

**NOTICE**  
**REGULAR MEETING OF THE GOVERNING BOARD**  
**TRACY UNIFIED SCHOOL DISTRICT**

**DATE: TUESDAY, JUNE 23, 2009**

**PLACE: DISTRICT EDUCATION CENTER  
BOARD ROOM  
1875 W. LOWELL AVE  
TRACY, CALIFORNIA**

**TIME: 5:30 PM Closed Session  
7:00 PM Open Session**

**A G E N D A**

**1. Call to Order**

**Pg. No.**

**2. Roll Call – Establish Quorum**

Board: G. Crandall, W. Gouveia, T. Guzman, T. Hawkins, K. Lewis, B. Swenson, J. Vaughn  
Staff: J. Franco, R. Davis, C. Goodall, S. Harrison and B. Etcheverry.

**3. Closed Session: Opportunity to Address the Board Regarding Closed Session Items which follow. Closed session is limited to consideration of items specifically authorized under the Government Code and/or the Education Codes.**

**3.1 Administrative & Business Services:**

**3.1.1 Intra-District Attendance Appeal - #08-09/AA5**

**Action:** Motion\_\_\_; Second\_\_\_. **Vote:** Yes \_\_\_; No\_\_\_; Absent\_\_\_; Abstain\_\_\_.

**3.2 Educational Services:**

**3.2.1 Findings of Facts:FF#08-09/136, 144; #09-10/1**

**3.2.2 Application for Reinstatement: AR #08-09/95, 96, 97, 98, 99**

**Action:** Motion\_\_\_; Second\_\_\_. **Vote:** Yes \_\_\_; No\_\_\_; Absent\_\_\_; Abstain\_\_\_.

**3.2.3 PE Exemption: THS #10302895**

**Action:** Motion\_\_\_; Second\_\_\_. **Vote:** Yes \_\_\_; No\_\_\_; Absent\_\_\_; Abstain\_\_\_.

**3.3 Human Resources:**

**3.3.1 Public Employee Evaluation**

Title: Superintendent

**3.3.2 Approve Settlement Agreement with Classified Employee #UCL-129**

**Action:** Motion\_\_\_; Second\_\_\_. **Vote:** Yes \_\_\_; No\_\_\_; Absent\_\_\_; Abstain\_\_\_.

**3.3.3 Approve Settlement Agreement with Classified Employee #UCL-130**

**Action:** Motion\_\_\_; Second\_\_\_. **Vote:** Yes \_\_\_; No\_\_\_; Absent\_\_\_; Abstain\_\_\_.

**3.3.4 Consider Public Employee/Employment/Discipline/Dismissal/Release**

**Action:** Motion\_\_\_; Second\_\_\_. **Vote:** Yes \_\_\_; No\_\_\_; Absent\_\_\_; Abstain\_\_\_.

- 3.3.5** Conference with Labor Negotiator  
Agency Negotiator: Ryan Davis  
Assistant Superintendent of Human Resources  
Employee Organization: CSEA, TEA

**4. Adjourn to Open Session**

**5. Call to Order and Pledge of Allegiance**

**6. Closed Session Issues:**

**6a** Report Out of Action Taken on Intra-District Attendance Appeal - #08-09/AA5

**Action: Vote:** Yes \_\_\_; No \_\_\_; Absent \_\_\_; Abstain \_\_\_.

**6b** Action on Findings of Fact # FF08-09/136, 144; #09-10/1

**Action: Motion** \_\_\_; **Second** \_\_\_. **Vote:** Yes \_\_\_; No \_\_\_; Absent \_\_\_; Abstain \_\_\_.

**6c** Report Out of Action Taken on Application for Reinstatement:

AR #08-09/95, 96, 97, 98, 99

**Action: Vote:** Yes \_\_\_; No \_\_\_; Absent \_\_\_; Abstain \_\_\_

**6d** PE Exemption: THS #10302895

**Action: Vote:** Yes \_\_\_; No \_\_\_; Absent \_\_\_; Abstain \_\_\_

**6e** Report Out of Action Taken on Approve Settlement Agreement with Classified Employee #UCL-129

**Action: Vote:** Yes \_\_\_; No \_\_\_; Absent \_\_\_; Abstain \_\_\_

**6f** Report Out of Action Taken on Approve Settlement Agreement with Classified Employee #UCL-130

**Action: Vote:** Yes \_\_\_; No \_\_\_; Absent \_\_\_; Abstain \_\_\_

**7. Approve Regular Minutes of June 9, 2009.**

**Action: Motion** \_\_\_; **Second** \_\_\_. **Vote:** Yes \_\_\_; No \_\_\_; Absent \_\_\_; Abstain-\_\_\_

**8. Student Representative Reports: None.**

**9. Recognition & Presentations:** An opportunity to honor students, employees and community members for outstanding achievement:

**9.1** Recognize Tracy High Junior, Kevin Speer, for Finishing 22nd in the Discus Competition at the California Interscholastic Federation State Track and Field Trials

**10. Hearing of Delegations:** Anyone wishing to address the Governing Board on a non-agenda item may be heard at this time. Presentations shall be held to a reasonable length, normally not to exceed five (5) minutes. If formal action is required, the item will be placed on a future agenda and action will be taken at a future date. If information or a report is requested, the request for it must also be submitted in writing to the superintendent. (Please complete a speaker's card at the secretary's desk).

This is a period in which members of the public may address the Board on any subject within the Board's jurisdiction that is not on the agenda. The Brown Act does not allow the Board to take action or discuss items which are not on the agenda. This is because other members of the public have not been notified through the agenda that the subject of the statement would be discussed at this Board meeting.

The Board may ask for the item to be placed on a future agenda, direct the speaker to a person who can help, or provide the speaker with the correct procedure to follow to address his/her problem. All speakers have a constitutional right to free speech. As a protective measure, we would like to remind you that if you say something which might give another person the right to pursue legal recourse against you, there is a taped record of this meeting. This does not mean you cannot criticize employees of the District. However, we would suggest that you do it without using names. We would also suggest that you use the personnel complaint procedures. The board can only hear and address complaints which have been processed in line with the policy. We have copies of the policy and forms here, and staff will help you complete them.

Pg. No.

**11. Information & Discussion Items:** An opportunity to present information or reports concerning items that may be considered by Trustees at a future meeting.

**11.1 Administrative & Business Services:** None.

**11.2 Educational Services:**

**11.2.1** Receive Report on Updated Plans for John C. Kimball High School

6

**11.3 Human Resources:**

**11.3.1** Receive Update on the Public Agency Retirement Services (PARS) Supplementary Retirement Plan (SRP) For Eligible Employees

7-8

**12. Public Hearing:**

**12.1 Administrative & Business Services:**

**12.1.1** Receive Public Comment on Item 14.1.1 Approve the 2009-2010 Annual School District Budget

**12.1.2** Receive Public Comment on Item 14.1.9 Adopt Resolution 08-44 Accepting State Categorical Funds and Implementing Flexibility Authorized by SBX3 4

**13. Consent Items:** Actions proposed for consent are consistent with the approved practices of the district and are deemed routine in nature. Trustees receive board agenda background information in advance of scheduled meetings and are prepared to vote with knowledge on the consent items.

**Action:** Motion\_\_\_; Second\_\_\_ **Vote:** Yes\_\_\_; No\_\_\_; Absent\_\_\_; Abstain\_\_\_

**13.1 Administrative & Business Services:**

**13.1.1** Ratify Routine Expenditures and Notice of Completions Which Meet the Criteria for Placement on the Consent Agenda

9-12

**13.1.2** Ratify Measure E Related Expenditures and Notice of Completions Which Meet the Criteria for Placement on the Consent Agenda

13-14

**13.1.3** Ratify Measure S Related Expenditures and Notice of Completions Which Meet the Criteria for Placement on the Consent Agenda

15-17

**13.1.4** Approve Assembly Vendors and Site Assembly Utilization Calendars

18-20

**13.1.5** Accept the Generous Donations from the Various Individuals, Businesses, and School Site Parent Teacher Associations Listed herein with Thanks and Appreciation from the Staff and Students of the Tracy Unified School District

21-22

**13.1.6** Adopt Resolution No. 08-45 to Excuse Meeting Absence of Board Member

23-24

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<b>13.2 Educational Services:</b>	
13.2.1 Approve Overnight Travel for 2009-2010 Yearbook Staff to Attend Yearbook Camp in South Lake Tahoe July 20-23, 2009	25
13.2.2 Approve Overnight Travel for West High School Agriculture Department Activities for the 2009-10 School Year	26
13.2.3 Approve Contract with Cheryl Markowitz of Psychology, Learning and You (PLAY) for Autism Consultation	27-29
13.2.4 Approve Contract with Lisa Balogh, OTR for Occupational Therapy Services	30-32
13.2.5 Approve Master Contract and Individual Services Agreement with Children's Home of Stockton, NPS	33-56
13.2.6 Approve Master Contract and Individual Services Agreement with North Valley School, Inc.	57-80
13.2.7 Approve 2009-2010 Contracts with the San Joaquin County Children and Families Commission (First 5 San Joaquin) for the PLAY School Readiness Cluster and the Delta Island School Readiness Grants (Separate Cover Item)	81
13.2.8 Approve Master Contract and Individual Service Agreement with South San Joaquin Education Center	82-105
13.2.9 Approve Contract with Carol Lehman, SLP	106-108
13.2.10 Approve Service Agreement for Special Contract Services with Point Break Adolescent Resources for Counseling Services	109-112
13.2.11 Approve Funding for the Agriculture Incentive Grant for West High School 2009-10	113
<b>13.3 Human Resources:</b>	
13.3.1 Approve Classified, Certificated and/or Management Employment	114
13.3.2 Accept Resignations/Retirements/Leaves of Absence for Classified, Certificated, and/or Management Employment	115
<b>14. Action Items:</b> Action items are considered and voted on individually. Trustees receive background information and staff recommendations for each item recommended for action in advance of scheduled meetings and are prepared to vote with knowledge on the action items.	
<b>14.1 Administrative &amp; Business Services:</b> None.	
14.1.1 Approve the 2009-2010 Annual School District Budget (Separate Cover Item)	116-117
<b>Action:</b> Motion___; Second___. <b>Vote:</b> Yes___; No___; Absent___; Abstain__.	
14.1.2 Adopt Revised Administrative Regulation 1330.1 Facility Use (Second Reading, Intent to Adopt)	118-167
<b>Action:</b> Motion___; Second___. <b>Vote:</b> Yes___; No___; Absent___; Abstain__.	
14.1.3 Approve List of Qualified Civil Engineering Services Firms to Perform Required Topographical Surveying, Boundary Services, As Well as other Engineering Services on New Construction and Modernization Projects	168-170
<b>Action:</b> Motion___; Second___. <b>Vote:</b> Yes___; No___; Absent___; Abstain__.	
14.1.4 Approve the 2008-09 Revised Deferred Maintenance Project List and the Updated Five Year Deferred Maintenance Plan	171-174
<b>Action:</b> Motion___; Second___. <b>Vote:</b> Yes___; No___; Absent___; Abstain__.	



		<b>Pg. No</b>
<b>14.1.5</b>	Adopt Resolution 08-40 Authorizing the Governing Board to Delegate Powers to the Associate Superintendent for Business Services	<b>175-17</b>
<b>Action:</b>	Motion___; Second___. <b>Vote:</b> Yes___; No___; Absent___; Abstain__.	
<b>14.1.6</b>	Adopt Resolution 08-41 Finding that the Tracy Learning Center Classrooms Addition Project Qualifies as a Categorical Exemption from California Environmental Quality Act	<b>178-18</b>
<b>Action:</b>	Motion___; Second___. <b>Vote:</b> Yes___; No___; Absent___; Abstain__.	
<b>14.1.7</b>	Adopt Resolution 08-42, Authorizing the Director of Transportation to Apply for a Grant from the San Joaquin Valley Air Pollution Control District for Diesel Emission Retrofit Program	<b>182-18</b>
<b>Action:</b>	Motion___; Second___. <b>Vote:</b> Yes___; No___; Absent___; Abstain__.	
<b>14.1.8</b>	Adopt Resolution 08-43 in Support of Unification of the Lammersville Elementary School District and Approve Pre-Unification Agreement by and between Tracy Unified School District and Lammersville Elementary School District	<b>184-20</b>
<b>Action:</b>	Motion___; Second___. <b>Vote:</b> Yes___; No___; Absent___; Abstain__.	
<b>14.1.9</b>	Adopt Resolution 08-44 Accepting State Categorical Funds and Implementing Flexibility Authorized by SBX3 4.	<b>208—21</b>
<b>Action:</b>	Motion___; Second___. <b>Vote:</b> Yes___; No___; Absent___; Abstain__.	
<b>14.1.10</b>	Approve Memorandum of Understanding Between Tracy Joint Unified School District and Tracy Learning Center	<b>213-21</b>
<b>Action:</b>	Motion___; Second___. <b>Vote:</b> Yes___; No___; Absent___; Abstain__.	
<b>14.1.11</b>	Approve Increase of Bus Pass Prices for the 2009-2010 School Year for the Home-To-School Transportation Program for Students in Grades Pre-K Through 12 <sup>th</sup> Grade	<b>219</b>
<b>Action:</b>	Motion___; Second___. <b>Vote:</b> Yes___; No___; Absent___; Abstain__.	
<b>14.1.12</b>	Approve Financial Projections of the District's Fund Balances Through June 30, 2009 ("Third Interim Report") (Separate Cover Item)	<b>220</b>
<b>Action:</b>	Motion___; Second___. <b>Vote:</b> Yes___; No___; Absent___; Abstain__.	
<b>14.1.13</b>	Approve the Letter Sent to the Grand Jury Dated March 16, 2009	<b>221-223</b>
<b>Action:</b>	Motion___; Second___. <b>Vote:</b> Yes___; No___; Absent___; Abstain__.	
<b>14.2</b>	<b>Educational Services:</b>	
<b>14.2.1</b>	Approve Early Release Policy for After School Safety and Education Program Grant (ASES)	<b>224-225</b>
<b>Action:</b>	Motion___; Second___. <b>Vote:</b> Yes___; No___; Absent___; Abstain__.	
<b>14.2.2</b>	Approve 2009-2010 Preliminary School Plans and Site Categorical Budgets for 2009-2010	<b>226</b>
<b>Action:</b>	Motion___; Second___. <b>Vote:</b> Yes___; No___; Absent___; Abstain__.	
<b>14.2.3</b>	Approve Changes to Coaches and Athletes Handbooks (Separate Cover Item)	<b>227</b>
<b>Action:</b>	Motion___; Second___. <b>Vote:</b> Yes___; No___; Absent___; Abstain__.	
<b>14.3</b>	<b>Human Resources:</b>	
<b>14.3.1</b>	Approve Revised Job Description for Athletic Director	<b>228-233</b>
<b>Action:</b>	Motion___; Second___. <b>Vote:</b> Yes___; No___; Absent___; Abstain__.	

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| <p><b>14.3.2</b> Adopt the Evaluation Forms to be Used for Head Coaches, Assistant Coaches and Volunteer Coaches</p> <p><b>Action:</b> Motion___; Second___. <b>Vote:</b> Yes___; No___; Absent___; Abstain___.</p> <p><b>14.3.3</b> Approve Declaration of Need for the 2009-2010 School Year</p> <p><b>Action:</b> Motion___; Second___. <b>Vote:</b> Yes___; No___; Absent___; Abstain___.</p> <p><b>14.3.4</b> Acknowledge Receipt of CSEA's Sunshine Proposal for the 2009-2010 School Year</p> <p><b>Action:</b> Motion___; Second___. <b>Vote:</b> Yes___; No___; Absent___; Abstain___.</p> <p><b>14.3.5</b> Adopt Resolution 08-46 Reserving Right to Reduce 2009-10 Compensation for Represented and Unrepresented Employees</p> <p><b>Action:</b> Motion___; Second___. <b>Vote:</b> Yes___; No___; Absent___; Abstain___.</p> | <p><b>Pg. No</b><br/><b>234-239</b></p> <p><b>240-249</b></p> <p><b>244-249</b></p> <p><b>247-249</b></p> |
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- 15. Board Reports:** An opportunity for board members to discuss items of particular importance or interest in the district.
  - 16. Superintendent's Report:** An opportunity for the superintendent to share matters of special interest or importance which are not on the board agenda and/or special presentations of district programs or activities.
  - 17. Board Meeting Calendar:**
    - 17.1** August 11, 2009
    - 17.2** August 25, 2009
    - 17.3** September 8, 2009
    - 17.4** September 22, 2009
  - 18. Upcoming Events:**

<b>18.1</b>	<b>June 23, 24, 25, 2009</b>	<b>Promotion: Freiler (Blue, Yellow, Green)</b>
<b>18.2</b>	<b>June 24, 2009</b>	<b>Promotion: Kelly</b>
<b>18.3</b>	<b>June 25, 2009</b>	<b>Promotion: North</b>
<b>18.4</b>	<b>August 12, 2009</b>	<b>First Day of School</b>

If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability. To make this request, please telephone the Superintendent's Office at 209/830-3201. If any person with a disability needs a disability-related modification or accommodation, including auxiliary aids or services, he/she should also contact the Superintendent's Office at least 24 hours prior to the meeting.

**Minutes of  
Regular Meeting of the Governing Board  
For Tracy Unified School District  
Held on Tuesday, June 9, 2009**

- 5:30 PM:** President Guzman called the meeting to order and adjourned to closed session.
- Roll Call:** Board: W. Gouveia, T. Guzman, T. Hawkins, K. Lewis, B. Swenson, J. Vaughn.  
Trustee Lewis arrived late to the meeting. Absent: G. Crandall.  
Staff: J. Franco, R. Davis, S. Harrison, C. Goodall, B. Etcheverry.
- 7:12 PM:** President Guzman called the Tracy Unified School District Board of Education to order and led those present in the Pledge of Allegiance.
- Closed Session:**
- 6a** Report Out of Action Taken on Intra-District Attendance Appeal #08-09/AA3  
**Action:** Appeal Denied. **Vote:** Yes-5; No-0; Absent-2(Crandall, Lewis)
  - 6b** Report Out of Action Taken on Intra-District Attendance Appeal #08-09/AA4  
**Action:** Appeal Denied. **Vote:** Yes-5; No-0; Absent-2(Crandall, Lewis)
  - 6c** Action on Findings of Fact # FF08-09/135, 140, 143, 145, 146  
**Action:** Lewis, Vaughn. **Vote:** Yes-6; No-0; Absent-1(Crandall)
  - 6d** Report Out of Action Taken on Application for Reinstatement AR#08-09/82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94  
**Action:** **Vote:** Yes-5; No-0; Absent-2(Crandall, Lewis)
  - 6e** Report Out of Action Taken on Application for Enrollment – AFE#08-09/10, 11  
**Action:** **Vote:** Yes-5; No-0; Absent-2(Crandall, Lewis)
  - 6f** Report Out of Action Taken on PE Exemption THS #10306926  
**Action:** **Vote:** Yes-5; No-0; Absent-2(Crandall, Lewis)
  - 6g** Report Out of Action Taken on Consider Leave of Absence for Certificated Employees #UC-649, #UC-651, #UC-652, #UC-653, #UC-654, #UC-655, #UC-656, #UC-657, #UC-658, #UC-659, #UC-660, #UC-661, #UC-662, #UC-663, #UC-664, #UC-665, #UC-666, #UC-667, #UC-668, #UC-669, #UC-670, #UC-672, #UC-673, #UC-674, #UC-675, Pursuant to Article XX  
**Action:** **Vote:** Yes-5; No-0; Absent-2(Crandall, Lewis)
- During closed session the board received information from legal counsel regarding unification matters involving exposure to litigation against the District. No formal action was taken by the board on this matter in closed session.
- Employees Present:** T. Christiansen, J. Frase, C. Minter, R. Call, K. Gill, K. Fistolera, P. Hall, J. Carter
- Visitors Present** S. Abercrombie, D. Hansen, J. Bush, D. Goodwill, J. Robinson, J. Lockard, R. Obaldo, K. Moody, S. Wilson, I. Terry
- Press:** None.
- Minutes:** Approve Regular Minutes of May 26, 2009.

**Action:** Swenson, Lewis. **Vote:** Yes-6; No-0; Absent-1(Crandall)

**Student  
Representative  
Reports:**

None.

**Recognition &  
Presentations:**

**9.1 West High School Site Update on Achievements & Activities**

West High Principal, Jeff Frase, and Assistant Principal, Tammy Christiansen presented a power point which reviewed their academic progress, graduation rate, and more students meeting the A-G college requirements. The FBLA students placed second in the state. They held their first homecoming activities at the new Steve Lopez Stadium and they thanked the District and facilities department for working so hard on their new facility. The students also enjoyed their first Senior Beach Day at the new pool. They are now preparing for their next WASC visit.

**9.2 Recognize and Congratulate Tracy Unified School District Students Jao Obaldo and Mashal Chhotani for their Achievements at the California State Spelling Championship**

Assistant Superintendent of Educational Services, Dr. Sheila Harrison, recognized two students from George Kelly School. Mashal was unable to attend so her brother accepted the award on her behalf. Dr. Franco presented a certificate to them. Jao then demonstrated how to spell labyrinthodont and got it right.

**Hearing of  
Delegations**

Dana Goodwill and Josie Lockard spoke on behalf of the Panther track team. They previously submitted a letter to the board members regarding facility use. They are parents of TUSD students who are trying to come up with a program that will benefit the children as well as District. They are part of the USA track club, and are competing all over the state and practicing at state parks. They have to practice on the day of events to use facilities. They would like to have practice time and provide in kind services, such as working the snack bar. The Panther Sports Academy is a 501 non-profit organization. They are representing over 50 families in Tracy.

**Information &  
Discussion Items:**

**11.1 Administrative & Business Services: None.**

**11.1.1 Receive Update on a Possible Lammersville School District Unification**

Dr. Franco introduced our unification consultant, Jim Bush, who has been working with Dr. Goodall to prepare an agreement. The Superintendent of Lammersville Elementary District, Mr. Dale Hansen was also in the audience. Mr. Bush reviewed the key points of the pre-unification agreement and the plan to have Lammersville students continue to attend school in Tracy Unified School District until their high school is completed. It is projected that the school would be occupied in 2014-15 if things go as scheduled. This agreement provides

that the school will have to be completed within 5 years from the date of the agreement. The County will hold public hearings and then it will be passed on to the State Department of Education for approval. There will be an election called. If successful, the official unification would take place the following July. The Tracy Board has requested to review the agreement in the next few weeks. The next board meeting for Tracy Unified is June 23<sup>rd</sup> and Lammersville is meeting on June 24<sup>th</sup>. If board members have concerns about the agreement, please email Dr. Goodall or Dr. Franco with your questions. They will meet again on June 19th and review the feedback.

**11.2 Educational Services:**

**11.2.1 Receive Report on the Updated Plans for John C. Kimball High School**

This item will be postponed until our next meeting.

Trustee Swenson would like an update on the vocational programs that Kimball will be offering.

**Public Hearing:**

**12.1.1 Receive Public Comments Regarding Negotiations with the Tracy Educators Association (TEA) for 2009-2010**

Opened hearing at 7:59 p.m.

No comments were made

Closed hearing at 8:00 p.m.

Item 14.3.1 was moved up and voted on.

**Consent Items:**

**Action:** Pulled Items 13.1.1, 13.2.1

Lewis, Swenson. **Vote:** Yes-6; No-0; Absent-1(Crandall)

**Action:** Item 13.1.1 as amended.

Lewis, Hawkins. **Vote:** Yes -6; No-0; Absent-1(Crandall)

Steve Abercrombie spoke regarding the donation of the playhouse in memory of Sandra Cantu.

Item 13.2.1 Lewis, Hawkins. After discussion by the Board, the motion to approve was withdrawn and this item was pulled for further

**Action:** information. No vote was taken.

**13.1 Administrative & Business Services:**

**13.1.1** Accept the Generous Donations From the Various Individuals, Businesses and School Site Parent Teacher Associations Listed herein with Thanks and Appreciation from the Staff and Students of the Tracy Unified School District

**13.1.2** Ratify Measure S Related Expenditures and Notice of Completions Which Meet the Criteria for Placement on the Consent Agenda

**13.1.3** Ratify Routine Expenditures and Notice of Completions Which Meet

the Criteria for Placement on the Consent Agenda

- 13.1.4 Approve Monthly Budget Adjustment Report, March 2009
- 13.1.5 Approve Monthly Budget Adjustment Report, April 2009
- 13.1.6 Approve Revolving Cash Fund Reports for March, 2009
- 13.1.7 Approve Revolving Cash Fund Reports for April, 2009
- 13.1.8 Approve Accounts Payable Warrants Report for March, 2009  
(Under Separate Cover)
- 13.1.9 Approve Accounts Payable Warrants Report for April, 2009  
(Under Separate Cover)

**13.2 Educational Services:**

- 13.2.1 Approve Overnight Travel for 2009-2010 Yearbook Staff to Attend Yearbook Camp in South Lake Tahoe July 20-23, 2009
- 13.2.2 Approve Overnight Travel for Tracy High Men's Varsity Water Polo Team to Attend Silver State Shootout in Reno, NV on September 10-13, 2009
- 13.2.3 Approve Overnight Travel for West High School Dance Team to Attend Dance Camp July 24 - 27, 2009, in Santa Cruz, California

**13.3 Human Resources:**

- 13.3.1 Approve Classified, Certificated and/or Management Employment
- 13.3.2 Approve Resignations/Retirements/Leaves of Absence for Classified, Certificated, and/or Management Employment
- 13.3.3 Approve Employment of 2009 Summer School Staff

**Action Items:**

**14.1 Administrative & Business Services:**

- 14.1.1 Approve Resolution #08-37 Authorizing the Board of Supervisors of San Joaquin County to provide Temporary Cash Loans.

**Action:** Swenson, Lewis. **Vote:** Yes-6; No-0; Absent-1(Crandall)

- 14.1.2 Approve Resolution #08-38 Finding that the Freiler School Portable Project, Kelly School Portable Project and the Villalovoz Elementary School Portable Project Qualify as a Categorical exemption from California Environmental Quality Act

**Action:** Hawkins, Vaughn. **Vote:** Yes-6; No-0; Absent-1(Crandall)

**14.2 Educational Services:**

- 14.2.1 Adopt Revision to Board Policy 5116.1 and Administrative Regulation 5116.1, Intradistrict Open Enrollment (2<sup>nd</sup> Reading)

**Action:** Lewis, Swenson. **Vote:** Yes-6; No-0; Absent-1(Crandall)

**14.3 Human Resources:**

- 14.3.1 Adopt the District's Initial Bargaining Proposal for 2009-2010 School Year and Submit it for Negotiations, Pending Public Input  
This item was moved up on the agenda.

**Action:** Lewis, Hawkins. **Vote:** Yes-6; No-0; Absent-1(Crandall)

**14.3.2** Consideration and Action Taken on Resolution #08-39 on Proposed Decision Related to Certificated Layoff Hearings

**Action:** Hawkins, Gouveia. **Vote:** Yes-6; No-0; Absent-1(Crandall)  
Assistant Superintendent of Human Resources, Ryan Davis, reviewed the resolution which will allow the District to move forward and deliver final layoff notices to certificated employees.

**Board Reports:**

Trustee Gouveia attended the high school graduation ceremonies and the Tracy Parks and Recreation meeting. They are proposing to have future meetings held at the parks to bring in the community. Last Saturday he attended the Juneteenth celebration with Mr. Vaughn. Trustee Vaughn reported that he attended Juneteenth at Lincoln park which was sponsored by the TAAA. This is a celebration of when Lincoln freed the slaves. It was a well organized event. He also congratulated the graduates including Kelly's son who just graduated from West High. He commended Paul Hall on the expulsions dropping 56% which shows that Paul is instituting positive interventions for our students. Trustee Hawkins attended the May/June revision in Sacramento. It was a downer. Trustee Lewis is sorry to have missed the Tracy High graduation. He apologized for being late to the meeting as he was at Fresno State with his son for orientation. He reminded parents of the budget issues and admission issues that colleges are now facing. He also thanked Paul for being a part of the District and doing a good job. Trustee Swenson reported on the sub-committee meeting regarding athletic budgets with Mark and Joe. Tom and Ted also attended too. Mark went over the budget procedures and was very informative. He would like to know if we ever got a legal opinion or decision about calling it a participation transportation fee? Dr. Goodall stated that CSBA recommends to not use the term "participation fee". The reduction that the board adopted this year was a transportation fee. Trustee Swenson also felt that both high school graduations were impressive. Trustee Guzman attended the budget meeting with the athletics directors and it was very informative as Mark gave a good outline. He attended the high school graduations and enjoyed them. He also went to the DARE baseball game.

**Superintendent Report:**

Dr. Franco reported that the high school graduations went off as planned and were dignified. Sheila attended the Williams promotion and that went well. Tom Hawkins attended the May revision meeting with him in Sacramento. We are looking at the hiring freeze and Reed is working with our finance staff diligently regarding the budget issues we are facing. He also visited the summer schools. West High has 2000 students attending summer school. Many students depend upon summer school to make their schedules work for next year. The Facilities Department has lots of projects going on and Bonny will provide a written update.

**8:30 P.M.**  
**Adjournment.**

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Clerk

Date



# EDUCATIONAL SERVICES MEMORANDUM

**TO:** Dr. James C. Franco, Superintendent  
**FROM:** *JK* Dr. Sheila Harrison, Assistant Superintendent of Educational Services  
**DATE:** *JK* June 10, 2009  
**SUBJECT:** Receive Report on the Updated Plans  
for John C. Kimball High School

**BACKGROUND:** John C. Kimball High School will open its doors to students in August of 2009. Currently, the leadership team is in the process of continuing the work of the original planning committee.

**RATIONALE:** The lead team for John C. Kimball High School is continuing to formulate an education plan that is centered on student needs and is in alignment with the vision established by the original planning committee. The education plan encompasses academics, athletics, school safety and school culture. This presentation will inform the Board of the team's progress in furthering the education plan. The presentation will focus on the continued establishment of multiple pathways and the bell schedule for John C. Kimball High School. This meets Strategic Goal #1, Provide a variety of learning opportunities through standards based curriculum and assessment and research based instruction that ensures that all students meet or exceed grade level standards and results in closing the achievement gap.

**FUNDING:** Not applicable

**RECOMMENDATION:** Receive Report on the Updated Plans for John C. Kimball High School

**Prepared by:** Mrs. Cheryl A. Domenichelli, John C. Kimball High School Principal





# HUMAN RESOURCES MEMORANDUM

**TO:** Dr. James C. Franco, Superintendent  
**FROM:** Ryan Davis, Assistant Superintendent of Human Resources  
**DATE:** June 16, 2009  
**SUBJECT:** Receive Update on the Public Agency Retirement Services (PARS) Supplementary Retirement Plan (SRP) For Eligible Employees

**BACKGROUND:** The Tracy Unified School District has worked with Public Agency Retirement Services (PARS) to design a Supplementary Retirement Plan (SRP), a retirement incentive that may encourage senior Certificated Non-Management/Management and senior Classified Non-Management/Management employees to retire early. The goal of the program is to generate savings, or at a minimum, no cost to the District by increasing the numbers of retirements in the 2008-2009 school year. The program allows the District to offer the plan, conduct enrollments, analyze the participation, and elect to move forward or cancel the program depending on the participation and overall projected savings or cost of the program. A full financial report will be provided at the Board meeting on Tuesday June 23, 2009. PARS is currently compiling the data in order to provide the report.

## HOW THE PROGRAM WORKS

The Supplementary Retirement Plan (SRP) would provide participating Certificated Non-management and Management employees with a monthly benefit provided by a 75% incentive; paid into the plan over a five-year period. The program requires all employees to retire from the District on or before June 30, 2009.

To be eligible for the program, all employees must be:

- 1) Employed by the District as of May 12, 2009 (Date of Board Adoption);
- 2) Certificated employees must be 55 years of age with 5 years of District service or
- 3) 50 years of age with 30 years of STRS service as of June 30, 2009;
- 4) Classified employees must be 50 years of age with 5 years of District service

The following is the proposed implementation of the remaining timeline:

- 1) District announces whether Supplementary Retirement Plan (SRP) goes forward (no later than June 26, 2009);
- 2) Employees resign from District employment (June 30, 2009);
- 3) Employees retire under STRS (July 1, 2009); and
- 4) Benefits commence (August 1, 2009).

**RATIONALE:** The District Administration believes that the PARS program may provide the District with a substantial savings and may work as a retirement incentive for some or all employee groups.

**RECOMMENDATION:** Receive Update on the Public Agency Retirement Services (PARS) Supplementary Retirement Plan (SRP) For Eligible Employees

**Prepared by:** Ryan Davis, Assistant Superintendent of Human Resources



# BUSINESS SERVICES MEMORANDUM

**TO:** Dr. James C. Franco, Superintendent  
**FROM:** Dr. Casey Goodall, Associate Superintendent for Business Services  
**DATE:** June 12, 2009  
**SUBJECT:** Ratify Routine Expenditures and Notice of Completions Which Meet the Criteria for Placement on the Consent Agenda

**BACKGROUND:** To be valid or to constitute an enforceable obligation against the district, education code 17604 requires that all contracts must be approved and/or ratified by the board of trustees. This requirement is met in several different ways, depending on the value of the requisition, the types of services or materials being procured, and the advance notice staff has in procuring the services or materials. Routine requisitions less than \$5,000 are ratified on the consent calendar when the board approves the warrants list. Except when specific exceptions are detailed in board policies and procedures, requisitions greater than \$15,000 are submitted as action items for board pre-approval. Also, Special Services and advice in financial, accounting, engineering, legal or administrative matters pursuant to Government Code 63060 meet the requirements.

Routine requisitions between \$5,000 and \$15,000, and requisitions greater than \$15,000 which meet specific criteria, may be ratified on the consent calendar by board approval of a summary list, more detailed than the warrants listing. This may also include ratification of "Notice of Completion" of construction projects.

**RATIONALE:** The attached summary of these requisitions with related support documentation details financial obligations greater than \$5,000 but which meet the criteria to be ratified in this format. The summary is organized alphabetically so that the project's back-up material is identified with the same letter in the lower left hand corner.

