOR agree as follows:

1. **RECITALS.** The Parties hereby incorporate the above-mentioned recitals as if fully restated in this Amendment.

2. **DEFINITIONS.** Capitalized terms not otherwise defined in this Amendment shall have the same meanings as set forth in the Master Contract.

3. **AMENDMENT TO MASTER CONTRACT.** The following provisions shall apply to amend the Master Contract:

a. **Distance Learning**

i. During the time period that physical school sites are closed, CONTRACTOR agrees to provide special education and related services to LEA students in accordance with their individualized education program ("IEP") and individual services agreement ("ISA") through distance learning, which means instruction in which the student and instructor are in different locations. Distance learning may include, but is not limited the use of computers and communication technology such as virtual/on-line platforms or video-conference as well as telephone, and work packets.

1. To the extent that a specific service or element of the IEP/ISA cannot be implemented through distance learning, CONTRACTOR shall communicate with LEA student's parent to determine how to proceed via distance learning and document such communications in writing. LEA recognizes that distance learning plans will vary depending upon the unique needs of the student and the student's ability to adapt to distance learning.

2. CONTRACTOR agrees to utilize related services staff that provide behavior support, including 1:1 aides, to connect with and assist students and families, and to support the classroom teacher in preparing work packets. CONTRACTOR agrees to use

transportation staff and equipment to facilitate Distance Learning, including but not limited to delivery/pick-up of instructional materials and equipment to LEA students.

3. Contractor agrees to follow guidance issued by state and federal agencies (e.g. California Department of Education and United States Department of Education) regarding distance learning and services to students with disabilities through distance learning as well as any applicable Executive Orders, state and federal laws/regulations addressing distance learning and/or services to students with disabilities.
- ii. CONTRACTOR shall notify LEA in writing of each LEA student in need of an electronic device and/or internet connectivity so that LEA can ensure each LEA student has access to the technology needed to participate in distance learning. CONTRACTOR shall collaborate with LEA to ensure each LEA student has access to technology and the training necessary to access such technology for distance learning.
 - iii. CONTRACTOR agrees to provide LEA a detailed description of its distance learning plan to be implemented during the closure of the school site, as may be updated from time to time, including how special education and related services will be provided to each LEA student (e.g. via what modality, frequency/duration) as well as any related service that will not be provided through distance learning. In addition, CONTRACTOR agrees to provide LEA the following additional documentation for each LEA student, upon request:
 1. Baseline data and present levels of functioning as of the date of the NPS school closure based on the data collected up to that date.
 2. Detailed data sheets documenting each LEA student's progress on IEP goals via distance learning.
 3. Detailed service logs documenting date, time, duration of special education and related services provided or offered to LEA students via distance learning.
 4. Detailed communication logs of communications between CONTRACTOR and LEA student parent during distance learning.
 5. LEA student progress reports.
 6. Other documentation as may be requested related to the implementation of a LEA student's IEP/ISA through distance learning.

This data is for the purposes of evaluating LEA student progress and LEA student needs and shall not be used in determining payments by LEA to CONTRACTOR.

- iv. CONTRACTOR shall continue to comply with the Family Educational Rights and Privacy Act ("FERPA") and protect the privacy of LEA students during distance learning.
 - v. CONTRACTOR acknowledges and agrees that the special education and related services provided via distance learning during the period of the physical school closure due to COVID-19 are solely to address the COVID-19 emergency, and upon termination of the physical school closure, distance learning will be discontinued and each LEA student's IEP in effect before the COVID-19 school closure or developed during the COVID-19 school closure shall resume at the NPS school site.
 - vi. CONTRACTOR shall resume providing special education and related services at CONTRACTOR'S school site(s), including transportation if specified in the IEP/ISA, to LEA students when CONTRACTOR reopens its school site(s). In the event CONTRACTOR is unable to reopen its school site(s) on the same date that LEA schools reopen, CONTRACTOR shall notify LEA in writing of the reasons why CONTRACTOR is unable to reopen its school site(s) and provide LEA an anticipated reopening date. CONTRACTOR shall make a good faith effort to reopen its school site(s) consistent with the LEA's reopening of schools.
 - vii. CONTRACTOR acknowledges that once its NPS school site reopens and regular in-person instruction resumes, CONTRACTOR will need to review each LEA students' progress during distance learning and identify any LEA students who may be in need of make-up sessions for related services and/or academic instruction or some other form of additional supports to ensure LEA students continue to make progress on goals/objectives in accordance with their current IEP. CONTRACTOR agrees to provide such make-up sessions and/or additional supports to LEA students, at no additional cost to LEA if the make-up services can be provided during regular school hours utilizing existing staff during their regularly scheduled work hours. CONTRACTOR and LEA shall confer and agree to alternative payment arrangements if the make-up services cannot be provided during regular student and staff hours. As used in this subsection the term "make-up services" is distinct from compensatory education ordered by the Office of Administrative Hearings/California Department of Education. Any payment for compensatory education shall be governed by the existing Master Contract. The Parties acknowledge the obligation to provide make-up services extends beyond the term of this Amendment.
- b. **Payment for Services During Distance Learning**
- i. LEA agrees to pay CONTRACTOR the rates specified in Exhibit A of the Master Contract as follows:

1. Daily Rate: As of March 16, 2020, the basic education program/special education instruction daily rate (“Daily Rate”) for each LEA student to whom CONTRACTOR provides or makes available via distance learning in accordance with Section 3(a) based on CONTRACTOR’s school calendar provided to LEA in accordance with Section 25 of the Master Contract.
2. Related Services: For related services that CONTRACTOR provides or makes available to LEA students via distance learning in accordance with Section 3(a), except transportation, as specified in the ISA x 90%.
3. Transportation: For transportation as specified in the ISA x 80%.
4. Spring Break: Payment for the Daily Rate, related services and transportation set forth above shall not be made during the dates of CONTRACTOR’s designated Spring Break set forth on the school calendar provided to LEA in accordance with Section 25 of the Master Contract.

c. Documentation of Alternative Funding Sources

- i. If CONTRACTOR receives any funds from federal or state government providing relief due to COVID-19 (including but not limited to the Federal Payroll Protection Program or “PPP loan” and herein collectively referred to as “Relief Funds”) CONTRACTOR shall provide to LEA, upon request, a verified itemization of how the funds received from LEA and the Relief Funds were spent, by category (to include those portions used to pay employees, rents and other operating expenses). In accordance with the requirements of the PPP loan program, CONTRACTOR will repay to the Small Business Administration any PPP loan funds which were not required for payroll and other authorized operating expenses. In the event there is a dispute as to whether CONTRACTOR received funding from LEA and Relief Funds to pay for the same expenditures, and CONTRACTOR is unable to provide the verified itemization satisfactory to LEA that the Relief Funds have been properly returned, or are being repaid, the Parties agree to meet in good faith to determine whether LEA is due any repayment.
- ii. CONTRACTOR shall provide LEA, upon request, with a verified list of all of its employees employed from July 1, 2019 through June 30, 2020.
- iii. CONTRACTOR shall certify in writing, upon request, that the funds it receives from LEA will be utilized to pay the regular salary of its employees providing special education and related services to LEA students and operating expenses related to LEA students. In order to ensure readiness to resume in-person educational services when CONTRACTOR’s school site(s) reopen after the COVID-19 closure, CONTRACTOR shall not lay

off any employees whose wages were funded by the LEA and who are expected to provide services to LEA students upon reopening.

- iv. Should a court or other administrative agency determine that providing payment as herein provided is deemed a gift of public funds under the California Constitution, LEA reserves the right to seek reimbursement for all payments provided pursuant to this Amendment. This provision shall not be construed as any form of waiver or admission by CONTRACTOR that LEA would have any rights to reimbursement.
- v. The Parties acknowledge that the provisions in subsection 3(c)(i)(ii) and (iv) extend beyond the terms of the Amendment.

4. **COUNTERPARTS.** This Amendment may be signed and delivered in two or more counterparts, each of which, when so signed and delivered, shall be an original, and such counterparts together shall constitute the one instrument that is the Amendment. Electronic signatures and facsimile signatures shall be deemed for all intents and purposes as binding as original signatures.

5. **AUTHORIZED SIGNATURES.** The Parties hereto have executed this Amendment No. 1 to the Master Contract by and through their duly authorized agents or representatives. The individuals signing this Amendment represent and warrant that they are authorized to do so on behalf of their respective party.

6. **FULL FORCE OF MASTER CONTRACT.** Except as amended herein, all other terms and conditions of the Master Contract shall remain in full force and effect.