**FUNDING:** Per attached summary of requisitions.

**RECOMMENDATION:** Ratify Routine Expenditures and Notice of Completions Which Meet the Criteria for Placement on the Consent Agenda

**Prepared by:** Dr. Casey Goodall, Associate Superintendent for Business Services.

**BUSINESS SERVICES  
FACILITIES DEVELOPMENT DEPARTMENT  
SUMMARY OF SERVICES**

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A. Vendor: FedEx Office and Print Services, Inc.  
Site: District wide  
Item: Extension of Contract  
Services: An amendment to the Onsite Managed Services Addendum which was entered into on June 1, 2006. This amendment extends services through November 3, 2009 and covers printing and copying of jobs from an onsite facility and delivered to our sites and departments.  
Cost: Depends on usage  
Project Funding: District Funds

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B. Vendor: Various  
Site: Food Service Warehouse and Kitchens  
Item: Accept Bid  
Services: Deliver Food and Non Food items to Tracy USD Food Services Department, per attached bid recap  
Cost: Total Bid Value < \$1,000,000.00  
Project Funding: Food Services Budget

---

C. Vendor: Benson Lee Consulting  
Site: Tracy Learning Center (Clover)  
Item: Agreement - Ratify  
Services: Review and prepare CEQA documentation for the Tracy Learning Center – Clover Site Improvements.  
Cost: \$5,350.00; Not to Exceed – T&M basis  
Project Funding: Unrestricted Facilities/To be Reimbursed by TLC

---

D. Vendor: School Specialty  
Site: Villalovoz  
Item: Proposal - Ratify  
Services: Provide sixteen (16) standard floor mounted/overhead braced restroom stalls, six (6) ADA stalls and one (1) urinal screen; installation of the stalls is not included.  
Cost: \$14,550.00  
Project Funding: Deferred Maintenance 08/09

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E. Vendor: School Services of California  
Site: District Wide  
Item: Agreement - Ratify  
Services: The Business Services Division has contracted for many years with School Services of California, Incorporated. Their services are critical to budget development and implementation. In addition, their information services provide guidance on a plethora of management issues unavailable from any other sources.  
Cost: \$3,000.00 annually plus expenses  
Project Funding: Unrestricted General Fund

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F. Vendor: McArthur & Levin, LLP  
Site: Tracy Unified School District  
Item: Service Agreement for the 09/10 FY  
Services: Legal Services: Special Education, various  
Cost: \$150.00/hr. (all attorney time); previous hourly rate: \$150.00/hr.  
Project Funding: Risk Management/Legal Services

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G. Vendor: Kronick, Moskovitz, Tiedemann & Girard, Inc.  
Site: Tracy Unified School District  
Item: Service Agreement for the 09/10 FY  
Services: Legal Services: general education law advice and representation, including collective bargaining, litigation, property services, and developer fee services. Services will be billed on a T&M standard rate; bond counsel, complex litigation, tax services, "opinion of counsel" services, and reimbursable expenses.  
Cost: \$215.00/hr. (principal attorney); previous hourly rate: \$215.00/hr.  
Project Funding: Risk Management/Legal Services

---

H. Vendor: McCormick and Barstow, LLP, Attorneys at Law  
Site: Tracy Unified School District  
Item: Service Agreement for the 09/10 FY  
Services: Legal Services: Liability/Claims & Litigation  
Cost: \$175.00/hr.; previous hourly rate: \$175.00/hr.  
Project Funding: Risk Management/Legal Services

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I. Vendor: Middleton, Young & Minney, LLP  
Site: Tracy Unified School District  
Item: Service Agreement for the 09/10 FY  
Services: Legal Services: Charter School Law, various  
Cost: \$185.00/hr.; previous hourly rate: \$185.00/hr.  
Project Funding: Risk Management/Legal Services

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J. Vendor: Animal Damage Management, Inc.  
Site: Tracy Unified School District  
Item: Service Agreement for the 09/10 FY  
Services: Renewing contract service from July 1 – September 20, 2009 for the control of gophers and ground squirrels at all school sites.  
Cost: \$1,925.00  
Project Funding: Restricted Maintenance

---

K. Vendor: Seyfarth, Shaw, Fairweather & Geraldson, Attorneys  
Site: Tracy Unified School District  
Item: Service Agreement for the 08/09 FY  
Services: Legal Services: Education law, human resources, and litigation advice and representation.  
Cost: \$275.00/hr. on a blended rate; previous hourly rate: \$275.00/hr.  
Project Funding: Risk Management/Legal Services

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L. Vendor: Assad Insurance Agency, Inc.  
Site: Tracy Unified School District  
Item: Property and Liability Insurance Renewal for the 09/10 FY  
Services: Property and Liability: Liability (premises and vehicles), blanket property (buildings and contents), crime employee dishonesty, excess liability, third party administration, claims administration, Meyers Stevens (available for school time student coverage).  
Cost (Premium): \$666,507.00 (annual); previous year's premium: \$622,326.00. Increase for the 09/10 FY: \$44,181.00. The renewal premium is based upon Lottery ADA of \$16,756.00 from \$16,803 (08/09 FY ADA) and property values of \$367,063,590.00 from \$286,050,355 (08/09 FY). The District retained the SIR (Self Insured Retention) of \$50,000.00/occurrence for the 09/10 FY  
Project Funding: Risk Management/Insurance

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M. Vendor: Terie Furtney – Food 4 Kids  
Site: Food Service Consultant  
Item: Agreement  
Services: Food 4 Kids will update data for the nutritional analysis of the school lunch and breakfast program to ensure federal and state compliance regulations.  
Cost: \$100.00 per hour (not to exceed \$36,000.00)  
Project Funding: Food Service Department

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N. Vendor: School Site Solutions  
Site: District Wide  
Item: Amendment #2 to Agreement  
Services: Consultant to work with the Tracy Unified School District and Lammersville School District relating to the unification proposal.  
Cost: \$28,000.00  
Project Funding: Developer Fees

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**TRACY**  
UNIFIED SCHOOL DISTRICT

# BUSINESS SERVICES MEMORANDUM

**TO:** Dr. James C. Franco, Superintendent  
**FROM:** Dr. Casey Goodall, Associate Superintendent for Business Services  
**DATE:** June 12, 2009  
**SUBJECT:** Ratify Measure E Related Expenditures and Notice of Completions Which Meet the Criteria for Placement on the Consent Agenda

**BACKGROUND:** To be valid or to constitute an enforceable obligation against the district, education code 17604 requires that all contracts must be approved and/or ratified by the board of trustees. This requirement is met in several different ways, depending on the value of the requisition, the types of services or materials being procured, and the advance notice staff has in procuring the services or materials. Routine requisitions less than \$5,000 are ratified on the consent calendar when the board approves the warrants list. Except when specific exceptions are detailed in board policies and procedures, requisitions greater than \$15,000 are submitted as action items for board pre-approval. Also, Special Services and advice in financial, accounting, engineering, legal or administrative matters pursuant to Government Code 63060 meet the requirements.

Routine requisitions between \$5,000 and \$15,000, and requisitions greater than \$15,000 which meet specific criteria, may be ratified on the consent calendar by board approval of a summary list, more detailed than the warrants listing. This may also include ratification of "Notice of Completion" of construction projects.

**RATIONALE:** The attached summary of these requisitions with related support documentation details financial obligations greater than \$5,000 but which meet the criteria to be ratified in this format. The summary is organized alphabetically so that the project's back-up material is identified with the same letter in the lower left hand corner.

**FUNDING:** Per attached summary of requisitions.

**RECOMMENDATION:** Ratify Measure E Related Expenditures and Notice of Completions Which Meet the Criteria for Placement on the Consent Agenda

**Prepared by:** Dr. Casey Goodall, Associate Superintendent for Business Services.

**BUSINESS SERVICES  
FACILITIES DEVELOPMENT DEPARTMENT  
MEASURE E BOND  
SUMMARY OF SERVICES**

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A. Vendor: Terrasearch, Inc.  
Site: Tracy High School – Modernization/Reconstruction  
Item: Proposal  
Services: Geotechnical services for the modernization and new construction sites at Tracy High School.  
Cost: \$138,360.00  
Project Funding: Local Bond Funds & State School Building Fund (SSBF)

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B. Vendor: Industrial Fence  
Site: West High School – Stadium/Pool – Safety Fence.  
Item: Notice of Completion  
Services: Contractor to provide and install additional fencing to make varsity baseball fence to 30 feet.  
Original Contract: \$22,964.00      Change Order: \$0.00      Total Amount: \$22,964.00  
Completion Date: March 27, 2009  
Project Funding: Local Bond Funds & SSBF

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# BUSINESS SERVICES MEMORANDUM

**TO:** Dr. James C. Franco, Superintendent  
**FROM:** *CG* Dr. Casey Goodall, Associate Superintendent for Business Services  
**DATE:** June 12, 2009  
**SUBJECT:** Ratify Measure S Related Expenditures and Notice of Completions Which Meet the Criteria for Placement on the Consent Agenda

**BACKGROUND:** To be valid or to constitute an enforceable obligation against the district, education code 17604 requires that all contracts must be approved and/or ratified by the board of trustees. This requirement is met in several different ways, depending on the value of the requisition, the types of services or materials being procured, and the advance notice staff has in procuring the services or materials. Routine requisitions less than \$5,000 are ratified on the consent calendar when the board approves the warrants list. Except when specific exceptions are detailed in board policies and procedures, requisitions greater than \$15,000 are submitted as action items for board pre-approval. Also, Special Services and advice in financial, accounting, engineering, legal or administrative matters pursuant to Government Code 63060 meet the requirements.

Routine requisitions between \$5,000 and \$15,000, and requisitions greater than \$15,000 which meet specific criteria, may be ratified on the consent calendar by board approval of a summary list, more detailed than the warrants listing. This may also include ratification of "Notice of Completion" of construction projects.

**RATIONALE:** The attached summary of these requisitions with related support documentation details financial obligations greater than \$5,000 but which meet the criteria to be ratified in this format. The summary is organized alphabetically so that the project's back-up material is identified with the same letter in the lower left hand corner.

**FUNDING:** Per attached summary of requisitions.

**RECOMMENDATION:** Ratify Measure S Related Expenditures and Notice of Completions Which Meet the Criteria for Placement on the Consent Agenda

**Prepared by:** Dr. Casey Goodall, Associate Superintendent for Business Services.

**BUSINESS SERVICES  
FACILITIES DEVELOPMENT DEPARTMENT  
MEASURE S BOND  
SUMMARY OF SERVICES**

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A. Vendor: RGM & Associates  
Site: Central - Modernization  
Item: Agreement - Ratify  
Services: Construction Management services for the modernization of Central Elementary School.  
Cost: \$373,882.00; Not to Exceed  
Project Funding: Local Bond Funds

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B. Vendor: RGM & Associates  
Site: McKinley - Modernization  
Item: Agreement - Ratify  
Services: Construction Management services for the modernization of McKinley Elementary School.  
Cost: \$301,998.00; Not to Exceed  
Project Funding: Local Bond Funds

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C. Vendor: RGM & Associates  
Site: Monte Vista - Modernization  
Item: Agreement - Ratify  
Services: Construction Management services for the modernization of Monte Vista Middle School.  
Cost: \$637,196.00; Not to Exceed  
Project Funding: Local Bond Funds

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D. Vendor: RGM & Associates  
Site: North - Modernization  
Item: Agreement - Ratify  
Services: Construction Management services for the modernization of North School.  
Cost: \$324,711.00; Not to Exceed  
Project Funding: Local Bond Funds

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E. Vendor: RGM & Associates  
Site: South/West Park - Modernization  
Item: Agreement - Ratify  
Services: Construction Management services for the modernization of South/West Park Elementary School.  
Cost: \$611,945.00; Not to Exceed  
Project Funding: Local Bond Funds

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F. Vendor: RGM & Associates  
Site: Tracy Learning Center (Clover)  
Item: Agreement - Ratify  
Services: Project Management services for the Tracy Learning Center site acquisition.  
Cost: \$119,500.00; Not to Exceed  
Project Funding: Local Bond Funds

---

G. Vendor: RGM & Associates  
Site: Various School Sites - Modernization  
Item: Agreement - Ratify  
Services: Construction Management services for the security and technology installation at various school sites.  
Cost: \$451,500.00; Not to Exceed  
Project Funding: Local Bond Funds

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H. Vendor: RGM & Associates  
Site: Various School Sites – Relocatable Classrooms  
Item: Agreement - Ratify  
Services: Construction Management services for the relocation of portable classrooms at various school sites.  
Cost: \$62,500.00; Not to Exceed  
Project Funding: Local Bond Funds

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I. Vendor: Con J. Franke  
Site: Various School Sites – Relocatable Classrooms  
Item: Agreement - Ratify  
Services: Contractor to provide and install electrical and low voltage system to the nine (9) relocatable classrooms being placed at Freiler, Kelly and Villalovoz Schools.  
Cost: \$237,200.00  
Project Funding: Local Bond Funds

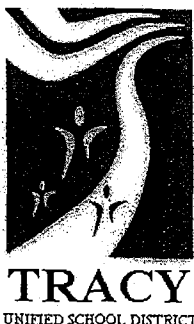
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J. Vendor: AM Stephens Construction Company  
Site: Various School Sites – Relocatable Classrooms  
Item: Change Order #1  
Services: Additional cost to add grading and landscape at Villalovoz due to grade of adjacent slope.  
Cost: \$1,000.00  
Project Funding: Local Bond Funds

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K. Vendor: AM Stephens Construction Company  
Site: Various School Sites – Relocatable Classrooms  
Item: Notice of Completion  
Services: Contractor prepared building pads for the relocatable classrooms being placed at Freiler, Kelly and Villalovoz Schools.  
Original Contract: \$16,975.00    Change Order: \$1,000.00    Total Amount: \$17,975.00  
Completion Date: June 5, 2009  
Project Funding: Local Bond Funds

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# BUSINESS SERVICES MEMORANDUM

**To:** James Franco, Superintendent  
**From:** C. Goodall, Assistant Superintendent for Business  
**Date:** June 12, 2009  
**SUBJECT:** Approve Assembly Vendors and Site Assembly Utilization Calendars

**Background:** To be valid or to constitute an enforceable obligation against the district, education code 17604 requires that all contracts must be approved and/or ratified by the board of trustees. This requirement is met in several different ways, depending on the value of the requisition, the types of services or materials being procured, and the advance notice staff has in procuring the services or materials.

**Rationale:** School site assemblies require pre-approval to ensure three different documents are in place: an approved contract; a certificate of insurance; an endorsement letter naming the district an additional insured. In addition, all assemblies are reviewed to ensure the content is appropriate for student audiences, and that conflicts do not occur with other school site or district events.

To that end, the attached list of vendors has met all of the criteria to provide assemblies at TUSD sites, and their presentation has been deemed appropriate for TUSD students. Additionally, the attached calendar of events has been reviewed to ensure the date and time of the event does not conflict with other site or district events.

This list will be updated monthly and presented to the board for approval.

**Funding:** Per attached summary of requisitions.

**Recommendation:** Approve Assembly Vendors and Site Assembly Utilization Calendars

Prepared by: Cindy Everhart, Facility Use Secretary, and Bob Corsaro, Director of Risk Management, Environmental Compliance, & Safety

Board Approved	Vendor	Estimated Cost	Insurance Expires
10/9/2007	Prismatic Magic Christopher Volpe 973-283-9006 chris@prismaticmagic.com	\$ 985.00	7/16/2009
11/13/2007	Bureau of Lectures & Ancient Artifacts John Tacha, 800.255.0084, www.assemblyline.com/index.html bureau@assemblyline.com	Call	8/20/2009
8/28/2007	Theater for Children, B Street Theater Programs, Lea Ladd, 916.443.5391 x112	Misc Call	8/28/2009
10/9/2007	Mad Science, Danielle Mae Lee, danielle@madsciencesacto.com, 916-736-2924	Call	12/1/2009
8/28/2007	Academic Entertainment Timothy Busfield 916 442 5635	\$ 895.00	12/10/2009
1/22/2008	Kaiser Permanente, Dean Starnes, 510-987-2223, dean.starnes@kp.org, www.kp.org/etp, Secrets Performance	?	1/1/2010
10/9/2007	Percussion Discussion Ken Bergmann's 925-755-3786percuss@pacbell.net	\$ 700.00	2/26/2010
4/28/2009	Color Me Mine, Angie Long , 834.8910, tracy@colormemine.com, www.tracy.colormemine.com	Call	4/4/2010
2/12/2008	Ravioli The Clown, 835-3535, www.raviolitheclown.com	\$ 500.00	5/1/2010
2/12/2008	Sparkles the Clown, 835-8383, www.sparklesdelight.com	\$ 500.00	5/1/2010
8/28/2007	Horizon Intertainment - Teen Truth Anti Bully JC Pohl 818 755 8800 , jc@teentruthlive.com	\$ 1,500.00	5/18/2010
10/23/2007	Lawrence Hall of Science, 510-642-1700, pfsreq@berkeley.edu, www.lawrencehallofscience.org	\$ 725.00	Indemnification approved, Tier 1
10/9/2007	McDonalds Tammi Beck 916-962-1982	Free	NO Charge, Tier 1
10/9/2007	NASA Karin Costa 650-604-6077	Free	NO Charge, Tier 1

10/9/2007	Otto the Auto Wendy Sanchez 415-565-2676 wendy_sanchez@csaa.com	Free	NO Charge, Tier 1
10/9/2007	Sandia Labs Simone Williams 925-294-2609 srwilli@sandia.gov	Free	NO Charge, Tier 1
2/10/2009	JOE FOSS Institute, 480.348.0316, www.jfiweb.org	Free	NO Charge, Tier 1
04/28/09	District 5 Dairy Princess, 639-1715	Free	NO Charge, Tier 1
5/26/2009	Get Real Behind The Wheel, Safe Driving Assembly targeted to 8th, 9th & 10th graders. Ken Ucci 601.6523. www.getrealbehindthewheel.org	Free	NO Charge, Tier 1
5/26/09	Cowboys & Kids Reach Assembly, Penny Conway, www.reachkids.com, reachme@theriver.com	Free	NO Charge, Tier 1
5/16/09	Marquis Entertainment - DJ Service, Marquis - 951-1982, www.marquisentdjs.com, enmar3@yahoo.com	Call	6/7/2010
	Schlang Dental Group - Smile California Mobile Dentist Program Carolyn Lanyi-888-833-8441 x 149, www.mobiledentists.com	Free	8/21/2009



# BUSINESS SERVICES MEMORANDUM

**TO:** Dr. James C. Franco, Superintendent  
**FROM:** Dr. Casey Goodall, Associate Superintendent for Business Services  
**DATE:** June 12, 2009  
**SUBJECT:** **Accept the Generous Donations From the Various Individuals, Businesses, and School Site Parent Teacher Associations Listed Herein With Thanks and Appreciation From the Staff and Students of the Tracy Unified School District.**

**BACKGROUND:** In order to assist the various school sites and departments in the District with the continued effort to enhance the educational, technological, health, and environmental needs of our students and staff, the following funds, materials, and/or equipment are to be considered for acceptance as donations:

1. Tracy Unified School District/Bohn Elementary School: From: Louis Bohn PTO, c/o Bohn Elementary School. The value of the donation is in the amount of \$1,800.00. This donation was used to pay for bussing expenses for the 4<sup>th</sup> and 5<sup>th</sup> grade field trip.
2. Tracy Unified School District/Kelly School: From: Kelly School PTO, c/o Kelly School. The donation is in the amount of \$7,080.17. This donation will be used to pay for computer equipment, copier/printer, and power strips.
3. Tracy Unified School District/Kelly School: From: Kelly School PTO, c/o Kelly School. The donation is in the amount of \$10,000.00. This donation will be used to pay for four SmartTech SmartBoard 77" Interactive Whiteboards.
4. Tracy Unified School District/Kelly School: From: Kelly School PTO, c/o Kelly School. The donation is in the amount of \$1,200.00. This donation will be used to pay for an audio system and flags for the school.

**RATIONALE:** Acceptance is recommended in order to meet the District's strategic goals and to enhance and benefit the educational experiences of the students of the Tracy Unified School District.

This agenda item meets Strategic Goal #2 – Create a quality and effective learning environment for all students.

**FUNDING:** Sites and departments of the District will incur responsibilities and costs associated with (some) of the donations which include, but are not limited to, supplies, repairs, maintenance of equipment, disposal/recycling. All items accepted by the Board of Trustees of the Tracy Unified School District are directed to the District's warehouse through the Materials Management Department for inclusion on the inventory list, marking for distribution and identification prior to site or department use or placement. All items needing inspection prior to installation or use are scheduled through the Materials Management and Operations and/or the Facilities Developments and budgeted accordingly. All technology items are reviewed and approved by the Director of Information Services and Educational Technology, prior to Board presentation.

**RECOMMENDATION:** Accept the generous donations from the various individuals, businesses, and school site parent teacher associations listed herein with thanks and appreciation from the staff and students of the Tracy Unified School District.

**Prepared by:** Dr. Casey Goodall, Associate Superintendent for Business Services.





# ADMINISTRATIVE SERVICES MEMORANDUM

**TO:** Board of Education  
**FROM:** Dr. James C. Franco, Superintendent  
**DATE:** June 16, 2009  
**SUBJECT:** Adopt Resolution No. 08-45 to Excuse Meeting Absence of Board Member

**BACKGROUND:** Board Bylaw 9250 and Education Code §35120 provide that a Board "...member may be paid for any meeting when absent if the board by resolution duly adopted and included in its minutes finds that at the time of the meeting...the absence was due to a hardship deemed acceptable by the board;"

**RATIONALE:** Board of Education member Gregg Crandall was absent for the meeting held June 9, 2009, due to illness. The Board of Education finds that Gregg Crandall's absence from the meeting of June 9, 2009, was due to hardship deemed acceptable by the Board of Education;

**FUNDING:** Unrestricted General Fund, Previously Budgeted.

**RECOMMENDATION:** Adopt Resolution No. 08-45 to Excuse Meeting Absence of Board Member.

**Prepared by:** Dr. James C. Franco, Superintendent



**TRACY UNIFIED SCHOOL DISTRICT  
RESOLUTION NO. 08-45  
Resolution to Excuse Meeting Absence of Board Member**

**WHEREAS**, Board Bylaw 9250 and Education Code §35120 provide that a Board "...member may be paid for any meeting when absent if the board by resolution duly adopted and included in its minutes finds that at the time of the meeting...the absence was due to a hardship deemed acceptable by the board;"

**WHEREAS**, Board of Education member Gregg Crandall was absent for the meeting held June 9, 2009, due to illness;

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Education finds that Gregg Crandall's absence from the meeting of June 9, 2009, was due to hardship deemed acceptable by the Board of Education;

**BE IT FURTHER RESOLVED** that the Board of Education therefore determines that Mr. Crandall shall be paid for his absence from the meeting of June 9, 2009, and further directs that the adoption of this Resolution shall be recorded in the minutes of this meeting of June 23, 2009.

Resolved this 23<sup>rd</sup> day of June, 2009, at a regular meeting of the Board of Education of the Tracy Unified School District by the following vote:

AYES:                      NOES:                      ABSENT:                      ABSTENTION:

\_\_\_\_\_  
PRESIDENT, BOARD OF EDUCATION  
TRACY UNIFIED SCHOOL DISTRICT

Attest:

I certify that the foregoing resolution was adopted by the Board of Education of the Tracy Unified School District, County of San Joaquin, on the date shown above.

\_\_\_\_\_  
Clerk  
Board of Education  
Tracy Unified School District



# EDUCATIONAL SERVICES MEMORANDUM

**TO:** Dr. James Franco, Superintendent  
**FROM:** *JS* Dr. Sheila Harrison, Assistant Superintendent of Educational Services  
**DATE:** June 12, 2009  
**SUBJECT:** Approve Overnight Travel for 2009-2010 Yearbook Staff to Attend Yearbook Camp in South Lake Tahoe July 20 – 23, 2009

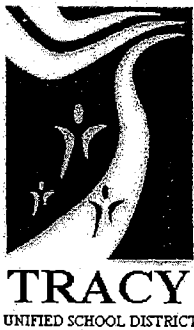
**BACKGROUND:** Each year a new group of students take over as the staff responsible to produce a memorable yearbook for the entire student body at West High School. This yearbook camp is 4 days of planning, training and bonding for students. The staff's attendance is critical to the development of the book and gives students an understanding of how crucial their participation is and how heavy the responsibility to the product is. Students will completely design the yearbook to start the New school Year. Mrs. McCoy, yearbook advisor and 4 students will drive in a district van to South Lake Tahoe and stay at the Forest Suites Resort, One Lake Parkway, South Lake Tahoe, Ca. 96150; 800-822-5950

**RATIONALE:** This conference is an extremely important bonding experience for the yearbook staff. It creates ownership and buy-in for a product that costs thousands of dollars to produce and requires a great deal of dedication and responsibility. The training at camps is unique and provided by professional yearbook advisors from the Herff-Jones Company. The camp is smaller in size than most other camps and provides individual time and attention for each student to be thoroughly trained. This meets Strategic Goal #7 –Develop and Utilize Partnerships that Contribute to the Achievement of District Goals.

**FUNDING:** The total estimated cost for transportation, registration, and lodging is \$400.00 per person. Cost to students is only 2 lunches and 2 dinners during their stay. The ASB account for yearbook will pay for this camp for 4 students and their advisor Leslie McCoy.

**RECOMMENDATION:** Approve Overnight Travel for 2009-2010 Yearbook Staff to Attend Yearbook Camp in South Lake Tahoe July 20 – 23, 2009

**Prepared by:** Jeff Frase, Principal - West High School



# EDUCATIONAL SERVICES MEMORANDUM

**TO:** Dr. James Franco, Superintendent  
**FROM:** Dr. Sheila Harrison, Assistant Superintendent of Educational Services  
**DATE:** June 4, 2009  
**RE:** Approve Overnight Travel for West High School Agriculture Department Activities for the 2009-10 School Year

**Background:** West High School Agriculture Advisor Marlene Hepner and 4 to 6 students would like to participate in the following events throughout the year as a part of the scheduled activities for the agricultural department.

September 26, 2009	Kid In a Box – McHenry House	Tracy
October 3-4, 2009	Central Region Officer Conference	Modesto
January 29-30, 2010	Made for Excellence Conference	Modesto
March 12-13, 2010	CSU-Chico FFA Field Day	Chico
April 16-20, 2010	State FFA Leadership Conference	Fresno
April 30 - May 2, 2010	State FFA Contest Finals	San Luis
May 15-16, 2010	Relay for Life	Tracy
June 2-5, 2010	Chapter Officer Camping Retreat	Ione

Each activity is a benefit to the student to develop leadership ability and officer experience.

**Rationale:** This is an opportunity for the elected FFA officers from all 58 regional schools to meet and gain leadership skills from state officers and staff to facilitate the successful promotion of chapter programs, and provide resources for the school year. These programs will help build each student's sense of confidence, responsibility and leadership. This supports Strategic Goal #7 – Develop and Utilize Partnerships that Contribute to the Achievement of District Goals.

**Funding:** Total Cost Not To Exceed: \$1,900.00. All funding for the trip will be paid for through the FFA ASB account and the Agriculture Incentive Grant. The cost for the Made for Excellence and State Finals Conferences will be \$100.00 per person for 4 students and advisor. The cost for the State Leadership Conference will be \$200.00 per person for 6 students and advisor. The meals are the students' responsibility. The transportation will be in a school van.

**Recommendation:** Approve Overnight Travel for West High School Agriculture Department Activities for the 2009-10 School Year

**Prepared by:** Jeff Frase, Principal West High School



**TRACY**  
UNIFIED SCHOOL DISTRICT

# EDUCATIONAL SERVICES MEMORANDUM

**To:** Dr. James C. Franco, Superintendent  
**From:** *JS* Dr. Sheila Harrison, Assistant Superintendent for Educational Services  
**Date:** June 8, 2009  
**Subject:** Approve Contract with Cheryl Markowitz of Psychology, Learning and You (PLAY) for Autism Consultation

**BACKGROUND:** Special Education students may require consultation services from an Autism Specialist as part of their Individual Education Plan. Many of our special education students currently have autism consultation written into their IEPs. There continues to be an increase in identified students with autism in the district and statewide. For the 2009-2010 school year we need 171 hours per month of consultation for 12 months, or 2,052 total hours per year. The Board has approved contracts with Cheryl Markowitz to provide these services for several years, and the contract is needed again this year. The Board needs to approve the contract in order to provide necessary consultation and assessments to special day class and full inclusion students diagnosed with autism.

**RATIONALE:** We do not have an autism specialist employed in the District, so we need to provide services through a contract arrangement. Cheryl Markowitz is a certified special education teacher, and has worked with numerous public and private agencies to provide autism consultation. She and her agents will provide analyses of behavior, and consult with teachers regarding behavior management, curriculum and instruction. Cheryl and her agents will also assist the IEP teams in the development of appropriate goals and objectives. Nonpublic agency contracted services are part of the continuum of services districts must provide to students with exceptional needs. This request supports District Goal 1: Provide a variety of learning opportunities through standards based curriculum and assessment and research based instruction that ensures that all students meet or exceed grade level standards and results in closing the achievement gap; District Goal 2: Provide a safe environment for students and staff that is conducive to learning; District Goal 6: Provide training and staff development opportunities that are designed to improve knowledge and skills of all employees; and District Goal 7: Develop and utilize partnerships that contribute to the achievement of District Goals.

**FUNDING:** Expenses for this contract are billed at \$90.00 per hour. Total contract expenses will not exceed a total of \$184,680.00 through June 30, 2010. Funding for Nonpublic agency expenses are budgeted in account #01-6500-0-5750-1180-5800-800-2542.

**RECOMMENDATION:** Approve Contract with Cheryl Markowitz of Psychology, Learning and You (PLAY) for Autism Consultation

**Prepared by:** Nancy E. Hopple, Director of Special Education

# TRACY UNIFIED SCHOOL DISTRICT

1875 W. Lowell Ave., Tracy, California 95376

## AGREEMENT FOR SPECIAL CONTRACT SERVICES

This agreement, by and between Tracy Unified School District, hereinafter referred to as "District," and Cheryl Markowitz, P.L.A.Y., hereinafter referred to as "Contractor," is for consultant or special services to be performed by a non-employee of the District. District and Contractor, herein named, do mutually agree to the following terms and conditions:

1. Contractor shall perform the following duties: Provide consultation for students diagnosed with autism at all grade levels. Consultation will include recommendations for placement, teaching strategies and social skills training, picture exchange communication system training, behavior management communication strategies, assessments including behavioral and environmental, material preparation participations at IEP's and other meetings, and supervision / support of PLAY consultants as needed.
2. Contractor will provide the above services(s), as outlined in Paragraph 1, for a period of up to a total of ( 2052 ) **HOURS per year** (average of 171 hours per month), under the terms of this agreement at the following location any and all school sites in TUSD.
3. In consideration of the services performed by Contractor, District shall pay Contractor according to the following fee schedule:
  - a. District shall pay \$ 90.00 per **HOUR**, not to exceed a total of \$ 184,680. Contractor shall only be paid for work completed to the satisfaction of District through, the termination date of this agreement.
  - b. District [   ] **SHALL**; [X] **SHALL NOT** reimburse Contractor for out-of-pocket expenses incurred during Contractor's performance of the services, including: mileage, meals and lodging in the district rates not to exceed those currently in effect for employees of the District. Reimbursement of expenses shall not exceed those currently in effect for employees of the District. Reimbursement of expenses shall not exceed \$ \_\_\_\_\_ for the term of this agreement.
  - c. District shall make payment on a [ X ] **MONTHLY PROGRESS BASIS**, [   ] **SINGLE PAYMENT UPON COMPLETION OF THE DUTIES** and within thirty (30) working days from Contractor's presentation of a detailed invoice or on a claim form provided by District. Original paid receipts are required for lodging, air fare (passenger coupon or ticket stub), automobile rental, and parking. Claims for unusual expenses, such as teaching materials, photocopying, etc., must be accompanied by original paid invoices.
4. The terms of the agreement shall commence on July 1, 2009, and shall terminate on June 30, 2010.
5. This agreement may be terminated at any time during the term by either party upon thirty (30) days written notice.
6. Contractor shall contact the District's designee, Nancy E. Flynn (209) 830-3270 with any questions regarding performance of the services outlined above. District's designee shall determine if and when Contractor has completed the services described.
7. The parties intend that an independent contractor relationship be created by this contract and District assumes no responsibility for workers' compensation liability. District likewise assumes no responsibility for liability for loss, damage, or injury to person(s) or property resulting from, or caused by, the contractor's activities during or relating to the performance of service under this Agreement.

Contractor agrees to hold harmless and to indemnify District for:

Any injury to person or property sustained by Contractor or by any person, firm, or corporation employed directly or indirectly by the Contractor or by any of the individuals participating in or associated with him or her, however caused; and any injury to person or property sustained by any person, firm or corporation, caused by act, neglect, default or omission, of Contractor, or any person, firm or corporation directly or indirectly employed by Contractor upon or in connection with this Agreement, or any of the participants arising out of or in the course of their term of this Agreement, and Contractor at his or her own cost, expense, and risk, shall defend any and all actions, suits or other legal proceedings that may be instituted against District for any such claim or demand, and pay or satisfy any judgment that may be rendered against District in any such action, suit or legal proceedings or the result thereof. Nothing herein provided shall be construed to require Contractor to hold harmless or indemnify District for liability or damages resulting from the negligence or willful act, or omission of District or its officers, agents, or employees.

8. This Agreement is for the personal services of the Contractor and Contractor may not assign the performance of the services to any person or persons who are not parties to this Agreement except for employees of Contractor.
9. Contractor certifies that his or her current employer, if any, is fully cognizant of this Agreement and that payments hereunder are not in conflict with any federal, state, or local statutes, rules or regulations or with any policies of Contractor's current employer.
10. District shall become the owner or, and entitled to, exclusive possession of all records, documents, graphs, photographic or other reproductions of any kind produced in the scope of services performed and no other uses thereof will be permitted except by permission of the District. Proprietary materials will be exempted from this clause.

**AGREED:**

\_\_\_\_\_  
Consultant Signature (1)

\_\_\_\_\_  
Social Security Number (2)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
Tracy Unified School District

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
01-6500-0-5750-1180-5800-800-2542  
Account Number to be Charged

\_\_\_\_\_  
Department/Site Approval

\_\_\_\_\_  
Budget Approval

\_\_\_\_\_  
Date Approved by the Board

Send all copies to the Business Office:

(1) Whenever organizational names are used, the authorized signature must include title, such as president.

(2) Whenever organizational names are used, the employer IRS Identification Number must be used instead of a Social Security Number.



**TRACY**  
UNIFIED SCHOOL DISTRICT

# EDUCATIONAL SERVICES MEMORANDUM

To: Dr. James C. Franco, Superintendent  
From: ~~Dr. James C. Franco~~ Dr. Sheila Harrison, Assistant Superintendent for Educational Services  
Date: June 8, 2009  
Subject: **Approve Contract with Lisa Balogh, OTR for Occupational Therapy Services**

**BACKGROUND:** Special education students may require Occupational Therapy services as part of their Individual Education Plan. Occupational therapy (O.T.) helps improve fine motor coordination and sensory integration skills. Many of our special day class students currently have O.T. written into their IEPs, and several more are awaiting O.T. assessment. Lisa Balogh is a Registered, Licensed Occupational Therapist who lives in the Tracy area. The board has approved a contract with Lisa Balogh for the last five school years. We would like to continue to contract with Lisa Balogh as an independent contractor. Approval is necessary so that services specified on various IEP's can be provided in a compliant manner.

**RATIONALE:** We do not have a licensed Occupational Therapist employed in our district, so we need to provide these services through a contract arrangement. In the past, we have sent students to receive these services privately, and have paid parents to transport their students to the Occupational Therapist. Lisa Balogh will provide services to students at their school site, and provide the teachers with consultation to carry over the therapy into daily instruction. This request supports District Goal 1: Provide a variety of learning opportunities through standards based curriculum and assessment and research based instruction that ensures that all students meet or exceed grade level standards and results in closing the achievement gap; Goal 6: Provide training and staff development opportunities that are designed to improve knowledge and skills of all employees, and Goal 7: Develop and utilize partnerships that contribute to the achievement of District Goals.

**FUNDING:** Expenses for this contract are \$85.00 per hour for therapy and purchasing of assessment instruments. Therapy services will be no more than 80 hours per month for 12 months. The total contract expenses will not exceed \$81,600 for the fiscal year beginning July 1, 2009, and ending June 30, 2010. Special education contract expenses are funded through 602 funding for special education, budgeted in account #01-6500-0-5750-1180-5800-800-2542.

**RECOMMENDATION:** Approve Contract with Lisa Balogh, OTR for Occupational Therapy Services

**Prepared by:** Nancy E. Hopple, Director of Special Education



# TRACY UNIFIED SCHOOL DISTRICT

1875 W. Lowell Ave., Tracy, California 95376

## AGREEMENT FOR SPECIAL CONTRACT SERVICES

This agreement, by and between Tracy Unified School District, hereinafter referred to as "District," and Lisa Balogh, OTR/L hereinafter referred to as "Contractor," is for consultant or special services to be performed by a non-employee of the District. District and Contractor, herein named, do mutually agree to the following terms and conditions:

1. Contractor shall perform the following duties: Provide Occupational Therapy to students as per IEP and consultation to students with occupational therapy needs as necessary per IEP; attendance at IEP meetings and material preparation-equipment monitoring. Attend SEIS training and CPI training; and occupational therapy assessments.
2. Contractor will provide the above services(s), as outlined in Paragraph 1, for a period of up to a total of (960) **HOURS per year**, under the terms of this agreement at the following location: any and all school sites in TUSD.
3. In consideration of the services performed by Contractor, District shall pay Contractor according to the following fee schedule:
  - a. District shall pay \$ 85.00 per **HOUR**, not to exceed a total of \$81,600. Contractor shall only be paid for work completed to the satisfaction of District through the termination date of this agreement.
  - b. District [ ☐ ] **SHALL**; [ ☒ ] **SHALL NOT** reimburse Contractor for out-of-pocket expenses incurred during Contractor's performance of the services, including: mileage, meals and lodging in the district rates not to exceed those currently in effect for employees of the District. Reimbursement of expenses shall not exceed those currently in effect for employees of the District. Reimbursement of expenses shall not exceed \$ \_\_\_\_\_ for the term of this agreement.
  - c. District shall make payment on a [ ☒ ] **MONTHLY PROGRESS BASIS**, [ ☐ ] **SINGLE PAYMENT UPON COMPLETION OF THE DUTIES** and within thirty (30) working days from Contractor's presentation of a detailed invoice or on a claim form provided by District. Original paid receipts are required for lodging, air fare (passenger coupon or ticket stub), automobile rental, and parking. Claims for unusual expenses, such as teaching materials, photocopying, etc., must be accompanied by original paid invoices.
4. The terms of the agreement shall commence on July 1, 2009, and shall terminate on June 30, 2010.
5. This agreement may be terminated at any time during the term by either party upon thirty (30) days written notice.
6. Contractor shall contact the District's designee, Nancy E. Hopple (209) 830-3270 with any questions regarding performance of the services outlined above. District's designee shall determine if and when Contractor has completed the services described.
7. The parties intend that an independent contractor relationship be created by this contract and District assumes no responsibility for workers' compensation liability. District likewise assumes no responsibility for liability for loss, damage, or injury to person(s) or property resulting from, or caused by, the contractor's activities during or relating to the performance of service under this Agreement.

Contractor agrees to hold harmless and to indemnify District for:

Any injury to person or property sustained by Contractor or by any person, firm, or corporation employed directly or indirectly by the Contractor or by any of the individuals participating in or associated with him or her, however caused; and any injury to person or property sustained by any person, firm or corporation, caused by act, neglect, default or omission, of Contractor, or any person, firm or corporation directly or indirectly employed by Contractor upon or in connection with this Agreement, or any of the participants arising out of or in the course of their term of this Agreement, and Contractor at his or her own cost, expense, and risk, shall defend any and all actions, suits or other legal proceedings that may be instituted against District for any such claim or demand, and pay or satisfy any judgment that may be rendered against District in any such action, suit or legal proceedings or the result thereof. Nothing herein provided shall be construed to require Contractor to hold harmless or indemnify District for liability or damages resulting from the negligence or willful act, or omission of District or its officers, agents, or employees.

8. This Agreement is for the personal services of the Contractor and Contractor may not assign the performance of the services to any person or persons who are not parties to this Agreement except for employees of Contractor.
9. Contractor certifies that his or her current employer, if any, is fully cognizant of this Agreement and that payments hereunder are not in conflict with any federal, state, or local statutes, rules or regulations or with any policies of Contractor's current employer.
10. District shall become the owner or, and entitled to, exclusive possession of all records, documents, graphs, photographic or other reproductions of any kind produced in the scope of services performed and no other uses thereof will be permitted except by permission of the District. Proprietary materials will be exempted from this clause.

**AGREED:**

\_\_\_\_\_  
Consultant Signature (1)

\_\_\_\_\_  
Social Security Number (2)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
Tracy Unified School District

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
01-6500-0-5750-1110-5800-800-2542

\_\_\_\_\_  
Account Number to be Charged

\_\_\_\_\_  
Department/Site Approval

\_\_\_\_\_  
Budget Approval

\_\_\_\_\_  
Date Approved by the Board

**Send all copies to the Business Office:**

- (1) Whenever organizational names are used, the authorized signature must include title, such as president.
- (2) Whenever organizational names are used, the employer IRS Identification Number must be used instead of a Social Security Number.



# EDUCATIONAL SERVICES MEMORANDUM

**To:** Dr. James C. Franco, Superintendent  
**From:** ~~Dr.~~ Sheila Harrison, Assistant Superintendent of Educational Services  
**Date:** June 8, 2009  
**Subject:** Approve Master Contract and Individual Services Agreement with Children's Home of Stockton, NPS

**BACKGROUND:** The Board has approved a Master Contract with Children's Home of Stockton for the last thirteen years. Also approved were Individual Service Agreements for eight different special education students. At present, there are 4 Tracy Unified School District students attending Children's Home of Stockton. The number of students attending Children's Home may vary at any given time. Approval is necessary so that services specified on IEPs can be provided in a compliant manner.

**RATIONALE:** These children were placed in a structured setting with a behavioral component not available in the public setting. Districts must offer a continuum of services, including nonpublic schools, to students with exceptional needs. Less restrictive placements have not been effective in meeting their needs. This request supports Strategic Goal 1: Provide a variety of learning opportunities through standards based curriculum and assessment and research based instruction that ensures that all students meet or exceed grade level standards and results in closing the achievement gap.

**FUNDING:** Contract expenses for the 2009-2010 school year include 180 days with per diem costs for 4 students with basic education at \$146.05 and transportation costs for 4 students at \$37.97 for a total of \$132,494.40. Non-public tuition expenses are budgeted in account number is # 01-6500-0-5750-1180-5800-800-2542.

**RECOMMENDATION:** Approve Master Contract and Individual Services Agreement with Children's Home of Stockton, NPS.

**Prepared by:** Nancy E. Flynn, Director of Special Education

**(SELPA NAME)**  
**CONTRACT YEAR –2009-2010**

**AGREEMENT FOR NONPUBLIC, NONSECTARIAN SCHOOL/AGENCY SERVICES**  
**MASTER CONTRACT**

(Education Code Section 56157, 56365, et. seq.)

**DEFINITIONS**

- A.** This Master Contract is made and entered into this 1<sup>st</sup> day of July, between the Tracy (district, county office of education, a charter school participating as a member of the special education local plan area, or special education local plan area) , county of San Joaquin hereinafter referred to as the local educational agency ("LEA") and Children's Home of Stockton (nonpublic, nonsectarian school or agency), hereinafter referred to as NPS/A or "CONTRACTOR" for the purpose of providing special education and related services to individuals with exceptional needs (IWEN) under the authorization of Education Code (EC) Sections 56157 and 56365-56366.6
- B.** It is understood that this agreement does not commit LEA to payment for special education and related services provided to any individual unless, and until, an Individual Service Agreement (ISA) is executed between LEA and CONTRACTOR on behalf of such individual. Given the fact that it is the district's responsibility to assure that appropriate services are provided to the student, the district will either provide them, subcontract with other agencies per Section 4, or contract with respective NPS. The Director/Designee of the LEA's SPECIAL EDUCATION Unit may give interim telephone approval to the CONTRACTOR.
- C.** A current copy of CONTRACTOR's California Department of Education (CDE) Nonpublic School/Agency Certification approved by the California State Board of Education is attached hereto. In the event of a delay in certification by CDE, the CONTRACTOR shall forward, upon receipt, copies of the appropriate documentation from CDE that verifies the delay (e.g. waiver of certification, extension letters, etc.)
- D.** If a pupil is enrolled in a NPS/A with the approval of the LEA prior to a contract or ISA, the LEA shall issue a warrant for services, up to 90 days. If after 60 days the Master Contract has not been finalized, either party may appeal pursuant to EC 56366(c).
- E.** A NPS/A that proposes to initiate or expand services to pupils currently educated in the immediate prior fiscal year in a juvenile court program, community school or other non special education program, must notify the County Superintendent and the Special Education Local Plan Agency (SELPA). Notification must be no later than December 1 prior to the new fiscal year in which the proposed or expanding school intends to initiate services.
- F.** If certification expires during the contract period, CONTRACTOR must provide an updated copy. This Agreement will terminate if such certification or waiver is expired, revoked, rescinded, or otherwise nullified during the effective period of this Agreement. After termination (or during suspension), no services shall be performed where reimbursement is expected. From the initial effective date until the termination (suspension) date, the contract is in force and its terms and conditions are binding upon the parties.
- G.** Any educational funds received from an LEA for educational costs of IWENs it has placed shall be used solely for those purposes and not for the costs of a residential program.
- H.** A facility may not require, as a condition of placement that a child be identified as an IWEN.
- I.** Educational services shall occur at the school site, unless otherwise specified by the pupil's Individual Education Program/Individual Family Service Plan (IEP/IFSP).
- J.** Only those NPS/As who employ staff who hold a certificate permit or other document equivalent to that which staff in public school are required to hold in the service rendered are eligible to receive certification.
- K.** "Superintendent" as used in this agreement, shall mean State Superintendent of Schools.

## CONTRACT RELATIONS AND INSURANCE PROVISION

### 1. MODIFICATIONS AND AMENDMENTS

- 1.1. This contract may only be modified or amended by a written document executed by CONTRACTOR and LEA.
  - 1.1.1. This contract shall include an ISA prepared by the LEA within three (3) business days in accordance with the IEP for each pupil who is scheduled to receive special education and/or designated instruction services through a NPS/A.
- 1.2. Changes in any educational instruction, services or placement provided under the contract may only be made on the basis of revisions to a pupil's IEP on the IEP forms of the LEA, mediated agreement, an order from the Office of Administrative Hearings Special Education Unit ("OAH"), and/or an order rendered by a court of competent jurisdiction.
- 1.3. At any time during the term of the contract, the parent, NPS/A or LEA may request a review of a pupil's IEP, subject to all procedural safeguards required by law.
- 1.4. Changes in the administrative or financial agreements of the contract which do not alter the ISA that outlines each pupil's educational instruction, services or educational placement may be made at any time during the term of the contract, as mutually agreed in writing by CONTRACTOR and LEA.
- 1.5. Neither CONTRACTOR nor LEA is required to renew this Master Contract in subsequent years.

### 2. RENEWAL OF CERTIFICATION

- 2.1. The NPS shall provide the SELPA in which they are located with written notification of its intent to seek recertification per EC 56366.1 and no later than September 30th.

### 3. NOTICES

All notices involving: 1) revocation of CONTRACTOR's certification, 2) Master Contract disputes, 3) changes of LEA pupil's residence outside of current LEA attendance area, 4) termination of ISA, 5) termination of Master Contract, 6) notification of cancellation or material change in CONTRACTOR's or LEA's insurance coverage, and 7) LEA's reasonable objections to a subcontractor's liability insurance policy, are required to be given to the LEA and/or CONTRACTOR in writing and shall be delivered in person, by certified/registered mail, or by other delivery service.

Notices/bills mailed to LEA shall be addressed to:  
Attention: Nancy Hopple, Special Education Director

<u>Name</u>	
<u>Tracy Unified School District</u>	
<u>LEA</u>	
<u>1875 W. Lowell Ave</u>	
<u>Address</u>	
<u>Tracy</u>	
<u>CA</u>	<u>95376</u>
<u>City</u>	<u>State Zip</u>
<u>209-830-3270</u>	<u>209-830-3274</u>
<u>Phone</u>	<u>Fax #</u>

Notices to CONTRACTOR:

<u>Name</u>	
<u>Mike Dutra, Director</u>	
<u>Nonpublic School/Agency</u>	
<u>Children's Home of Stockton</u>	
<u>Address</u>	
<u>430 N. Pilgrim</u>	<u>Stockton, CA 95205</u>
<u>City</u>	<u>State Zip</u>
<u>209-466-0853</u>	<u>209-466-0946</u>
<u>Phone</u>	<u>Fax#</u>

4. **DISPUTES**

- 4.1. Disagreements between LEA and CONTRACTOR concerning the meaning, requirements or performance of this contract shall be appealed to the County Superintendent of Schools or the State Superintendent of Public Instruction or designee when the County Superintendent is a party to the contract. The County Superintendent, or the State Superintendent, or designee, shall render a decision in writing which shall be binding upon the parties.

5. **SUBCONTRACTOR AND ASSIGNMENT**

- 5.1. This contract binds the successors, assignees, agents and representatives of CONTRACTOR.
- 5.2. CONTRACTOR shall not enter into subcontracts for any of the work contemplated under this contract without first obtaining written approval from LEA.
- 5.2.1. Such approval shall be attached and made part of this contract, as well as the contract with the subcontractors.
- 5.2.2. Subcontracts shall be entered into only with NPS/As certified by the CDE. If a NPS/A certified by the CDE is not available, subcontracts may be entered into with personnel who are licensed according to Title V regulations.
- 5.3. During the entire term of this contract and any extension or modification thereof, CONTRACTOR assures LEA that subcontractors shall keep in effect a policy or policies of general liability insurance, including coverage of owned and non-owned vehicles used in relation to the performance of service(s) by CONTRACTOR, of at least \$3,000,000 combined single limit for all damages arising from each accident or occurrence and \$500,000 for all damages arising out of injury to or destruction of property for each accident or occurrence.
- 5.3.1. The CONTRACTOR shall provide for the insurance provider to send written notice of cancellation to the CONTRACTOR and the LEA at least thirty (30) days prior to cancellation or material change in coverage.
- 5.4. CONTRACTOR assures LEA that subcontractors providing transportation shall keep in effect a liability insurance policy providing at least \$3,000,000 coverage, per occurrence.
- 5.4.1. Transportation subcontractors shall submit copies of insurance policies upon request of the LEA. Certificates of insurance may be acceptable proof, provided that the information thereon is adequate and verifiable.

6. **INDEPENDENT CONTRACTOR STATUS**

- 6.1. Nothing herein contained will be construed to imply a joint venture, partnership or principal-agent relationship between the LEA and CONTRACTOR. CONTRACTOR shall provide all services under this Agreement as an independent contractor, and neither party shall have the authority to bind or make any commitment on behalf of the other. Nothing contained in this Agreement shall be deemed to create any association, partnership, joint venture or relationship of principal and agent, master and servant, or employer and employee between the parties or any affiliates of the parties, or between the LEA and any individual assigned by CONTRACTOR to perform any services for the LEA.

7. **CONFLICT OF INTEREST**

- 7.1. CONTRACTOR agrees to furnish to LEA a copy of its current list of bylaws, and a current list of its Governing Board of Directors (or Trustees), if it is incorporated.
- 7.2. CONTRACTOR promises and attests that the CONTRACTOR and any member of Board of Directors (or Trustees) shall avoid any relationship with LEA that constitutes or potentially constitutes a conflict of interest including, but not limited to, employment with LEA.

- 7.3. No employee, staff member, volunteer, officer, agent, consultant or member of the Board of Directors of CONTRACTOR and no employee, staff member, volunteer, officer, agent, consultant, or member of the Board of Directors of any of the CONTRACTORS' related entities shall serve as a surrogate parent for a student receiving educational services at CONTRACTOR'S NPS.
- 7.4. To avoid conflict of interest, and in order to ensure the appropriateness of an Independent Educational Evaluation (hereinafter referred to as "IEE") and its recommendations, the -LEA may, in its discretion, not fund an IEE by an evaluator who provides ongoing service(s) or is sought to provide service(s) to the student for whom the IEE is requested. Likewise, the LEA may, in its discretion, not fund services through the evaluator whose IEE the LEA agrees to fund.

## 8. TERMINATION

- 8.1. This Master Contract may be terminated with cause during the effective period of the Contract. The contract may be terminated without cause at any time during the effective period if the parties mutually agree in writing to such early termination.
- 8.1.1. To terminate the contract with cause, either party shall give twenty (20) days written notice prior to the date of the termination.
- 8.1.2. LEA shall not be required to give twenty (20) days notice of termination when the health and/or safety of student/staff are endangered.
- 8.1.3. Prior to the termination of this agreement for cause, LEA will provide written notice to the NPS of the conditions that, in the opinion of LEA, are grounds for a termination for cause.
- 8.1.3.1. The NPS shall have ten (10) business days to respond in writing to these concerns.
- 8.1.3.2. Within ten (10) business days of the NPS response, LEA and NPS shall meet to agree upon a Plan of Correction by which the NPS can correct and resolve the final agreed upon items that must be corrected to prevent termination.
- 8.1.3.3. Following the development of the Plan of Correction, the NPS shall have ten (10) business days to implement all agreed upon corrections and to provide written notification to the LEA of the successful completion of the changes.
- 8.1.3.4. This provision shall not apply if Section 8.1.2 is invoked due to a health and/or safety risk to the students.
- 8.1.4. Upon termination of CONTRACTOR, LEA shall pay without duplication, for all services not under dispute and for verified expenses incurred to date of termination.
- 8.2. In consideration of this payment, CONTRACTOR waives all right to any further payment or damage, and shall turn over to LEA everything pertaining to its services hereunder possessed by CONTRACTOR or under its control at the time of termination.
- 8.3. When the LEA becomes aware that the pupil's education is no longer its responsibility, the LEA shall provide written notice within one (1) business day to CONTRACTOR for termination of the ISA.
- 8.4. The LEA shall not terminate an ISA because of the availability of a public class initiated during the course of the contract unless the parent agrees to the transfer of a pupil to a public school program, or pursuant to an order from OAH and/or an order rendered by a court of competent jurisdiction.

## 9. INSPECTION AND AUDIT

- 9.1. CONTRACTOR shall provide reasonable access to, or forward copies of, any books, documents, papers, reports, records or other matter relating to the contract upon reasonable request by LEA except as otherwise provided by law.

- 9.2. All budgetary information and projections submitted by CONTRACTOR to LEA for purpose of contract negotiations shall be made available for the relevant contract period being audited to assess the extent to which funds were expended consistent with said budgetary information.
- 9.3. Fiscal records are maintained by CONTRACTOR for five (5) years and are available for audit.
- 9.4. Commencing July 1, 2006 the NPS shall submit the following to the CONTRACTOR:
  - 1) separate financial records for each entity a NPS/A operates with each entity identified separately from any licensed children's institutions (LCI) it operates, and 2) an annual budget for each entity demonstrating that rates are reasonable to support the operation shall be submitted by June 1st of each contract year. An entity wide annual audit shall be submitted that clearly documents the amount of monies received and expended on the education program provided by the NPS shall be submitted no later than 7 months following completion of the fiscal year. Relationship between various entities operated by the same entity shall be documented.

## 10. **INDEMNIFICATION**

CONTRACTOR shall indemnify, defend, and hold harmless LEA and its governing board, officers, officials, employees, agents and volunteers from and against all liability, loss, damage, expense, costs (including, without limitation, costs and fees of litigation, regardless of the forum of the litigation) of every nature arising out of or in connection with CONTRACTOR'S performance of services under this contract or its failure to comply with any of its obligations contained in this contract, except such loss or damage which was caused by the sole negligence or willful misconduct of LEA.

## 11. **INSURANCE**

- 11.1. During the entire term of this contract and any extension or modification thereof, CONTRACTOR shall keep in effect a policy or policies of general liability insurance, including coverage of owned and non-owned vehicles used in relation to the performance of service(s) by CONTRACTOR, of at least \$3,000,000 combined single limit for all damages arising from each accident or occurrence and \$3,000,000 combined single limit for all damages arising out of injury to or destruction of property for each accident or occurrence.
- 11.2. No later than the effective date of this contract, CONTRACTOR's insurer shall provide LEA with satisfactory evidence of the insurance required by this section. CONTRACTOR will send written notice of cancellation to the LEA at least thirty (30) days before cancellation of/or material change to the coverage specified in 11.1 above.
- 11.3. CONTRACTOR shall, at its own cost and expense, procure and maintain insurance under the Worker's Compensation law. Failure to maintain the above mentioned insurance coverage shall be cause for termination of this contract.
- 11.4. CONTRACTOR recognizes that the LEA's insurance requirement may be revised in terms of limits and/or coverage. If LEA determines that additional coverage is necessary, LEA will reopen negotiations to discuss the cost of this additional coverage.
- 11.5. LEA shall be named as an additional insured for all liability arising out of operations by or on behalf of the CONTRACTOR hereunder. CONTRACTOR's insurance provided herein shall be primary and no insurance held or owned by the LEA shall be called upon to contribute to a loss.

## 12. **FREE AND APPROPRIATE PUBLIC EDUCATION (FAPE)**

- 12.1. In addition to the certification requirements set forth in Sections 56366 and 56366.1, a NPS/A that provides special education and related services to an IWEN shall certify in writing to the superintendent that it meets all of the following requirements:
  - 12.1.1. It will not accept a pupil with exceptional needs if it cannot provide or ensure the provision of the services outlined in the pupil's IEP.



- 12.1.2. Pupils have access to the following educational materials, services, and programs to the extent available at the LEA in which the NPS/A is located.
  - 12.1.2.1. Standards-based, core curriculum and the same instructional materials used by the LEA in which the NPS/A is located.
  - 12.1.2.2. College preparation courses.
  - 12.1.2.3. Extracurricular activities, such as art, sports, music, and academic clubs.
  - 12.1.2.4. Career preparation and vocational training, consistent with transition plans pursuant to state and federal law.
  - 12.1.2.5. Supplemental assistance, including individual academic tutoring, psychological counseling, and career and college counseling.
- 12.1.3. The teachers and staff provide academic instruction and support services to pupils with the goal of integrating pupils into the least restrictive environment pursuant to federal law.
- 12.1.4. The school has and abides by a written policy for pupil discipline which is consistent with state and federal law and regulations.
- 12.2. CONTRACTOR shall make no charge of any kind to parents for educational activities and related services specified on the pupil's IEP. This includes screening or interviews which occur prior to or as a condition of a pupil's enrollment under the terms of the contract, except as specified in writing in a due process procedure that is signed by all relevant parties and attached to the relevant pupil's ISA, or for voluntary extracurricular activities conducted subsequent to written notification to parents as to the cost and the voluntary and extracurricular nature of the activity.
- 12.3. Unless the extra curricular activities take place during a school vacation or holiday, pupils not participating shall continue to receive special education and related services as set forth in their IEP.
- 12.4. CONTRACTOR shall provide special education and/or related services to LEA students within the NPS/A which are consistent with the students' IEPs and as specified in the students' ISAs. CONTRACTOR shall be responsible for the provision of all appropriate supplies, equipment, or facilities for a pupil as required in his or her IEP. The responsible agency for specialized equipment shall be designated on the IEP.

### 13. **DEFINITION OF PARENT**

- 13.1. For the purpose of the contract, a parent is the natural parent, adoptive parent, legal guardian or surrogate parent who is appointed by the District (LEA) in compliance with EC 56050 or as otherwise provided by law.
- 13.2. CONTRACTOR acknowledges and agrees that under legally defined circumstances, the LEA is the entity that has the authority to appoint a surrogate parent for students under its jurisdiction and receiving educational services at CONTRACTOR'S NPS.
- 13.3. In addition, CONTRACTOR acknowledges and agrees that only a parent who holds educational rights for his/her child may designate another adult individual to represent the interests of his/her child for educational and related services.
- 13.4. Parent does not include the state or any political subdivision of government or the nonpublic school or agency under contract with LEA for the provision of special education or related services for a child. (California Education Code section 56028)

### 14. **DEFINITION OF DAY**

- 14.1. For the purpose of the contract, "days" refers to calendar days unless otherwise specified.

**15. QUALIFIED PERSONNEL AND CLASS SIZE**

- 15.1. CONTRACTOR shall provide appropriately credentialed teachers and substitute teachers, licensed personnel and class size consistent with the California laws and regulations and published LEA requirements existing at the time of CONTRACTOR's execution of this contract. This is in effect unless the CDE has granted a written waiver with respect to state laws, regulations or the LEA with respect to its requirements.
- 15.1.1. CONTRACTOR, pursuant to Title V § 3064, shall deliver instruction by utilizing personnel who possess a credential authorizing the holder to deliver special education instruction according to the age range and disabling conditions of the students. Personnel will provide services only within the professional scope of practice of each providers license, certification, and /or credential.
- 15.1.2. CONTRACTOR shall insure that the ratio of credentialed teachers to students is no greater than 1:12. CONTRACTOR is to include auxiliary personnel as needed to ensure a ratio of no less than 1 adult to 6 students.
- 15.1.3. CONTRACTOR shall ensure that staff providing behavior intervention implementation services are qualified and that pupils are receiving the specific level of supervision required by the pupil's IEP. (Title V, Regulation 3001(e))
- 15.2. CONTRACTOR shall comply with EC 45340 through 45356 regarding qualifications of instructional aides and teacher assistants and EC 45349 for volunteers.
- 15.3. Upon submission of the master contract, at the start of each school year, CONTRACTOR shall provide LEA with a list of professional staff and copies of credentials, licenses, and/or registration numbers held by its employees, subcontractors, and agent.
- 15.3.1. CONTRACTOR shall immediately notify LEA and CDE in writing and provide copies of appropriate credential(s) and/or license(s) if a change of staff occurs that directly affects the pupils.
- 15.4. CONTRACTOR shall be responsible for assuring that all fingerprint clearances, credentials, and licenses held by its employees, agents and subcontractors are valid. Education credentials shall be on file at the office of the County Superintendent of Schools. Copies of credentials, licenses, certificates and authorizations for specific agency services shall be attached to this contract.
- 15.5. CONTRACTOR shall notify LEA within three (3) business days in writing and provide copies of appropriate credentials and/or license(s) if a change of staff occurs which directly affects the pupils. CONTRACTOR shall immediately notify LEA in writing when personnel changes occur which may affect the provision of special education and/or related services to LEA students.
- 15.6. CONTRACTOR shall provide copies to LEA of all licenses, credentials, and/or documents evidencing other qualifications of a newly employed, contracted, and/or otherwise hired individual before that individual begins providing special education and/or related services to LEA students.
- 15.7. CONTRACTOR shall require all volunteers, subcontractors, and employees to submit fingerprints consistent with California EC Section 44237 and 45125.1. The CONTRACTOR may waive this requirement for subcontractors if CONTRACTOR determines that it is not required to fingerprint a subcontractor pursuant to EC Section 45125.1(a) (contractor is not performing school/classroom janitorial, schoolsite administrative or grounds and landscape maintenance, pupil transportation or schoolsite food-related work), EC Section 45125.1(b) (service being performed in emergency or exceptional situation when pupil health or safety is endangered or when repairs are needed to make school facilities safe and habitable), EC Section 45125.1(c) (Contractor determines that subcontractor will have limited contact with pupils), or EC 45125.2 (steps have been taken to ensure safety of pupils from construction subcontractors by one of the

designated methods). CONTRACTOR shall certify in writing to the LEA at the beginning of each new contract year that CONTRACTOR has complied with EC 44237 AND 45125.1.

- 15.8. CONTRACTOR shall employ, contract, and/or otherwise hire individuals who are adequately trained and have sufficient experience, according to prevailing professional standards, to provide those services for which the individual is employed, contracted, and/or otherwise hired.
- 15.9. CONTRACTOR shall require submission of written assurances from subcontractors that they have met fingerprint requirements.
- 15.10. When a classroom teacher is absent, CONTRACTOR shall always maintain the contractual teacher to student ratio of 1:12. After three (3) school days of absence of the classroom teacher, the CONTRACTOR shall attempt to employ a fully or emergency credentialed substitute teacher to cover the absent teacher's classroom. If unable to secure a substitute, the CONTRACTOR may reconfigure classes to ensure that students have supervision/instruction by another person with a credential and, at the same time, maintain the contractual teacher to student ratio of 1:12. Upon written or oral request, CONTRACTOR shall provide to LEA documentation of substitute coverage. Substitute teachers shall remain in the classroom during all instructional time.
- 15.10.1. This provision shall apply in all circumstances except those in which a written waiver has been granted by the State of California Board of Education with respect to state laws and regulations or by LEA with respect to the requirements.
- 15.11. In the event a nonpublic school is unable to fill a vacant teaching position responsible for direct instruction to students, and the vacancy has direct impact on the California Department of Education Certification of that school, the nonpublic school shall develop a plan to assure appropriate coverage of students by first utilizing existing certificated staff. The nonpublic school and the LEA may agree to one 30 school day period per contract year where class size may be increased to assure coverage by an appropriately credentialed teacher. Such an agreement shall be in writing and signed by both parties.

## **16. SCHOOL CALENDAR**

- 16.1. CONTRACTOR shall submit a school calendar with the total number of billable days not to exceed 180 instructional days plus such additional days approved in writing by LEA.
- 16.2. Extended School Year (ESY) will be offered for a minimum of twenty (20) days for students in grades preK-12, unless otherwise indicated in the student's IEP.

## **17. ATTENDANCE ACCOUNTING/REPORTING**

- 17.1. Creditable days of attendance are only those days that are included in the submitted and approved school calendar which is attached hereto or as specified in the ISA for each pupil.
- 17.1.1. Creditable days of attendance are those in which instructional minutes meet or exceed those in comparable LEA programs or minutes specified in student's IEP.
- 17.2. CONTRACTOR shall keep attendance of each pupil daily and report attendance monthly with billing invoices to LEA using forms issued by the LEA, with the signature of the person providing the service (i.e., teacher, occupational therapist, speech therapist, etc.).
- 17.2.1. Separate attendance forms must be submitted for all related services as specified on IEP.
- 17.2.2. CONTRACTOR is responsible for verifying accuracy of said attendance forms and for informing service providers of their personal responsibility for the completion and accuracy of said forms.
- 17.3. CONTRACTOR shall permit LEA representatives, upon reasonable notice, to meet with staff of CONTRACTOR for the purpose of discussing attendance reporting.
- 17.4. The LEA, Tracy Unified School District shall be notified immediately when the CONTRACTOR becomes aware of an emergency change of placement (e.g. hospitalization, juvenile hall, etc.) and when the student returns to school.

- 17.5. CONTRACTOR shall notify parents in writing of parent's obligation to notify the CONTRACTOR of changes of pupil's/parent's residence.
- 17.6. Within one (1) business day after CONTRACTOR becomes aware of pupil's and/or parent's change of residence, the CONTRACTOR shall notify LEA, on forms provided by LEA, of said change of residence.
  - 17.6.1. Costs for services delivered after the actual date of a pupil's change of residence to another district will not be the responsibility of the LEA.
  - 17.6.2. If the pupil is a Chapter 26.5 eligible student enrolled in a residential NPS placement covered by this contract and the pupil's parent moves to another SELPA, the current SELPA will be fiscally responsible for NPS placement and service as outlined in the pupil's IEP until the end of the current fiscal year. Provisions of McKinney Vento (homeless) legislation will be followed.
- 17.7. CONTRACTOR shall immediately report by telephone and fax to LEA Tracy Unified School District if a pupil is disenrolled from the NPS by the parent.
  - 17.7.1. CONTRACTOR shall confirm such telephone call in writing.
- 17.8. No later than the 4th consecutive day of a pupil's absence, CONTRACTOR shall notify LEA, Attn: Nancy F. Hopple, Director of Special Education\_\_\_\_\_.
- 17.8.1. If CONTRACTOR fails to provide such notice after the 4th consecutive absence, the CONTRACTOR shall not be compensated for services delivered after the 4th day of absence.
- 17.9. For students whose parents live in the district and for students residing in Licensed Children's Institutions or Foster Family Homes, the LEA shall reimburse CONTRACTOR for five (5) excused absences per semester.
  - 17.9.1. Other than the allowable five (5) excused absences per semester, CONTRACTOR's payment will be based on the student's actual attendance at the site where the NPS/NPA service is to be provided per student's IEP. For this provision, ESY will be considered part of the previous semester.
  - 17.9.2. For each absence over the allowed five (5) excused absences per semester, the aforementioned reimbursement/payment will be reduced by the local daily revenue amount, \$32.60. All appropriate claims for the allowable excused absences must be verified and maintained by the service provider.
    - 17.9.2.1. The excused absence verification/documents shall be sent with the attendance register to the LEA with the signature of the person providing the service (i.e., teacher/occupational therapist/speech therapist).
- 17.10.1. CONTRACTOR shall notify the LEA in writing (email or fax) once transportation has been arranged and a new student is ready to begin attending. The LEA will contact the CONTRACTOR and transportation company, if applicable, to verify a start date and authorize payment.
- 17.10.2. CONTRACTOR shall notify the LEA in writing (email or fax) within 24 hours of anticipated start and drop dates, including change of student residence.
- 17.10.3. CONTRACTOR shall send monthly attendance from student database within one week of the reporting period to assist the LEA in the pursuit of the SARB process for truant students.

## 18. INSTRUCTIONAL MINUTES

- 18.1. The total number of instructional minutes per school day provided by CONTRACTOR shall be equivalent to the number of instructional minutes established for LEA schools and shall be specified in the ISA developed for each pupil.
  - 18.1.1. Unless otherwise specified on the student's IEP, the number of instructional minutes per day shall be the following, which includes recess, lunch and passing time.
    - 18.1.1.1. 150 instructional minutes for pre-kindergarten,

- 18.1.1.2. 200 instructional minutes for kindergarten,
- 18.1.1.3. 300 instructional minutes for elementary grades one through eight, and
- 18.1.1.4. 360 instructional minutes for secondary grades nine through 12.
- 18.1.2. Minimum day is equal to 240 instructional minutes, which includes breaks, recess, and lunch.
- 18.2. The total number of annualized minutes of instruction shall be equivalent to those provided to other students in the LEA.
- 18.3. Lunch and breaks may only be considered instructional time if the student requires goals and objectives for that time and are written in the IEP.

**19. INDIVIDUALIZED EDUCATION PLAN (IEP)**

- 19.1. The CONTRACTOR is responsible for providing the student's special education teacher and the personnel appropriate to represent the DIS services at required IEP/ITP meetings.
- 19.2. When requested, LEA shall provide CONTRACTOR within three (3) business days, a copy of each pupil's IEP and assessment information (e.g.: psycho-educational reports) in advance of the IEP meeting.
- 19.3. A NPS shall ensure the opportunity for private and confidential communication between a pupil of the NPS and any member/s of the IEP team, at the pupil's discretion. The NPS shall provide the LEA with documentation of the method that students are given with respect to the opportunity to speak confidentially to any member of the IEP team. Students shall be notified of this right in a manner consistent with their developmental capacity. The LEA shall be permitted to meet privately and confidentially with the student upon request. NPS shall provide an appropriate area for such meeting.
- 19.4. The LEA shall conduct an annual evaluation as part of the IEP process of whether the placement is the LRE to meet the student's needs. This evaluation shall include consideration of supplementary aids and services, goals and objectives and behavioral programming necessary for placement in the LRE and to enable students to transition to a less restrictive setting.
- 19.5. The CONTRACTOR is expected to have draft IEP present levels, goals and objectives, (BSP) Behavior Support Plans, and ( ITP) Individual Transition Plan, if appropriate, completed and entered into the appropriate electronic forms a minimum of 7 days prior to the IEP meeting so that the LEA can review the documents.
- 19.6. The CONTRACTOR must email or fax written notice to the LEA 30 days prior to an IEP meeting due date (75 days prior to a triennial) to ensure all parties awareness of an upcoming meeting. Failure to do so resulting in out-of-compliance IEPs, may, at the discretion of the LEA, result in withholding of payment at the daily rate until such time as the IEP meeting is held and is no longer out-of-compliance. Students that are enrolled within the above timeframes shall have the NPS notify the LEA within 5 days of the annual or triennial.

**20. INSTRUCTION/CURRICULUM**

- 20.1. CONTRACTOR shall provide pupils a program of educational instruction and services within the NPS/A, which is consistent with each pupil's IEP as specified in each pupil's ISA.
- 20.2. The general program of instruction provided to pupils under ISA shall be responsive to the LEA's required sequence of courses and related curriculum for pupils as well as the California Department of Education Guidelines related to best practices for specific disabilities (e.g., learning handicapped, emotionally disturbed, etc.).
- 20.2.1. Courses provided by the CONTRACTOR shall parallel the LEA's courses and will be designated by grade level.

- 20.3. CONTRACTOR shall provide pupils a written course of study (EC 33190, 51014) designed to meet or exceed standards for graduation. This shall be described in writing and a copy provided to LEA prior to the effective date of this contract.
- 20.3.1. It is expected that a student's schedule would reflect those classes that are required for graduation, if on a graduation track. The ESY program should be designed to offer core academics unless otherwise specified on the pupil's IEP.
- 20.3.2. For a student to be eligible for off-grounds work experience, the student must have achieved a measurable level of responsibility and independence, close to emancipation, or about to be eligible for mainstreaming. It is expected that there would be constant, appropriate, and/or mutually approved supervision of the student. At no time, should a student be unsupervised.
- 20.4. Designated instruction and services provided by a NPA will only be provided during the period of the pupil's regular or extended school year program, or both unless otherwise specified by the pupil's IEP.
- 20.5. CONTRACTOR shall have a plan to implement transition services as stated in the IEP.
- 20.6. CONTRACTOR agrees to use IEP forms/format of the LEA.
- 20.7. Any off-campus trips, whether walking or by transportation in a vehicle, require notification of parents (guardian) and signature giving permission for these trips. The date and time of the trip must be included in the permission form. These permission forms are to be kept on record at the school site.

**21. NUTRITION**

- 21.1. The CONTRACTOR is required by the State Meal Mandate (EC 49550) to provide nutritious meals to needy children. Lunch shall be served as close as possible to the mid-day of the instructional program.

**22. DISCIPLINE**

- 22.1. CONTRACTOR shall certify in writing to the superintendent that it has and abides by a written policy for pupil discipline that is consistent with State and Federal law.
- 22.2. CONTRACTOR shall abide by established LEA policies on prohibition of corporal punishment, pupil transfer, suspensions and expulsions, and positive behavioral interventions.
- 22.3. The site principal of the NPS shall comply with Education Code in fulfilling their responsibilities and duties with respect to the suspension of students.
- 22.4. CONTRACTOR shall have a written policy regarding suspension and expulsion procedures.
- 22.5. CONTRACTOR shall immediately notify and provide written documentation to LEA each time a pupil is removed from the instructional setting, by a school official, due to disciplinary issues, including the reason for said suspension. Written documentation shall include, but not be limited to, pupil's name, date, time, offense, rationale for disciplinary action taken, and amount of time suspended.

**23. MONITORING**

- 23.1. CONTRACTOR shall allow periodic monitoring of each pupil's instructional program by LEA and shall be invited to participate in the review of the pupil's progress by the LEA.
- 23.2. Representatives of LEA shall have reasonable access to observe each pupil at work, observe the instructional setting, interview CONTRACTOR and review each pupil's progress, review service logs and related documentation, including the behavioral intervention plan, if any.
- 23.3. CONTRACTOR agrees that LEA representative may make unannounced monitoring visits. LEA representatives making site visits will initially report to CONTRACTOR's site administrative office.