7. **TERM OF AMENDMENT.** This Amendment terminates on June 30, 2020.

IN WITNESS THEREOF, the Parties hereto have approved and executed this Amendment on the dates indicated below:

CONTRACTOR,

Del Sol School

Nonpublic School/Agency

LEA,

Fountain Valley School District

By:

Signature

Date

By:

Signature

Date

Name and Title of Authorized
Representative

Dr. Mark Johnson, Superintendent
Name and Title of Authorized
Representative

AMENDMENT NO. 2
TO
MASTER CONTRACT #W20112 & #W20113, DATED JUNE 27, 2019
BETWEEN
FOUNTAIN VALLEY SCHOOL DISTRICT
AND
OLIVE CREST ACADEMY – GARDEN GROVE/ORANGE

THIS AMENDMENT NO. 2 to the Nonpublic, Nonsectarian School/Agency Services Master Contract 2019-2020 ("Master Contract") is entered into this 25th day of June, 2020, by and between Fountain Valley School District (hereinafter referred to as "District" or local educational agency "LEA") and Olive Crest Academy – Garden Grove/Orange (hereinafter referred to as "NPS" or "CONTRACTOR") ("Amendment"). LEA and CONTRACTOR are collectively referred to herein as the "Parties".

WHEREAS, LEA and CONTRACTOR have entered into a Master Contract dated July 1, 2019 for the purpose of providing special education and related services to LEA students with exceptional needs under the authorization of the California Education Code and California state laws; and

WHEREAS, on March 4, 2020, California Governor Newsom declared a State of Emergency as a result of the threat of the novel coronavirus/COVID-19; and

WHEREAS, on March 11, 2020, the World Health Organization declared the novel coronavirus/COVID-19 to be a pandemic; and

WHEREAS, on March 16, 2020, as a result of the COVID-19 pandemic and based on recommendations from the Orange County Health Care Agency, California Department of Public Health, and the Centers for Disease Control and Prevention, the District closed its schools; and

WHEREAS, California Governor Newsom issued Executive Order N-26-20 to provide ongoing state funding for school districts that initiate a school closure to address COVID-19 and continue delivering high-quality educational opportunities to students through distance learning; and

WHEREAS, state legislation, Senate Bill 117, states that it is the intent of the Legislature that a LEA receiving a hold harmless apportionment ensures that its' employees and contractors are paid during a period of time a school is closed due to COVID-19, as reasonably anticipated if the school has not been closed due to COVID-19; and

WHEREAS, federal legislation, H.R. 748, also referred to as the CARES Act, provides funding to States through a federal Education Stabilization Fund that requires a school district, to the greatest extent practicable to continue to pay its contractors during the period of any closures related to coronavirus; and

WHEREAS, the purpose of the continued payments to contractors is to ensure that essential contractors remain in business and the employees of contractors continue to receive their regular salaries; and

WHEREAS, LEA students attending nonpublic schools must continue to receive special education and related services during school closures; and

WHEREAS, although the Master Contract provides for the LEA and/or NPS school closure due to an emergency in accordance with Education Code section 41422, the Parties disagree as to whether the provision contemplates or addresses the long term closure of the physical school buildings with continued academic instruction provided through distance learning as a result of a global health pandemic; and

WHEREAS, the Parties desire to amend the Master Contract to address CONTRACTOR's continued provision of special education and related services to LEA students through distance learning and CONTRACTOR's compensation for such services; and

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, LEA and CONTRACTOR agree as follows:

1. **RECITALS.** The Parties hereby incorporate the above-mentioned recitals as if fully restated in this Amendment.

2. **DEFINITIONS.** Capitalized terms not otherwise defined in this Amendment shall have the same meanings as set forth in the Master Contract.

3. **AMENDMENT TO MASTER CONTRACT.** The following provisions shall apply to amend the Master Contract:

a. **Distance Learning**

i. During the time period that physical school sites are closed, CONTRACTOR agrees to provide special education and related services to LEA students in accordance with their individualized education program ("IEP") and individual services agreement ("ISA") through distance learning, which means instruction in which the student and instructor are in different locations. Distance learning may include, but is not limited the use of computers and communication technology such as virtual/on-line platforms or video-conference as well as telephone, and work packets.

1. To the extent that a specific service or element of the IEP/ISA cannot be implemented through distance learning, CONTRACTOR shall communicate with LEA student's parent to determine how to proceed via distance learning and document such communications in writing. LEA recognizes that distance learning plans will vary depending upon the unique needs of the student and the student's ability to adapt to distance learning.

2. CONTRACTOR agrees to utilize related services staff that provide behavior support, including 1:1 aides, to connect with and assist students and families, and to support the classroom teacher in preparing work packets. CONTRACTOR agrees to use transportation staff and equipment to facilitate Distance Learning, including but not limited to delivery/pick-up of instructional materials and equipment to LEA students.
 3. Contractor agrees to follow guidance issued by state and federal agencies (e.g. California Department of Education and United States Department of Education) regarding distance learning and services to students with disabilities through distance learning as well as any applicable Executive Orders, state and federal laws/regulations addressing distance learning and/or services to students with disabilities.
- ii. CONTRACTOR shall notify LEA in writing of each LEA student in need of an electronic device and/or internet connectivity so that LEA can ensure each LEA student has access to the technology needed to participate in distance learning. CONTRACTOR shall collaborate with LEA to ensure each LEA student has access to technology and the training necessary to access such technology for distance learning.
 - iii. CONTRACTOR agrees to provide LEA a detailed description of its distance learning plan to be implemented during the closure of the school site, as may be updated from time to time, including how special education and related services will be provided to each LEA student (e.g. via what modality, frequency/duration) as well as any related service that will not be provided through distance learning. In addition, CONTRACTOR agrees to provide LEA the following additional documentation for each LEA student, upon request:
 1. Baseline data and present levels of functioning as of the date of the NPS school closure based on the data collected up to that date.
 2. Detailed data sheets documenting each LEA student's progress on IEP goals via distance learning.
 3. Detailed service logs documenting date, time, duration of special education and related services provided or offered to LEA students via distance learning.
 4. Detailed communication logs of communications between CONTRACTOR and LEA student parent during distance learning.
 5. LEA student progress reports.

6. Other documentation as may be requested related to the implementation of a LEA student's IEP/ISA through distance learning.

This data is for the purposes of evaluating LEA student progress and LEA student needs and shall not be used in determining payments by LEA to CONTRACTOR.

- iv. CONTRACTOR shall continue to comply with the Family Educational Rights and Privacy Act ("FERPA") and protect the privacy of LEA students during distance learning.
- v. CONTRACTOR acknowledges and agrees that the special education and related services provided via distance learning during the period of the physical school closure due to COVID-19 are solely to address the COVID-19 emergency, and upon termination of the physical school closure, distance learning will be discontinued and each LEA student's IEP in effect before the COVID-19 school closure or developed during the COVID-19 school closure shall resume at the NPS school site.
- vi. CONTRACTOR shall resume providing special education and related services at CONTRACTOR'S school site(s), including transportation if specified in the IEP/ISA, to LEA students when CONTRACTOR reopens its school site(s). In the event CONTRACTOR is unable to reopen its school site(s) on the same date that LEA schools reopen, CONTRACTOR shall notify LEA in writing of the reasons why CONTRACTOR is unable to reopen its school site(s) and provide LEA an anticipated reopening date. CONTRACTOR shall make a good faith effort to reopen its school site(s) consistent with the LEA's reopening of schools.
- vii. CONTRACTOR acknowledges that once its NPS school site reopens and regular in-person instruction resumes, CONTRACTOR will need to review each LEA students' progress during distance learning and identify any LEA students who may be in need of make-up sessions for related services and/or academic instruction or some other form of additional supports to ensure LEA students continue to make progress on goals/objectives in accordance with their current IEP. CONTRACTOR agrees to provide such make-up sessions and/or additional supports to LEA students, at no additional cost to LEA if the make-up services can be provided during regular school hours utilizing existing staff during their regularly scheduled work hours. CONTRACTOR and LEA shall confer and agree to alternative payment arrangements if the make-up services cannot be provided during regular student and staff hours. As used in this subsection the term "make-up services" is distinct from compensatory education ordered by the Office of Administrative Hearings/California Department of Education. Any payment for compensatory education shall be governed by the existing Master Contract. The Parties acknowledge the obligation to provide make-up services extends beyond the term of this Amendment.