- 23.3.1. The superintendent shall monitor the facilities, the educational environment and the quality of the educational program including the teaching staff, the credentials authorizing service, the standards based core curriculum being employed and the standard focused instructional materials used on a three year cycle, as follows: (1) CONTRACTOR shall complete a self-review in year one; (2) the Superintendent shall conduct an onsite review in year two; and (3) the Superintendent shall conduct a follow-up visit in year three.
- 23.3.2. CONTRACTOR shall participate in any District Review to be conducted as aligned with the CDE On-site Review or more often if necessary. This review will address programmatic aspects of the Nonpublic School/Agency, compliance with relevant state and federal regulations, and Master Contract compliance.
- 23.3.3. CONTRACTOR shall participate in Coordinated Program Monitoring ("CPM") and Self Review in accordance with requirements of CDE.
- 23.3.4. CONTRACTOR understands that LEA reserves the right to institute a program audit/review. The program audit/review may include, but is not limited to, a review of core compliance areas of health and safety; curriculum/instruction; related services; and contractual, legal, and procedural compliance.
- 23.4. CONTRACTOR will make site's logs available for inspection by the LEA for: fire drill (EC 32001), and earthquake/disaster drills (EC 35295-35297).
- 23.5. CONTRACTOR will make available for inspection by the LEA, a current listing of names and positions of employees who have access to confidential records. (34CFR 300.572(d)).
- 23.6. All student records shall be kept in a secure location preventing access by unauthorized individuals.
- 23.7. CONTRACTOR will maintain an access log delineating: date, time, purpose of access, agency, and identity of individual for any authorized person accessing student records who is not in the direct employ of the CONTRACTOR.
- 23.7.1. Subcontractors shall not be considered in the direct employ of the CONTRACTOR for the purposes of accessing student records.
- 23.8. CONTRACTOR also agrees to comply with the parental right to request records and the parental right to inspect a student's file as defined in the federal law under Family Educational Rights and Privacy Act of 1974 ("FERPA") and EC §49060 et. seq. and §56000 etc. seq.
- 23.9. CONTRACTOR assures LEA that prescribed and non prescribed medications, are distributed at school only when there is a written statement from the physician detailing the type, administration, method, amount, and time schedule of how the medication is to be taken. All medication shall be kept in a secure location preventing access by students and unauthorized individuals. CONTRACTOR shall also assure LEA that there is a written statement from the parent/guardian or authorized legal agent giving the school permission to dispense prescribed and non-prescribed medication to the student. CONTRACTOR shall keep a written log delineating date, time, amount, medication and name of employee dispensing medication to student.
- 23.10. The LEA will assure that the NPS is in compliance with EC 56366.9 and Sec 1501.1(b) of the Health & Safety Code indicating that children with various handicapping conditions may be placed in the same educational facility and this decision will be made on the basis of individual need under the jurisdiction of a legally constituted IEP team meeting. In addition, if CONTRACTOR is also a licensed childcare institution (LCI), such CONTRACTOR shall adhere to the legal requirement regarding educational placements for LCI pupils as stated in EC § 56366.9. An LCI at which an individual with exceptional needs (IWEN) resides shall not require as a condition of residential placement that it provide the appropriate educational program to that IWEN through a NPS/A owned, operated by or associated with an LCI. Those

services may only be provided if the SELPA determines that appropriate public alternative educational programs are not available.

- 23.10.1. The CONTRACTOR will inform other placing agencies of the requirements of 56366.9 and provide the LEA documentation of such.
- 23.11. Oversight and evaluation is accomplished through annual educational progress reports toward the attainment of the goals and objectives as specified in the IEP, written serious incident reports and unannounced site visits.

**24. PARENT ACCESS/RIGHTS**

- 24.1. CONTRACTOR shall provide for reasonable parental visits to all of the school facilities including, but not limited to, the instructional setting attended by pupils, school and recreational activity areas, and pupil's living quarters.
- 24.1.1. CONTRACTOR shall ensure that parental visits are in agreement with court order, if any.
- 24.2. CONTRACTOR's operating programs with residential components shall cooperate with parents' reasonable requests for pupil visits in their home, including, but not limited to, holidays and weekends.
- 24.3. LEA and CONTRACTOR shall jointly ensure that parents are notified of their rights, including the right to inspect their child's records and the right to due process.

**25. VACATION/HOLIDAYS**

- 25.1. LEA observes legal holidays including, but not limited to, the following: Independence Day, Veteran's Day, Labor Day, Thanksgiving Day, Christmas Day, New Year's Day, Dr. Martin Luther King, Jr.'s Day, Lincoln's Day, Washington's Day, and Memorial Day, as specified in the LEA's official calendar. CONTRACTOR will not be compensated for service provided on these school holidays.

**26. GRADUATION/DIPLOMAS/TRANSCRIPTS/CERTIFICATE OF COMPLETION**

- 26.1. If a pupil is of secondary school age, the LEA will provide a specific list of the course requirements to be satisfied by the CONTRACTOR leading toward graduation or completion of diploma requirements, and other requirements (e.g. proficiency tests, High School Exit Exam, Certificate of Completion requirements, etc.).
- 26.2. For pupils in grades 9-12, CONTRACTOR shall prepare official transcripts specific to the credits earned at the NPS and submit them to the LEA and the Registrar of the pupil's school of residence for evaluation of progress toward completion of diploma requirements, and specified levels of proficiency in basic skills if applicable, within two (2) weeks of the end of the quarter, ESY, or transfer according to the NPS's calendar.
- 26.2.1. Out-of-district transcripts will also be sent with the local CONTRACTOR's official transcripts when submitting to the Registrar of the school of residence, who will complete an integrated transcript. A copy of the transcripts will be sent to the SELPA Director or designee.
- 26.3. Prior to January 10<sup>th</sup> of each year, an anticipated graduation list will be sent to the Registrar of the school of residence. The LEA shall ensure that the school of residence provides diplomas/certificate of completion in accordance with IEP for any student who attended an NPS within the LEA and for whom the LEA has developed an ISA.

**27. ASSESSMENTS/GRADING POLICIES/TRANSITION**

- 27.1. For pupils in grades preK-12, CONTRACTOR shall administer state and district-required tests (e.g., STAR, CAHSEE, proficiency tests, multiple measures, writing samples, etc.). The NPS/A shall determine its STAR testing period based on completion of 85% of the instructional year at



that NPS/A plus and minus ten (10) days, resulting in a 21 day period. The NPS/A shall notify the district of residence of its testing period with their instructional calendar. Staff from the NPS/A shall participate in STAR training from one LEA and that training shall be sufficient for all LEAs that send pupils to the NPS/A.

- 27.2. LEA shall provide at least thirty (30) days advance notice to the CONTRACTOR of the dates by which testing other than STAR shall be completed.
- 27.3. LEA shall coordinate with the CONTRACTOR to ensure that pupils participate in mandatory statewide assessments to the maximum extent possible, with appropriate supports, services, and accommodations per the IEP.
- 27.3.1. The district of residence shall provide the NPS with testing materials for its pupils. The LEA shall be responsible for providing necessary training and testing materials for all tests.
- 27.4. CONTRACTOR shall establish grading policies to be followed unless otherwise specified in the student's IEP.
- 27.5. CONTRACTOR shall ensure that individualized transition plans are implemented for all pupils age 16 and older.

## **28. PROGRESS REPORTING & ACCOUNTABILITY**

- 28.1. CONTRACTOR shall send progress reports to the LEA and parent/guardian/surrogate within two (2) weeks of the end of each quarter of the NPS's calendar and within fourteen (14) calendar days after the end of Extended School Year.
- 28.2. Upon request, an updated report shall be provided if there is no current progress report whenever a pupil is scheduled for an IEP review by LEA's IEP team. When a pupil's enrollment is terminated, an updated exit form including withdrawal grades, enrolled courses and credits earned will be sent to the LEA.
- 28.2.1. CONTRACTOR shall complete academic or other assessment of the LEA student prior to the LEA student's annual or triennial review IEP team meeting for the purpose of reporting the LEA student's present levels of performance at the IEP team meeting as required by state and federal laws and regulations and pursuant to LEA policies, procedures, and/or practices. Supporting documentation such as test protocols and data collection shall be made available to LEA upon request. CONTRACTOR shall not charge the LEA student's parent(s) or LEA for the provision of progress reports, report cards, and/or any assessments, interviews, or meetings.
- 28.3. The NPS is subject to the alternative accountability system developed pursuant to section EC 52052, in the same manner as public school and each pupil placed in NPS by an LEA shall be tested by qualified staff of the NPS in accordance with that accountability program. The test results shall be reported by the NPS to the CDE and the LEA.
- 28.4. The NPS shall prepare a school accountability report (SARC) and provide a copy to the contracting LEA.
- 28.5. The superintendent shall conduct an investigation which may include an onsite visit of any NPS if there is evidence of a significant deficiency in the quality of educational services.
- 28.6. Upon receipt of notice of any alleged violation of EC 56366.9 or Section 1501(b) of the Health and Safety Code, the LEA's Uniform Complaint procedures shall be followed.

## **29. ACCIDENT/INCIDENT REPORTING**

- 29.1. CONTRACTOR agrees to contact the LEA within one (1) business day, (phone) 209-830-3270, and complete a written accident/incident report within five (5) days, and fax it to the LEA, 209-830-3274 Attn: Nancy F. Hopple anytime restraint has been used.
- 29.2. CONTRACTOR agrees to contact within one (1) business day and fax an incident report to the LEA within 5 working days when Contractor becomes aware of circumstances that require

notification be made to other agencies. These circumstances may include, but are not limited to, incidents involving severe property destruction, law enforcement, allegations of molestation, child abuse, and incidents of students leaving campus without permission. In addition, immediately after a student is determined to have been absent without permission during the school day from CONTRACTOR'S NPS, CONTRACTOR shall notify the LEA, in writing of such absence.

- 29.3. CONTRACTOR assures LEA that all staff members, including volunteers, are familiar with child and dependent adult abuse reporting obligations and procedures as specified in the California Penal Code.
- 29.4. CONTRACTOR agrees to provide annual training to all employees regarding the mandated child abuse reporting laws set herein. CONTRACTOR agrees that all staff members will abide by such laws in a timely manner. Documentation of training shall be maintained in the employee's personnel file.
- 29.5. CONTRACTOR assures LEA that all staff members, including volunteers, are familiar with and agree to adhere to requirements for reporting children who have departed campus without authorization as specified in California Education Code section 49370.

### **30. HEALTH AND SAFETY**

- 30.1. CONTRACTOR shall require that all regular and substitute employees and volunteers provide verification of having been tested for tuberculosis and cleared to work with minors as evidenced by a state licensed medical doctor's signature. CONTRACTOR shall keep a copy of said information in the employee or volunteer file.
- 30.2. CONTRACTOR agrees all employees, volunteers, and any other individual who may come into contact with a student on school grounds will be notified of and will follow universal health care precautions when providing medical treatment or assistance to a student. CONTRACTOR further agrees to provide annual training to all employees and volunteers regarding universal health care precautions and to post required notices in areas designated in the California Health and Safety Code.
- 30.3. The superintendent shall conduct an onsite investigation of a NPS/A at anytime without prior notice if there is substantial reason to believe that there is immediate danger to the health, safety or welfare of a child.

### **31. ADMINISTRATION OF MEDICATION**

- 31.1 CONTRACTOR shall comply with the requirements of California Education Code section 49423 when CONTRACTOR serves a LEA student that is required to take prescription and/or over-the-counter medication during the school day. CONTRACTOR may designate personnel to assist the LEA student with the administration of such medication after the LEA student's parent(s) provides to CONTRACTOR: (a) a written statement from a physician detailing the type, administration method, amount, and time schedules by which such medication shall be taken; and (b) a written statement from the LEA student's parent(s) granting CONTRACTOR permission to assist in the administration of medication(s) as specified in the physician's statement. CONTRACTOR shall maintain, and provide to LEA upon request, copies of such written statements. CONTRACTOR shall maintain a written log for each LEA student to whom medication is administered. Such written log shall specify the LEA student's name; the type of medication; the date, time, and amount of each administration; and the name of CONTRACTOR's employee who assisted in the administration of the medication. CONTRACTOR maintains full responsibility for assuring appropriate staff training in the administration of such medication consistent with physician's written orders. Any change in

medication type, administration method, amount or schedule must be authorized by both a licensed physician and parent.

**32. EMERGENCY PRECAUTIONS**

- 32.1 CONTRACTOR shall keep on file a detailed disaster plan containing complete written emergency procedures and operations in the event of a catastrophic occurrence such as, but not limited to an earthquake, attack of school personnel and/or student by an individual, fire disaster, lockdown, intruder, bomb threat, medical emergencies and/or power outage. CONTRACTOR agrees to maintain and keep available for inspection by LEA or District representative a log containing the date, time, and length of all practice disaster drills completed between August 1<sup>st</sup> and July 31<sup>st</sup> during the current school year, as well as all practice drills completed during the previous three (3) years.
- 32.2 CONTRACTOR shall report within three (3) business days to LEA any violations or items found out of compliance by the fire marshal during the inspection of the premises and accompanying buildings. CONTRACTOR shall have in place an operational fire warning system that complies with all required state and federal laws. CONTRACTOR shall also have occupancy capacity signs clearly posted in all rooms if required in the California Health and Safety Code and/or by the Fire Marshal.

**33. SEXUAL HARRASSMENT**

CONTRACTOR shall have procedures in place to immediately (within 24 hours) report any allegations of conduct that may constitute or give the appearance of sexual harassment as per federal and state law. This reporting must include appropriate governmental, social service, and law enforcement agencies as well as the LEA. CONTRACTOR shall ensure that an immediate and comprehensive investigation is commenced and shall allow the LEA to participate in said investigations when it involves a student. CONTRACTOR further agrees to provide annual training to all employees and students regarding regulations concerning sexual harassment and related procedures.

**34. APPROPRIATE THERAPY SPACE**

- 34.1 CONTRACTOR will make available appropriate therapy space for related services providers. This space shall be free from distraction and safe for students in order to provide effective services.

**35. ADMINISTRATIVE DUTIES AND SUPERVISION OF STAFF**

- 35.1 CONTRACTOR shall ensure that all staff who are not fully credentialed are directly supervised by a person who possesses a full and appropriate credential. Supervision shall include, but not be limited to, direct access by staff to his/her supervisor on a daily basis for technical support, guidance and emergency interventions in order to provide FAPE to students.

**36. POSITIVE BEHAVIOR INTERVENTIONS**

- 36.1. CONTRACTOR shall comply with the requirements of Title 5 of the California Code of Regulations sections 3001(c)-(f) and 3052(l)(1-8) regarding positive behavior interventions including, but not limited to the assistance of: the completion of functional analysis assessments; the development, implementation, monitoring, supervision, modification, and evaluation of behavior intervention plans; and emergency interventions.
- 36.2. CONTRACTOR shall designate an individual employed, contracted, and/or otherwise hired by CONTRACTOR as a "behavior intervention case manager" as that term is defined in Title 5 of the California Code of Regulations section 3001(e). CONTRACTOR shall maintain a written

policy in compliance with Title 5 of the California Code of Regulations section 3052(i) and (k) regarding emergency interventions and Behavioral Emergency Reports. Records of such training shall be made available to LEA upon request. CONTRACTOR shall ensure that all of its staff members are trained annually in crisis intervention and emergency procedures as related to appropriate behavior management strategies.

- 36.3. CONTRACTOR shall not authorize, order, consent to, or pay for any of the following prohibited interventions, or any other intervention similar to or like the following: (a) any intervention that is designed to, or likely to, cause physical pain; (b) releasing noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the LEA student's face; (c) any intervention which denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities; (d) any intervention which is designed to subject, used to subject, or likely to subject the LEA student to verbal abuse, ridicule, or humiliation, or which can be expected to cause excessive emotional trauma; (e) restrictive interventions which employ a device, material, or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment or similar techniques may be used as a short term emergency intervention by CONTRACTOR's trained and qualified personnel as allowable by applicable law and regulations; (f) locked seclusion except as allowable by applicable law and regulations; (g) any intervention that precludes adequate supervision of individual; and (h) any intervention which deprives the LEA student of one or more of his or her senses, pursuant to California Code of Regulations 3052(l) (1-8).
- 36.4. To prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions, the parent and residential care provider, if appropriate, shall be notified within one school day whenever an emergency intervention is used or serious property damage occurs. A "Behavioral Emergency Report" shall immediately be completed and maintained in the individual's file. The report shall include all of the following: (1) The name and age of the individual; (2) The setting and location of the incident; (3) The name of the staff or other persons involved; (4) A description of the incident and the emergency intervention used, and whether the individual is currently engaged in any systematic behavioral intervention plan; and (5) Details of any injuries sustained by the individual or others, including staff, as a result of the incident.
- 36.4.1. All "Behavioral Emergency Reports" shall immediately be forwarded to, and reviewed by, a designated responsible administrator within the respective LEA.
- 36.4.2. Anytime a "Behavioral Emergency Report" is written regarding an individual who does not have a behavioral intervention plan, the designated responsible administrator shall, within two days, schedule an IEP team meeting to review the emergency report, to determine the necessity for a functional analysis assessment, and to determine the necessity for an interim behavioral intervention plan. The IEP team shall document the reasons for not conducting the assessment and/or not developing an interim plan. Anytime a "Behavioral Emergency Report" is written regarding an individual who has a behavioral intervention plan, any incident involving a previously unseen serious behavior problem or where a previously designed intervention is not effective should be referred to the IEP team to review and determine if the incident constitutes a need to modify the plan.

### **37. STUDENT RETURN TO DISTRICT**

- 37.1. When an IEP team has determined that a student should be transitioned into the public school setting, CONTRACTOR shall assist in the implementation of the IEP team recommendation. The CONTRACTOR shall immediately notify the LEA, if the transition to the public schools identified by the IEP team is not carried out. This may include, but not be limited to the

facilitation of: dual enrollment, course scheduling, transportation arrangements and other student supports.

**38. SCHOOL CLOSURE**

- 38.1. CONTRACTOR agrees, in the event of school or agency closure, to forward pupil records to LEA. These shall include, but need not be limited to, current transcript, IEPs and results of district-required testing.

**39. OTHER PROVISIONS**

- 39.1. Any structural modifications that are required in compliance with prevailing legal mandates shall not be the responsibility of the LEA.
- 39.2. CONTRACTOR assures LEA that it does not discriminate on the basis of race, religion, sex, national origin, age, sexual orientation or disability in employment or operation of its programs.

**40. INDIVIDUAL SERVICE AGREEMENTS**

- 40.1. This contract shall include an ISA developed for each LEA student who is to receive special education and/or related services provided by CONTRACTOR. Related services will be provided as indicated on the IEP and ISA. Changes in any LEA student's educational program, including instruction, services, or instructional setting provided under this contract, may only be made on the basis of revisions to the student's IEP, mediated agreement, an order from OAH and/or an order rendered by a court of competent jurisdiction. ISAs are terminated on the same date as termination of the Master Contract.
- 40.2. CONTRACTOR shall not unilaterally terminate any ISA for a student suspension. CONTRACTOR shall obtain written authorization from LEA before terminating any ISA for reasons other than suspension.
- 40.3. CONTRACTOR shall sign and return ISA to the LEA within three (3) business days of receipt.
- 40.4. In the event the CONTRACTOR is unable to provide a specific service at any time during the life of the ISA, the CONTRACTOR shall notify the LEA in writing within five (5) business days of the last date a service was provided.

**41. PAYMENT PROVISION**

- 41.1. A unit of service for payment purposes is one day of attendance as defined in the EC 46307.
- 41.2. LEA shall not be responsible for payment of services for days on which a pupil's attendance or absence does not qualify for reimbursement under California law. (EC 46010 et seq.) Per diem rates for pupils whose IEP's authorize less than a full instructional day shall be adjusted on a pro rata basis in accordance with the actual proportion of the school day served for elementary school age students and periods for middle and high school age students.
- 41.3. Original attendance forms submitted to the LEA with invoices for payment must be completed and signed by the person providing the service, (i.e., teacher/occupational therapist/speech therapist). CONTRACTOR shall verify the accuracy of reported attendance, which is the basis of services being billed for payment, and shall inform service providers of their responsibility for the services being reported as rendered.
- 41.4. CONTRACTOR shall submit monthly written invoices for payment. Such invoices shall be submitted on a form, and in the manner prescribed by the California Department of Education.
- 41.5. CONTRACTOR shall submit said invoices for payment for services rendered no later than thirty (30) days from the end of the attendance accounting period in which said services are actually rendered.

- 41.6. LEA shall make payment in an amount equal to the number of creditable days of attendance multiplied by the agreed upon unit amount within forty-five (45) days of receipt of invoice or the LEA shall notify the NPS within ten (10) working days of any reason why the requested payment shall not be paid.
- 41.6.1. CONTRACTOR should notify SELPA Director if there are problems with timely payment.
- 41.7. CONTRACTOR shall submit a rebilling statement no later than ten (10) days after an invoice is returned to the CONTRACTOR for correction(s).
- 41.8. If the LEA fails to comply, the NPS may require the LEA to pay an additional amount of 1 ½ percent of the unpaid balance per month until the full payment is made
- 41.9. In no case should payment claim submission or rebillings for any Master Contract fiscal year (July through June) extend beyond six months after the close of the fiscal year. Invoices received for a closed fiscal year beyond the six-month period will be returned unpaid and should be removed from the Nonpublic School or Agency's accounts receivable.

#### 42. **RIGHT TO WITHHOLD**

- 42.1. LEA has the right to withhold payment to CONTRACTOR when LEA has reliable evidence, described in writing to CONTRACTOR that:
  - 42.1.1. CONTRACTOR was overpaid by LEA as determined by inspection, review, and/or audit of its program, work, records;
  - 42.1.2. Contractor has failed to provide to LEA all documents prior to school closure;
  - 42.1.3. CONTRACTOR has failed to provide to LEA properly prepared invoices within thirty (30) calendar days from the end of the attendance accounting period;
  - 42.1.4. CONTRACTOR has failed to provide to LEA proper rebilling invoices within thirty (30) calendar days from the date that the original invoice was returned to CONTRACTOR;
  - 42.1.5. CONTRACTOR has not performed a service identified on the invoice;
  - 42.1.6. CONTRACTOR's performance, in whole or in part, either has not been carried out or is insufficiently documented;
  - 42.1.7. CONTRACTOR has failed to provide to LEA all documents concerning one or more LEA pupils enrolled in CONTRACTOR's educational program within seven (7) days after school closure;
  - 42.1.8. CONTRACTOR has neglected, failed or refused to furnish information or to cooperate with the inspection, review or audit of its program, work or records; and/or
  - 42.1.9. CONTRACTOR's service is provided by personnel who are not appropriately credentialed/licensed or whose credential(s)/license(s) are not on file with LEA, Tracy Unified School District;
- 42.2. If LEA determines that cause exists to withhold payment to CONTRACTOR, LEA shall provide written notice to CONTRACTOR that LEA is withholding payment.
  - 42.2.1. Such notice shall specify the basis for LEA's withholding payment.
  - 42.2.2. Within ten (10) business days from the date of receipt of such notice, CONTRACTOR shall take all necessary and appropriate action to correct the deficiencies that form the basis for LEA's withholding payment.
  - 42.2.3. Upon receipt of CONTRACTOR's written request showing good cause, LEA shall extend CONTRACTOR's time to respond by an additional ten (10) business days.

#### 43. **AUDIT EXCEPTIONS**

- 43.1. CONTRACTOR agrees to accept responsibility for receiving, replying to, and/or complying with any audit exceptions by appropriate LEA personnel or State or Federal audit agencies occurring as a result of the CONTRACTOR's performance of this contract.

- 43.2. CONTRACTOR also agrees to pay to LEA within forty-five (45) days of demand by LEA the full amount resulting from any audit exceptions to the extent they are attributable to CONTRACTOR's failure to perform properly any of its obligations under this contract unless LEA agrees to different terms in writing.
- 43.3. Any and all audit exceptions must be specified in complete detail before any demand by LEA for any amount set forth therein.
- 43.4. Within three (3) business days, CONTRACTOR shall notify the LEA in writing when CONTRACTOR is unable to provide services to meet the requirements of this contract.

**44. MAINTENANCE OF RECORDS**

- 44.1. The following records shall be maintained by CONTRACTOR:
  - 44.1.1. All student records (inclusive of electronically stored records), including by way of illustration and not limitation, assessment information, evaluations (including test protocols), progress reports, incident reports, discipline reports, comment sheets, meeting summaries regarding students, registers, grade books, and roll books of teachers; daily service logs or other documents used to record the provision of related services; absence verification records (parent/doctor notes, telephone logs, and related documents); staff lists specifying credential held, business licenses held, documents evidencing other qualification, social security numbers, dates of hire, and dates of termination; staff time sheets; non-paid staff and volunteer sign-in sheets; transportation and other related services subcontracts; school calendars; bell/class schedules; liability and workers compensation insurance policies; state NPS/A certifications; bylaws; lists of current board of directors/trustees, if incorporated; statements of income and expenses; general journals; cash receipts and disbursement books; general ledgers and supporting documents; federal/state payroll quarterly reports; and bank statements and cancelled checks.
  - 44.1.2. Such forms and records shall be available for review, inspection, or audit by LEA for a period of three (3) years thereafter.

**45. TERM OF CONTRACT**

- 45.1. During the term of this Agreement, CONTRACTOR shall comply with all applicable federal, state, CDE, LEA, and other local statutes, laws, ordinances, rules, policies, and regulations including, but not limited to, those relating to: the required special education services, facilities for IWENs, student enrollment and transfer, corporal punishment, student discipline, and positive behavior interventions. The CONTRACTOR shall also fully cooperate with any due process proceedings or complaint investigations.
- 45.2. This contract and any exhibits or attachments hereto constitute the entire agreement between LEA and CONTRACTOR and supersedes any prior or contemporaneous understanding or agreement with respect to the services to be provided.
- 45.3. The laws of the State of California shall govern the terms and conditions of this contract with venue in San Joaquin County, California.
- 45.4. Should any provision in this contract be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall continue in full force and effect.
- 45.5. The parties hereto have executed this Contract by and through their duly authorized agents or representatives.
- 45.6. This contract is effective on July 1, 2009 and terminates when a newly revised contract is executed unless sooner terminated as provided herein.

## RATE SCHEDULE

Education service(s) offered by CONTRACTOR, and subcontractor, if applicable and the charges for such service(s) during the term of this contract, shall be as follows:

<u>➤ BASIC EDUCATION PROGRAM</u>	<u>RATE</u>	<u>PERIOD</u>
➤ <u>As set forth in the IEP for each student</u>	<u>146.05</u>	<u>180 days</u>

## RELATED SERVICES

	<u>RATE</u>	<u>PERIOD</u>
1) <b>Transportation</b> (* shall not include transportation through use of services or equipment owned, leased or contracted through LEA unless provided directly or subcontracted by the NPS/A)		
a) Transportation – Round Trip	_____	_____
b) Transportation – One Way	_____	_____
c) Transportation – 1 on 1 Rider (per IEP)	_____	_____
d) Transportation – Safety Rider (LEA will be billed for the bus safety riders based on the proportion of students on the bus.)	_____	_____
2) <b>Counseling</b>		
a) Educational Counseling – Individual	_____	_____
b) Educational Counseling – Group	_____	_____
c) Counseling – Parent	_____	_____
3) <b>Adapted Physical Education</b>	_____	_____
4) <b>Language/Speech</b>		
a) Language/Speech Therapy-Individual	_____	_____
b) Language/Speech Therapy-Group	_____	_____
c) Consultation	_____	_____
5) <b>Orientation/Mobility Training</b>	_____	_____
6) <b>Occupational Therapy</b>	_____	_____
7) <b>Physical Therapy</b>	_____	_____
8) <b>Aides</b>	_____	_____
9) <b>Travel Time</b>	_____	_____
10) <b>Other</b> _____	_____	_____

**\*\* Partial Day Rate** shall be adjusted on a pro rata basis in accordance with the actual proportion of the school day -- minutes for students (# of minutes /total number of minutes X daily rate = partial day rate ). This formula will be used to calculate rate for the ISA for less than a full day, e.g., extended school year, mainstreaming, reduced attendance.

## NOTES:



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**CONTRACTOR****LEA**

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Nonpublic School/Agency

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Name of District or Local Educational Agency

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Contracting Officer's                      Date  
Signature

---

Deputy Superintendent's Signature                      Date  
Educational Services

---

Name and Title (type)                      Date

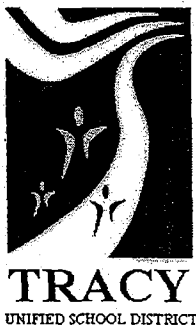
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Assistant Superintendent's Signature                      Date  
Business Services (Authorized Representative and Contracts Supervisor)

Tax I.D. #

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# EDUCATIONAL SERVICES MEMORANDUM

**To:** Dr. James C. Franco, Superintendent  
**From:** ~~Dr. James C. Franco~~ Dr. Sheila Harrison, Assistant Superintendent for Educational Services  
**Date:** June 8, 2009  
**Subject:** Approve Master Contract and Individual Services Agreement with North Valley School, Inc.

**BACKGROUND:** Several students with significant aggressive and highly assaultive behaviors were removed from one of our San Joaquin County Office of Education behavioral classes. North Valley School agreed to place the students for the 2009/10 school year. IEP's were held to change placement from SJCOE to North Valley School a Non-Public School. Approval is necessary so that services specified on IEPs can be provided in a compliant manner.

**RATIONALE:** The students were placed in a structured setting with a behavioral component not available in the public setting. Districts must offer a continuum of services, including nonpublic schools, to students with exceptional needs. Less restrictive placements have not been effective in meeting their needs. This request supports Strategic Goal #1: Provide a variety of learning opportunities through standards based curriculum and assessments and research based instruction that ensures that all students meet or exceed grade level standards and results in closing the achievement gap.

**FUNDING:** Contract expenses for the 2009-2010 school year include 180 days with per diem costs for Basic Education at \$154.33 per hour; Extended School Year with per diem costs of \$154.33 per day for 40 days; and related services including Speech and Language services at \$120.00 per hour, Occupational Therapy at \$120.00 per hour, and Occupational Therapy Travel at \$120 per hour. Expenses will not exceed \$107,017.20. Non-public tuition expenses are budgeted in account number # 01-6500-0-5750-1180-5800-800-2542.

**RECOMMENDATION:** Approve Master Contract and Individual Services Agreement with North Valley School, Inc.

**Prepared by:** Nancy E. Flynn, Director of Special Education

**(SELPA NAME)**  
**CONTRACT YEAR -2009-2010**

**AGREEMENT FOR NONPUBLIC, NONSECTARIAN SCHOOL/AGENCY SERVICES**  
**MASTER CONTRACT**

(Education Code Section 56157, 56365, et. seq.)

**DEFINITIONS**

- A. This Master Contract is made and entered into this 1<sup>st</sup> day of July, between the Tracy (district, county office of education, a charter school participating as a member of the special education local plan area, or special education local plan area), county of **San Joaquin** hereinafter referred to as the local educational agency ("LEA") and North Valley (nonpublic, nonsectarian school or agency), hereinafter referred to as NPS/A or "CONTRACTOR" for the purpose of providing special education and related services to individuals with exceptional needs (IWEN) under the authorization of Education Code (EC) Sections 56157 and 56365-56366.6
- B. It is understood that this agreement does not commit LEA to payment for special education and related services provided to any individual unless, and until, an Individual Service Agreement (ISA) is executed between LEA and CONTRACTOR on behalf of such individual. Given the fact that it is the district's responsibility to assure that appropriate services are provided to the student, the district will either provide them, subcontract with other agencies per Section 4, or contract with respective NPS. The Director/Designee of the LEA's SPECIAL EDUCATION Unit may give interim telephone approval to the CONTRACTOR.
- C. A current copy of CONTRACTOR's California Department of Education (CDE) Nonpublic School/Agency Certification approved by the California State Board of Education is attached hereto. In the event of a delay in certification by CDE, the CONTRACTOR shall forward, upon receipt, copies of the appropriate documentation from CDE that verifies the delay (e.g. waiver of certification, extension letters, etc.)
- D. If a pupil is enrolled in a NPS/A with the approval of the LEA prior to a contract or ISA, the LEA shall issue a warrant for services, up to 90 days. If after 60 days the Master Contract has not been finalized, either party may appeal pursuant to EC 56366(c).
- E. A NPS/A that proposes to initiate or expand services to pupils currently educated in the immediate prior fiscal year in a juvenile court program, community school or other non special education program, must notify the County Superintendent and the Special Education Local Plan Agency (SELPA). Notification must be no later than December 1 prior to the new fiscal year in which the proposed or expanding school intends to initiate services.
- F. If certification expires during the contract period, CONTRACTOR must provide an updated copy. This Agreement will terminate if such certification or waiver is expired, revoked, rescinded, or otherwise nullified during the effective period of this Agreement. After termination (or during suspension), no services shall be performed where reimbursement is expected. From the initial effective date until the termination (suspension) date, the contract is in force and its terms and conditions are binding upon the parties.
- G. Any educational funds received from an LEA for educational costs of IWENs it has placed shall be used solely for those purposes and not for the costs of a residential program.
- H. A facility may not require, as a condition of placement that a child be identified as an IWEN.
- I. Educational services shall occur at the school site, unless otherwise specified by the pupil's Individual Education Program/Individual Family Service Plan (IEP/IFSP).
- J. Only those NPS/As who employ staff who hold a certificate permit or other document equivalent to that which staff in public school are required to hold in the service rendered are eligible to receive certification.
- K. "Superintendent" as used in this agreement, shall mean State Superintendent of Schools.

## CONTRACT RELATIONS AND INSURANCE PROVISION

### 1. MODIFICATIONS AND AMENDMENTS

- 1.1. This contract may only be modified or amended by a written document executed by CONTRACTOR and LEA.
  - 1.1.1. This contract shall include an ISA prepared by the LEA within three (3) business days in accordance with the IEP for each pupil who is scheduled to receive special education and/or designated instruction services through a NPS/A.
- 1.2. Changes in any educational instruction, services or placement provided under the contract may only be made on the basis of revisions to a pupil's IEP on the IEP forms of the LEA, mediated agreement, an order from the Office of Administrative Hearings Special Education Unit ("OAH"), and/or an order rendered by a court of competent jurisdiction.
- 1.3. At any time during the term of the contract, the parent, NPS/A or LEA may request a review of a pupil's IEP, subject to all procedural safeguards required by law.
- 1.4. Changes in the administrative or financial agreements of the contract which do not alter the ISA that outlines each pupil's educational instruction, services or educational placement may be made at any time during the term of the contract, as mutually agreed in writing by CONTRACTOR and LEA.
- 1.5. Neither CONTRACTOR nor LEA is required to renew this Master Contract in subsequent years.

### 2. RENEWAL OF CERTIFICATION

- 2.1. The NPS shall provide the SELPA in which they are located with written notification of its intent to seek recertification per EC 56366.1 and no later than September 30th.

### 3. NOTICES

All notices involving: 1) revocation of CONTRACTOR's certification, 2) Master Contract disputes, 3) changes of LEA pupil's residence outside of current LEA attendance area, 4) termination of ISA, 5) termination of Master Contract, 6) notification of cancellation or material change in CONTRACTOR's or LEA's insurance coverage, and 7) LEA's reasonable objections to a subcontractor's liability insurance policy, are required to be given to the LEA and/or CONTRACTOR in writing and shall be delivered in person, by certified/registered mail, or by other delivery service.

Notices/bills mailed to LEA shall be addressed to:  
Attention: Nancy Hopple, Special Education Director

<b>Name</b>	
<u>Tracy Unified School District</u>	
<b>LEA</b>	
<u>1875 W. Lowell Ave</u>	
<b>Address</b>	
<u>Tracy</u>	
	<u>CA 95376</u>
<b>City</b>	<b>State Zip</b>
<u>209-830-3270</u>	<u>209-830-3274</u>
<b>Phone</b>	<b>Fax #</b>

Notices to CONTRACTOR:

<b>Name</b>	
<u>Terry Crumpacker, Principal</u>	
<b>Nonpublic School/Agency</b>	
<u>North Valley School</u>	
<b>Address</b>	
<u>PO Box 330</u>	<u>Victor, CA 95253</u>
<b>City</b>	<b>State Zip</b>
<u>209-340-5800</u>	<u>209-340-5804</u>
<b>Phone</b>	<b>Fax#</b>

4. **DISPUTES**

- 4.1. Disagreements between LEA and CONTRACTOR concerning the meaning, requirements or performance of this contract shall be appealed to the County Superintendent of Schools or the State Superintendent of Public Instruction or designee when the County Superintendent is a party to the contract. The County Superintendent, or the State Superintendent, or designee, shall render a decision in writing which shall be binding upon the parties.

5. **SUBCONTRACTOR AND ASSIGNMENT**

- 5.1. This contract binds the successors, assignees, agents and representatives of CONTRACTOR.
- 5.2. CONTRACTOR shall not enter into subcontracts for any of the work contemplated under this contract without first obtaining written approval from LEA.
- 5.2.1. Such approval shall be attached and made part of this contract, as well as the contract with the subcontractors.
- 5.2.2. Subcontracts shall be entered into only with NPS/As certified by the CDE. If a NPS/A certified by the CDE is not available, subcontracts may be entered into with personnel who are licensed according to Title V regulations.
- 5.3. During the entire term of this contract and any extension or modification thereof, CONTRACTOR assures LEA that subcontractors shall keep in effect a policy or policies of general liability insurance, including coverage of owned and non-owned vehicles used in relation to the performance of service(s) by CONTRACTOR, of at least \$3,000,000 combined single limit for all damages arising from each accident or occurrence and \$500,000 for all damages arising out of injury to or destruction of property for each accident or occurrence.
- 5.3.1. The CONTRACTOR shall provide for the insurance provider to send written notice of cancellation to the CONTRACTOR and the LEA at least thirty (30) days prior to cancellation or material change in coverage.
- 5.4. CONTRACTOR assures LEA that subcontractors providing transportation shall keep in effect a liability insurance policy providing at least \$3,000,000 coverage, per occurrence.
- 5.4.1. Transportation subcontractors shall submit copies of insurance policies upon request of the LEA. Certificates of insurance may be acceptable proof, provided that the information thereon is adequate and verifiable.