b. Payment for Services During Distance Learning

- i. LEA agrees to pay CONTRACTOR the rates specified in Exhibit A of the Master Contract as follows:
 1. Daily Rate: As of March 16, 2020, the basic education program/special education instruction daily rate ("Daily Rate") for each LEA student to whom CONTRACTOR provides or makes available via distance learning in accordance with Section 3(a) based on CONTRACTOR's school calendar provided to LEA in accordance with Section 25 of the Master Contract.
 2. Related Services: For related services that CONTRACTOR provides or makes available to LEA students via distance learning in accordance with Section 3(a), except transportation, as specified in the ISA x 90%.
 3. Transportation: For transportation as specified in the ISA x 80%.
 4. Spring Break: Payment for the Daily Rate, related services and transportation set forth above shall not be made during the dates of CONTRACTOR's designated Spring Break set forth on the school calendar provided to LEA in accordance with Section 25 of the Master Contract.

c. Documentation of Alternative Funding Sources

- i. If CONTRACTOR receives any funds from federal or state government providing relief due to COVID-19 (including but not limited to the Federal Payroll Protection Program or "PPP loan" and herein collectively referred to as "Relief Funds") CONTRACTOR shall provide to LEA, upon request, a verified itemization of how the funds received from LEA and the Relief Funds were spent, by category (to include those portions used to pay employees, rents and other operating expenses). In accordance with the requirements of the PPP loan program, CONTRACTOR will repay to the Small Business Administration any PPP loan funds which were not required for payroll and other authorized operating expenses. In the event there is a dispute as to whether CONTRACTOR received funding from LEA and Relief Funds to pay for the same expenditures, and CONTRACTOR is unable to provide the verified itemization satisfactory to LEA that the Relief Funds have been properly returned, or are being repaid, the Parties agree to meet in good faith to determine whether LEA is due any repayment.
- ii. CONTRACTOR shall provide LEA, upon request, with a verified list of all of its employees employed from July 1, 2019 through June 30, 2020.
- iii. CONTRACTOR shall certify in writing, upon request, that the funds it receives from LEA will be utilized to pay the regular salary of its employees

providing special education and related services to LEA students and operating expenses related to LEA students. In order to ensure readiness to resume in-person educational services when CONTRACTOR's school site(s) reopen after the COVID-19 closure, CONTRACTOR shall not lay off any employees whose wages were funded by the LEA and who are expected to provide services to LEA students upon reopening.

- iv. Should a court or other administrative agency determine that providing payment as herein provided is deemed a gift of public funds under the California Constitution, LEA reserves the right to seek reimbursement for all payments provided pursuant to this Amendment. This provision shall not be construed as any form of waiver or admission by CONTRACTOR that LEA would have any rights to reimbursement.
- v. The Parties acknowledge that the provisions in subsection 3(c)(i)(ii) and (iv) extend beyond the terms of the Amendment.

4. **COUNTERPARTS.** This Amendment may be signed and delivered in two or more counterparts, each of which, when so signed and delivered, shall be an original, and such counterparts together shall constitute the one instrument that is the Amendment. Electronic signatures and facsimile signatures shall be deemed for all intents and purposes as binding as original signatures.

5. **AUTHORIZED SIGNATURES.** The Parties hereto have executed this Amendment No. 1 to the Master Contract by and through their duly authorized agents or representatives. The individuals signing this Amendment represent and warrant that they are authorized to do so on behalf of their respective party.

6. **FULL FORCE OF MASTER CONTRACT.** Except as amended herein, all other terms and conditions of the Master Contract shall remain in full force and effect.

7. **TERM OF AMENDMENT.** This Amendment terminates on June 30, 2020.

IN WITNESS THEREOF, the Parties hereto have approved and executed this Amendment on the dates indicated below:

CONTRACTOR,
Olive Crest Academy – Garden Grove/Orange
Nonpublic School/Agency

LEA,
Fountain Valley School District

By: _____
Signature Date

By: _____
Signature Date

Name and Title of Authorized
Representative

Dr. Mark Johnson, Superintendent

Name and Title of Authorized
Representative

AMENDMENT NO. 1
TO
MASTER CONTRACT #W20170, DATED NOVEMBER 7, 2019
BETWEEN
FOUNTAIN VALLEY SCHOOL DISTRICT
AND
BLIND CHILDREN'S LEARNING CENTER

THIS AMENDMENT NO. 1 to the Nonpublic, Nonsectarian School/Agency Services Master Contract 2019-2020 ("Master Contract") is entered into this 25th day of June, 2020, by and between Fountain Valley School District (hereinafter referred to as "District" or local educational agency "LEA") and Blind Children's Learning Center (hereinafter referred to as "NPS" or "CONTRACTOR") ("Amendment"). LEA and CONTRACTOR are collectively referred to herein as the "Parties".

WHEREAS, LEA and CONTRACTOR have entered into a Master Contract dated July 1, 2019 for the purpose of providing special education and related services to LEA students with exceptional needs under the authorization of the California Education Code and California state laws; and

WHEREAS, on March 4, 2020, California Governor Newsom declared a State of Emergency as a result of the threat of the novel coronavirus/COVID-19; and

WHEREAS, on March 11, 2020, the World Health Organization declared the novel coronavirus/COVID-19 to be a pandemic; and

WHEREAS, on March 16, 2020, as a result of the COVID-19 pandemic and based on recommendations from the Orange County Health Care Agency, California Department of Public Health, and the Centers for Disease Control and Prevention, the District closed its schools; and

WHEREAS, California Governor Newsom issued Executive Order N-26-20 to provide ongoing state funding for school districts that initiate a school closure to address COVID-19 and continue delivering high-quality educational opportunities to students through distance learning; and

WHEREAS, state legislation, Senate Bill 117, states that it is the intent of the Legislature that a LEA receiving a hold harmless apportionment ensures that its' employees and contractors are paid during a period of time a school is closed due to COVID-19, as reasonably anticipated if the school has not been closed due to COVID-19; and

WHEREAS, federal legislation, H.R. 748, also referred to as the CARES Act, provides funding to States through a federal Education Stabilization Fund that requires a school district, to the greatest extent practicable to continue to pay its contractors during the period of any closures related to coronavirus; and

WHEREAS, the purpose of the continued payments to contractors is to ensure that essential contractors remain in business and the employees of contractors continue to receive their regular salaries; and

WHEREAS, LEA students attending nonpublic schools must continue to receive special education and related services during school closures; and

WHEREAS, although the Master Contract provides for the LEA and/or NPS school closure due to an emergency in accordance with Education Code section 41422, the Parties disagree as to whether the provision contemplates or addresses the long term closure of the physical school buildings with continued academic instruction provided through distance learning as a result of a global health pandemic; and

WHEREAS, the Parties desire to amend the Master Contract to address CONTRACTOR's continued provision of special education and related services to LEA students through distance learning and CONTRACTOR's compensation for such services; and

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, LEA and CONTRACTOR agree as follows:

1. **RECITALS.** The Parties hereby incorporate the above-mentioned recitals as if fully restated in this Amendment.

2. **DEFINITIONS.** Capitalized terms not otherwise defined in this Amendment shall have the same meanings as set forth in the Master Contract.

3. **AMENDMENT TO MASTER CONTRACT.** The following provisions shall apply to amend the Master Contract:

a. **Distance Learning**

i. During the time period that physical school sites are closed, CONTRACTOR agrees to provide special education and related services to LEA students in accordance with their individualized education program ("IEP") and individual services agreement ("ISA") through distance learning, which means instruction in which the student and instructor are in different locations. Distance learning may include, but is not limited the use of computers and communication technology such as virtual/on-line platforms or video-conference as well as telephone, and work packets.

1. To the extent that a specific service or element of the IEP/ISA cannot be implemented through distance learning, CONTRACTOR shall communicate with LEA student's parent to determine how to proceed via distance learning and document such communications in writing. LEA recognizes that distance learning plans will vary depending upon the unique needs of the student and the student's ability to adapt to distance learning.

2. CONTRACTOR agrees to utilize related services staff that provide behavior support, including 1:1 aides, to connect with and assist students and families, and to support the classroom teacher in preparing work packets. CONTRACTOR agrees to use transportation staff and equipment to facilitate Distance Learning, including but not limited to delivery/pick-up of instructional materials and equipment to LEA students.
 3. Contractor agrees to follow guidance issued by state and federal agencies (e.g. California Department of Education and United States Department of Education) regarding distance learning and services to students with disabilities through distance learning as well as any applicable Executive Orders, state and federal laws/regulations addressing distance learning and/or services to students with disabilities.
- ii. CONTRACTOR shall notify LEA in writing of each LEA student in need of an electronic device and/or internet connectivity so that LEA can ensure each LEA student has access to the technology needed to participate in distance learning. CONTRACTOR shall collaborate with LEA to ensure each LEA student has access to technology and the training necessary to access such technology for distance learning.
 - iii. CONTRACTOR agrees to provide LEA a detailed description of its distance learning plan to be implemented during the closure of the school site, as may be updated from time to time, including how special education and related services will be provided to each LEA student (e.g. via what modality, frequency/duration) as well as any related service that will not be provided through distance learning. In addition, CONTRACTOR agrees to provide LEA the following additional documentation for each LEA student, upon request:
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 4. Detailed communication logs of communications between CONTRACTOR and LEA student parent during distance learning.
 5. LEA student progress reports.

6. Other documentation as may be requested related to the implementation of a LEA student's IEP/ISA through distance learning.

This data is for the purposes of evaluating LEA student progress and LEA student needs and shall not be used in determining payments by LEA to CONTRACTOR.

- iv. CONTRACTOR shall continue to comply with the Family Educational Rights and Privacy Act ("FERPA") and protect the privacy of LEA students during distance learning.
- v. CONTRACTOR acknowledges and agrees that the special education and related services provided via distance learning during the period of the physical school closure due to COVID-19 are solely to address the COVID-19 emergency, and upon termination of the physical school closure, distance learning will be discontinued and each LEA student's IEP in effect before the COVID-19 school closure or developed during the COVID-19 school closure shall resume at the NPS school site.
- vi. CONTRACTOR shall resume providing special education and related services at CONTRACTOR'S school site(s), including transportation if specified in the IEP/ISA, to LEA students when CONTRACTOR reopens its school site(s). In the event CONTRACTOR is unable to reopen its school site(s) on the same date that LEA schools reopen, CONTRACTOR shall notify LEA in writing of the reasons why CONTRACTOR is unable to reopen its school site(s) and provide LEA an anticipated reopening date. CONTRACTOR shall make a good faith effort to reopen its school site(s) consistent with the LEA's reopening of schools.
- vii. CONTRACTOR acknowledges that once its NPS school site reopens and regular in-person instruction resumes, CONTRACTOR will need to review each LEA students' progress during distance learning and identify any LEA students who may be in need of make-up sessions for related services and/or academic instruction or some other form of additional supports to ensure LEA students continue to make progress on goals/objectives in accordance with their current IEP. CONTRACTOR agrees to provide such make-up sessions and/or additional supports to LEA students, at no additional cost to LEA if the make-up services can be provided during regular school hours utilizing existing staff during their regularly scheduled work hours. CONTRACTOR and LEA shall confer and agree to alternative payment arrangements if the make-up services cannot be provided during regular student and staff hours. As used in this subsection the term "make-up services" is distinct from compensatory education ordered by the Office of Administrative Hearings/California Department of Education. Any payment for compensatory education shall be governed by the existing Master Contract. The Parties acknowledge the obligation to provide make-up services extends beyond the term of this Amendment.

b. Payment for Services During Distance Learning

- i. LEA agrees to pay CONTRACTOR the rates specified in Exhibit A of the Master Contract as follows:
 1. Daily Rate: As of March 16, 2020, the basic education program/special education instruction daily rate (“Daily Rate”) for each LEA student to whom CONTRACTOR provides or makes available via distance learning in accordance with Section 3(a) based on CONTRACTOR’s school calendar provided to LEA in accordance with Section 25 of the Master Contract.
 2. Related Services: For related services that CONTRACTOR provides or makes available to LEA students via distance learning in accordance with Section 3(a), except transportation, as specified in the ISA x 90%.
 3. Transportation: For transportation as specified in the ISA x 80%.
 4. Spring Break: Payment for the Daily Rate, related services and transportation set forth above shall not be made during the dates of CONTRACTOR’s designated Spring Break set forth on the school calendar provided to LEA in accordance with Section 25 of the Master Contract.

c. Documentation of Alternative Funding Sources

- i. If CONTRACTOR receives any funds from federal or state government providing relief due to COVID-19 (including but not limited to the Federal Payroll Protection Program or “PPP loan” and herein collectively referred to as “Relief Funds”) CONTRACTOR shall provide to LEA, upon request, a verified itemization of how the funds received from LEA and the Relief Funds were spent, by category (to include those portions used to pay employees, rents and other operating expenses). In accordance with the requirements of the PPP loan program, CONTRACTOR will repay to the Small Business Administration any PPP loan funds which were not required for payroll and other authorized operating expenses. In the event there is a dispute as to whether CONTRACTOR received funding from LEA and Relief Funds to pay for the same expenditures, and CONTRACTOR is unable to provide the verified itemization satisfactory to LEA that the Relief Funds have been properly returned, or are being repaid, the Parties agree to meet in good faith to determine whether LEA is due any repayment.
- ii. CONTRACTOR shall provide LEA, upon request, with a verified list of all of its employees employed from July 1, 2019 through June 30, 2020.
- iii. CONTRACTOR shall certify in writing, upon request, that the funds it receives from LEA will be utilized to pay the regular salary of its employees

providing special education and related services to LEA students and operating expenses related to LEA students. In order to ensure readiness to resume in-person educational services when CONTRACTOR's school site(s) reopen after the COVID-19 closure, CONTRACTOR shall not lay off any employees whose wages were funded by the LEA and who are expected to provide services to LEA students upon reopening.

- iv. Should a court or other administrative agency determine that providing payment as herein provided is deemed a gift of public funds under the California Constitution, LEA reserves the right to seek reimbursement for all payments provided pursuant to this Amendment. This provision shall not be construed as any form of waiver or admission by CONTRACTOR that LEA would have any rights to reimbursement.
- v. The Parties acknowledge that the provisions in subsection 3(c)(i)(ii) and (iv) extend beyond the terms of the Amendment.

4. **COUNTERPARTS.** This Amendment may be signed and delivered in two or more counterparts, each of which, when so signed and delivered, shall be an original, and such counterparts together shall constitute the one instrument that is the Amendment. Electronic signatures and facsimile signatures shall be deemed for all intents and purposes as binding as original signatures.

5. **AUTHORIZED SIGNATURES.** The Parties hereto have executed this Amendment No. 1 to the Master Contract by and through their duly authorized agents or representatives. The individuals signing this Amendment represent and warrant that they are authorized to do so on behalf of their respective party.

6. **FULL FORCE OF MASTER CONTRACT.** Except as amended herein, all other terms and conditions of the Master Contract shall remain in full force and effect.

7. **TERM OF AMENDMENT.** This Amendment terminates on June 30, 2020.

IN WITNESS THEREOF, the Parties hereto have approved and executed this Amendment on the dates indicated below:

CONTRACTOR,
Blind Children's Learning Center
Nonpublic School/Agency

LEA,
Fountain Valley School District

By: _____
Signature Date

By: _____
Signature Date

Name and Title of Authorized
Representative

Dr. Mark Johnson, Superintendent

Name and Title of Authorized
Representative

AMENDMENT NO. 1
TO
MASTER CONTRACT #W20231, DATED APRIL 30, 2020
BETWEEN
FOUNTAIN VALLEY SCHOOL DISTRICT
AND
MARDAN SCHOOL

THIS AMENDMENT NO. 1 to the Nonpublic, Nonsectarian School/Agency Services Master Contract 2019-2020 ("Master Contract") is entered into this 25th day of June, 2020, by and between Fountain Valley School District (hereinafter referred to as "District" or local educational agency "LEA") and Mardan School (hereinafter referred to as "NPS" or "CONTRACTOR") ("Amendment"). LEA and CONTRACTOR are collectively referred to herein as the "Parties".