6. **INDEPENDENT CONTRACTOR STATUS**

- 6.1. Nothing herein contained will be construed to imply a joint venture, partnership or principal-agent relationship between the LEA and CONTRACTOR. CONTRACTOR shall provide all services under this Agreement as an independent contractor, and neither party shall have the authority to bind or make any commitment on behalf of the other. Nothing contained in this Agreement shall be deemed to create any association, partnership, joint venture or relationship of principal and agent, master and servant, or employer and employee between the parties or any affiliates of the parties, or between the LEA and any individual assigned by CONTRACTOR to perform any services for the LEA.

7. **CONFLICT OF INTEREST**

- 7.1. CONTRACTOR agrees to furnish to LEA a copy of its current list of bylaws, and a current list of its Governing Board of Directors (or Trustees), if it is incorporated.
- 7.2. CONTRACTOR promises and attests that the CONTRACTOR and any member of Board of Directors (or Trustees) shall avoid any relationship with LEA that constitutes or potentially constitutes a conflict of interest including, but not limited to, employment with LEA.

- 7.3. No employee, staff member, volunteer, officer, agent, consultant or member of the Board of Directors of CONTRACTOR and no employee, staff member, volunteer, officer, agent, consultant, or member of the Board of Directors of any of the CONTRACTORS' related entities shall serve as a surrogate parent for a student receiving educational services at CONTRACTOR'S NPS.
- 7.4. To avoid conflict of interest, and in order to ensure the appropriateness of an Independent Educational Evaluation (hereinafter referred to as "IEE") and its recommendations, the -LEA may, in its discretion, not fund an IEE by an evaluator who provides ongoing service(s) or is sought to provide service(s) to the student for whom the IEE is requested. Likewise, the LEA may, in its discretion, not fund services through the evaluator whose IEE the LEA agrees to fund.

## 8. **TERMINATION**

- 8.1. This Master Contract may be terminated with cause during the effective period of the Contract. The contract may be terminated without cause at any time during the effective period if the parties mutually agree in writing to such early termination.
- 8.1.1. To terminate the contract with cause, either party shall give twenty (20) days written notice prior to the date of the termination.
- 8.1.2. LEA shall not be required to give twenty (20) days notice of termination when the health and/or safety of student/staff are endangered.
- 8.1.3. Prior to the termination of this agreement for cause, LEA will provide written notice to the NPS of the conditions that, in the opinion of LEA, are grounds for a termination for cause.
- 8.1.3.1. The NPS shall have ten (10) business days to respond in writing to these concerns.
- 8.1.3.2. Within ten (10) business days of the NPS response, LEA and NPS shall meet to agree upon a Plan of Correction by which the NPS can correct and resolve the final agreed upon items that must be corrected to prevent termination.
- 8.1.3.3. Following the development of the Plan of Correction, the NPS shall have ten (10) business days to implement all agreed upon corrections and to provide written notification to the LEA of the successful completion of the changes.
- 8.1.3.4. This provision shall not apply if Section 8.1.2 is invoked due to a health and/or safety risk to the students.
- 8.1.4. Upon termination of CONTRACTOR, LEA shall pay without duplication, for all services not under dispute and for verified expenses incurred to date of termination.
- 8.2. In consideration of this payment, CONTRACTOR waives all right to any further payment or damage, and shall turn over to LEA everything pertaining to its services hereunder possessed by CONTRACTOR or under its control at the time of termination.
- 8.3. When the LEA becomes aware that the pupil's education is no longer its responsibility, the LEA shall provide written notice within one (1) business day to CONTRACTOR for termination of the ISA.
- 8.4. The LEA shall not terminate an ISA because of the availability of a public class initiated during the course of the contract unless the parent agrees to the transfer of a pupil to a public school program, or pursuant to an order from OAH and/or an order rendered by a court of competent jurisdiction.

## 9. **INSPECTION AND AUDIT**

- 9.1. CONTRACTOR shall provide reasonable access to, or forward copies of, any books, documents, papers, reports, records or other matter relating to the contract upon reasonable request by LEA except as otherwise provided by law.

- 9.2. All budgetary information and projections submitted by CONTRACTOR to LEA for purpose of contract negotiations shall be made available for the relevant contract period being audited to assess the extent to which funds were expended consistent with said budgetary information.
- 9.3. Fiscal records are maintained by CONTRACTOR for five (5) years and are available for audit.
- 9.4. Commencing July 1, 2006 the NPS shall submit the following to the CONTRACTOR:
  - 1) separate financial records for each entity a NPS/A operates with each entity identified separately from any licensed children's institutions (LCI) it operates, and 2) an annual budget for each entity demonstrating that rates are reasonable to support the operation shall be submitted by June 1st of each contract year. An entity wide annual audit shall be submitted that clearly documents the amount of monies received and expended on the education program provided by the NPS shall be submitted no later than 7 months following completion of the fiscal year. Relationship between various entities operated by the same entity shall be documented.

**10. INDEMNIFICATION**

CONTRACTOR shall indemnify, defend, and hold harmless LEA and its governing board, officers, officials, employees, agents and volunteers from and against all liability, loss, damage, expense, costs (including, without limitation, costs and fees of litigation, regardless of the forum of the litigation) of every nature arising out of or in connection with CONTRACTOR'S performance of services under this contract or its failure to comply with any of its obligations contained in this contract, except such loss or damage which was caused by the sole negligence or willful misconduct of LEA.

**11. INSURANCE**

- 11.1. During the entire term of this contract and any extension or modification thereof, CONTRACTOR shall keep in effect a policy or policies of general liability insurance, including coverage of owned and non-owned vehicles used in relation to the performance of service(s) by CONTRACTOR, of at least \$3,000,000 combined single limit for all damages arising from each accident or occurrence and \$3,000,000 combined single limit for all damages arising out of injury to or destruction of property for each accident or occurrence.
- 11.2. No later than the effective date of this contract, CONTRACTOR's insurer shall provide LEA with satisfactory evidence of the insurance required by this section. CONTRACTOR will send written notice of cancellation to the LEA at least thirty (30) days before cancellation of/or material change to the coverage specified in 11.1 above.
- 11.3. CONTRACTOR shall, at its own cost and expense, procure and maintain insurance under the Worker's Compensation law. Failure to maintain the above mentioned insurance coverage shall be cause for termination of this contract.
- 11.4. CONTRACTOR recognizes that the LEA's insurance requirement may be revised in terms of limits and/or coverage. If LEA determines that additional coverage is necessary, LEA will reopen negotiations to discuss the cost of this additional coverage.
- 11.5. LEA shall be named as an additional insured for all liability arising out of operations by or on behalf of the CONTRACTOR hereunder. CONTRACTOR's insurance provided herein shall be primary and no insurance held or owned by the LEA shall be called upon to contribute to a loss.

**12. FREE AND APPROPRIATE PUBLIC EDUCATION (FAPE)**

- 12.1. In addition to the certification requirements set forth in Sections 56366 and 56366.1, a NPS/A that provides special education and related services to an IWEN shall certify in writing to the superintendent that it meets all of the following requirements:
  - 12.1.1. It will not accept a pupil with exceptional needs if it cannot provide or ensure the provision of the services outlined in the pupil's IEP.



- 12.1.2. Pupils have access to the following educational materials, services, and programs to the extent available at the LEA in which the NPS/A is located.
  - 12.1.2.1. Standards-based, core curriculum and the same instructional materials used by the LEA in which the NPS/A is located.
  - 12.1.2.2. College preparation courses.
  - 12.1.2.3. Extracurricular activities, such as art, sports, music, and academic clubs.
  - 12.1.2.4. Career preparation and vocational training, consistent with transition plans pursuant to state and federal law.
  - 12.1.2.5. Supplemental assistance, including individual academic tutoring, psychological counseling, and career and college counseling.
- 12.1.3. The teachers and staff provide academic instruction and support services to pupils with the goal of integrating pupils into the least restrictive environment pursuant to federal law.
- 12.1.4. The school has and abides by a written policy for pupil discipline which is consistent with state and federal law and regulations.
- 12.2. CONTRACTOR shall make no charge of any kind to parents for educational activities and related services specified on the pupil's IEP. This includes screening or interviews which occur prior to or as a condition of a pupil's enrollment under the terms of the contract, except as specified in writing in a due process procedure that is signed by all relevant parties and attached to the relevant pupil's ISA, or for voluntary extracurricular activities conducted subsequent to written notification to parents as to the cost and the voluntary and extracurricular nature of the activity.
- 12.3. Unless the extra curricular activities take place during a school vacation or holiday, pupils not participating shall continue to receive special education and related services as set forth in their IEP.
- 12.4. CONTRACTOR shall provide special education and/or related services to LEA students within the NPS/A which are consistent with the students' IEPs and as specified in the students' ISAs. CONTRACTOR shall be responsible for the provision of all appropriate supplies, equipment, or facilities for a pupil as required in his or her IEP. The responsible agency for specialized equipment shall be designated on the IEP.

### 13. DEFINITION OF PARENT

- 13.1. For the purpose of the contract, a parent is the natural parent, adoptive parent, legal guardian or surrogate parent who is appointed by the District (LEA) in compliance with EC 56050 or as otherwise provided by law.
- 13.2. CONTRACTOR acknowledges and agrees that under legally defined circumstances, the LEA is the entity that has the authority to appoint a surrogate parent for students under its jurisdiction and receiving educational services at CONTRACTOR'S NPS.
- 13.3. In addition, CONTRACTOR acknowledges and agrees that only a parent who holds educational rights for his/her child may designate another adult individual to represent the interests of his/her child for educational and related services.
- 13.4. Parent does not include the state or any political subdivision of government or the nonpublic school or agency under contract with LEA for the provision of special education or related services for a child. (California Education Code section 56028)

### 14. DEFINITION OF DAY

- 14.1. For the purpose of the contract, "days" refers to calendar days unless otherwise specified.

**15. QUALIFIED PERSONNEL AND CLASS SIZE**

- 15.1. CONTRACTOR shall provide appropriately credentialed teachers and substitute teachers, licensed personnel and class size consistent with the California laws and regulations and published LEA requirements existing at the time of CONTRACTOR's execution of this contract. This is in effect unless the CDE has granted a written waiver with respect to state laws, regulations or the LEA with respect to its requirements.
- 15.1.1. CONTRACTOR, pursuant to Title V § 3064, shall deliver instruction by utilizing personnel who possess a credential authorizing the holder to deliver special education instruction according to the age range and disabling conditions of the students. Personnel will provide services only within the professional scope of practice of each providers license, certification, and /or credential.
- 15.1.2. CONTRACTOR shall insure that the ratio of credentialed teachers to students is no greater than 1:12. CONTRACTOR is to include auxiliary personnel as needed to ensure a ratio of no less than 1 adult to 6 students.
- 15.1.3. CONTRACTOR shall ensure that staff providing behavior intervention implementation services are qualified and that pupils are receiving the specific level of supervision required by the pupil's IEP. (Title V, Regulation 3001(e))
- 15.2. CONTRACTOR shall comply with EC 45340 through 45356 regarding qualifications of instructional aides and teacher assistants and EC 45349 for volunteers.
- 15.3. Upon submission of the master contract, at the start of each school year, CONTRACTOR shall provide LEA with a list of professional staff and copies of credentials, licenses, and/or registration numbers held by its employees, subcontractors, and agent.
- 15.3.1. CONTRACTOR shall immediately notify LEA and CDE in writing and provide copies of appropriate credential(s) and/or license(s) if a change of staff occurs that directly affects the pupils.
- 15.4. CONTRACTOR shall be responsible for assuring that all fingerprint clearances, credentials, and licenses held by its employees, agents and subcontractors are valid. Education credentials shall be on file at the office of the County Superintendent of Schools. Copies of credentials, licenses, certificates and authorizations for specific agency services shall be attached to this contract.
- 15.5. CONTRACTOR shall notify LEA within three (3) business days in writing and provide copies of appropriate credentials and/or license(s) if a change of staff occurs which directly affects the pupils. CONTRACTOR shall immediately notify LEA in writing when personnel changes occur which may affect the provision of special education and/or related services to LEA students.
- 15.6. CONTRACTOR shall provide copies to LEA of all licenses, credentials, and/or documents evidencing other qualifications of a newly employed, contracted, and/or otherwise hired individual before that individual begins providing special education and/or related services to LEA students.
- 15.7. CONTRACTOR shall require all volunteers, subcontractors, and employees to submit fingerprints consistent with California EC Section 44237 and 45125.1. The CONTRACTOR may waive this requirement for subcontractors if CONTRACTOR determines that it is not required to fingerprint a subcontractor pursuant to EC Section 45125.1(a) (contractor is not performing school/classroom janitorial, schoolsite administrative or grounds and landscape maintenance, pupil transportation or schoolsite food-related work), EC Section 45125.1(b) (service being performed in emergency or exceptional situation when pupil health or safety is endangered or when repairs are needed to make school facilities safe and habitable), EC Section 45125.1(c) (Contractor determines that subcontractor will have limited contact with pupils), or EC 45125.2 (steps have been taken to ensure safety of pupils from construction subcontractors by one of the

designated methods). CONTRACTOR shall certify in writing to the LEA at the beginning of each new contract year that CONTRACTOR has complied with EC 44237 AND 45125.1.

- 15.8. CONTRACTOR shall employ, contract, and/or otherwise hire individuals who are adequately trained and have sufficient experience, according to prevailing professional standards, to provide those services for which the individual is employed, contracted, and/or otherwise hired.
- 15.9. CONTRACTOR shall require submission of written assurances from subcontractors that they have met fingerprint requirements.
- 15.10. When a classroom teacher is absent, CONTRACTOR shall always maintain the contractual teacher to student ratio of 1:12. After three (3) school days of absence of the classroom teacher, the CONTRACTOR shall attempt to employ a fully or emergency credentialed substitute teacher to cover the absent teacher's classroom. If unable to secure a substitute, the CONTRACTOR may reconfigure classes to ensure that students have supervision/instruction by another person with a credential and, at the same time, maintain the contractual teacher to student ratio of 1:12. Upon written or oral request, CONTRACTOR shall provide to LEA documentation of substitute coverage. Substitute teachers shall remain in the classroom during all instructional time.
- 15.10.1. This provision shall apply in all circumstances except those in which a written waiver has been granted by the State of California Board of Education with respect to state laws and regulations or by LEA with respect to the requirements.
- 15.11. In the event a nonpublic school is unable to fill a vacant teaching position responsible for direct instruction to students, and the vacancy has direct impact on the California Department of Education Certification of that school, the nonpublic school shall develop a plan to assure appropriate coverage of students by first utilizing existing certificated staff. The nonpublic school and the LEA may agree to one 30 school day period per contract year where class size may be increased to assure coverage by an appropriately credentialed teacher. Such an agreement shall be in writing and signed by both parties.

## 16. **SCHOOL CALENDAR**

- 16.1. CONTRACTOR shall submit a school calendar with the total number of billable days not to exceed 180 instructional days plus such additional days approved in writing by LEA.
- 16.2. Extended School Year (ESY) will be offered for a minimum of twenty (20) days for students in grades preK-12, unless otherwise indicated in the student's IEP.

## 17. **ATTENDANCE ACCOUNTING/REPORTING**

- 17.1. Creditable days of attendance are only those days that are included in the submitted and approved school calendar which is attached hereto or as specified in the ISA for each pupil.
- 17.1.1. Creditable days of attendance are those in which instructional minutes meet or exceed those in comparable LEA programs or minutes specified in student's IEP.
- 17.2. CONTRACTOR shall keep attendance of each pupil daily and report attendance monthly with billing invoices to LEA using forms issued by the LEA, with the signature of the person providing the service (i.e., teacher, occupational therapist, speech therapist, etc.).
- 17.2.1. Separate attendance forms must be submitted for all related services as specified on IEP.
- 17.2.2. CONTRACTOR is responsible for verifying accuracy of said attendance forms and for informing service providers of their personal responsibility for the completion and accuracy of said forms.
- 17.3. CONTRACTOR shall permit LEA representatives, upon reasonable notice, to meet with staff of CONTRACTOR for the purpose of discussing attendance reporting.
- 17.4. The LEA, Tracy Unified School District shall be notified immediately when the CONTRACTOR becomes aware of an emergency change of placement (e.g. hospitalization, juvenile hall, etc.,) and when the student returns to school.

- 17.5. CONTRACTOR shall notify parents in writing of parent's obligation to notify the CONTRACTOR of changes of pupil's/parent's residence.
- 17.6. Within one (1) business day after CONTRACTOR becomes aware of pupil's and/or parent's change of residence, the CONTRACTOR shall notify LEA, on forms provided by LEA, of said change of residence.
  - 17.6.1. Costs for services delivered after the actual date of a pupil's change of residence to another district will not be the responsibility of the LEA.
  - 17.6.2. If the pupil is a Chapter 26.5 eligible student enrolled in a residential NPS placement covered by this contract and the pupil's parent moves to another SELPA, the current SELPA will be fiscally responsible for NPS placement and service as outlined in the pupil's IEP until the end of the current fiscal year. Provisions of McKinney Vento (homeless) legislation will be followed.
- 17.7. CONTRACTOR shall immediately report by telephone and fax to LEA Tracy Unified School District if a pupil is disenrolled from the NPS by the parent.
  - 17.7.1. CONTRACTOR shall confirm such telephone call in writing.
- 17.8. No later than the 4th consecutive day of a pupil's absence, CONTRACTOR shall notify LEA, Attn: Nancy F. Hopple, Director of Special Education\_\_\_\_\_.
- 17.8.1. If CONTRACTOR fails to provide such notice after the 4th consecutive absence, the CONTRACTOR shall not be compensated for services delivered after the 4th day of absence.
- 17.9. For students whose parents live in the district and for students residing in Licensed Children's Institutions or Foster Family Homes, the LEA shall reimburse CONTRACTOR for five (5) excused absences per semester.
  - 17.9.1. Other than the allowable five (5) excused absences per semester, CONTRACTOR's payment will be based on the student's actual attendance at the site where the NPS/NPA service is to be provided per student's IEP. For this provision, ESY will be considered part of the previous semester.
  - 17.9.2. For each absence over the allowed five (5) excused absences per semester, the aforementioned reimbursement/payment will be reduced by the local daily revenue amount, \$32.60. All appropriate claims for the allowable excused absences must be verified and maintained by the service provider.
    - 17.9.2.1. The excused absence verification/documents shall be sent with the attendance register to the LEA with the signature of the person providing the service (i.e., teacher/occupational therapist/speech therapist).
- 17.10.1 CONTRACTOR shall notify the LEA in writing (email or fax) once transportation has been arranged and a new student is ready to begin attending. The LEA will contact the CONTRACTOR and transportation company, if applicable, to verify a start date and authorize payment.
- 17.10.2 CONTRACTOR shall notify the LEA in writing (email or fax) within 24 hours of anticipated start and drop dates, including change of student residence.
- 17.10.3 CONTRACTOR shall send monthly attendance from student database within one week of the reporting period to assist the LEA in the pursuit of the SARB process for truant students.

## 18. INSTRUCTIONAL MINUTES

- 18.1. The total number of instructional minutes per school day provided by CONTRACTOR shall be equivalent to the number of instructional minutes established for LEA schools and shall be specified in the ISA developed for each pupil.
  - 18.1.1. Unless otherwise specified on the student's IEP, the number of instructional minutes per day shall be the following, which includes recess, lunch and passing time.
    - 18.1.1.1. 150 instructional minutes for pre-kindergarten,

- 18.1.1.2. 200 instructional minutes for kindergarten,
- 18.1.1.3. 300 instructional minutes for elementary grades one through eight, and
- 18.1.1.4. 360 instructional minutes for secondary grades nine through 12.
- 18.1.2. Minimum day is equal to 240 instructional minutes, which includes breaks, recess, and lunch.
- 18.2. The total number of annualized minutes of instruction shall be equivalent to those provided to other students in the LEA.
- 18.3. Lunch and breaks may only be considered instructional time if the student requires goals and objectives for that time and are written in the IEP.

**19. INDIVIDUALIZED EDUCATION PLAN (IEP)**

- 19.1. The CONTRACTOR is responsible for providing the student's special education teacher and the personnel appropriate to represent the DIS services at required IEP/ITP meetings.
- 19.2. When requested, LEA shall provide CONTRACTOR within three (3) business days, a copy of each pupil's IEP and assessment information (e.g.: psycho-educational reports) in advance of the IEP meeting.
- 19.3. A NPS shall ensure the opportunity for private and confidential communication between a pupil of the NPS and any member/s of the IEP team, at the pupil's discretion. The NPS shall provide the LEA with documentation of the method that students are given with respect to the opportunity to speak confidentially to any member of the IEP team. Students shall be notified of this right in a manner consistent with their developmental capacity. The LEA shall be permitted to meet privately and confidentially with the student upon request. NPS shall provide an appropriate area for such meeting.
- 19.4. The LEA shall conduct an annual evaluation as part of the IEP process of whether the placement is the LRE to meet the student's needs. This evaluation shall include consideration of supplementary aids and services, goals and objectives and behavioral programming necessary for placement in the LRE and to enable students to transition to a less restrictive setting.
- 19.5. The CONTRACTOR is expected to have draft IEP present levels, goals and objectives, (BSP) Behavior Support Plans, and (ITP) Individual Transition Plan, if appropriate, completed and entered into the appropriate electronic forms a minimum of 7 days prior to the IEP meeting so that the LEA can review the documents.
- 19.6. The CONTRACTOR must email or fax written notice to the LEA 30 days prior to an IEP meeting due date (75 days prior to a triennial) to ensure all parties awareness of an upcoming meeting. Failure to do so resulting in out-of-compliance IEPs, may, at the discretion of the LEA, result in withholding of payment at the daily rate until such time as the IEP meeting is held and is no longer out-of-compliance. Students that are enrolled within the above timeframes shall have the NPS notify the LEA within 5 days of the annual or triennial.

**20. INSTRUCTION/CURRICULUM**

- 20.1. CONTRACTOR shall provide pupils a program of educational instruction and services within the NPS/A, which is consistent with each pupil's IEP as specified in each pupil's ISA.
- 20.2. The general program of instruction provided to pupils under ISA shall be responsive to the LEA's required sequence of courses and related curriculum for pupils as well as the California Department of Education Guidelines related to best practices for specific disabilities (e.g., learning handicapped, emotionally disturbed, etc.).
- 20.2.1. Courses provided by the CONTRACTOR shall parallel the LEA's courses and will be designated by grade level.

- 20.3. CONTRACTOR shall provide pupils a written course of study (EC 33190, 51014) designed to meet or exceed standards for graduation. This shall be described in writing and a copy provided to LEA prior to the effective date of this contract.
- 20.3.1. It is expected that a student's schedule would reflect those classes that are required for graduation, if on a graduation track. The ESY program should be designed to offer core academics unless otherwise specified on the pupil's IEP.
- 20.3.2. For a student to be eligible for off-grounds work experience, the student must have achieved a measurable level of responsibility and independence, close to emancipation, or about to be eligible for mainstreaming. It is expected that there would be constant, appropriate, and/or mutually approved supervision of the student. At no time, should a student be unsupervised.
- 20.4. Designated instruction and services provided by a NPA will only be provided during the period of the pupil's regular or extended school year program, or both unless otherwise specified by the pupil's IEP.
- 20.5. CONTRACTOR shall have a plan to implement transition services as stated in the IEP.
- 20.6. CONTRACTOR agrees to use IEP forms/format of the LEA.
- 20.7. Any off-campus trips, whether walking or by transportation in a vehicle, require notification of parents (guardian) and signature giving permission for these trips. The date and time of the trip must be included in the permission form. These permission forms are to be kept on record at the school site.

**21. NUTRITION**

- 21.1. The CONTRACTOR is required by the State Meal Mandate (EC 49550) to provide nutritious meals to needy children. Lunch shall be served as close as possible to the mid-day of the instructional program.

**22. DISCIPLINE**

- 22.1. CONTRACTOR shall certify in writing to the superintendent that it has and abides by a written policy for pupil discipline that is consistent with State and Federal law.
- 22.2. CONTRACTOR shall abide by established LEA policies on prohibition of corporal punishment, pupil transfer, suspensions and expulsions, and positive behavioral interventions.
- 22.3. The site principal of the NPS shall comply with Education Code in fulfilling their responsibilities and duties with respect to the suspension of students.
- 22.4. CONTRACTOR shall have a written policy regarding suspension and expulsion procedures.
- 22.5. CONTRACTOR shall immediately notify and provide written documentation to LEA each time a pupil is removed from the instructional setting, by a school official, due to disciplinary issues, including the reason for said suspension. Written documentation shall include, but not be limited to, pupil's name, date, time, offense, rationale for disciplinary action taken, and amount of time suspended.

**23. MONITORING**

- 23.1. CONTRACTOR shall allow periodic monitoring of each pupil's instructional program by LEA and shall be invited to participate in the review of the pupil's progress by the LEA.
- 23.2. Representatives of LEA shall have reasonable access to observe each pupil at work, observe the instructional setting, interview CONTRACTOR and review each pupil's progress, review service logs and related documentation, including the behavioral intervention plan, if any.
- 23.3. CONTRACTOR agrees that LEA representative may make unannounced monitoring visits. LEA representatives making site visits will initially report to CONTRACTOR's site administrative office.

- 23.3.1. The superintendent shall monitor the facilities, the educational environment and the quality of the educational program including the teaching staff, the credentials authorizing service, the standards based core curriculum being employed and the standard focused instructional materials used on a three year cycle, as follows: (1) CONTRACTOR shall complete a self-review in year one; (2) the Superintendent shall conduct an onsite review in year two; and (3) the Superintendent shall conduct a follow-up visit in year three.
- 23.3.2. CONTRACTOR shall participate in any District Review to be conducted as aligned with the CDE On-site Review or more often if necessary. This review will address programmatic aspects of the Nonpublic School/Agency, compliance with relevant state and federal regulations, and Master Contract compliance.
- 23.3.3. CONTRACTOR shall participate in Coordinated Program Monitoring ("CPM") and Self Review in accordance with requirements of CDE.
- 23.3.4. CONTRACTOR understands that LEA reserves the right to institute a program audit/review. The program audit/review may include, but is not limited to, a review of core compliance areas of health and safety; curriculum/instruction; related services; and contractual, legal, and procedural compliance.
- 23.4. CONTRACTOR will make site's logs available for inspection by the LEA for: fire drill (EC 32001), and earthquake/disaster drills (EC 35295-35297).
- 23.5. CONTRACTOR will make available for inspection by the LEA, a current listing of names and positions of employees who have access to confidential records. (34CFR 300.572(d)).
- 23.6. All student records shall be kept in a secure location preventing access by unauthorized individuals.
- 23.7. CONTRACTOR will maintain an access log delineating: date, time, purpose of access, agency, and identity of individual for any authorized person accessing student records who is not in the direct employ of the CONTRACTOR.
- 23.7.1. Subcontractors shall not be considered in the direct employ of the CONTRACTOR for the purposes of accessing student records.
- 23.8. CONTRACTOR also agrees to comply with the parental right to request records and the parental right to inspect a student's file as defined in the federal law under Family Educational Rights and Privacy Act of 1974 ("FERPA") and EC §49060 et. seq. and §56000 etc. seq.
- 23.9. CONTRACTOR assures LEA that prescribed and non prescribed medications, are distributed at school only when there is a written statement from the physician detailing the type, administration, method, amount, and time schedule of how the medication is to be taken. All medication shall be kept in a secure location preventing access by students and unauthorized individuals. CONTRACTOR shall also assure LEA that there is a written statement from the parent/guardian or authorized legal agent giving the school permission to dispense prescribed and non-prescribed medication to the student. CONTRACTOR shall keep a written log delineating date, time, amount, medication and name of employee dispensing medication to student.
- 23.10. The LEA will assure that the NPS is in compliance with EC 56366.9 and Sec 1501.1(b) of the Health & Safety Code indicating that children with various handicapping conditions may be placed in the same educational facility and this decision will be made on the basis of individual need under the jurisdiction of a legally constituted IEP team meeting. In addition, if CONTRACTOR is also a licensed childcare institution (LCI), such CONTRACTOR shall adhere to the legal requirement regarding educational placements for LCI pupils as stated in EC § 56366.9. An LCI at which an individual with exceptional needs (IWEN) resides shall not require as a condition of residential placement that it provide the appropriate educational program to that IWEN through a NPS/A owned, operated by or associated with an LCI. Those

services may only be provided if the SELPA determines that appropriate public alternative educational programs are not available.

- 23.10.1. The CONTRACTOR will inform other placing agencies of the requirements of 56366.9 and provide the LEA documentation of such.
- 23.11. Oversight and evaluation is accomplished through annual educational progress reports toward the attainment of the goals and objectives as specified in the IEP, written serious incident reports and unannounced site visits.

**24. PARENT ACCESS/RIGHTS**

- 24.1. CONTRACTOR shall provide for reasonable parental visits to all of the school facilities including, but not limited to, the instructional setting attended by pupils, school and recreational activity areas, and pupil's living quarters.
- 24.1.1. CONTRACTOR shall ensure that parental visits are in agreement with court order, if any.
- 24.2. CONTRACTOR's operating programs with residential components shall cooperate with parents' reasonable requests for pupil visits in their home, including, but not limited to, holidays and weekends.
- 24.3. LEA and CONTRACTOR shall jointly ensure that parents are notified of their rights, including the right to inspect their child's records and the right to due process.

**25. VACATION/HOLIDAYS**

- 25.1. LEA observes legal holidays including, but not limited to, the following: Independence Day, Veteran's Day, Labor Day, Thanksgiving Day, Christmas Day, New Year's Day, Dr. Martin Luther King, Jr.'s Day, Lincoln's Day, Washington's Day, and Memorial Day, as specified in the LEA's official calendar. CONTRACTOR will not be compensated for service provided on these school holidays.

**26. GRADUATION/DIPLOMAS/TRANSCRIPTS/CERTIFICATE OF COMPLETION**

- 26.1. If a pupil is of secondary school age, the LEA will provide a specific list of the course requirements to be satisfied by the CONTRACTOR leading toward graduation or completion of diploma requirements, and other requirements (e.g. proficiency tests, High School Exit Exam, Certificate of Completion requirements, etc.).
- 26.2. For pupils in grades 9-12, CONTRACTOR shall prepare official transcripts specific to the credits earned at the NPS and submit them to the LEA and the Registrar of the pupil's school of residence for evaluation of progress toward completion of diploma requirements, and specified levels of proficiency in basic skills if applicable, within two (2) weeks of the end of the quarter, ESY, or transfer according to the NPS's calendar.
- 26.2.1. Out-of-district transcripts will also be sent with the local CONTRACTOR's official transcripts when submitting to the Registrar of the school of residence, who will complete an integrated transcript. A copy of the transcripts will be sent to the SELPA Director or designee.
- 26.3. Prior to January 10<sup>th</sup> of each year, an anticipated graduation list will be sent to the Registrar of the school of residence. The LEA shall ensure that the school of residence provides diplomas/certificate of completion in accordance with IEP for any student who attended an NPS within the LEA and for whom the LEA has developed an ISA.

**27. ASSESSMENTS/GRADING POLICIES/TRANSITION**

- 27.1. For pupils in grades preK-12, CONTRACTOR shall administer state and district-required tests (e.g., STAR, CAHSEE, proficiency tests, multiple measures, writing samples, etc.). The NPS/A shall determine its STAR testing period based on completion of 85% of the instructional year at



that NPS/A plus and minus ten (10) days, resulting in a 21 day period. The NPS/A shall notify the district of residence of its testing period with their instructional calendar. Staff from the NPS/A shall participate in STAR training from one LEA and that training shall be sufficient for all LEAs that send pupils to the NPS/A.

- 27.2. LEA shall provide at least thirty (30) days advance notice to the CONTRACTOR of the dates by which testing other than STAR shall be completed.
- 27.3. LEA shall coordinate with the CONTRACTOR to ensure that pupils participate in mandatory statewide assessments to the maximum extent possible, with appropriate supports, services, and accommodations per the IEP.
- 27.3.1. The district of residence shall provide the NPS with testing materials for its pupils. The LEA shall be responsible for providing necessary training and testing materials for all tests.
- 27.4. CONTRACTOR shall establish grading policies to be followed unless otherwise specified in the student's IEP.
- 27.5. CONTRACTOR shall ensure that individualized transition plans are implemented for all pupils age 16 and older.

## **28. PROGRESS REPORTING & ACCOUNTABILITY**

- 28.1. CONTRACTOR shall send progress reports to the LEA and parent/guardian/surrogate within two (2) weeks of the end of each quarter of the NPS's calendar and within fourteen (14) calendar days after the end of Extended School Year.
- 28.2. Upon request, an updated report shall be provided if there is no current progress report whenever a pupil is scheduled for an IEP review by LEA's IEP team. When a pupil's enrollment is terminated, an updated exit form including withdrawal grades, enrolled courses and credits earned will be sent to the LEA.
- 28.2.1. CONTRACTOR shall complete academic or other assessment of the LEA student prior to the LEA student's annual or triennial review IEP team meeting for the purpose of reporting the LEA student's present levels of performance at the IEP team meeting as required by state and federal laws and regulations and pursuant to LEA policies, procedures, and/or practices. Supporting documentation such as test protocols and data collection shall be made available to LEA upon request. CONTRACTOR shall not charge the LEA student's parent(s) or LEA for the provision of progress reports, report cards, and/or any assessments, interviews, or meetings.
- 28.3. The NPS is subject to the alternative accountability system developed pursuant to section EC 52052, in the same manner as public school and each pupil placed in NPS by an LEA shall be tested by qualified staff of the NPS in accordance with that accountability program. The test results shall be reported by the NPS to the CDE and the LEA.
- 28.4. The NPS shall prepare a school accountability report (SARC) and provide a copy to the contracting LEA.
- 28.5. The superintendent shall conduct an investigation which may include an onsite visit of any NPS if there is evidence of a significant deficiency in the quality of educational services.
- 28.6. Upon receipt of notice of any alleged violation of EC 56366.9 or Section 1501(b) of the Health and Safety Code, the LEA's Uniform Complaint procedures shall be followed.

## **29. ACCIDENT/INCIDENT REPORTING**

- 29.1. CONTRACTOR agrees to contact the LEA within one (1) business day, (phone) 209-830-3270, and complete a written accident/incident report within five (5) days, and fax it to the LEA, 209-830-3274 Attn: Nancy F. Hopple anytime restraint has been used.
- 29.2. CONTRACTOR agrees to contact within one (1) business day and fax an incident report to the LEA within 5 working days when Contractor becomes aware of circumstances that require

- notification be made to other agencies. These circumstances may include, but are not limited to, incidents involving severe property destruction, law enforcement, allegations of molestation, child abuse, and incidents of students leaving campus without permission. In addition, immediately after a student is determined to have been absent without permission during the school day from CONTRACTOR'S NPS, CONTRACTOR shall notify the LEA, in writing of such absence.
- 29.3. CONTRACTOR assures LEA that all staff members, including volunteers, are familiar with child and dependent adult abuse reporting obligations and procedures as specified in the California Penal Code.
- 29.4. CONTRACTOR agrees to provide annual training to all employees regarding the mandated child abuse reporting laws set herein. CONTRACTOR agrees that all staff members will abide by such laws in a timely manner. Documentation of training shall be maintained in the employee's personnel file.
- 29.5. CONTRACTOR assures LEA that all staff members, including volunteers, are familiar with and agree to adhere to requirements for reporting children who have departed campus without authorization as specified in California Education Code section 49370.

**30. HEALTH AND SAFETY**

- 30.1. CONTRACTOR shall require that all regular and substitute employees and volunteers provide verification of having been tested for tuberculosis and cleared to work with minors as evidenced by a state licensed medical doctor's signature. CONTRACTOR shall keep a copy of said information in the employee or volunteer file.
- 30.2. CONTRACTOR agrees all employees, volunteers, and any other individual who may come into contact with a student on school grounds will be notified of and will follow universal health care precautions when providing medical treatment or assistance to a student. CONTRACTOR further agrees to provide annual training to all employees and volunteers regarding universal health care precautions and to post required notices in areas designated in the California Health and Safety Code.
- 30.3. The superintendent shall conduct an onsite investigation of a NPS/A at anytime without prior notice if there is substantial reason to believe that there is immediate danger to the health, safety or welfare of a child.