WHEREAS, LEA and CONTRACTOR have entered into a Master Contract dated July 1, 2019 for the purpose of providing special education and related services to LEA students with exceptional needs under the authorization of the California Education Code and California state laws; and

WHEREAS, on March 4, 2020, California Governor Newsom declared a State of Emergency as a result of the threat of the novel coronavirus/COVID-19; and

WHEREAS, on March 11, 2020, the World Health Organization declared the novel coronavirus/COVID-19 to be a pandemic; and

WHEREAS, on March 16, 2020, as a result of the COVID-19 pandemic and based on recommendations from the Orange County Health Care Agency, California Department of Public Health, and the Centers for Disease Control and Prevention, the District closed its schools; and

WHEREAS, California Governor Newsom issued Executive Order N-26-20 to provide ongoing state funding for school districts that initiate a school closure to address COVID-19 and continue delivering high-quality educational opportunities to students through distance learning; and

WHEREAS, state legislation, Senate Bill 117, states that it is the intent of the Legislature that a LEA receiving a hold harmless apportionment ensures that its' employees and contractors are paid during a period of time a school is closed due to COVID-19, as reasonably anticipated if the school has not been closed due to COVID-19; and

WHEREAS, federal legislation, H.R. 748, also referred to as the CARES Act, provides funding to States through a federal Education Stabilization Fund that requires a school district, to the greatest extent practicable to continue to pay its contractors during the period of any closures related to coronavirus; and

WHEREAS, the purpose of the continued payments to contractors is to ensure that essential contractors remain in business and the employees of contractors continue to receive their regular salaries; and

WHEREAS, LEA students attending nonpublic schools must continue to receive special education and related services during school closures; and

WHEREAS, although the Master Contract provides for the LEA and/or NPS school closure due to an emergency in accordance with Education Code section 41422, the Parties disagree as to whether the provision contemplates or addresses the long term closure of the physical school buildings with continued academic instruction provided through distance learning as a result of a global health pandemic; and

WHEREAS, the Parties desire to amend the Master Contract to address CONTRACTOR's continued provision of special education and related services to LEA students through distance learning and CONTRACTOR's compensation for such services; and

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, LEA and CONTRACTOR agree as follows:

1. **RECITALS.** The Parties hereby incorporate the above-mentioned recitals as if fully restated in this Amendment.

2. **DEFINITIONS.** Capitalized terms not otherwise defined in this Amendment shall have the same meanings as set forth in the Master Contract.

3. **AMENDMENT TO MASTER CONTRACT.** The following provisions shall apply to amend the Master Contract:

a. **Distance Learning**

i. During the time period that physical school sites are closed, CONTRACTOR agrees to provide special education and related services to LEA students in accordance with their individualized education program ("IEP") and individual services agreement ("ISA") through distance learning, which means instruction in which the student and instructor are in different locations. Distance learning may include, but is not limited the use of computers and communication technology such as virtual/on-line platforms or video-conference as well as telephone, and work packets.

1. To the extent that a specific service or element of the IEP/ISA cannot be implemented through distance learning, CONTRACTOR shall communicate with LEA student's parent to determine how to proceed via distance learning and document such communications in writing. LEA recognizes that distance learning plans will vary depending upon the unique needs of the student and the student's ability to adapt to distance learning.

2. CONTRACTOR agrees to utilize related services staff that provide behavior support, including 1:1 aides, to connect with and assist students and families, and to support the classroom teacher in preparing work packets. CONTRACTOR agrees to use

transportation staff and equipment to facilitate Distance Learning, including but not limited to delivery/pick-up of instructional materials and equipment to LEA students.

3. Contractor agrees to follow guidance issued by state and federal agencies (e.g. California Department of Education and United States Department of Education) regarding distance learning and services to students with disabilities through distance learning as well as any applicable Executive Orders, state and federal laws/regulations addressing distance learning and/or services to students with disabilities.
- ii. CONTRACTOR shall notify LEA in writing of each LEA student in need of an electronic device and/or internet connectivity so that LEA can ensure each LEA student has access to the technology needed to participate in distance learning. CONTRACTOR shall collaborate with LEA to ensure each LEA student has access to technology and the training necessary to access such technology for distance learning.
 - iii. CONTRACTOR agrees to provide LEA a detailed description of its distance learning plan to be implemented during the closure of the school site, as may be updated from time to time, including how special education and related services will be provided to each LEA student (e.g. via what modality, frequency/duration) as well as any related service that will not be provided through distance learning. In addition, CONTRACTOR agrees to provide LEA the following additional documentation for each LEA student, upon request:
 1. Baseline data and present levels of functioning as of the date of the NPS school closure based on the data collected up to that date.
 2. Detailed data sheets documenting each LEA student's progress on IEP goals via distance learning.
 3. Detailed service logs documenting date, time, duration of special education and related services provided or offered to LEA students via distance learning.
 4. Detailed communication logs of communications between CONTRACTOR and LEA student parent during distance learning.
 5. LEA student progress reports.
 6. Other documentation as may be requested related to the implementation of a LEA student's IEP/ISA through distance learning.

This data is for the purposes of evaluating LEA student progress and LEA student needs and shall not be used in determining payments by LEA to CONTRACTOR.

- iv. CONTRACTOR shall continue to comply with the Family Educational Rights and Privacy Act ("FERPA") and protect the privacy of LEA students during distance learning.
 - v. CONTRACTOR acknowledges and agrees that the special education and related services provided via distance learning during the period of the physical school closure due to COVID-19 are solely to address the COVID-19 emergency, and upon termination of the physical school closure, distance learning will be discontinued and each LEA student's IEP in effect before the COVID-19 school closure or developed during the COVID-19 school closure shall resume at the NPS school site.
 - vi. CONTRACTOR shall resume providing special education and related services at CONTRACTOR'S school site(s), including transportation if specified in the IEP/ISA, to LEA students when CONTRACTOR reopens its school site(s). In the event CONTRACTOR is unable to reopen its school site(s) on the same date that LEA schools reopen, CONTRACTOR shall notify LEA in writing of the reasons why CONTRACTOR is unable to reopen its school site(s) and provide LEA an anticipated reopening date. CONTRACTOR shall make a good faith effort to reopen its school site(s) consistent with the LEA's reopening of schools.
 - vii. CONTRACTOR acknowledges that once its NPS school site reopens and regular in-person instruction resumes, CONTRACTOR will need to review each LEA students' progress during distance learning and identify any LEA students who may be in need of make-up sessions for related services and/or academic instruction or some other form of additional supports to ensure LEA students continue to make progress on goals/objectives in accordance with their current IEP. CONTRACTOR agrees to provide such make-up sessions and/or additional supports to LEA students, at no additional cost to LEA if the make-up services can be provided during regular school hours utilizing existing staff during their regularly scheduled work hours. CONTRACTOR and LEA shall confer and agree to alternative payment arrangements if the make-up services cannot be provided during regular student and staff hours. As used in this subsection the term "make-up services" is distinct from compensatory education ordered by the Office of Administrative Hearings/California Department of Education. Any payment for compensatory education shall be governed by the existing Master Contract. The Parties acknowledge the obligation to provide make-up services extends beyond the term of this Amendment.
- b. **Payment for Services During Distance Learning**
- i. LEA agrees to pay CONTRACTOR the rates specified in Exhibit A of the Master Contract as follows:

1. Daily Rate: As of March 16, 2020, the basic education program/special education instruction daily rate ("Daily Rate") for each LEA student to whom CONTRACTOR provides or makes available via distance learning in accordance with Section 3(a) based on CONTRACTOR's school calendar provided to LEA in accordance with Section 25 of the Master Contract.
2. Related Services: For related services that CONTRACTOR provides or makes available to LEA students via distance learning in accordance with Section 3(a), except transportation, as specified in the ISA x 90%.
3. Transportation: For transportation as specified in the ISA x 80%.
4. Spring Break: Payment for the Daily Rate, related services and transportation set forth above shall not be made during the dates of CONTRACTOR's designated Spring Break set forth on the school calendar provided to LEA in accordance with Section 25 of the Master Contract.

c. **Documentation of Alternative Funding Sources**

- i. If CONTRACTOR receives any funds from federal or state government providing relief due to COVID-19 (including but not limited to the Federal Payroll Protection Program or "PPP loan" and herein collectively referred to as "Relief Funds") CONTRACTOR shall provide to LEA, upon request, a verified itemization of how the funds received from LEA and the Relief Funds were spent, by category (to include those portions used to pay employees, rents and other operating expenses). In accordance with the requirements of the PPP loan program, CONTRACTOR will repay to the Small Business Administration any PPP loan funds which were not required for payroll and other authorized operating expenses. In the event there is a dispute as to whether CONTRACTOR received funding from LEA and Relief Funds to pay for the same expenditures, and CONTRACTOR is unable to provide the verified itemization satisfactory to LEA that the Relief Funds have been properly returned, or are being repaid, the Parties agree to meet in good faith to determine whether LEA is due any repayment.
- ii. CONTRACTOR shall provide LEA, upon request, with a verified list of all of its employees employed from July 1, 2019 through June 30, 2020.
- iii. CONTRACTOR shall certify in writing, upon request, that the funds it receives from LEA will be utilized to pay the regular salary of its employees providing special education and related services to LEA students and operating expenses related to LEA students. In order to ensure readiness to resume in-person educational services when CONTRACTOR's school site(s) reopen after the COVID-19 closure, CONTRACTOR shall not lay

off any employees whose wages were funded by the LEA and who are expected to provide services to LEA students upon reopening.

- iv. Should a court or other administrative agency determine that providing payment as herein provided is deemed a gift of public funds under the California Constitution, LEA reserves the right to seek reimbursement for all payments provided pursuant to this Amendment. This provision shall not be construed as any form of waiver or admission by CONTRACTOR that LEA would have any rights to reimbursement.
- v. The Parties acknowledge that the provisions in subsection 3(c)(i)(ii) and (iv) extend beyond the terms of the Amendment.

4. **COUNTERPARTS.** This Amendment may be signed and delivered in two or more counterparts, each of which, when so signed and delivered, shall be an original, and such counterparts together shall constitute the one instrument that is the Amendment. Electronic signatures and facsimile signatures shall be deemed for all intents and purposes as binding as original signatures.

5. **AUTHORIZED SIGNATURES.** The Parties hereto have executed this Amendment No. 1 to the Master Contract by and through their duly authorized agents or representatives. The individuals signing this Amendment represent and warrant that they are authorized to do so on behalf of their respective party.

6. **FULL FORCE OF MASTER CONTRACT.** Except as amended herein, all other terms and conditions of the Master Contract shall remain in full force and effect.

7. **TERM OF AMENDMENT.** This Amendment terminates on June 30, 2020.

IN WITNESS THEREOF, the Parties hereto have approved and executed this Amendment on the dates indicated below:

CONTRACTOR,

Mardan School

Nonpublic School/Agency

LEA,

Fountain Valley School District

By:

Signature

Date

By:

Signature

Date

Name and Title of Authorized
Representative

Dr. Mark Johnson, Superintendent
Name and Title of Authorized
Representative

2019/2020

HBUHSD Contract No. **W20232**
Please refer to this number on correspondence, invoices, etc.

AMENDMENT TO AGREEMENT FOR NONPUBLIC NONSECTARIAN SCHOOL/AGENCY SERVICES
INDIVIDUAL SERVICE CONTRACT

This AMENDMENT to the SERVICE CONTRACT is made and entered into this 25th of June, 2020 between the Fountain Valley School District, County of Orange and Mardan School for
(Local Education Agency) (Nonpublic School or Agency)
_____ born on _____, who is a resident of Fountain Valley School District
(Name of Student) (Date of Birth) (Local Education Agency)
of Orange County.

ORIGINAL CONTRACT – March 16, 2020 to June 30, 2020

SERVICES AS PROVIDED IN ORIGINAL CONTRACT	Provider Type	Per Session Total	Cost per Session	Maximum No. Sessions	Total Original Cost
Basic Education	NPS	Per Diem	\$ 188.93	64	\$ 12,091.52
Counseling – Individual (1x30min/wk)	NPS	Inclusive	\$ 0.00	7	0.00
Counseling – Group (1x30min/wk)	NPS	Inclusive	\$ 0.00	7	0.00
TOTAL ORIGINAL CONTRACT COST:					\$ 12,091.52

AMENDMENT #1 CONTRACT – March 16, 2020 to June 30, 2020

SERVICES ADDED BY THIS ADDENDUM	Provider Type	Per Session Total	Cost per Session	Maximum No. Sessions	Total Addendum Cost
Counseling – Individual (1x30min/wk)	NPS	Inclusive	\$ 170.00	7	\$ 1,190.00
Counseling – Group (1x30min/wk)	NPS	Inclusive	\$ 0.00	-7	0.00
TOTAL ADDENDUM CONTRACT COST:					\$ 1,190.00

AMENDED CONTRACT – March 16, 2020 to June 30, 2020

SERVICES AS PROVIDED IN AMENDED CONTRACT	Provider Type	Per Session Total	Cost per Session	Maximum No. Sessions	Total Amended Cost
Basic Education	NPS	Per Diem	\$ 188.93	64	\$ 12,091.52
Counseling – Individual (1x30min/wk)	NPS	60 Minutes	\$ 170.00	7	1,190.00
TOTAL AMENDED CONTRACT COST:					\$ 13,281.52

This AMENDED Service shall begin on March 16, 2020 and shall terminate at 5:00 p.m. on June 30, 2020 unless sooner terminated as provided herein.

-CONTRACTOR-

Mardan School

(Name of Nonpublic School/Agency)

(Contracting Officer's Signature)

(Type Name and Title)

-DISTRICT-

Fountain Valley School District

(Name of School District)

(Signature)

Date

Dr. Mark Johnson, Superintendent

(Type Name of Superintendent)

2019/2020

HBUHSD Contract No. W20234
Please refer to this number on correspondence, invoices, etc.

AMENDMENT TO AGREEMENT FOR NONPUBLIC NONSECTARIAN SCHOOL/AGENCY SERVICES
INDIVIDUAL SERVICE CONTRACT

This AMENDMENT to the SERVICE CONTRACT is made and entered into this 25th of June, 2020 between the Fountain Valley School District, County of Orange and Hiddleson Listening, Language and Speech Center for
(Local Education Agency) (Nonpublic School or Agency)
_____ born on _____, who is a resident of Fountain Valley School District
(Name of Student) (Date of Birth) (Local Education Agency)
of Orange County.

ORIGINAL CONTRACT – February 12, 2020 to May 21, 2020

SERVICES AS PROVIDED IN ORIGINAL CONTRACT	Provider Type	Per Session Total	Cost per Session	Maximum No. Sessions	Total Original Cost
Auditory Verbal Therapy (AVT) (1x60min/wk)	NPA	60 Minutes	\$ 150.00	10	\$ 1,500.00
TOTAL ORIGINAL CONTRACT COST:					\$ 1,500.00

AMENDMENT #1 CONTRACT – May 22, 2020 to June 30, 2020

SERVICES ADDED BY THIS ADDENDUM	Provider Type	Per Session Total	Cost per Session	Maximum No. Sessions	Total Addendum Cost
Auditory Verbal Therapy (AVT) (1x60min/wk)	NPA	60 Minutes	\$ 150.00	10	\$ 1,500.00
TOTAL AMENDMENT #1 CONTRACT COST:					\$ 1,500.00

AMENDED CONTRACT – February 12, 2020 to June 30, 2020

SERVICES AS PROVIDED IN AMENDED CONTRACT	Provider Type	Per Session Total	Cost per Session	Maximum No. Sessions	Total Amended Cost
Auditory Verbal Therapy (AVT) (1x60min/wk)	NPA	60 Minutes	\$ 150.00	20	\$ 3,000.00
TOTAL AMENDED CONTRACT COST:					\$ 3,000.00

This AMENDED Service shall begin on May 22, 2020 and shall terminate at 5:00 p.m. on June 30, 2020 unless sooner terminated as provided herein.

-CONTRACTOR-

-DISTRICT-

Hiddleson Listening, Language, and Speech Center
(Name of Nonpublic School/Agency)

Fountain Valley School District
(Name of School District)

(Contracting Officer's Signature)

(Signature)

Date

(Type Name and Title)

Dr. Mark Johnson, Superintendent
(Type Name of Superintendent)

2020/2021

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: June 12, 2020

Subject: **Non-Public Agency/School Contracts**

Board Meeting Date: June 25, 2020

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	Kimberly J. Hiddleson dba: Hiddleson Listening, Language, and Speech Center W21079	N/A	July 1, 2020 to June 30, 2021
	Kimberly J. Hiddleson dba: Hiddleson Listening, Language, and Speech Center W21080	\$6,300.00	July 1, 2020 to June 30, 2021
N/A	Mardan School W21081	N/A	July 1, 2020 to June 30, 2021
	Mardan School W21082	\$41,356.00	July 1, 2020 to June 30, 2021
N/A	Olive Crest Academy W21083	N/A	July 1, 2020 to June 30, 2021
	Olive Crest Academy W21084	\$47,542.00	July 1, 2020 to June 30, 2021

N/A	Logan River Academy, LLC W21085	N/A	July 1, 2020 to June 30, 2021
	Logan River Academy, LLC W21086	\$140,635.68	July 1, 2020 to June 30, 2021

Approved by the FVSD Board of Trustees
June 25, 2020

Dr. Mark Johnson
Superintendent

Date:

65. 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 2020 and terminates at 5:00 P.M. on June 30, 2021, unless sooner terminated as provide herein.