**31. ADMINISTRATION OF MEDICATION**

- 31.1. CONTRACTOR shall comply with the requirements of California Education Code section 49423 when CONTRACTOR serves a LEA student that is required to take prescription and/or over-the-counter medication during the school day. CONTRACTOR may designate personnel to assist the LEA student with the administration of such medication after the LEA student's parent(s) provides to CONTRACTOR: (a) a written statement from a physician detailing the type, administration method, amount, and time schedules by which such medication shall be taken; and (b) a written statement from the LEA student's parent(s) granting CONTRACTOR permission to assist in the administration of medication(s) as specified in the physician's statement. CONTRACTOR shall maintain, and provide to LEA upon request, copies of such written statements. CONTRACTOR shall maintain a written log for each LEA student to whom medication is administered. Such written log shall specify the LEA student's name; the type of medication; the date, time, and amount of each administration; and the name of CONTRACTOR's employee who assisted in the administration of the medication. CONTRACTOR maintains full responsibility for assuring appropriate staff training in the administration of such medication consistent with physician's written orders. Any change in

medication type, administration method, amount or schedule must be authorized by both a licensed physician and parent.

**32. EMERGENCY PRECAUTIONS**

- 32.1 CONTRACTOR shall keep on file a detailed disaster plan containing complete written emergency procedures and operations in the event of a catastrophic occurrence such as, but not limited to an earthquake, attack of school personnel and/or student by an individual, fire disaster, lockdown, intruder, bomb threat, medical emergencies and/or power outage. CONTRACTOR agrees to maintain and keep available for inspection by LEA or District representative a log containing the date, time, and length of all practice disaster drills completed between August 1<sup>st</sup> and July 31<sup>st</sup> during the current school year, as well as all practice drills completed during the previous three (3) years.
- 32.2 CONTRACTOR shall report within three (3) business days to LEA any violations or items found out of compliance by the fire marshal during the inspection of the premises and accompanying buildings. CONTRACTOR shall have in place an operational fire warning system that complies with all required state and federal laws. CONTRACTOR shall also have occupancy capacity signs clearly posted in all rooms if required in the California Health and Safety Code and/or by the Fire Marshal.

**33. SEXUAL HARRASSMENT**

CONTRACTOR shall have procedures in place to immediately (within 24 hours) report any allegations of conduct that may constitute or give the appearance of sexual harassment as per federal and state law. This reporting must include appropriate governmental, social service, and law enforcement agencies as well as the LEA. CONTRACTOR shall ensure that an immediate and comprehensive investigation is commenced and shall allow the LEA to participate in said investigations when it involves a student. CONTRACTOR further agrees to provide annual training to all employees and students regarding regulations concerning sexual harassment and related procedures.

**34. APPROPRIATE THERAPY SPACE**

- 34.1 CONTRACTOR will make available appropriate therapy space for related services providers. This space shall be free from distraction and safe for students in order to provide effective services.

**35. ADMINISTRATIVE DUTIES AND SUPERVISION OF STAFF**

- 35.1 CONTRACTOR shall ensure that all staff who are not fully credentialed are directly supervised by a person who possesses a full and appropriate credential. Supervision shall include, but not be limited to, direct access by staff to his/her supervisor on a daily basis for technical support, guidance and emergency interventions in order to provide FAPE to students.

**36. POSITIVE BEHAVIOR INTERVENTIONS**

- 36.1 CONTRACTOR shall comply with the requirements of Title 5 of the California Code of Regulations sections 3001(c)-(f) and 3052(l)(1-8) regarding positive behavior interventions including, but not limited to the assistance of: the completion of functional analysis assessments; the development, implementation, monitoring, supervision, modification, and evaluation of behavior intervention plans; and emergency interventions.
- 36.2 CONTRACTOR shall designate an individual employed, contracted, and/or otherwise hired by CONTRACTOR as a "behavior intervention case manager" as that term is defined in Title 5 of the California Code of Regulations section 3001(e). CONTRACTOR shall maintain a written

policy in compliance with Title 5 of the California Code of Regulations section 3052(i) and (k) regarding emergency interventions and Behavioral Emergency Reports. Records of such training shall be made available to LEA upon request. CONTRACTOR shall ensure that all of its staff members are trained annually in crisis intervention and emergency procedures as related to appropriate behavior management strategies.

- 36.3. CONTRACTOR shall not authorize, order, consent to, or pay for any of the following prohibited interventions, or any other intervention similar to or like the following: (a) any intervention that is designed to, or likely to, cause physical pain; (b) releasing noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the LEA student's face; (c) any intervention which denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities; (d) any intervention which is designed to subject, used to subject, or likely to subject the LEA student to verbal abuse, ridicule, or humiliation, or which can be expected to cause excessive emotional trauma; (e) restrictive interventions which employ a device, material, or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment or similar techniques may be used as a short term emergency intervention by CONTRACTOR's trained and qualified personnel as allowable by applicable law and regulations; (f) locked seclusion except as allowable by applicable law and regulations; (g) any intervention that precludes adequate supervision of individual; and (h) any intervention which deprives the LEA student of one or more of his or her senses, pursuant to California Code of Regulations 3052(l) (1-8).
- 36.4. To prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions, the parent and residential care provider, if appropriate, shall be notified within one school day whenever an emergency intervention is used or serious property damage occurs. A "Behavioral Emergency Report" shall immediately be completed and maintained in the individual's file. The report shall include all of the following: (1) The name and age of the individual; (2) The setting and location of the incident; (3) The name of the staff or other persons involved; (4) A description of the incident and the emergency intervention used, and whether the individual is currently engaged in any systematic behavioral intervention plan; and (5) Details of any injuries sustained by the individual or others, including staff, as a result of the incident.
- 36.4.1. All "Behavioral Emergency Reports" shall immediately be forwarded to, and reviewed by, a designated responsible administrator within the respective LEA.
- 36.4.2. Anytime a "Behavioral Emergency Report" is written regarding an individual who does not have a behavioral intervention plan, the designated responsible administrator shall, within two days, schedule an IEP team meeting to review the emergency report, to determine the necessity for a functional analysis assessment, and to determine the necessity for an interim behavioral intervention plan. The IEP team shall document the reasons for not conducting the assessment and/or not developing an interim plan. Anytime a "Behavioral Emergency Report" is written regarding an individual who has a behavioral intervention plan, any incident involving a previously unseen serious behavior problem or where a previously designed intervention is not effective should be referred to the IEP team to review and determine if the incident constitutes a need to modify the plan.

### **37. STUDENT RETURN TO DISTRICT**

- 37.1. When an IEP team has determined that a student should be transitioned into the public school setting, CONTRACTOR shall assist in the implementation of the IEP team recommendation. The CONTRACTOR shall immediately notify the LEA, if the transition to the public schools identified by the IEP team is not carried out. This may include, but not be limited to the

facilitation of: dual enrollment, course scheduling, transportation arrangements and other student supports.

**38. SCHOOL CLOSURE**

- 38.1. CONTRACTOR agrees, in the event of school or agency closure, to forward pupil records to LEA. These shall include, but need not be limited to, current transcript, IEPs and results of district-required testing.

**39. OTHER PROVISIONS**

- 39.1. Any structural modifications that are required in compliance with prevailing legal mandates shall not be the responsibility of the LEA.
- 39.2. CONTRACTOR assures LEA that it does not discriminate on the basis of race, religion, sex, national origin, age, sexual orientation or disability in employment or operation of its programs.

**40. INDIVIDUAL SERVICE AGREEMENTS**

- 40.1. This contract shall include an ISA developed for each LEA student who is to receive special education and/or related services provided by CONTRACTOR. Related services will be provided as indicated on the IEP and ISA. Changes in any LEA student's educational program, including instruction, services, or instructional setting provided under this contract, may only be made on the basis of revisions to the student's IEP, mediated agreement, an order from OAH and/or an order rendered by a court of competent jurisdiction. ISAs are terminated on the same date as termination of the Master Contract.
- 40.2. CONTRACTOR shall not unilaterally terminate any ISA for a student suspension. CONTRACTOR shall obtain written authorization from LEA before terminating any ISA for reasons other than suspension.
- 40.3. CONTRACTOR shall sign and return ISA to the LEA within three (3) business days of receipt.
- 40.4. In the event the CONTRACTOR is unable to provide a specific service at any time during the life of the ISA, the CONTRACTOR shall notify the LEA in writing within five (5) business days of the last date a service was provided.

**41. PAYMENT PROVISION**

- 41.1. A unit of service for payment purposes is one day of attendance as defined in the EC 46307.
- 41.2. LEA shall not be responsible for payment of services for days on which a pupil's attendance or absence does not qualify for reimbursement under California law. (EC 46010 et seq.) Per diem rates for pupils whose IEP's authorize less than a full instructional day shall be adjusted on a pro rata basis in accordance with the actual proportion of the school day served for elementary school age students and periods for middle and high school age students.
- 41.3. Original attendance forms submitted to the LEA with invoices for payment must be completed and signed by the person providing the service, (i.e., teacher/occupational therapist/speech therapist). CONTRACTOR shall verify the accuracy of reported attendance, which is the basis of services being billed for payment, and shall inform service providers of their responsibility for the services being reported as rendered.
- 41.4. CONTRACTOR shall submit monthly written invoices for payment. Such invoices shall be submitted on a form, and in the manner prescribed by the California Department of Education.
- 41.5. CONTRACTOR shall submit said invoices for payment for services rendered no later than thirty (30) days from the end of the attendance accounting period in which said services are actually rendered.

- 41.6. LEA shall make payment in an amount equal to the number of creditable days of attendance multiplied by the agreed upon unit amount within forty-five (45) days of receipt of invoice or the LEA shall notify the NPS within ten (10) working days of any reason why the requested payment shall not be paid.
- 41.6.1. CONTRACTOR should notify SELPA Director if there are problems with timely payment.
- 41.7. CONTRACTOR shall submit a rebilling statement no later than ten (10) days after an invoice is returned to the CONTRACTOR for correction(s).
- 41.8. If the LEA fails to comply, the NPS may require the LEA to pay an additional amount of 1 ½ percent of the unpaid balance per month until the full payment is made
- 41.9. In no case should payment claim submission or rebillings for any Master Contract fiscal year (July through June) extend beyond six months after the close of the fiscal year. Invoices received for a closed fiscal year beyond the six-month period will be returned unpaid and should be removed from the Nonpublic School or Agency's accounts receivable.

#### 42. **RIGHT TO WITHHOLD**

- 42.1. LEA has the right to withhold payment to CONTRACTOR when LEA has reliable evidence, described in writing to CONTRACTOR that:
  - 42.1.1. CONTRACTOR was overpaid by LEA as determined by inspection, review, and/or audit of its program, work, records;
  - 42.1.2. Contractor has failed to provide to LEA all documents prior to school closure;
  - 42.1.3. CONTRACTOR has failed to provide to LEA properly prepared invoices within thirty (30) calendar days from the end of the attendance accounting period;
  - 42.1.4. CONTRACTOR has failed to provide to LEA proper rebilling invoices within thirty (30) calendar days from the date that the original invoice was returned to CONTRACTOR;
  - 42.1.5. CONTRACTOR has not performed a service identified on the invoice;
  - 42.1.6. CONTRACTOR's performance, in whole or in part, either has not been carried out or is insufficiently documented;
  - 42.1.7. CONTRACTOR has failed to provide to LEA all documents concerning one or more LEA pupils enrolled in CONTRACTOR's educational program within seven (7) days after school closure;
  - 42.1.8. CONTRACTOR has neglected, failed or refused to furnish information or to cooperate with the inspection, review or audit of its program, work or records; and/or
  - 42.1.9. CONTRACTOR's service is provided by personnel who are not appropriately credentialed/licensed or whose credential(s)/license(s) are not on file with LEA, Tracy Unified School District;
- 42.2. If LEA determines that cause exists to withhold payment to CONTRACTOR, LEA shall provide written notice to CONTRACTOR that LEA is withholding payment.
  - 42.2.1. Such notice shall specify the basis for LEA's withholding payment.
  - 42.2.2. Within ten (10) business days from the date of receipt of such notice, CONTRACTOR shall take all necessary and appropriate action to correct the deficiencies that form the basis for LEA's withholding payment.
  - 42.2.3. Upon receipt of CONTRACTOR's written request showing good cause, LEA shall extend CONTRACTOR's time to respond by an additional ten (10) business days.

#### 43. **AUDIT EXCEPTIONS**

- 43.1. CONTRACTOR agrees to accept responsibility for receiving, replying to, and/or complying with any audit exceptions by appropriate LEA personnel or State or Federal audit agencies occurring as a result of the CONTRACTOR's performance of this contract.

- 43.2. CONTRACTOR also agrees to pay to LEA within forty-five (45) days of demand by LEA the full amount resulting from any audit exceptions to the extent they are attributable to CONTRACTOR's failure to perform properly any of its obligations under this contract unless LEA agrees to different terms in writing.
- 43.3. Any and all audit exceptions must be specified in complete detail before any demand by LEA for any amount set forth therein.
- 43.4. Within three (3) business days, CONTRACTOR shall notify the LEA in writing when CONTRACTOR is unable to provide services to meet the requirements of this contract.

**44. MAINTENANCE OF RECORDS**

- 44.1. The following records shall be maintained by CONTRACTOR:
- 44.1.1. All student records (inclusive of electronically stored records), including by way of illustration and not limitation, assessment information, evaluations (including test protocols), progress reports, incident reports, discipline reports, comment sheets, meeting summaries regarding students, registers, grade books, and roll books of teachers; daily service logs or other documents used to record the provision of related services; absence verification records (parent/doctor notes, telephone logs, and related documents); staff lists specifying credential held, business licenses held, documents evidencing other qualification, social security numbers, dates of hire, and dates of termination; staff time sheets; non-paid staff and volunteer sign-in sheets; transportation and other related services subcontracts; school calendars; bell/class schedules; liability and workers compensation insurance policies; state NPS/A certifications; bylaws; lists of current board of directors/trustees, if incorporated; statements of income and expenses; general journals; cash receipts and disbursement books; general ledgers and supporting documents; federal/state payroll quarterly reports; and bank statements and cancelled checks.
- 44.1.2. Such forms and records shall be available for review, inspection, or audit by LEA for a period of three (3) years thereafter.

**45. TERM OF CONTRACT**

- 45.1. During the term of this Agreement, CONTRACTOR shall comply with all applicable federal, state, CDE, LEA, and other local statutes, laws, ordinances, rules, policies, and regulations including, but not limited to, those relating to: the required special education services, facilities for IWENs, student enrollment and transfer, corporal punishment, student discipline, and positive behavior interventions. The CONTRACTOR shall also fully cooperate with any due process proceedings or complaint investigations.
- 45.2. This contract and any exhibits or attachments hereto constitute the entire agreement between LEA and CONTRACTOR and supersedes any prior or contemporaneous understanding or agreement with respect to the services to be provided.
- 45.3. The laws of the State of California shall govern the terms and conditions of this contract with venue in San Joaquin County, California.
- 45.4. Should any provision in this contract be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall continue in full force and effect.
- 45.5. The parties hereto have executed this Contract by and through their duly authorized agents or representatives.
- 45.6. This contract is effective on July 1, 2009 and terminates when a newly revised contract is executed unless sooner terminated as provided herein.

## RATE SCHEDULE

Education service(s) offered by CONTRACTOR, and subcontractor, if applicable and the charges for such service(s) during the term of this contract, shall be as follows:

<u>➤ BASIC EDUCATION PROGRAM</u>	<u>RATE</u>	<u>PERIOD</u>
➤ <u>As set forth in the IEP for each student</u>	<u>154.33</u>	<u>180 days</u>

## RELATED SERVICES

	<u>RATE</u>	<u>PERIOD</u>
1) <b>Transportation</b> (* shall not include transportation through use of services or equipment owned, leased or contracted through LEA unless provided directly or subcontracted by the NPS/A)		
a) Transportation – Round Trip	_____	_____
b) Transportation – One Way	_____	_____
c) Transportation – 1 on 1 Rider (per IEP)	_____	_____
d) Transportation – Safety Rider (LEA will be billed for the bus safety riders based on the proportion of students on the bus.)	_____	_____
2) <b>Counseling</b>		
a) Educational Counseling – Individual	_____	_____
b) Educational Counseling – Group	_____	_____
c) Counseling – Parent	_____	_____
3) <b>Adapted Physical Education</b>	_____	_____
4) <b>Language/Speech</b>		
a) Language/Speech Therapy-Individual	_____	_____
b) Language/Speech Therapy-Group	_____	_____
c) Consultation	_____	_____
5) <b>Orientation/Mobility Training</b>	_____	_____
6) <b>Occupational Therapy</b>	_____	_____
7) <b>Physical Therapy</b>	_____	_____
8) <b>Aides</b>	_____	_____
9) <b>Travel Time</b>	_____	_____
10) <b>Other</b> <u>Extended School year</u>	<u>154.33</u>	<u>40 days</u>

**\*\* Partial Day Rate** shall be adjusted on a pro rata basis in accordance with the actual proportion of the school day -- minutes for students (# of minutes /total number of minutes X daily rate = partial day rate ). This formula will be used to calculate rate for the ISA for less than a full day, e.g., extended school year, mainstreaming, reduced attendance.

## NOTES:



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**CONTRACTOR****LEA**

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Nonpublic School/Agency

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Name of District or Local Educational Agency

---

Contracting Officer's                      Date  
Signature

---

Deputy Superintendent's Signature                      Date  
Educational Services

---

Name and Title (type)                      Date

---

Assistant Superintendent's Signature                      Date  
Business Services (Authorized Representative and Contracts Supervisor)

Tax I.D. #

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# EDUCATIONAL SERVICES MEMORANDUM

**TO:** Dr. James Franco, Superintendent  
**FROM:** *JS* Dr. Sheila Harrison, Assistant Superintendent of Educational Services  
**DATE:** June 5, 2009  
**SUBJECT:** Approve 2009-2010 Contracts with the San Joaquin County Children and Families Commission (First 5 San Joaquin) for the PLAY School Readiness Cluster and the Delta Island School Readiness Grants

**BACKGROUND:** In April 2006, TUSD was awarded a grant from First 5 San Joaquin to provide a comprehensive school readiness program to children (age zero to five) and their families living within the attendance boundaries of North, Central, McKinley, and South/West Park Schools. A cornerstone of the PLAY Program is a preschool for families who do not qualify for subsidized programs. In addition to preschool services, TUSD partners with Family Resource and Referral Center and Sutter Tracy Community Hospital to provide a continuum of parenting, health and social support services.

When Holt School District was consolidated into Tracy Unified in 2007, TUSD took over a portion of the Holt/New Hope School Readiness grant from the San Joaquin County Office of Education and renamed the program the Delta Island School Readiness Program. The Delta Island School Readiness Program grant was used to expand the school readiness services available in Tracy through the PLAY School Readiness Program to the Delta Island School attendance boundaries. TUSD collaborates with Charterhouse Center for Families to provide the services available through this grant.

**RATIONALE:** Approving these two contracts (PLAY School Readiness Cluster and Delta Island School Readiness) will allow TUSD to continue to receive funding to provide services including preschool, resource and referral, parenting support, health and social support to children age zero to five and their parents and early care and education providers in Tracy. This agenda item meets Strategic Goal #7, Develop and utilize partnerships that contribute to the achievement of District Goals.

**FUNDING:** There is no cost to the District; the District will receive grant money from First 5 San Joaquin to provide the PLAY School Readiness Program (approximately \$751,839 for the period July 1, 2009 through June 30, 2010) and the Delta Island School Readiness Program (approximately \$138,937 for the period July 1, 2009 through June 30, 2010).

**RECOMMENDATION:** Approve 2009-2010 Contracts with the San Joaquin County Children and Families Commission (First 5 San Joaquin) for the PLAY School Readiness Cluster and the Delta Island School Readiness Grants

**Prepared by:** Brandi Harrold, School Readiness Program Specialist



TRACY  
UNIFIED SCHOOL DISTRICT

# EDUCATIONAL SERVICES MEMORANDUM

**TO:** Dr. James Franco, Superintendent  
**FROM:** ~~W~~ Dr. Sheila Harrison, Assistant Superintendent of Educational Services  
**DATE:** ~~S~~ June 8, 2009  
**SUBJECT:** Approve Master Contract and Individual Service Agreement with South San Joaquin Education Center

**BACKGROUND:** Several children with significant mental health and behavioral needs were placed initially in Children's Home of Stockton. However, the placement was not suitable for their high level of need and an immediate transfer to another non-public school was needed. IEP reviews were held subsequent to the necessary placement at South San Joaquin Education Center. Approval is necessary so that services specified on IEPs can be provided in a compliant manner.

**RATIONALE:** Less restrictive settings were either not appropriate to meet student needs or not available. Districts must offer a continuum of services, including non-public, to students with exceptional needs. This request supports Strategic Goal 1: Provide a variety of learning opportunities through standards based curriculum and assessment and research based instruction that ensures that all students meet or exceed grade level standards and results in closing the achievement gap.

**FUNDING:** Contract expenses for basic education for the 2009-2010 school year include per diem cost of \$149.79 per day with \$37.97 per day for Transportation. Invoice charges for the service agreement will not exceed \$78,483.68. Non-public tuition expenses are budgeted in account #01-6500-0-5750-1180-5800-800-2542. Non-public school expenditures beyond funding base are reimbursed at 70% through San Joaquin County of Education SELPA funds.

**RECOMMENDATION:** Approve Master Contract and Individual Services Agreement with South San Joaquin Education Center.

**Prepared by:** Nancy E. Hopple, Director of Special Education.

**(SELPA NAME)**  
**CONTRACT YEAR –2009-2010**

**AGREEMENT FOR NONPUBLIC, NONSECTARIAN SCHOOL/AGENCY SERVICES**  
**MASTER CONTRACT**

(Education Code Section 56157, 56365, et. seq.)

**DEFINITIONS**

- A.** This Master Contract is made and entered into this 1<sup>st</sup> day of July, between the Tracy (district, county office of education, a charter school participating as a member of the special education local plan area, or special education local plan area), county of **San Joaquin** hereinafter referred to as the local educational agency ("LEA") and South San Joaquin (nonpublic, nonsectarian school or agency), hereinafter referred to as NPS/A or "CONTRACTOR" for the purpose of providing special education and related services to individuals with exceptional needs (IWEN) under the authorization of Education Code (EC) Sections 56157 and 56365-56366.6
- B.** It is understood that this agreement does not commit LEA to payment for special education and related services provided to any individual unless, and until, an Individual Service Agreement (ISA) is executed between LEA and CONTRACTOR on behalf of such individual. Given the fact that it is the district's responsibility to assure that appropriate services are provided to the student, the district will either provide them, subcontract with other agencies per Section 4, or contract with respective NPS. The Director/Designee of the LEA's SPECIAL EDUCATION Unit may give interim telephone approval to the CONTRACTOR.
- C.** A current copy of CONTRACTOR's California Department of Education (CDE) Nonpublic School/Agency Certification approved by the California State Board of Education is attached hereto. In the event of a delay in certification by CDE, the CONTRACTOR shall forward, upon receipt, copies of the appropriate documentation from CDE that verifies the delay (e.g. waiver of certification, extension letters, etc.)
- D.** If a pupil is enrolled in a NPS/A with the approval of the LEA prior to a contract or ISA, the LEA shall issue a warrant for services, up to 90 days. If after 60 days the Master Contract has not been finalized, either party may appeal pursuant to EC 56366(c).
- E.** A NPS/A that proposes to initiate or expand services to pupils currently educated in the immediate prior fiscal year in a juvenile court program, community school or other non special education program, must notify the County Superintendent and the Special Education Local Plan Agency (SELPA). Notification must be no later than December 1 prior to the new fiscal year in which the proposed or expanding school intends to initiate services.
- F.** If certification expires during the contract period, CONTRACTOR must provide an updated copy. This Agreement will terminate if such certification or waiver is expired, revoked, rescinded, or otherwise nullified during the effective period of this Agreement. After termination (or during suspension), no services shall be performed where reimbursement is expected. From the initial effective date until the termination (suspension) date, the contract is in force and its terms and conditions are binding upon the parties.
- G.** Any educational funds received from an LEA for educational costs of IWENs it has placed shall be used solely for those purposes and not for the costs of a residential program.
- H.** A facility may not require, as a condition of placement that a child be identified as an IWEN.
- I.** Educational services shall occur at the school site, unless otherwise specified by the pupil's Individual Education Program/Individual Family Service Plan (IEP/IFSP).
- J.** Only those NPS/As who employ staff who hold a certificate permit or other document equivalent to that which staff in public school are required to hold in the service rendered are eligible to receive certification.
- K.** "Superintendent" as used in this agreement, shall mean State Superintendent of Schools.

## CONTRACT RELATIONS AND INSURANCE PROVISION

### 1. MODIFICATIONS AND AMENDMENTS

- 1.1. This contract may only be modified or amended by a written document executed by CONTRACTOR and LEA.
  - 1.1.1. This contract shall include an ISA prepared by the LEA within three (3) business days in accordance with the IEP for each pupil who is scheduled to receive special education and/or designated instruction services through a NPS/A.
- 1.2. Changes in any educational instruction, services or placement provided under the contract may only be made on the basis of revisions to a pupil's IEP on the IEP forms of the LEA, mediated agreement, an order from the Office of Administrative Hearings Special Education Unit ("OAH"), and/or an order rendered by a court of competent jurisdiction.
- 1.3. At any time during the term of the contract, the parent, NPS/A or LEA may request a review of a pupil's IEP, subject to all procedural safeguards required by law.
- 1.4. Changes in the administrative or financial agreements of the contract which do not alter the ISA that outlines each pupil's educational instruction, services or educational placement may be made at any time during the term of the contract, as mutually agreed in writing by CONTRACTOR and LEA.
- 1.5. Neither CONTRACTOR nor LEA is required to renew this Master Contract in subsequent years.

### 2. RENEWAL OF CERTIFICATION

- 2.1. The NPS shall provide the SELPA in which they are located with written notification of its intent to seek recertification per EC 56366.1 and no later than September 30th.

### 3. NOTICES

All notices involving: 1) revocation of CONTRACTOR's certification, 2) Master Contract disputes, 3) changes of LEA pupil's residence outside of current LEA attendance area, 4) termination of ISA, 5) termination of Master Contract, 6) notification of cancellation or material change in CONTRACTOR's or LEA's insurance coverage, and 7) LEA's reasonable objections to a subcontractor's liability insurance policy, are required to be given to the LEA and/or CONTRACTOR in writing and shall be delivered in person, by certified/registered mail, or by other delivery service.

Notices/bills mailed to LEA shall be addressed to:  
Attention: Nancy Hopple, Special Education Director

<u>Name</u>	
<u>Tracy Unified School District</u>	
<u>LEA</u>	
<u>1875 W. Lowell Ave</u>	
<u>Address</u>	
<u>Tracy</u>	
<u>CA</u>	<u>95376</u>
<u>City</u>	<u>State Zip</u>
<u>209-830-3270</u>	<u>209-830-3274</u>
<u>Phone</u>	<u>Fax #</u>

Notices to CONTRACTOR:

<u>Name</u>	
<u>Gregory Potts, Director</u>	
<u>Nonpublic School/Agency</u>	
<u>South San Joaquin</u>	
<u>Address</u>	
<u>10623 E. Hwy 120</u>	<u>Manteca, CA 95336</u>
<u>City</u>	<u>State Zip</u>
<u>209-239-3244</u>	<u>209-239-6799</u>
<u>Phone</u>	<u>Fax#</u>

4. **DISPUTES**

- 4.1. Disagreements between LEA and CONTRACTOR concerning the meaning, requirements or performance of this contract shall be appealed to the County Superintendent of Schools or the State Superintendent of Public Instruction or designee when the County Superintendent is a party to the contract. The County Superintendent, or the State Superintendent, or designee, shall render a decision in writing which shall be binding upon the parties.

5. **SUBCONTRACTOR AND ASSIGNMENT**

- 5.1. This contract binds the successors, assignees, agents and representatives of CONTRACTOR.
- 5.2. CONTRACTOR shall not enter into subcontracts for any of the work contemplated under this contract without first obtaining written approval from LEA.
- 5.2.1. Such approval shall be attached and made part of this contract, as well as the contract with the subcontractors.
- 5.2.2. Subcontracts shall be entered into only with NPS/As certified by the CDE. If a NPS/A certified by the CDE is not available, subcontracts may be entered into with personnel who are licensed according to Title V regulations.
- 5.3. During the entire term of this contract and any extension or modification thereof, CONTRACTOR assures LEA that subcontractors shall keep in effect a policy or policies of general liability insurance, including coverage of owned and non-owned vehicles used in relation to the performance of service(s) by CONTRACTOR, of at least \$3,000,000 combined single limit for all damages arising from each accident or occurrence and \$500,000 for all damages arising out of injury to or destruction of property for each accident or occurrence.
- 5.3.1. The CONTRACTOR shall provide for the insurance provider to send written notice of cancellation to the CONTRACTOR and the LEA at least thirty (30) days prior to cancellation or material change in coverage.
- 5.4. CONTRACTOR assures LEA that subcontractors providing transportation shall keep in effect a liability insurance policy providing at least \$3,000,000 coverage, per occurrence.
- 5.4.1. Transportation subcontractors shall submit copies of insurance policies upon request of the LEA. Certificates of insurance may be acceptable proof, provided that the information thereon is adequate and verifiable.

6. **INDEPENDENT CONTRACTOR STATUS**

- 6.1. Nothing herein contained will be construed to imply a joint venture, partnership or principal-agent relationship between the LEA and CONTRACTOR. CONTRACTOR shall provide all services under this Agreement as an independent contractor, and neither party shall have the authority to bind or make any commitment on behalf of the other. Nothing contained in this Agreement shall be deemed to create any association, partnership, joint venture or relationship of principal and agent, master and servant, or employer and employee between the parties or any affiliates of the parties, or between the LEA and any individual assigned by CONTRACTOR to perform any services for the LEA.

7. **CONFLICT OF INTEREST**

- 7.1. CONTRACTOR agrees to furnish to LEA a copy of its current list of bylaws, and a current list of its Governing Board of Directors (or Trustees), if it is incorporated.
- 7.2. CONTRACTOR promises and attests that the CONTRACTOR and any member of Board of Directors (or Trustees) shall avoid any relationship with LEA that constitutes or potentially constitutes a conflict of interest including, but not limited to, employment with LEA.

- 7.3. No employee, staff member, volunteer, officer, agent, consultant or member of the Board of Directors of CONTRACTOR and no employee, staff member, volunteer, officer, agent, consultant, or member of the Board of Directors of any of the CONTRACTORS' related entities shall serve as a surrogate parent for a student receiving educational services at CONTRACTOR'S NPS.
- 7.4. To avoid conflict of interest, and in order to ensure the appropriateness of an Independent Educational Evaluation (hereinafter referred to as "IEE") and its recommendations, the -LEA may, in its discretion, not fund an IEE by an evaluator who provides ongoing service(s) or is sought to provide service(s) to the student for whom the IEE is requested. Likewise, the LEA may, in its discretion, not fund services through the evaluator whose IEE the LEA agrees to fund.

## 8. TERMINATION

- 8.1. This Master Contract may be terminated with cause during the effective period of the Contract. The contract may be terminated without cause at any time during the effective period if the parties mutually agree in writing to such early termination.
- 8.1.1. To terminate the contract with cause, either party shall give twenty (20) days written notice prior to the date of the termination.
- 8.1.2. LEA shall not be required to give twenty (20) days notice of termination when the health and/or safety of student/staff are endangered.
- 8.1.3. Prior to the termination of this agreement for cause, LEA will provide written notice to the NPS of the conditions that, in the opinion of LEA, are grounds for a termination for cause.
- 8.1.3.1. The NPS shall have ten (10) business days to respond in writing to these concerns.
- 8.1.3.2. Within ten (10) business days of the NPS response, LEA and NPS shall meet to agree upon a Plan of Correction by which the NPS can correct and resolve the final agreed upon items that must be corrected to prevent termination.
- 8.1.3.3. Following the development of the Plan of Correction, the NPS shall have ten (10) business days to implement all agreed upon corrections and to provide written notification to the LEA of the successful completion of the changes.
- 8.1.3.4. This provision shall not apply if Section 8.1.2 is invoked due to a health and/or safety risk to the students.
- 8.1.4. Upon termination of CONTRACTOR, LEA shall pay without duplication, for all services not under dispute and for verified expenses incurred to date of termination.
- 8.2. In consideration of this payment, CONTRACTOR waives all right to any further payment or damage, and shall turn over to LEA everything pertaining to its services hereunder possessed by CONTRACTOR or under its control at the time of termination.
- 8.3. When the LEA becomes aware that the pupil's education is no longer its responsibility, the LEA shall provide written notice within one (1) business day to CONTRACTOR for termination of the ISA.
- 8.4. The LEA shall not terminate an ISA because of the availability of a public class initiated during the course of the contract unless the parent agrees to the transfer of a pupil to a public school program, or pursuant to an order from OAH and/or an order rendered by a court of competent jurisdiction.

## 9. INSPECTION AND AUDIT

- 9.1. CONTRACTOR shall provide reasonable access to, or forward copies of, any books, documents, papers, reports, records or other matter relating to the contract upon reasonable request by LEA except as otherwise provided by law.



- 9.2. All budgetary information and projections submitted by CONTRACTOR to LEA for purpose of contract negotiations shall be made available for the relevant contract period being audited to assess the extent to which funds were expended consistent with said budgetary information.
- 9.3. Fiscal records are maintained by CONTRACTOR for five (5) years and are available for audit.
- 9.4. Commencing July 1, 2006 the NPS shall submit the following to the CONTRACTOR:
  - 1) separate financial records for each entity a NPS/A operates with each entity identified separately from any licensed children's institutions (LCI) it operates, and 2) an annual budget for each entity demonstrating that rates are reasonable to support the operation shall be submitted by June 1st of each contract year. An entity wide annual audit shall be submitted that clearly documents the amount of monies received and expended on the education program provided by the NPS shall be submitted no later than 7 months following completion of the fiscal year. Relationship between various entities operated by the same entity shall be documented.

## **10. INDEMNIFICATION**

CONTRACTOR shall indemnify, defend, and hold harmless LEA and its governing board, officers, officials, employees, agents and volunteers from and against all liability, loss, damage, expense, costs (including, without limitation, costs and fees of litigation, regardless of the forum of the litigation) of every nature arising out of or in connection with CONTRACTOR'S performance of services under this contract or its failure to comply with any of its obligations contained in this contract, except such loss or damage which was caused by the sole negligence or willful misconduct of LEA.

## **11. INSURANCE**

- 11.1. During the entire term of this contract and any extension or modification thereof, CONTRACTOR shall keep in effect a policy or policies of general liability insurance, including coverage of owned and non-owned vehicles used in relation to the performance of service(s) by CONTRACTOR, of at least \$3,000,000 combined single limit for all damages arising from each accident or occurrence and \$3,000,000 combined single limit for all damages arising out of injury to or destruction of property for each accident or occurrence.
- 11.2. No later than the effective date of this contract, CONTRACTOR's insurer shall provide LEA with satisfactory evidence of the insurance required by this section. CONTRACTOR will send written notice of cancellation to the LEA at least thirty (30) days before cancellation of/or material change to the coverage specified in 11.1 above.
- 11.3. CONTRACTOR shall, at its own cost and expense, procure and maintain insurance under the Worker's Compensation law. Failure to maintain the above mentioned insurance coverage shall be cause for termination of this contract.
- 11.4. CONTRACTOR recognizes that the LEA's insurance requirement may be revised in terms of limits and/or coverage. If LEA determines that additional coverage is necessary, LEA will reopen negotiations to discuss the cost of this additional coverage.
- 11.5. LEA shall be named as an additional insured for all liability arising out of operations by or on behalf of the CONTRACTOR hereunder. CONTRACTOR's insurance provided herein shall be primary and no insurance held or owned by the LEA shall be called upon to contribute to a loss.

## **12. FREE AND APPROPRIATE PUBLIC EDUCATION (FAPE)**

- 12.1. In addition to the certification requirements set forth in Sections 56366 and 56366.1, a NPS/A that provides special education and related services to an IWEN shall certify in writing to the superintendent that it meets all of the following requirements:
  - 12.1.1. It will not accept a pupil with exceptional needs if it cannot provide or ensure the provision of the services outlined in the pupil's IEP.

- 12.1.2. Pupils have access to the following educational materials, services, and programs to the extent available at the LEA in which the NPS/A is located.
  - 12.1.2.1. Standards-based, core curriculum and the same instructional materials used by the LEA in which the NPS/A is located.
  - 12.1.2.2. College preparation courses.
  - 12.1.2.3. Extracurricular activities, such as art, sports, music, and academic clubs.
  - 12.1.2.4. Career preparation and vocational training, consistent with transition plans pursuant to state and federal law.
  - 12.1.2.5. Supplemental assistance, including individual academic tutoring, psychological counseling, and career and college counseling.
- 12.1.3. The teachers and staff provide academic instruction and support services to pupils with the goal of integrating pupils into the least restrictive environment pursuant to federal law.
- 12.1.4. The school has and abides by a written policy for pupil discipline which is consistent with state and federal law and regulations.
- 12.2. CONTRACTOR shall make no charge of any kind to parents for educational activities and related services specified on the pupil's IEP. This includes screening or interviews which occur prior to or as a condition of a pupil's enrollment under the terms of the contract, except as specified in writing in a due process procedure that is signed by all relevant parties and attached to the relevant pupil's ISA, or for voluntary extracurricular activities conducted subsequent to written notification to parents as to the cost and the voluntary and extracurricular nature of the activity.
- 12.3. Unless the extra curricular activities take place during a school vacation or holiday, pupils not participating shall continue to receive special education and related services as set forth in their IEP.
- 12.4. CONTRACTOR shall provide special education and/or related services to LEA students within the NPS/A which are consistent with the students' IEPs and as specified in the students' ISAs. CONTRACTOR shall be responsible for the provision of all appropriate supplies, equipment, or facilities for a pupil as required in his or her IEP. The responsible agency for specialized equipment shall be designated on the IEP.

### 13. **DEFINITION OF PARENT**

- 13.1. For the purpose of the contract, a parent is the natural parent, adoptive parent, legal guardian or surrogate parent who is appointed by the District (LEA) in compliance with EC 56050 or as otherwise provided by law.
- 13.2. CONTRACTOR acknowledges and agrees that under legally defined circumstances, the LEA is the entity that has the authority to appoint a surrogate parent for students under its jurisdiction and receiving educational services at CONTRACTOR'S NPS.
- 13.3. In addition, CONTRACTOR acknowledges and agrees that only a parent who holds educational rights for his/her child may designate another adult individual to represent the interests of his/her child for educational and related services.
- 13.4. Parent does not include the state or any political subdivision of government or the nonpublic school or agency under contract with LEA for the provision of special education or related services for a child. (California Education Code section 56028)

### 14. **DEFINITION OF DAY**

- 14.1. For the purpose of the contract, "days" refers to calendar days unless otherwise specified.

**15. QUALIFIED PERSONNEL AND CLASS SIZE**

- 15.1. CONTRACTOR shall provide appropriately credentialed teachers and substitute teachers, licensed personnel and class size consistent with the California laws and regulations and published LEA requirements existing at the time of CONTRACTOR's execution of this contract. This is in effect unless the CDE has granted a written waiver with respect to state laws, regulations or the LEA with respect to its requirements.
- 15.1.1. CONTRACTOR, pursuant to Title V § 3064, shall deliver instruction by utilizing personnel who possess a credential authorizing the holder to deliver special education instruction according to the age range and disabling conditions of the students. Personnel will provide services only within the professional scope of practice of each providers license, certification, and /or credential.
- 15.1.2. CONTRACTOR shall insure that the ratio of credentialed teachers to students is no greater than 1:12. CONTRACTOR is to include auxiliary personnel as needed to ensure a ratio of no less than 1 adult to 6 students.
- 15.1.3. CONTRACTOR shall ensure that staff providing behavior intervention implementation services are qualified and that pupils are receiving the specific level of supervision required by the pupil's IEP. (Title V, Regulation 3001(e))
- 15.2. CONTRACTOR shall comply with EC 45340 through 45356 regarding qualifications of instructional aides and teacher assistants and EC 45349 for volunteers.
- 15.3. Upon submission of the master contract, at the start of each school year, CONTRACTOR shall provide LEA with a list of professional staff and copies of credentials, licenses, and/or registration numbers held by its employees, subcontractors, and agent.
- 15.3.1. CONTRACTOR shall immediately notify LEA and CDE in writing and provide copies of appropriate credential(s) and/or license(s) if a change of staff occurs that directly affects the pupils.
- 15.4. CONTRACTOR shall be responsible for assuring that all fingerprint clearances, credentials, and licenses held by its employees, agents and subcontractors are valid. Education credentials shall be on file at the office of the County Superintendent of Schools. Copies of credentials, licenses, certificates and authorizations for specific agency services shall be attached to this contract.
- 15.5. CONTRACTOR shall notify LEA within three (3) business days in writing and provide copies of appropriate credentials and/or license(s) if a change of staff occurs which directly affects the pupils. CONTRACTOR shall immediately notify LEA in writing when personnel changes occur which may affect the provision of special education and/or related services to LEA students.
- 15.6. CONTRACTOR shall provide copies to LEA of all licenses, credentials, and/or documents evidencing other qualifications of a newly employed, contracted, and/or otherwise hired individual before that individual begins providing special education and/or related services to LEA students.
- 15.7. CONTRACTOR shall require all volunteers, subcontractors, and employees to submit fingerprints consistent with California EC Section 44237 and 45125.1. The CONTRACTOR may waive this requirement for subcontractors if CONTRACTOR determines that it is not required to fingerprint a subcontractor pursuant to EC Section 45125.1(a) (contractor is not performing school/classroom janitorial, schoolsite administrative or grounds and landscape maintenance, pupil transportation or schoolsite food-related work), EC Section 45125.1(b) (service being performed in emergency or exceptional situation when pupil health or safety is endangered or when repairs are needed to make school facilities safe and habitable), EC Section 45125.1(c) (Contractor determines that subcontractor will have limited contact with pupils), or EC 45125.2 (steps have been taken to ensure safety of pupils from construction subcontractors by one of the

designated methods). CONTRACTOR shall certify in writing to the LEA at the beginning of each new contract year that CONTRACTOR has complied with EC 44237 AND 45125.1.

- 15.8. CONTRACTOR shall employ, contract, and/or otherwise hire individuals who are adequately trained and have sufficient experience, according to prevailing professional standards, to provide those services for which the individual is employed, contracted, and/or otherwise hired.
- 15.9. CONTRACTOR shall require submission of written assurances from subcontractors that they have met fingerprint requirements.
- 15.10. When a classroom teacher is absent, CONTRACTOR shall always maintain the contractual teacher to student ratio of 1:12. After three (3) school days of absence of the classroom teacher, the CONTRACTOR shall attempt to employ a fully or emergency credentialed substitute teacher to cover the absent teacher's classroom. If unable to secure a substitute, the CONTRACTOR may reconfigure classes to ensure that students have supervision/instruction by another person with a credential and, at the same time, maintain the contractual teacher to student ratio of 1:12. Upon written or oral request, CONTRACTOR shall provide to LEA documentation of substitute coverage. Substitute teachers shall remain in the classroom during all instructional time.
- 15.10.1. This provision shall apply in all circumstances except those in which a written waiver has been granted by the State of California Board of Education with respect to state laws and regulations or by LEA with respect to the requirements.
- 15.11. In the event a nonpublic school is unable to fill a vacant teaching position responsible for direct instruction to students, and the vacancy has direct impact on the California Department of Education Certification of that school, the nonpublic school shall develop a plan to assure appropriate coverage of students by first utilizing existing certificated staff. The nonpublic school and the LEA may agree to one 30 school day period per contract year where class size may be increased to assure coverage by an appropriately credentialed teacher. Such an agreement shall be in writing and signed by both parties.

## 16. **SCHOOL CALENDAR**

- 16.1. CONTRACTOR shall submit a school calendar with the total number of billable days not to exceed 180 instructional days plus such additional days approved in writing by LEA.
- 16.2. Extended School Year (ESY) will be offered for a minimum of twenty (20) days for students in grades preK-12, unless otherwise indicated in the student's IEP.

## 17. **ATTENDANCE ACCOUNTING/REPORTING**

- 17.1. Creditable days of attendance are only those days that are included in the submitted and approved school calendar which is attached hereto or as specified in the ISA for each pupil.
- 17.1.1. Creditable days of attendance are those in which instructional minutes meet or exceed those in comparable LEA programs or minutes specified in student's IEP.
- 17.2. CONTRACTOR shall keep attendance of each pupil daily and report attendance monthly with billing invoices to LEA using forms issued by the LEA, with the signature of the person providing the service (i.e., teacher, occupational therapist, speech therapist, etc.).
- 17.2.1. Separate attendance forms must be submitted for all related services as specified on IEP .
- 17.2.2. CONTRACTOR is responsible for verifying accuracy of said attendance forms and for informing service providers of their personal responsibility for the completion and accuracy of said forms.
- 17.3. CONTRACTOR shall permit LEA representatives, upon reasonable notice, to meet with staff of CONTRACTOR for the purpose of discussing attendance reporting.
- 17.4. The LEA, Tracy Unified School District shall be notified immediately when the CONTRACTOR becomes aware of an emergency change of placement (e.g. hospitalization, juvenile hall, etc.) and when the student returns to school.

- 17.5. CONTRACTOR shall notify parents in writing of parent's obligation to notify the CONTRACTOR of changes of pupil's/parent's residence.
- 17.6. Within one (1) business day after CONTRACTOR becomes aware of pupil's and/or parent's change of residence, the CONTRACTOR shall notify LEA, on forms provided by LEA, of said change of residence.
  - 17.6.1. Costs for services delivered after the actual date of a pupil's change of residence to another district will not be the responsibility of the LEA.
  - 17.6.2. If the pupil is a Chapter 26.5 eligible student enrolled in a residential NPS placement covered by this contract and the pupil's parent moves to another SELPA, the current SELPA will be fiscally responsible for NPS placement and service as outlined in the pupil's IEP until the end of the current fiscal year. Provisions of McKinney Vento (homeless) legislation will be followed.
- 17.7. CONTRACTOR shall immediately report by telephone and fax to LEA Tracy Unified School District if a pupil is disenrolled from the NPS by the parent.
  - 17.7.1. CONTRACTOR shall confirm such telephone call in writing.
- 17.8. No later than the 4th consecutive day of a pupil's absence, CONTRACTOR shall notify LEA, Attn: Nancy F. Hopple, Director of Special Education\_\_\_\_\_.
- 17.8.1. If CONTRACTOR fails to provide such notice after the 4th consecutive absence, the CONTRACTOR shall not be compensated for services delivered after the 4th day of absence.
- 17.9. For students whose parents live in the district and for students residing in Licensed Children's Institutions or Foster Family Homes, the LEA shall reimburse CONTRACTOR for five (5) excused absences per semester.
  - 17.9.1. Other than the allowable five (5) excused absences per semester, CONTRACTOR's payment will be based on the student's actual attendance at the site where the NPS/NPA service is to be provided per student's IEP. For this provision, ESY will be considered part of the previous semester.
  - 17.9.2. For each absence over the allowed five (5) excused absences per semester, the aforementioned reimbursement/payment will be reduced by the local daily revenue amount, \$32.60. All appropriate claims for the allowable excused absences must be verified and maintained by the service provider.
    - 17.9.2.1. The excused absence verification/documents shall be sent with the attendance register to the LEA with the signature of the person providing the service (i.e., teacher/occupational therapist/speech therapist).
- 17.10.1 CONTRACTOR shall notify the LEA in writing (email or fax) once transportation has been arranged and a new student is ready to begin attending. The LEA will contact the CONTRACTOR and transportation company, if applicable, to verify a start date and authorize payment.
- 17.10.2 CONTRACTOR shall notify the LEA in writing (email or fax) within 24 hours of anticipated start and drop dates, including change of student residence.
- 17.10.3 CONTRACTOR shall send monthly attendance from student database within one week of the reporting period to assist the LEA in the pursuit of the SARB process for truant students.

## 18. INSTRUCTIONAL MINUTES

- 18.1. The total number of instructional minutes per school day provided by CONTRACTOR shall be equivalent to the number of instructional minutes established for LEA schools and shall be specified in the ISA developed for each pupil.
  - 18.1.1. Unless otherwise specified on the student's IEP, the number of instructional minutes per day shall be the following, which includes recess, lunch and passing time.
    - 18.1.1.1. 150 instructional minutes for pre-kindergarten,

- 18.1.1.2. 200 instructional minutes for kindergarten,
- 18.1.1.3. 300 instructional minutes for elementary grades one through eight, and
- 18.1.1.4. 360 instructional minutes for secondary grades nine through 12.
- 18.1.2. Minimum day is equal to 240 instructional minutes, which includes breaks, recess, and lunch.
- 18.2. The total number of annualized minutes of instruction shall be equivalent to those provided to other students in the LEA.
- 18.3. Lunch and breaks may only be considered instructional time if the student requires goals and objectives for that time and are written in the IEP.

**19. INDIVIDUALIZED EDUCATION PLAN (IEP)**

- 19.1. The CONTRACTOR is responsible for providing the student's special education teacher and the personnel appropriate to represent the DIS services at required IEP/ITP meetings.
- 19.2. When requested, LEA shall provide CONTRACTOR within three (3) business days, a copy of each pupil's IEP and assessment information (e.g.: psycho-educational reports) in advance of the IEP meeting.
- 19.3. A NPS shall ensure the opportunity for private and confidential communication between a pupil of the NPS and any member/s of the IEP team, at the pupil's discretion. The NPS shall provide the LEA with documentation of the method that students are given with respect to the opportunity to speak confidentially to any member of the IEP team. Students shall be notified of this right in a manner consistent with their developmental capacity. The LEA shall be permitted to meet privately and confidentially with the student upon request. NPS shall provide an appropriate area for such meeting.
- 19.4. The LEA shall conduct an annual evaluation as part of the IEP process of whether the placement is the LRE to meet the student's needs. This evaluation shall include consideration of supplementary aids and services, goals and objectives and behavioral programming necessary for placement in the LRE and to enable students to transition to a less restrictive setting.
- 19.5. The CONTRACTOR is expected to have draft IEP present levels, goals and objectives, (BSP) Behavior Support Plans, and ( ITP) Individual Transition Plan, if appropriate, completed and entered into the appropriate electronic forms a minimum of 7 days prior to the IEP meeting so that the LEA can review the documents.
- 19.6. The CONTRACTOR must email or fax written notice to the LEA 30 days prior to an IEP meeting due date (75 days prior to a triennial) to ensure all parties awareness of an upcoming meeting. Failure to do so resulting in out-of-compliance IEPs, may, at the discretion of the LEA, result in withholding of payment at the daily rate until such time as the IEP meeting is held and is no longer out-of-compliance. Students that are enrolled within the above timeframes shall have the NPS notify the LEA within 5 days of the annual or triennial.

**20. INSTRUCTION/CURRICULUM**

- 20.1. CONTRACTOR shall provide pupils a program of educational instruction and services within the NPS/A, which is consistent with each pupil's IEP as specified in each pupil's ISA.
- 20.2. The general program of instruction provided to pupils under ISA shall be responsive to the LEA's required sequence of courses and related curriculum for pupils as well as the California Department of Education Guidelines related to best practices for specific disabilities (e.g., learning handicapped, emotionally disturbed, etc.).
- 20.2.1. Courses provided by the CONTRACTOR shall parallel the LEA's courses and will be designated by grade level.

- 20.3. CONTRACTOR shall provide pupils a written course of study (EC 33190, 51014) designed to meet or exceed standards for graduation. This shall be described in writing and a copy provided to LEA prior to the effective date of this contract.
- 20.3.1. It is expected that a student's schedule would reflect those classes that are required for graduation, if on a graduation track. The ESY program should be designed to offer core academics unless otherwise specified on the pupil's IEP.
- 20.3.2. For a student to be eligible for off-grounds work experience, the student must have achieved a measurable level of responsibility and independence, close to emancipation, or about to be eligible for mainstreaming. It is expected that there would be constant, appropriate, and/or mutually approved supervision of the student. At no time, should a student be unsupervised.
- 20.4. Designated instruction and services provided by a NPA will only be provided during the period of the pupil's regular or extended school year program, or both unless otherwise specified by the pupil's IEP.
- 20.5. CONTRACTOR shall have a plan to implement transition services as stated in the IEP.
- 20.6. CONTRACTOR agrees to use IEP forms/format of the LEA.
- 20.7. Any off-campus trips, whether walking or by transportation in a vehicle, require notification of parents (guardian) and signature giving permission for these trips. The date and time of the trip must be included in the permission form. These permission forms are to be kept on record at the school site.

## **21. NUTRITION**

- 21.1. The CONTRACTOR is required by the State Meal Mandate (EC 49550) to provide nutritious meals to needy children. Lunch shall be served as close as possible to the mid-day of the instructional program.

## **22. DISCIPLINE**

- 22.1. CONTRACTOR shall certify in writing to the superintendent that it has and abides by a written policy for pupil discipline that is consistent with State and Federal law.
- 22.2. CONTRACTOR shall abide by established LEA policies on prohibition of corporal punishment, pupil transfer, suspensions and expulsions, and positive behavioral interventions.
- 22.3. The site principal of the NPS shall comply with Education Code in fulfilling their responsibilities and duties with respect to the suspension of students.
- 22.4. CONTRACTOR shall have a written policy regarding suspension and expulsion procedures.
- 22.5. CONTRACTOR shall immediately notify and provide written documentation to LEA each time a pupil is removed from the instructional setting, by a school official, due to disciplinary issues, including the reason for said suspension. Written documentation shall include, but not be limited to, pupil's name, date, time, offense, rationale for disciplinary action taken, and amount of time suspended.

## **23. MONITORING**

- 23.1. CONTRACTOR shall allow periodic monitoring of each pupil's instructional program by LEA and shall be invited to participate in the review of the pupil's progress by the LEA.
- 23.2. Representatives of LEA shall have reasonable access to observe each pupil at work, observe the instructional setting, interview CONTRACTOR and review each pupil's progress, review service logs and related documentation, including the behavioral intervention plan, if any.
- 23.3. CONTRACTOR agrees that LEA representative may make unannounced monitoring visits. LEA representatives making site visits will initially report to CONTRACTOR's site administrative office.

- 23.3.1. The superintendent shall monitor the facilities, the educational environment and the quality of the educational program including the teaching staff, the credentials authorizing service, the standards based core curriculum being employed and the standard focused instructional materials used on a three year cycle, as follows: (1) CONTRACTOR shall complete a self-review in year one; (2) the Superintendent shall conduct an onsite review in year two; and (3) the Superintendent shall conduct a follow-up visit in year three.
- 23.3.2. CONTRACTOR shall participate in any District Review to be conducted as aligned with the CDE On-site Review or more often if necessary. This review will address programmatic aspects of the Nonpublic School/Agency, compliance with relevant state and federal regulations, and Master Contract compliance.
- 23.3.3. CONTRACTOR shall participate in Coordinated Program Monitoring ("CPM") and Self Review in accordance with requirements of CDE.
- 23.3.4. CONTRACTOR understands that LEA reserves the right to institute a program audit/review. The program audit/review may include, but is not limited to, a review of core compliance areas of health and safety; curriculum/instruction; related services; and contractual, legal, and procedural compliance.
- 23.4. CONTRACTOR will make site's logs available for inspection by the LEA for: fire drill (EC 32001), and earthquake/disaster drills (EC 35295-35297).
- 23.5. CONTRACTOR will make available for inspection by the LEA, a current listing of names and positions of employees who have access to confidential records. (34CFR 300.572(d)).
- 23.6. All student records shall be kept in a secure location preventing access by unauthorized individuals.
- 23.7. CONTRACTOR will maintain an access log delineating: date, time, purpose of access, agency, and identity of individual for any authorized person accessing student records who is not in the direct employ of the CONTRACTOR.
- 23.7.1. Subcontractors shall not be considered in the direct employ of the CONTRACTOR for the purposes of accessing student records.
- 23.8. CONTRACTOR also agrees to comply with the parental right to request records and the parental right to inspect a student's file as defined in the federal law under Family Educational Rights and Privacy Act of 1974 ("FERPA") and EC §49060 et. seq. and §56000 etc. seq.
- 23.9. CONTRACTOR assures LEA that prescribed and non prescribed medications, are distributed at school only when there is a written statement from the physician detailing the type, administration, method, amount, and time schedule of how the medication is to be taken. All medication shall be kept in a secure location preventing access by students and unauthorized individuals. CONTRACTOR shall also assure LEA that there is a written statement from the parent/guardian or authorized legal agent giving the school permission to dispense prescribed and non-prescribed medication to the student. CONTRACTOR shall keep a written log delineating date, time, amount, medication and name of employee dispensing medication to student.
- 23.10. The LEA will assure that the NPS is in compliance with EC 56366.9 and Sec 1501.1(b) of the Health & Safety Code indicating that children with various handicapping conditions may be placed in the same educational facility and this decision will be made on the basis of individual need under the jurisdiction of a legally constituted IEP team meeting. In addition, if CONTRACTOR is also a licensed childcare institution (LCI), such CONTRACTOR shall adhere to the legal requirement regarding educational placements for LCI pupils as stated in EC § 56366.9. An LCI at which an individual with exceptional needs (IWEN) resides shall not require as a condition of residential placement that it provide the appropriate educational program to that IWEN through a NPS/A owned, operated by or associated with an LCI. Those



services may only be provided if the SELPA determines that appropriate public alternative educational programs are not available.

- 23.10.1. The CONTRACTOR will inform other placing agencies of the requirements of 56366.9 and provide the LEA documentation of such.
- 23.11. Oversight and evaluation is accomplished through annual educational progress reports toward the attainment of the goals and objectives as specified in the IEP, written serious incident reports and unannounced site visits.

**24. PARENT ACCESS/RIGHTS**

- 24.1. CONTRACTOR shall provide for reasonable parental visits to all of the school facilities including, but not limited to, the instructional setting attended by pupils, school and recreational activity areas, and pupil's living quarters.
  - 24.1.1. CONTRACTOR shall ensure that parental visits are in agreement with court order, if any.
- 24.2. CONTRACTOR's operating programs with residential components shall cooperate with parents' reasonable requests for pupil visits in their home, including, but not limited to, holidays and weekends.
- 24.3. LEA and CONTRACTOR shall jointly ensure that parents are notified of their rights, including the right to inspect their child's records and the right to due process.

**25. VACATION/HOLIDAYS**

- 25.1. LEA observes legal holidays including, but not limited to, the following: Independence Day, Veteran's Day, Labor Day, Thanksgiving Day, Christmas Day, New Year's Day, Dr. Martin Luther King, Jr.'s Day, Lincoln's Day, Washington's Day, and Memorial Day, as specified in the LEA's official calendar. CONTRACTOR will not be compensated for service provided on these school holidays.

**26. GRADUATION/DIPLOMAS/TRANSCRIPTS/CERTIFICATE OF COMPLETION**

- 26.1. If a pupil is of secondary school age, the LEA will provide a specific list of the course requirements to be satisfied by the CONTRACTOR leading toward graduation or completion of diploma requirements, and other requirements (e.g. proficiency tests, High School Exit Exam, Certificate of Completion requirements, etc.).
- 26.2. For pupils in grades 9-12, CONTRACTOR shall prepare official transcripts specific to the credits earned at the NPS and submit them to the LEA and the Registrar of the pupil's school of residence for evaluation of progress toward completion of diploma requirements, and specified levels of proficiency in basic skills if applicable, within two (2) weeks of the end of the quarter, ESY, or transfer according to the NPS's calendar.
  - 26.2.1. Out-of-district transcripts will also be sent with the local CONTRACTOR's official transcripts when submitting to the Registrar of the school of residence, who will complete an integrated transcript. A copy of the transcripts will be sent to the SELPA Director or designee.
- 26.3. Prior to January 10<sup>th</sup> of each year, an anticipated graduation list will be sent to the Registrar of the school of residence. The LEA shall ensure that the school of residence provides diplomas/certificate of completion in accordance with IEP for any student who attended an NPS within the LEA and for whom the LEA has developed an ISA.

**27. ASSESSMENTS/GRADING POLICIES/TRANSITION**

- 27.1. For pupils in grades preK-12, CONTRACTOR shall administer state and district-required tests (e.g., STAR, CAHSEE, proficiency tests, multiple measures, writing samples, etc.). The NPS/A shall determine its STAR testing period based on completion of 85% of the instructional year at

that NPS/A plus and minus ten (10) days, resulting in a 21 day period. The NPS/A shall notify the district of residence of its testing period with their instructional calendar. Staff from the NPS/A shall participate in STAR training from one LEA and that training shall be sufficient for all LEAs that send pupils to the NPS/A.

- 27.2. LEA shall provide at least thirty (30) days advance notice to the CONTRACTOR of the dates by which testing other than STAR shall be completed.
- 27.3. LEA shall coordinate with the CONTRACTOR to ensure that pupils participate in mandatory statewide assessments to the maximum extent possible, with appropriate supports, services, and accommodations per the IEP.
- 27.3.1. The district of residence shall provide the NPS with testing materials for its pupils. The LEA shall be responsible for providing necessary training and testing materials for all tests.
- 27.4. CONTRACTOR shall establish grading policies to be followed unless otherwise specified in the student's IEP.
- 27.5. CONTRACTOR shall ensure that individualized transition plans are implemented for all pupils age 16 and older.

## **28. PROGRESS REPORTING & ACCOUNTABILITY**

- 28.1. CONTRACTOR shall send progress reports to the LEA and parent/guardian/surrogate within two (2) weeks of the end of each quarter of the NPS's calendar and within fourteen (14) calendar days after the end of Extended School Year.
- 28.2. Upon request, an updated report shall be provided if there is no current progress report whenever a pupil is scheduled for an IEP review by LEA's IEP team. When a pupil's enrollment is terminated, an updated exit form including withdrawal grades, enrolled courses and credits earned will be sent to the LEA.
- 28.2.1. CONTRACTOR shall complete academic or other assessment of the LEA student prior to the LEA student's annual or triennial review IEP team meeting for the purpose of reporting the LEA student's present levels of performance at the IEP team meeting as required by state and federal laws and regulations and pursuant to LEA policies, procedures, and/or practices. Supporting documentation such as test protocols and data collection shall be made available to LEA upon request. CONTRACTOR shall not charge the LEA student's parent(s) or LEA for the provision of progress reports, report cards, and/or any assessments, interviews, or meetings.
- 28.3. The NPS is subject to the alternative accountability system developed pursuant to section EC 52052, in the same manner as public school and each pupil placed in NPS by an LEA shall be tested by qualified staff of the NPS in accordance with that accountability program. The test results shall be reported by the NPS to the CDE and the LEA.
- 28.4. The NPS shall prepare a school accountability report (SARC) and provide a copy to the contracting LEA.
- 28.5. The superintendent shall conduct an investigation which may include an onsite visit of any NPS if there is evidence of a significant deficiency in the quality of educational services.
- 28.6. Upon receipt of notice of any alleged violation of EC 56366.9 or Section 1501(b) of the Health and Safety Code, the LEA's Uniform Complaint procedures shall be followed.

## **29. ACCIDENT/INCIDENT REPORTING**

- 29.1. CONTRACTOR agrees to contact the LEA within one (1) business day, (phone) 209-830-3270, and complete a written accident/incident report within five (5) days, and fax it to the LEA, 209-830-3274 Attn: Nancy F. Hopple anytime restraint has been used.
- 29.2. CONTRACTOR agrees to contact within one (1) business day and fax an incident report to the LEA within 5 working days when Contractor becomes aware of circumstances that require

notification be made to other agencies. These circumstances may include, but are not limited to, incidents involving severe property destruction, law enforcement, allegations of molestation, child abuse, and incidents of students leaving campus without permission. In addition, immediately after a student is determined to have been absent without permission during the school day from CONTRACTOR'S NPS, CONTRACTOR shall notify the LEA, in writing of such absence.

- 29.3. CONTRACTOR assures LEA that all staff members, including volunteers, are familiar with child and dependent adult abuse reporting obligations and procedures as specified in the California Penal Code.
- 29.4. CONTRACTOR agrees to provide annual training to all employees regarding the mandated child abuse reporting laws set herein. CONTRACTOR agrees that all staff members will abide by such laws in a timely manner. Documentation of training shall be maintained in the employee's personnel file.
- 29.5. CONTRACTOR assures LEA that all staff members, including volunteers, are familiar with and agree to adhere to requirements for reporting children who have departed campus without authorization as specified in California Education Code section 49370.

### **30. HEALTH AND SAFETY**

- 30.1. CONTRACTOR shall require that all regular and substitute employees and volunteers provide verification of having been tested for tuberculosis and cleared to work with minors as evidenced by a state licensed medical doctor's signature. CONTRACTOR shall keep a copy of said information in the employee or volunteer file.
- 30.2. CONTRACTOR agrees all employees, volunteers, and any other individual who may come into contact with a student on school grounds will be notified of and will follow universal health care precautions when providing medical treatment or assistance to a student. CONTRACTOR further agrees to provide annual training to all employees and volunteers regarding universal health care precautions and to post required notices in areas designated in the California Health and Safety Code.
- 30.3. The superintendent shall conduct an onsite investigation of a NPS/A at anytime without prior notice if there is substantial reason to believe that there is immediate danger to the health, safety or welfare of a child.

### **31. ADMINISTRATION OF MEDICATION**

- 31.1. CONTRACTOR shall comply with the requirements of California Education Code section 49423 when CONTRACTOR serves a LEA student that is required to take prescription and/or over-the-counter medication during the school day. CONTRACTOR may designate personnel to assist the LEA student with the administration of such medication after the LEA student's parent(s) provides to CONTRACTOR: (a) a written statement from a physician detailing the type, administration method, amount, and time schedules by which such medication shall be taken; and (b) a written statement from the LEA student's parent(s) granting CONTRACTOR permission to assist in the administration of medication(s) as specified in the physician's statement. CONTRACTOR shall maintain, and provide to LEA upon request, copies of such written statements. CONTRACTOR shall maintain a written log for each LEA student to whom medication is administered. Such written log shall specify the LEA student's name; the type of medication; the date, time, and amount of each administration; and the name of CONTRACTOR's employee who assisted in the administration of the medication. CONTRACTOR maintains full responsibility for assuring appropriate staff training in the administration of such medication consistent with physician's written orders. Any change in

medication type, administration method, amount or schedule must be authorized by both a licensed physician and parent.

**32. EMERGENCY PRECAUTIONS**

- 32.1 CONTRACTOR shall keep on file a detailed disaster plan containing complete written emergency procedures and operations in the event of a catastrophic occurrence such as, but not limited to an earthquake, attack of school personnel and/or student by an individual, fire disaster, lockdown, intruder, bomb threat, medical emergencies and/or power outage. CONTRACTOR agrees to maintain and keep available for inspection by LEA or District representative a log containing the date, time, and length of all practice disaster drills completed between August 1<sup>st</sup> and July 31<sup>st</sup> during the current school year, as well as all practice drills completed during the previous three (3) years.
- 32.2 CONTRACTOR shall report within three (3) business days to LEA any violations or items found out of compliance by the fire marshal during the inspection of the premises and accompanying buildings. CONTRACTOR shall have in place an operational fire warning system that complies with all required state and federal laws. CONTRACTOR shall also have occupancy capacity signs clearly posted in all rooms if required in the California Health and Safety Code and/or by the Fire Marshal.

**33. SEXUAL HARRASSMENT**

CONTRACTOR shall have procedures in place to immediately (within 24 hours) report any allegations of conduct that may constitute or give the appearance of sexual harassment as per federal and state law. This reporting must include appropriate governmental, social service, and law enforcement agencies as well as the LEA. CONTRACTOR shall ensure that an immediate and comprehensive investigation is commenced and shall allow the LEA to participate in said investigations when it involves a student. CONTRACTOR further agrees to provide annual training to all employees and students regarding regulations concerning sexual harassment and related procedures.

**34. APPROPRIATE THERAPY SPACE**

- 34.1 CONTRACTOR will make available appropriate therapy space for related services providers. This space shall be free from distraction and safe for students in order to provide effective services.

**35. ADMINISTRATIVE DUTIES AND SUPERVISION OF STAFF**

- 35.1 CONTRACTOR shall ensure that all staff who are not fully credentialed are directly supervised by a person who possesses a full and appropriate credential. Supervision shall include, but not be limited to, direct access by staff to his/her supervisor on a daily basis for technical support, guidance and emergency interventions in order to provide FAPE to students.

**36. POSITIVE BEHAVIOR INTERVENTIONS**

- 36.1. CONTRACTOR shall comply with the requirements of Title 5 of the California Code of Regulations sections 3001(c)-(f) and 3052(l)(1-8) regarding positive behavior interventions including, but not limited to the assistance of: the completion of functional analysis assessments; the development, implementation, monitoring, supervision, modification, and evaluation of behavior intervention plans; and emergency interventions.
- 36.2. CONTRACTOR shall designate an individual employed, contracted, and/or otherwise hired by CONTRACTOR as a "behavior intervention case manager" as that term is defined in Title 5 of the California Code of Regulations section 3001(e). CONTRACTOR shall maintain a written

policy in compliance with Title 5 of the California Code of Regulations section 3052(i) and (k) regarding emergency interventions and Behavioral Emergency Reports. Records of such training shall be made available to LEA upon request. CONTRACTOR shall ensure that all of its staff members are trained annually in crisis intervention and emergency procedures as related to appropriate behavior management strategies.

- 36.3. CONTRACTOR shall not authorize, order, consent to, or pay for any of the following prohibited interventions, or any other intervention similar to or like the following: (a) any intervention that is designed to, or likely to, cause physical pain; (b) releasing noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the LEA student's face; (c) any intervention which denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities; (d) any intervention which is designed to subject, used to subject, or likely to subject the LEA student to verbal abuse, ridicule, or humiliation, or which can be expected to cause excessive emotional trauma; (e) restrictive interventions which employ a device, material, or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment or similar techniques may be used as a short term emergency intervention by CONTRACTOR's trained and qualified personnel as allowable by applicable law and regulations; (f) locked seclusion except as allowable by applicable law and regulations; (g) any intervention that precludes adequate supervision of individual; and (h) any intervention which deprives the LEA student of one or more of his or her senses, pursuant to California Code of Regulations 3052(l) (1-8).
- 36.4. To prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions, the parent and residential care provider, if appropriate, shall be notified within one school day whenever an emergency intervention is used or serious property damage occurs. A "Behavioral Emergency Report" shall immediately be completed and maintained in the individual's file. The report shall include all of the following: (1) The name and age of the individual; (2) The setting and location of the incident; (3) The name of the staff or other persons involved; (4) A description of the incident and the emergency intervention used, and whether the individual is currently engaged in any systematic behavioral intervention plan; and (5) Details of any injuries sustained by the individual or others, including staff, as a result of the incident.
- 36.4.1. All "Behavioral Emergency Reports" shall immediately be forwarded to, and reviewed by, a designated responsible administrator within the respective LEA.
- 36.4.2. Anytime a "Behavioral Emergency Report" is written regarding an individual who does not have a behavioral intervention plan, the designated responsible administrator shall, within two days, schedule an IEP team meeting to review the emergency report, to determine the necessity for a functional analysis assessment, and to determine the necessity for an interim behavioral intervention plan. The IEP team shall document the reasons for not conducting the assessment and/or not developing an interim plan. Anytime a "Behavioral Emergency Report" is written regarding an individual who has a behavioral intervention plan, any incident involving a previously unseen serious behavior problem or where a previously designed intervention is not effective should be referred to the IEP team to review and determine if the incident constitutes a need to modify the plan.

### **37. STUDENT RETURN TO DISTRICT**

- 37.1. When an IEP team has determined that a student should be transitioned into the public school setting, CONTRACTOR shall assist in the implementation of the IEP team recommendation. The CONTRACTOR shall immediately notify the LEA, if the transition to the public schools identified by the IEP team is not carried out. This may include, but not be limited to the

facilitation of: dual enrollment, course scheduling, transportation arrangements and other student supports.

**38. SCHOOL CLOSURE**

- 38.1. CONTRACTOR agrees, in the event of school or agency closure, to forward pupil records to LEA. These shall include, but need not be limited to, current transcript, IEPs and results of district-required testing.

**39. OTHER PROVISIONS**

- 39.1. Any structural modifications that are required in compliance with prevailing legal mandates shall not be the responsibility of the LEA.
- 39.2. CONTRACTOR assures LEA that it does not discriminate on the basis of race, religion, sex, national origin, age, sexual orientation or disability in employment or operation of its programs.

**40. INDIVIDUAL SERVICE AGREEMENTS**

- 40.1. This contract shall include an ISA developed for each LEA student who is to receive special education and/or related services provided by CONTRACTOR. Related services will be provided as indicated on the IEP and ISA. Changes in any LEA student's educational program, including instruction, services, or instructional setting provided under this contract, may only be made on the basis of revisions to the student's IEP, mediated agreement, an order from OAH and/or an order rendered by a court of competent jurisdiction. ISAs are terminated on the same date as termination of the Master Contract.
- 40.2. CONTRACTOR shall not unilaterally terminate any ISA for a student suspension. CONTRACTOR shall obtain written authorization from LEA before terminating any ISA for reasons other than suspension.
- 40.3. CONTRACTOR shall sign and return ISA to the LEA within three (3) business days of receipt.
- 40.4. In the event the CONTRACTOR is unable to provide a specific service at any time during the life of the ISA, the CONTRACTOR shall notify the LEA in writing within five (5) business days of the last date a service was provided.

**41. PAYMENT PROVISION**

- 41.1. A unit of service for payment purposes is one day of attendance as defined in the EC 46307.
- 41.2. LEA shall not be responsible for payment of services for days on which a pupil's attendance or absence does not qualify for reimbursement under California law. (EC 46010 et seq.) Per diem rates for pupils whose IEP's authorize less than a full instructional day shall be adjusted on a pro rata basis in accordance with the actual proportion of the school day served for elementary school age students and periods for middle and high school age students.
- 41.3. Original attendance forms submitted to the LEA with invoices for payment must be completed and signed by the person providing the service, (i.e., teacher/occupational therapist/speech therapist). CONTRACTOR shall verify the accuracy of reported attendance, which is the basis of services being billed for payment, and shall inform service providers of their responsibility for the services being reported as rendered.
- 41.4. CONTRACTOR shall submit monthly written invoices for payment. Such invoices shall be submitted on a form, and in the manner prescribed by the California Department of Education.
- 41.5. CONTRACTOR shall submit said invoices for payment for services rendered no later than thirty (30) days from the end of the attendance accounting period in which said services are actually rendered.