CONTRACTOR,

Hiddleson Listening, Language and Speech Center
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:

Name

Hiddleson Listening, Language and Speech Center
Nonpublic School/Agency/Related Service Provider

Address

City

State

Zip

Phone

Fax

Email

Notices to LEA shall be addressed to the designees as set forth on Exhibit C

EXHIBIT A: 2020-2021 RATES

CONTRACTOR Hiddleston Listening, Language and Speech Center **CONTRACTOR NUMBER** W21079 **2020-2021**
(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
_____	_____
_____	_____

Per diem rates for LEA students whose IEPs authorize less than a full instructional day may be adjusted proportionally.

B. Related Services

(1)	Assessments (Initial, Annual IEP, Triennial IEP)	\$ 150.00	Per Hour
(2)	Therapy		
	a. Speech and Language	\$ 150.00	Per Hour
	b. Auditory Verbal (AVT)	\$ 150.00	Per Hour
(3)	Parent Conferences	\$ 150.00	Per Hour
(4)	Consultation		
	a. Speech and Language	\$ 150.00	Per Hour
	b. Auditory Verbal (AVT)	\$ 150.00	Per Hour
(5)	IFSP / IEP Participation, Preparation of Report & Travel Time	\$ 150.00	Per Hour
(6)	Independent Education Evaluation (IEE)	\$1,500.00	Not to Exceed

2020/2021

HBUHSD Contract # W21080

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, 2020 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, 2021, unless sooner terminated as provided in the Master Contract and by applicable law.

Local Education Agency (LEA)	FOUNTAIN VALLEY SCHOOL DISTRICT			Nonpublic School/Agency	HIDDLESON LISTENING, LANGUAGE, AND SPEECH CENTER		
Address	10055 SLATER AVENUE			Address	901 DOVE STREET, SUITE 280		
City, State Zip	FOUNTAIN VALLEY, CA 92708			City, State, Zip	NEWPORT BEACH, CA 92660		
LEA Case Manager	AMY MOTSINGER			Phone	949-567-0025	Fax	949-567-0026
				E-Mail	khiddleson@cox.net		
Student Last Name		Student First Name		Program Contact Name	KIMBERLY J. HIDDLESON		
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		Number of Weeks	
Address				Education Schedule – Extended School Year			
City, State Zip				Number of Days		Number of Weeks	
				Contract Begins	07/01/20	Ends	06/30/21
Home Phone		Business/ Mobile Phone		Master Contract Approved by the Governing Board on:			06/25/20

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									
c. Family									
3. Adapted P.E.									
4. Speech/Language									
a. Therapy - Clinic									
b. Therapy - Clinic - ESY Only									
b. Consultation									
a. Therapy									
b. Consultation									

2020/2021

HBUHSD Contract # W21080

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/ma/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 - AVT In-Service Training									
10. Auditory Verbal Therapy (AVT) Services									
a. Therapy			X		\$ 150.00/hr	1x60min/wk	38	4	\$ 6,300.00
b. Consultation									
						A + B TOTAL COST			\$ 6,300.00

ESTIMATED MAXIMUM RELATED SERVICES COST (B) \$ 6,300.00TOTAL ESTIMATED MAXIMUM BASIC EDUCATION/RELATED SERVICES COSTS (A+B) \$ 6,300.00

Other Provisions/Attachments:

Progress Reporting Requirements: _____ Quarterly _____ Monthly X Trimester _____ Other (Specify) _____

APPROVED BY THE GOVERNING BOARD OF 06/25/20

The parties hereto have executed this Individual Services Agreement by and through their duly authorized agents or representatives as set forth below.

-CONTRACTOR-

-LEA-

HIDDLESON LISTENING, LANGUAGE AND SPEECH CENTER
(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)

65. 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 2020 and terminates at 5:00 P.M. on June 30, 2021, unless sooner terminated as provide herein.

CONTRACTOR,

Mardan 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:

Name

Mardan School

Nonpublic School/Agency/Related Service Provider

Address

City

State

Zip

Phone

Fax

Email

Notices to LEA shall be addressed to the designees as set forth on Exhibit C

EXHIBIT A: 2020-2021 RATES

CONTRACTOR Mardan School CONTRACTOR NUMBER W21081 2020-2021
(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. <u>Basic Education Program/Special Education Instruction</u>	\$ 188.93	Per Diem
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. Public Transportation		
	d. Parent*		
(2)	a. Educational Counseling – Individual	\$ 170.00	Per Hour
	b. Educational Counseling – Group of _____	\$ 85.00	Per Hour
	c. Counseling – Individual and/or Parent	\$ 170.00	Per Hour
(3)	a. Adapted Physical Education – Individual	Inclusive	
	b. Adapted Physical Education – Group of _____		
	c. Adapted Physical Education – Group of _____		
(4)	a. Language and Speech Therapy – Individual	\$ 108.42	Per Hour
	b. Language and Speech Therapy – Group	\$ 61.96	Per Hour
	c. Language and Speech – Assessment		
	d. Language and Speech – Consultation Rate	\$ 61.96	Per Hour
(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	\$ 105.00	Per Hour
	b. Occupational Therapy – Group of 2		
	c. Occupational Therapy – Group of 3		
	d. Occupational Therapy – Consultation Rate		
(8)	Physical Therapy		
(9)	a. Behavior Intervention and Development (BID)		
	b. Behavior Intervention and Implementation (BII)		
	c. Behavior Intervention – Supervision		
	Provided by: _____		
	d. Behavior Support Services (outside of school hours)		
(10)	a. Behavioral Assistant (1:1)		

*Parent transportation reimbursement rates are to be determined by the LEA.

**By credentialed Special Education Teacher.

2020/2021

HBUHSD Contract # W21082

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, 2020 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, 2021, unless sooner terminated as provided in the Master Contract and by applicable law.

Local Education Agency (LEA)	FOUNTAIN VALLEY SCHOOL DISTRICT			Nonpublic School/Agency	MARDAN SCHOOL		
Address	10055 SLATER AVENUE			Address	1 OSBORN		
City, State Zip	FOUNTAIN VALLEY, CA 92708			City, State, Zip	IRVINE, CA 92604		
LEA Case Manager	NOELL SCOTT			Phone	949-733-1500	Fax	949-733-9234
				E-Mail			
Student Last Name		Student First Name		Program Contact Name	DAVID EISENMAN, EXECUTIVE DIRECTOR TERI GERO-SMEAD, DIRECTOR OF FINANCE		
D.O.B.		I.D. #		Phone	949-733-1500	Fax	949-733-9234
				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	4
				Contract Begins	03/16/20	Ends	06/30/20
Home Phone		Business/Mobile Phone		Master Contract Approved by the Governing Board on:			04/30/20

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			\$ 188.93	PER DIEM	180	20	\$ 37,786.00
B. RELATED SERVICES									
1. Transportation									
a. Paid to NPS/A									
b. Reimburse Parent									
2. Counseling									
a. Group									
b. Individual		X			\$170.00/hr	1x30min/wk	38	4	\$ 3,570.00
c. Family									
3. Adapted P.E.									
4. Speech/Language									
a. Therapy									
b. Consultation									
5. Occupational Therapy									
a. Therapy									
b. Consultation									

2020/2021

HBUHSD Contract # W21082

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			\$ 41,356.00

ESTIMATED MAXIMUM RELATED SERVICES COST (B) \$ 3,570.00TOTAL ESTIMATED MAXIMUM BASIC EDUCATION/RELATED SERVICES COSTS (A+B) \$ 41,356.00

Other Provisions/Attachments:

Progress Reporting Requirements: _____ Quarterly _____ Monthly X Trimester _____ Other (Specify) _____

APPROVED BY THE GOVERNING BOARD ON: 06/25/20

The parties hereto have executed this Individual Services Agreement by and through their duly authorized agents or representatives as set forth below.

-CONTRACTOR-

-LEA-

MARDAN 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)

65. 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 2020 and terminates at 5:00 P.M. on June 30, 2021, 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:

Name

Olive Crest Academy

Nonpublic School/Agency/Related Service Provider

Address

City

State

Zip

Phone

Fax

Email

Notices to LEA shall be addressed to the designees as set forth on Exhibit C

EXHIBIT A: 2020-2021 RATES

CONTRACTOR Olive Crest Academy CONTRACTOR NUMBER W21083 2020-2021
(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
\$ 190.77	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	46.94 / 57.78 / 68.73	Per Day
	b. Transportation – Private	\$ 175.00	Per Hour
	c. Public Transportation		
	d. Parent*		
(2)	a. Educational Counseling – Individual	Inclusive	Per Hour
	b. Educational Counseling – Group of _____	Inclusive	Per Hour
	c. Additional Student Counseling – Individual	\$ 123.91	Per Hour
	d. Counseling – Parent	\$ 112.78	Per Hour
(3)	a. Adapted Physical Education – Individual		
	b. Adapted Physical Education – Group of _____		
(4)	a. Language and Speech Therapy – Individual	\$ 115.05	Per Hour
	b. Language and Speech Therapy – Group of 2	\$ 115.05	Per Hour
	c. Language and Speech Therapy – Group of 3		
	d. Language and Speech – Consultation Rate	\$ 131.74	Per Hour
(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)	Physical Therapy		
(8)	a. Behavior Intervention and Development (BID)	Inclusive	Per Hour
	b. Behavior Intervention and Implementation (BII)	Inclusive	Per Hour
	c. Behavior Intervention – Supervision		
	Provided by: _____		
	d. Behavior Support Services (outside of school hours)	\$ 109.22	Per Hour
(9)	a. Behavioral Assistant – 1:1 Classroom	\$ 122.08	Per Day
	b. Behavioral Assistant – During Transit	\$ 65.78	Per Day
(10)	Translation Services	\$ 75.00	Per IEP
(11)	Nursing Services		
(12)	Re-Connect Program		
	a. In-home Assessment and Plan Development (up to 4 hours)	\$ 125.00	Per Hour
	b. Student Counseling	\$ 125.00	Per Hour
	c. Parent Counseling	\$ 125.00	Per Hour

*Parent transportation reimbursement rates are to be determined by the LEA.

**By credentialed Special Education Teacher.

2020/2021

HBUHSD Contract # W21084

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, 2020 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, 2021, 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	NOELL SCOTT		Phone	714-998-6571	Fax 714-998-6573
			E-Mail	www.olivecrest.org	
Student Last Name		Student First Name	Program Contact Name		NINA E. FRANKMAN, LMFT DIRECTOR OF SPECIAL EDUCATION
D.O.B.		I.D. #	Phone	714-998-6571, ext. 1508	Fax 714-998-6573
			E-Mail	Nina-Frankman@olivecrest.org	
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	07/01/20	Ends 06/30/21
Home Phone		Business/Mobile Phone	Master Contract Approved by the Governing Board on:		06/25/20

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			\$ 190.77	PER DIEM	180	20	\$ 38,154.00
B. RELATED SERVICES									
1. Transportation						Zone 1			
a. Paid to NPS/A		X			\$ 46.94/day	1 RT/Daily	180	20	\$ 9,388.00
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									
b. Consultation									
5. Occupational Therapy									
a. Therapy									
b. Consultation									

2020/2021

HBUHSD Contract # W21084

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			\$ 47,542.00

ESTIMATED MAXIMUM RELATED SERVICES COST (B) \$

\$ 9,388.00

TOTAL ESTIMATED MAXIMUM BASIC EDUCATION/RELATED SERVICES COSTS (A+B) \$

\$ 47,542.00

Other Provisions/Attachments:

Progress Reporting Requirements: _____ Quarterly _____ Monthly X Trimester _____ Other (Specify) _____

APPROVED BY THE GOVERNING BOARD ON: 06/25/20

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)

65. 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 2020 and terminates at 5:00 P.M. on June 30, 2021, unless sooner terminated as provide herein.

CONTRACTOR,

Logan River Academy, LLC

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:

Name

Logan River Academy, LLC

Nonpublic School/Agency/Related Service Provider

Address

City

State

Zip

Phone

Fax

Email

Notices to LEA shall be addressed to the designees as set forth on Exhibit C

EXHIBIT A: 2020-2021 RATES

CONTRACTOR Logan River Academy LLC
(NONPUBLIC SCHOOL OR AGENCY)

CONTRACTOR NUMBER W21085 2020-2021
(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. Special Education Instruction – Nonpublic School

Rate	Period
\$ 132.91	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. Public Transportation	_____	_____
	d. Parent*	_____	_____
(2)	a. Educational Counseling – Individual	Inclusive	_____
	b. Educational Counseling – Group	Inclusive	_____
	c. Counseling – Parent	Inclusive	_____
(3)	a. Adapted Physical Education – Individual	_____	_____
	b. Adapted Physical Education – Group	_____	_____
(4)	a. Language and Speech Development – Therapy	\$ 150.00	Per Session
	b. Language and Speech Development – Assessment	\$ 235.00	_____
(5)	One-to-One Aide (must be authorized on IEP)	\$ 25.00	Per Hour
(6)	Intensive Special Education Instruction**	_____	_____
(7)	Occupational Therapy	\$ 120.00	Per Session
(8)	Physical Therapy	_____	_____
(9)	a. Behavior Intervention (BID)	Inclusive	_____
	b. Behavior Intervention and Implementation (BII) – 1:1	Inclusive	_____
	c. Behavior Intervention and Implementation (BII/2) – 1:2 ratio	Inclusive	_____
	d. Behavior Intervention – Supervision	_____	_____
	Provided by: _____	_____	_____
(10)	Psychological Services Other than Assessment and IEP Development	\$ 150.00	Per Session
(11)	Health and Nursing Services	Inclusive	_____
(12)	Residential Board and Care	\$ 181.53	Per Diem
	Residential Mental Health – Parent Counseling and Training	_____	_____
(13)	(Does not include cost of Psychiatric Medication)	\$ 103.41	Per Diem

*Parent transportation reimbursement rates are to be determined by the LEA. **By credentialed Special Education Teacher.

2020/2021

HBUHSD Contract # W21086

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, 2020 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, 2021, unless sooner terminated as provided in the Master Contract and by applicable law.

Local Education Agency (LEA)	FOUNTAIN VALLEY SCHOOL DISTRICT		Nonpublic School/Agency	LOGAN RIVER ACADEMY, LLC	
Address City, State Zip	10055 SLATER AVENUE FOUNTAIN VALLEY, CA 92708		Address City, State, Zip	1683 S. HIGHWAY 89/91 LOGAN, UT 84321	
LEA Case Manager	NOELL SCOTT		Phone	435-755-8400	Fax 435-755-8540
			E-Mail	www.loganriver.com	
Student Last Name	Student First Name	Program Contact Name		KRISTINE CARDEN	
D.O.B.	I.D. #	Phone	435-755-8400, EXT. 138	Fax	435-755-8540
		E-Mail	kcarden@loganriver.com		
Grade Level	Sex (M or F)	Education Schedule – Regular School Year			
Parent/Guardian Last Name	Parent/Guardian First Name	Number of Days	188	Number of Weeks	40
Address City, State Zip	Education Schedule – Extended School Year				
	Number of Days	50	Number of Weeks	12	
	Contract Begins	07/01/20	Ends	06/30/21	
Home Phone	Business/Mobile Phone	Master Contract Approved by the Governing Board on:			06/25/20

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				RTC	\$ 132.91	Per Diem	188	50	\$ 31,632.58
B. RELATED SERVICES									
1. Transportation									
a. Paid to NPS/A									
b. Reimburse Parent									
2. Counseling									
a. Group				RTC	INCLUSIVE	2x45min/wk	40	12	\$ -
b. Individual				RTC	INCLUSIVE	1x45min/wk	40	12	\$ -
c. Family				RTC	INCLUSIVE	1x45min/wk	40	12	\$ -
3. Adapted P.E.									
4. Speech/Language									
a. Therapy - Group									
b. Consultation									
5. Occupational Therapy									
a. Therapy									
b. Consultation									

2020/2021

HBUHSD Contract # W21086

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				RTC	\$ 181.53	Per Diem	287	78	\$ 66,258.45
b. Mental Health Services				RTC	\$ 103.41	Per Diem	287	78	\$ 37,744.65
c. Transportation Public Carrier				IC	\$1,250.00	4 P/YR	3	1	\$ 5,000.00
						A + B TOTAL COST			\$ 140,635.68

ESTIMATED MAXIMUM RELATED SERVICES COST (B) \$ 109,003.10

TOTAL ESTIMATED MAXIMUM BASIC EDUCATION/RELATED SERVICES COSTS (A+B) \$ 140,635.68

Other Provisions/Attachments:

Progress Reporting Requirements: _____ Quarterly _____ Monthly ☒ Trimester _____ Other (Specify) _____

APPROVED BY THE GOVERNING BOARD OF: 06/25/20

The parties hereto have executed this Individual Services Agreement by and through their duly authorized agents or representatives as set forth below.

-CONTRACTOR-

-LEA-

 LOGAN RIVER ACADEMY, LLC
 (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)