- 41.6. LEA shall make payment in an amount equal to the number of creditable days of attendance multiplied by the agreed upon unit amount within forty-five (45) days of receipt of invoice or the LEA shall notify the NPS within ten (10) working days of any reason why the requested payment shall not be paid.
- 41.6.1. CONTRACTOR should notify SELPA Director if there are problems with timely payment.
- 41.7. CONTRACTOR shall submit a rebilling statement no later than ten (10) days after an invoice is returned to the CONTRACTOR for correction(s).
- 41.8. If the LEA fails to comply, the NPS may require the LEA to pay an additional amount of 1 ½ percent of the unpaid balance per month until the full payment is made
- 41.9. In no case should payment claim submission or rebillings for any Master Contract fiscal year (July through June) extend beyond six months after the close of the fiscal year. Invoices received for a closed fiscal year beyond the six-month period will be returned unpaid and should be removed from the Nonpublic School or Agency's accounts receivable.

**42. RIGHT TO WITHHOLD**

- 42.1. LEA has the right to withhold payment to CONTRACTOR when LEA has reliable evidence, described in writing to CONTRACTOR that:
  - 42.1.1. CONTRACTOR was overpaid by LEA as determined by inspection, review, and/or audit of its program, work, records;
  - 42.1.2. Contractor has failed to provide to LEA all documents prior to school closure;
  - 42.1.3. CONTRACTOR has failed to provide to LEA properly prepared invoices within thirty (30) calendar days from the end of the attendance accounting period;
  - 42.1.4. CONTRACTOR has failed to provide to LEA proper rebilling invoices within thirty (30) calendar days from the date that the original invoice was returned to CONTRACTOR;
  - 42.1.5. CONTRACTOR has not performed a service identified on the invoice;
  - 42.1.6. CONTRACTOR's performance, in whole or in part, either has not been carried out or is insufficiently documented;
  - 42.1.7. CONTRACTOR has failed to provide to LEA all documents concerning one or more LEA pupils enrolled in CONTRACTOR's educational program within seven (7) days after school closure;
  - 42.1.8. CONTRACTOR has neglected, failed or refused to furnish information or to cooperate with the inspection, review or audit of its program, work or records; and/or
  - 42.1.9. CONTRACTOR's service is provided by personnel who are not appropriately credentialed/licensed or whose credential(s)/license(s) are not on file with LEA, Tracy Unified School District;
- 42.2. If LEA determines that cause exists to withhold payment to CONTRACTOR, LEA shall provide written notice to CONTRACTOR that LEA is withholding payment.
  - 42.2.1. Such notice shall specify the basis for LEA's withholding payment.
  - 42.2.2. Within ten (10) business days from the date of receipt of such notice, CONTRACTOR shall take all necessary and appropriate action to correct the deficiencies that form the basis for LEA's withholding payment.
  - 42.2.3. Upon receipt of CONTRACTOR's written request showing good cause, LEA shall extend CONTRACTOR's time to respond by an additional ten (10) business days.

**43. AUDIT EXCEPTIONS**

- 43.1. CONTRACTOR agrees to accept responsibility for receiving, replying to, and/or complying with any audit exceptions by appropriate LEA personnel or State or Federal audit agencies occurring as a result of the CONTRACTOR's performance of this contract.

- 43.2. CONTRACTOR also agrees to pay to LEA within forty-five (45) days of demand by LEA the full amount resulting from any audit exceptions to the extent they are attributable to CONTRACTOR's failure to perform properly any of its obligations under this contract unless LEA agrees to different terms in writing.
- 43.3. Any and all audit exceptions must be specified in complete detail before any demand by LEA for any amount set forth therein.
- 43.4. Within three (3) business days, CONTRACTOR shall notify the LEA in writing when CONTRACTOR is unable to provide services to meet the requirements of this contract.

#### **44. MAINTENANCE OF RECORDS**

- 44.1. The following records shall be maintained by CONTRACTOR:
  - 44.1.1. All student records (inclusive of electronically stored records), including by way of illustration and not limitation, assessment information, evaluations (including test protocols), progress reports, incident reports, discipline reports, comment sheets, meeting summaries regarding students, registers, grade books, and roll books of teachers; daily service logs or other documents used to record the provision of related services; absence verification records (parent/doctor notes, telephone logs, and related documents); staff lists specifying credential held, business licenses held, documents evidencing other qualification, social security numbers, dates of hire, and dates of termination; staff time sheets; non-paid staff and volunteer sign-in sheets; transportation and other related services subcontracts; school calendars; bell/class schedules; liability and workers compensation insurance policies; state NPS/A certifications; bylaws; lists of current board of directors/trustees, if incorporated; statements of income and expenses; general journals; cash receipts and disbursement books; general ledgers and supporting documents; federal/state payroll quarterly reports; and bank statements and cancelled checks.
  - 44.1.2. Such forms and records shall be available for review, inspection, or audit by LEA for a period of three (3) years thereafter.

#### **45. TERM OF CONTRACT**

- 45.1. During the term of this Agreement, CONTRACTOR shall comply with all applicable federal, state, CDE, LEA, and other local statutes, laws, ordinances, rules, policies, and regulations including, but not limited to, those relating to: the required special education services, facilities for IWENs, student enrollment and transfer, corporal punishment, student discipline, and positive behavior interventions. The CONTRACTOR shall also fully cooperate with any due process proceedings or complaint investigations.
- 45.2. This contract and any exhibits or attachments hereto constitute the entire agreement between LEA and CONTRACTOR and supersedes any prior or contemporaneous understanding or agreement with respect to the services to be provided.
- 45.3. The laws of the State of California shall govern the terms and conditions of this contract with venue in San Joaquin County, California.
- 45.4. Should any provision in this contract be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall continue in full force and effect.
- 45.5. The parties hereto have executed this Contract by and through their duly authorized agents or representatives.
- 45.6. This contract is effective on July 1, 2009 and terminates when a newly revised contract is executed unless sooner terminated as provided herein.



## **RATE SCHEDULE**

Education service(s) offered by CONTRACTOR, and subcontractor, if applicable and the charges for such service(s) during the term of this contract, shall be as follows:

<b><u>➤ BASIC EDUCATION PROGRAM</u></b>	<b><u>RATE</u></b>	<b><u>PERIOD</u></b>
<b><u>➤ As set forth in the IEP for each student</u></b>	<b><u>149.79</u></b>	<b><u>180 days</u></b>

## **RELATED SERVICES**

	<b><u>RATE</u></b>	<b><u>PERIOD</u></b>
<b>1) Transportation</b> (* shall not include transportation through use of services or equipment owned, leased or contracted through LEA unless provided directly or subcontracted by the NPS/A)		
a) Transportation – Round Trip	<u>37.97</u>	<u>209 days</u>
b) Transportation – One Way	<u>          </u>	<u>          </u>
c) Transportation – 1 on 1 Rider (per IEP)	<u>          </u>	<u>          </u>
d) Transportation – Safety Rider (LEA will be billed for the bus safety riders based on the proportion of students on the bus.)	<u>          </u>	<u>          </u>
<b>2) Counseling</b>		
a) Educational Counseling – Individual	<u>          </u>	<u>          </u>
b) Educational Counseling – Group	<u>          </u>	<u>          </u>
c) Counseling – Parent	<u>          </u>	<u>          </u>
<b>3) Adapted Physical Education</b>	<u>          </u>	<u>          </u>
<b>4) Language/Speech</b>		
a) Language/Speech Therapy-Individual	<u>          </u>	<u>          </u>
b) Language/Speech Therapy-Group	<u>          </u>	<u>          </u>
c) Consultation	<u>          </u>	<u>          </u>
<b>5) Orientation/Mobility Training</b>	<u>          </u>	<u>          </u>
<b>6) Occupational Therapy</b>	<u>          </u>	<u>          </u>
<b>7) Physical Therapy</b>	<u>          </u>	<u>          </u>
<b>8) Aides</b>	<u>          </u>	<u>          </u>
<b>9) Travel Time</b>	<u>          </u>	<u>          </u>
<b>10) Other</b> <u>Extended School Year</u>	<u>149.79</u>	<u>29 days</u>

**\*\* Partial Day Rate** shall be adjusted on a pro rata basis in accordance with the actual proportion of the school day -- minutes for students (# of minutes /total number of minutes X daily rate = partial day rate ). This formula will be used to calculate rate for the ISA for less than a full day, e.g., extended school year, mainstreaming, reduced attendance.

## **NOTES:**

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**CONTRACTOR****LEA**

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Nonpublic School/Agency

---

Name of District or Local Educational Agency

---

Contracting Officer's                      Date  
Signature

---

Deputy Superintendent's Signature                      Date  
Educational Services

---

Name and Title (type)                      Date

---

Assistant Superintendent's Signature                      Date  
Business Services (Authorized Representative and Contracts Supervisor)

Tax I.D. #

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# EDUCATIONAL SERVICES MEMORANDUM

**TO:** Dr. James Franco, Superintendent  
**FROM:** Dr. Sheila Harrison, Assistant Superintendent of Educational Services  
**DATE:** June 9, 2009  
**SUBJECT:** Approve Contract with Carol Lehman, SLP

**BACKGROUND:** Special education students may require specialized instruction and support from outside service providers. The District had a current contract with Carol Lehman to provide augmentative communication support to three children with autism during the last year. Carol is currently providing augmented communication services to these children with autism via their IEP's, with the possibility of more students requiring her specialized skills. Mrs. Lehman also provides assessments in the area of augmentative communication needs. Approval is necessary so that services specified on IEPs can be provided in a compliant manner.

**RATIONALE:** These particular children continue to require specialized services in the area of augmented communication and the District does not have any personnel with the appropriate skills or knowledge to provide student and staff training in the area of augmentative communication. Nonpublic agency contracted services are part of the continuum of services districts must provide to students with exceptional needs. This request supports the following District Goals: Goal 1: Provide a variety of learning opportunities through standards based curriculum and assessment and research based instruction that ensures that all students meet or exceed grade level standards and results in closing the achievement gap. Goal 2: Provide a safe environment for students and staff that is conducive to learning. Goal 6: Provide training and staff development opportunities that are designed to improve knowledge and skills of all employees. Goal 7: Develop and utilize partnerships that contribute to the achievement of District Goals.

**FUNDING:** Expenses for this contract are billed at \$ 100.00 per hour for direct service, \$75.00 per hour for programming the augmented communication devices and IEP meeting attendance, and \$600.00 for initial assessments. Total contract expenses will not exceed \$43,000.00 from July 1, 2009 through June 30, 2010. Nonpublic agency expenses are budgeted in account #01-6500-0-5750-1180-5800-800-2542.

**RECOMMENDATION:** Approve Contract with Carol Lehman, SLP.

**Prepared by:** Nancy E. Hopple, Director of Special Education

# TRACY UNIFIED SCHOOL DISTRICT

1875 W. Lowell Ave., Tracy, California 95376

## AGREEMENT FOR SPECIAL CONTRACT SERVICES

This agreement, by and between Tracy Unified School District, hereinafter referred to as "District," and **Carol A. Lehman, M.S., CCC-SLP**, hereinafter referred to as "Contractor," is for consultant or special services to be performed by a non-employee of the District. District and Contractor, herein named, do mutually agree to the following terms and conditions:

1. Contractor shall perform the following duties: **Augmented communication specialist consultation to IEP team; augmented communication assessments. Services include direct contact with pupil for training and use of speech-generating device; training and consultation on the use of the device to team members including parent(s), teacher, aides, occupational therapist, district SLP and behaviorist. Services also include attendance at IEP meetings and report writing.**
2. Contractor will provide the above services(s), as outlined in Paragraph 1, for a period of up to a total of **457 HOURS per year** under the terms of this agreement at the following location: any and all school sites in TUSD or the contractor's home office.
3. In consideration of the services performed by Contractor, District shall pay Contractor according to the following fee schedule:
  - a. District shall pay **\$100 per HOUR for direct contact and training; \$75 per HOUR for IEP and staff meeting attendance, programming of augmentative devices; and \$600.00 for initial assessments not to exceed a total of \$43,000.00 for this contract.** Contractor shall only be paid for work completed to the satisfaction of District through the termination date of this agreement.
  - b. District ☐ SHALL; ☒ SHALL NOT reimburse Contractor for out-of-pocket expenses incurred during Contractor's performance of the services, including: mileage, meals and lodging in the district rates not to exceed those currently in effect for employees of the District. Reimbursement of expenses shall not exceed those currently in effect for employees of the District. Reimbursement of expenses shall not exceed \$\_\_\_\_\_ for the term of this agreement.
  - c. District shall make payment on a ☒ MONTHLY PROGRESS BASIS, ☐ SINGLE PAYMENT UPON COMPLETION OF THE DUTIES and within thirty (30) working days from Contractor's presentation of a detailed invoices or on a claim form provided by District. Original paid receipts are required for lodging, air fare (passenger coupon or ticket stub), automobile rental, and parking. Claims for unusual expenses, such as teaching materials, photocopying, etc., must be accompanied by original paid invoices.
4. The terms of the agreement shall commence on July 1, 2009, and shall terminate on June 30, 2010.
5. This agreement may be terminated at any time during the term by either party upon thirty (30) days written notice.
6. Contractor shall contact the District's designee, Nancy E. Hopple (209) 830-3270 with any questions regarding performance of the services outlined above. District's designee shall determine if and when Contractor has completed the services described.
7. The parties intend that an independent contractor relationship be created by this contract and District assumes no responsibility for workers' compensation liability. District likewise assumes no responsibility for liability for loss, damage, or injury to person(s) or property resulting from,

or caused by, the contractor's activities during or relating to the performance of service under this Agreement.

Contractor agrees to hold harmless and to indemnify District for:

Any injury to person or property sustained by Contractor or by any person, firm, or corporation employed directly or indirectly by the Contractor or by any of the individuals participating in or associated with him or her, however caused; and any injury to person or property sustained by any person, firm or corporation, caused by act, neglect, default or omission, of Contractor, or any person, firm or corporation directly or indirectly employed by Contractor upon or in connection with this Agreement, or any of the participants arising out of or in the course of their term of this Agreement, and Contractor at his or her own cost, expense, and risk, shall defend any and all actions, suits or other legal proceedings that may be instituted against District for any such claim or demand, and pay or satisfy any judgment that may be rendered against District in any such action, suit or legal proceedings or the result thereof. Nothing herein provided shall be construed to require Contractor to hold harmless or indemnify District for liability or damages resulting from the negligence or willful act, or omission of District or its officers, agents, or employees.

8. This Agreement is for the personal services of the Contractor and Contractor may not assign the performance of the services to any person or persons who are not parties to this Agreement except for employees of Contractor.
9. Contractor certifies that his or her current employer, if any, is fully cognizant of this Agreement and that payments hereunder are not in conflict with any federal, state, or local statutes, rules or regulations or with any policies of Contractor's current employer.
10. District shall become the owner or, and entitled to, exclusive possession of all records, documents, graphs, photographic or other reproductions of any kind produced in the scope of services performed and no other uses thereof will be permitted except by permission of the District. Proprietary materials will be exempted from this clause.

#### AGREED:

\_\_\_\_\_  
Consultant Signature (1)

\_\_\_\_\_  
Social Security Number (2)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
Tracy Unified School District

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
**01-6500-0-5750-1180-5800-800-2542**  
Account Number to be Charged

\_\_\_\_\_  
Department/Site Approval

\_\_\_\_\_  
Budget Approval

\_\_\_\_\_  
Date Approved by the Board

**Send all copies to the Business Office:**

- (1) Whenever organizational names are used, the authorized signature must include title, such as president.
- (2) Whenever organizational names are used, the employer IRS Identification Number must be used instead of a Social Security Number.



**TRACY**  
UNIFIED SCHOOL DISTRICT

# EDUCATIONAL SERVICES MEMORANDUM

---

**TO:** Dr. James Franco, Superintendent  
**FROM:** ~~Dr.~~ Sheila Harrison, Assistant Superintendent of Educational Services  
**DATE:** June 5, 2009  
**SUBJECT:** Approve Agreement for Special Contract Services with Point Break Adolescent Resources for Counseling Services.

**BACKGROUND:** The Prevention Services Office coordinates the District's Federal Safe and Drug Free Schools Programs which includes mandatory counseling for substance abuse, anger management and gang intervention. Over 200 students are mandated to counseling each school year. Under No Child Left Behind, schools are required to offer research-based intervention services. Point Break Adolescent Resources offers courses that are accepted by the California Department of Education.

**RATIONALE:** Intervention services are mandated for students placed on school probation for substance abuse. Students suspended or expelled for fighting and/or violence are frequently referred to anger management or gang intervention classes. Point Break Adolescent Resources offers substance abuse prevention and intervention services, anger management and gang awareness intervention programs. This supports Strategic Goal #2, providing a safe environment for students and staff that is conducive to learning.

**FUNDING:** Fees for services are \$1200 per month. The total expected cost for 2009/2010 school year is \$10,800. The fees will be paid through SAFE Schools Grant.

**RECOMMENDATION:** Approve Agreement for Special Contract Services with Point Break Adolescent Resources for Counseling Services.

**Prepared by:** Joan E. Stone, Coordinator Prevention Services Office

# TRACY UNIFIED SCHOOL DISTRICT

1875 W. Lowell Ave., Tracy, California 95376

## AGREEMENT FOR SPECIAL CONTRACT SERVICES

This agreement, by and between Tracy Unified School District, hereinafter referred to as "District," and Point Break Adolescent Services, hereinafter referred to as "Contractor," is for consultant or special services to be performed by a non-employee of the District. District and Contractor, herein named, do mutually agree to the following terms and conditions:

1. Contractor shall perform the following duties: Psychoeducational group counseling for high school and middle school students referred through the District Disciplinary Review Board or Site Administration for mandatory substance abuse counseling, anger management, gang intervention and other special needs.
2. Contractor will provide the above services(s), as outlined in Paragraph 1, for a period of up to a total of 40 weeks ( 3 days/week ) **HOURS/DAY(s)** (circle one), under the terms of this agreement at the following location 1975 West Lowell Ave.
3. In consideration of the services performed by Contractor, District shall pay Contractor according to the following fee schedule:
  - a. District shall pay \$1200.00 per month per **HOUR/DAY/FLAT RATE** (circle one), not to exceed a total of \$10,800.00. Contractor shall only be paid for work completed to the satisfaction of District through the termination date of this agreement.
  - b. District [ ☐ ] **SHALL**; [ ☒ ] **SHALL NOT** reimburse Contractor for out-of-pocket expenses incurred during Contractor's performance of the services, including: mileage, meals and lodging in the district rates not to exceed those currently in effect for employees of the District. Reimbursement of expenses shall not exceed those currently in effect for employees of the District. Reimbursement of expenses shall not exceed \$\_\_\_\_\_ for the term of this agreement.
  - c. District shall make payment on a [ ☒ ] **MONTHLY PROGRESS BASIS**, [ ☐ ] **SINGLE PAYMENT UPON COMPLETION OF THE DUTIES** and within thirty (30) working days from Contractor's presentation of a detailed invoice or on a claim form provided by District. Original paid receipts are required for lodging, air fare (passenger coupon or ticket stub), automobile rental, and parking. Claims for unusual expenses, such as teaching materials, photocopying, etc., must be accompanied by original paid invoices.
4. The terms of the agreement shall commence on September 1, 2009, and shall terminate on June 1, 2010.
5. This agreement may be terminated at any time during the term by either party upon thirty days written notice.
6. Contractor shall contact the District's designee, Joan E. Stone, Coordinator at (209) 830-3218 with any questions regarding performance of the services outlined above. District's designee shall determine if and when Contractor has completed the services described.
7. The parties intend that an independent contractor relationship be created by this contract and District assumes no responsibility for workers' compensation liability. District likewise assumes no



responsibility for liability for loss, damage, or injury to person(s) or property resulting from, or caused by, the contractor's activities during or relating to the performance of service under this Agreement.

Agreement for Special Contract Services - Page 2

Contractor agrees to hold harmless and to indemnify District for:

Any injury to person or property sustained by Contractor or by any person, firm, or corporation employed directly or indirectly by the Contractor or by any of the individuals participating in or associated with him or her, however caused; and any injury to person or property sustained by any person, firm or corporation, caused by act, neglect, default or omission, of Contractor, or any person, firm or corporation directly or indirectly employed by Contractor upon or in connection with this Agreement, or any of the participants arising out of or in the course of their term of this Agreement, and Contractor at his or her own cost, expense, and risk, shall defend any and all actions, suits or other legal proceedings that may be instituted against District for any such claim or demand, and pay or satisfy any judgment that may be rendered against District in any such action, suit or legal proceedings or the result thereof. Nothing herein provided shall be construed to require Contractor to hold harmless or indemnify District for liability or damages resulting from the negligence or willful act, or omission of District or its officers, agents, or employees.

8. This Agreement is for the personal services of the Contractor and Contractor may not assign the performance of the services to any person or persons who are not parties to this Agreement except for employees of Contractor.
9. Contractor certifies that his or her current employer, if any, is fully cognizant of this Agreement and that payments hereunder are not in conflict with any federal, state, or local statutes, rules or regulations or with any policies of Contractor's current employer.
10. District shall become the owner or, and entitled to, exclusive possession of all records, documents, graphs, photographic or other reproductions of any kind produced in the scope of services performed and no other uses thereof will be permitted except by permission of the District. Proprietary materials will be exempted from this clause.

**AGREED:**

Joel Wurgler,

Consultant Signature (1)

Social Security Number (2)

Date 6/5/09

Executive Director

Title  
2208

Address

Tracy Unified School District

Tracy Unified School District

Date

SAFE Schools Grant

Account Number to be Charged: 01-6405- 0-1110-3710-4300-800-

Prevention Services Office  
Department/Site Approval

Joan E. Stone  
Budget Approval

Date Approved by the Board

Send all copies to the Business Office:

- (1) Whenever organizational names are used, the authorized signature must include title, such as president.
- (2) Whenever organizational names are used, the employer IRS Identification Number must be used instead of a Social Security Number.

# ACORD™ CERTIFICATE OF LIABILITY INSURANCE

5/1/2010

DATE (MM/DD/YYYY)  
4/28/2009

DUCKER Lockton Insurance Brokers, LLC  
CA License #OF15767  
Two Embarcadero, Suite 1700  
San Francisco 94111  
(415) 568-4000

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.**

RED Youth for Christ  
14830 Attn: Liability Insurance Department  
7670 S. Vaughn Court  
Englewood CO 80112

## INSURERS AFFORDING COVERAGE

NAIC #

INSURER A: ACE American Insurance Company

22667

INSURER B:

INSURER C:

INSURER D:

INSURER E:

VERAGES YOUFO01 DA

**THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER AND THE CERTIFICATE HOLDER.**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR IF PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
	<b>GENERAL LIABILITY</b>				
<input checked="" type="checkbox"/>	COMMERCIAL GENERAL LIABILITY	CGO G23742020	5/1/2009	5/1/2010	EACH OCCURRENCE \$ 2,000,000
<input type="checkbox"/>	CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000
<input checked="" type="checkbox"/>	EBL/\$2K Claims Made				MED EXP (Any one person) \$ XXXXXXXX
					PERSONAL & ADV INJURY \$ 2,000,000
					GENERAL AGGREGATE \$ 4,000,000
					PRODUCTS - COMP/OP AGG \$ 2,000,000
	GENT'L AGGREGATE LIMIT APPLIES PER:				
<input checked="" type="checkbox"/>	POLICY				
<input type="checkbox"/>	PRO-JECT				
<input type="checkbox"/>	LOC				
	<b>AUTOMOBILE LIABILITY</b>				
<input type="checkbox"/>	ANY AUTO	NOT APPLICABLE			COMBINED SINGLE LIMIT (Ea accident) \$ XXXXXXXX
<input type="checkbox"/>	ALL OWNED AUTOS				BODILY INJURY (Per person) \$ XXXXXXXX
<input type="checkbox"/>	SCHEDULED AUTOS				BODILY INJURY (Per accident) \$ XXXXXXXX
<input type="checkbox"/>	HIRED AUTOS				PROPERTY DAMAGE (Per accident) \$ XXXXXXXX
<input type="checkbox"/>	NON-OWNED AUTOS				
	<b>GARAGE LIABILITY</b>				
<input type="checkbox"/>	ANY AUTO	NOT APPLICABLE			AUTO ONLY - EA ACCIDENT \$ XXXXXXXX
					OTHER THAN EA ACC \$ XXXXXXXX
					AUTO ONLY: AGG \$ XXXXXXXX
	<b>EXCESS/UMBRELLA LIABILITY</b>				
<input type="checkbox"/>	OCCUR	NOT APPLICABLE			EACH OCCURRENCE \$ XXXXXXXX
<input type="checkbox"/>	CLAIMS MADE				AGGREGATE \$ XXXXXXXX
<input type="checkbox"/>	DEDUCTIBLE				\$ XXXXXXXX
<input type="checkbox"/>	UMBRELLA FORM				\$ XXXXXXXX
<input type="checkbox"/>	RETENTION \$				\$ XXXXXXXX
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>				
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?	NOT APPLICABLE			WC STATUTORY LIMITS \$ XXXXXXXX
	If yes, describe under SPECIAL PROVISIONS below				E.L. EACH ACCIDENT \$ XXXXXXXX
					E.L. DISEASE - EA EMPLOYEE \$ XXXXXXXX
					E.L. DISEASE - POLICY LIMIT \$ XXXXXXXX
	<b>OTHER</b>				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

Joaquin Valley Youth For Christ DBA: Point Break Adolescent Resources - Evidence of coverage in force for prevention services for Tracy High Schools and Middle Schools for September 2008-May-2009.

## CERTIFICATE HOLDER

2859576

Tracy Unified School District  
1975 W. Lowell  
Tracy CA 95376

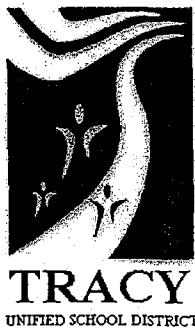
## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

112

*Adam D. McDevitt*



# EDUCATIONAL SERVICES MEMORANDUM

**TO:** Dr. James Franco, Superintendent  
**FROM:** ~~W~~ Dr. Sheila Harrison Assistant Superintendent of Educational Services  
**DATE:** ~~X~~ June 4, 2009  
**RE:** **Approve Funding for the Agriculture Incentive Grant for West High School 2009-2010**

**Background:** The State Department of Education requires that school districts submit an application in order to receive funding for the Agriculture Incentive Grant, and that this application be approved by the local School Board.

**Rationale:** The Grant in the amount of \$10,372.00 provides additional money for materials, travel and equipment for students and teachers. By accepting these funds, the District agrees to provide an in-kind match for the grant. This supports Strategic Goal #4: Continuously improve fiscal and human resources, facilities and operational processes in order to support our efforts to meet or exceed district, state and federal targets.

**Funding:** The grant will provide \$10,372.00 and the District will provide an in-kind match for the grant.

**Recommendation:** Approve Funding for the Agriculture Incentive Grant for West High School 2009-2010

**Prepared by:** Jeff Frase, Principal, Merrill F. West High School



**TRACY**  
UNIFIED SCHOOL DISTRICT

# HUMAN RESOURCES MEMORANDUM

**TO:** Dr. James Franco, Superintendent  
**FROM:** Ryan Davis, Assistant Superintendent of Human Resources  
**DATE:** June 12, 2009  
**SUBJECT:** Approve Classified, Certificated, and/or Management Employment

## BACKGROUND:

Loggins, Matthew

Tavares, Bernadette

## CERTIFICATED

Athletic Director  
West High School  
Stipend \$6,490.71

SH SDC  
West High School  
Class I, Step 1, "A"  
\$43,627.00  
Funding: Special Education

## BACKGROUND:

Thompson, Amy

Washington, Carla

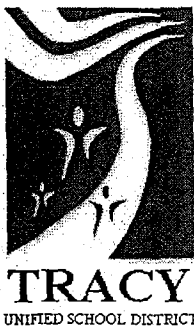
## CERTIFICATED MANAGEMENT

Head Counselor  
Kimball High School  
LMP 11, Step D  
\$78,442.76  
Funding: General

Principal  
Duncan Russell/Willow  
LME 46, Step E  
\$93,316.60  
Funding: Unrestricted General Fund (85%)  
& GATE (15%)

**RECOMMENDATION:** Approve Classified, Certificated and/or Management Employment

**Prepared by:** Ryan Davis, Superintendent of Human Resources



# HUMAN RESOURCES MEMORANDUM

**TO:** Dr. James Franco, Superintendent  
**FROM:** Ryan Davis, Assistant Superintendent of Human Resources  
**DATE:** June 12, 2009  
**SUBJECT:** Accept Resignations/Retirements/Leave of Absence for Classified, Certificated, and/or Management Employment

## BACKGROUND:

## CERTIFICATED MANAGEMENT

<u>NAME/TITLE</u>	<u>SITE</u>	<u>EFFECTIVE DATE</u>	<u>REASON</u>
Davis, Ryan Asst. Supt. of HR	DEC	08/14/09	Personal

## BACKGROUND:

## CERTIFICATED

<u>NAME/TITLE</u>	<u>SITE</u>	<u>EFFECTIVE DATE</u>	<u>REASON</u>
Akers, Jayma 5 <sup>th</sup> Grade	Kelly School	7/1/09	Personal
Balbin, Eunizelle SDC	North School	7/1/09	Personal
Bonin, Donna Adult School	Adult School	12/31/09	Retire
Couvreur, Courtney Math Teacher	Kelly	6/1/09	Personal
Zamora-Ortiz, Cecilia Spanish Teacher	West High	6/1/09	Personal

**Prepared by:** Ryan Davis, Assistant Superintendent of Human Resources



# BUSINESS SERVICES MEMORANDUM

**TO:** James Franco, Superintendent  
**FROM:** C. Goodall, Assistant Superintendent for Business  
**DATE:** June 12, 2009  
**SUBJECT:** Approve the 2009-10 Annual School District Budget

**BACKGROUND:** Education Code Section 42127 requires that:

42127. (a) On or before July 1 of each year, the governing board of each school district shall accomplish the following:

- (1) Hold a public hearing on the budget to be adopted for the subsequent fiscal year. The agenda for that hearing shall be posted at least 72 hours prior to the public hearing and shall include the location where the budget will be available for public inspection.
- (2) Adopt a budget. Not later than five days after that adoption or by July 1, whichever occurs first, the governing board shall file that budget with the county superintendent of schools. That budget, and supporting data, shall be maintained and made available for public review....

(c) The county superintendent of schools shall do all of the following:  
Examine the adopted budget to determine whether it complies with the standards and criteria adopted by the State Board of Education pursuant to Section 33127 for application to final local educational agency budgets. The superintendent shall identify, if necessary, any technical corrections that must be made to bring the budget into compliance with those standards and criteria. (2) Determine whether the adopted budget will allow the district to meet its financial obligations during the fiscal year and is consistent with a financial plan that will enable the district to satisfy its multiyear financial commitments.

- (3) (e) On or before September 8, the governing board of the school district shall revise the adopted budget to reflect changes in projected income or expenditures subsequent to July 1, and to include any response to the recommendations of the county superintendent of schools, shall adopt the revised budget, and shall file the revised budget with the county superintendent of schools. Prior to revising the budget, the governing board shall hold a public hearing regarding the proposed revisions, to be conducted in accordance with

*Section 42103. The revised budget, and supporting data, shall be maintained and made available for public review.*

District Policy 3100, Budget, states that the Governing Board accepts responsibility for adopting a sound budget for each fiscal year which is aligned with the district's vision, goals, and priorities.

**RATIONALE:** Following the latest budget adoption in state history last September, the February 19<sup>th</sup> enactment of the 2009-10 budget was by far the earliest. However, immediately after enactment, it was clear that the budget was in need of substantial amendment. Tracy Unified School District responded to state imposed revenue reductions with a comprehensive budget review process, culminating in the Board adopting a three-phase approach to implementing \$15 million of ongoing reductions.

The proposed budget implements the board approved reductions plus a number of assumptions issued by the San Joaquin County Office of Education, School Services of California, and a number of government agencies. These assumptions are in flux at the time this report is being written. The State of California is currently reporting a \$24.3 billion budget deficit, which has not yet been resolved. Further reductions estimated at \$7 billion are anticipated, but will be explained further at the Board meeting.

The proposed budget complies with the standards and criteria adopted by the State Board of Education pursuant to Section 33127 for application to final local educational agency budgets. The proposed budget will allow the district to meet its financial obligations during the fiscal year but, without further reductions, the plan will **NOT** enable the district to satisfy its multiyear financial commitments.

**FUNDING:** The proposed budget will allow the district to meet its financial obligations during the fiscal year but, without further reductions, the plan that will **NOT** enable the district to satisfy its multiyear financial commitments.

**RECOMMENDATION:** Approve the 2009-10 Annual School District Budget

**Prepared by:** Dr. Casey Goodall, Associate Superintendent of Business Services.



# BUSINESS SERVICES MEMORANDUM

**TO:** Dr. James Franco, Superintendent  
**FROM:** Dr. Casey Goodall, Associate Superintendent of Business Services  
**DATE:** June 12, 2009  
**SUBJECT:** Adopt Revised Administrative Regulation 1330.1 Facility Use (Second Reading, Intent to Adopt)

**BACKGROUND:** On May 28, 2008, the Board of Education adopted changes to Administrative Regulation 1330.1 governing management of the District Facility Use policy. Since that time, additional changes have been recommended. In addition to general changes, this agenda proposes adding as an attachment, a Memorandum of Understanding between the Tracy Unified School District and the City of Tracy regarding the annual Martin Luther King ceremony. Research is being conducted into the cost of operating the West High School pool. Prices will be modified before a second reading.

**RATIONALE:** Bold items in the attached Administrative Regulation reflect recommended changes. Formatting will be corrected once changes are completed.

**FUNDING:** There is no cost to name these facilities.

**RECOMMENDATION:** Adopt Revised Administrative Regulation 1330.1 Facility Use (Second Reading, Intent to Adopt)

**Prepared by:** Dr. Casey Goodall, Associate Superintendent of Business Services.



**COMMUNITY RENTAL OF SCHOOL DISTRICT FACILITIES****A. Purpose and Scope**

To provide guidelines and procedures for the prioritization, scheduling, pricing, and rules for community rental of school district facilities serving the residents of the Tracy Unified School District.

**B. General**

The Governing Board designates the Director of Facility Use/Risk Management/Energy Conservation/Environmental Compliance to manage all aspects of community rental of school district facilities. The Director of Facility Use/Risk Management/Energy Conservation/Environmental Compliance shall be responsible for the coordination and interpretation of the policies and regulations regarding the use of the Tracy Unified School District facilities.

**C. Forms Used and Additional References**

Any person or organization desiring to rent district facilities should complete attachment A: Application of Use for TUSD Facilities Under the Civic Center Act.

Fees shall be updated annually and published in attachment B: Schedule of Community Rental Fees.

Prior to use, the organization must complete attachment C: Room Use and Clean-Up Check List. Organization must return the form following the use of facility in order to reclaim their security deposit.

**D. Procedure****1. Notifications**

Any person applying for the use of property on behalf of any group shall be a member of such applicant group and, unless he/she is an officer of such group, must present written authorization to represent the group.

Renters must carry the Facility Use Permit issued by the district at all times when on school or district premises. Renters must present an approved Facility Use Permit to district staff for facilities to be opened for renters.

The organization shall, as a condition of use, agree to be held financially responsible in the cause of loss or damage to TUSD property.



**COMMUNITY RENTAL OF SCHOOL DISTRICT FACILITIES**

Applicants shall be notified in writing whether the request is approved or denied. If approved, a completed copy of the application together with any special requirements shall be faxed or mailed to the applicant.

**2. Procedures**

To obtain a Facility Use Application for a school or district facility, community members should contact the Materials Management & Operations Department by calling (209) 830-3265 or visiting 1875 W. Lowell Ave. Outside facility renters must present a certificate of insurance when submitting a Facility Use Application. Rental fees must be paid prior to facility use. Tracy Unified does not provide set-up or take-down for facility renters. Equipment use is limited to what is available in the room requested by the renter.

The school board and specifically designated representatives are the only district representatives authorized to sign contracts for the district. School site staff members are not authorized to make community rental or use agreements, nor sign any contract committing the district to any official agreement, financial or legal obligation, nor liability. Requests for uses of district facilities by non-district employees should be made directly to the district office. The district office will contact the school site as necessary.

The district and its school sites have priority use of Tracy Unified facilities over outside requests for rental.

**Tracy Unified School District reserves the right to deny use of facilities for certain periods of time during which maintenance is being conducted.**

No activity will be permitted which is in violation of local, state, or federal law.

Car Washes are not permitted due to Environmental Protection Agency Storm Water Drain Regulations.

**Tracy Unified School District parking lots are to be used only for parking and ancillary activities associated with other pre-approved uses of district facilities listed in attachment B, Schedule of Community Rental Fees. There shall be no parking of any non-district vehicle on Tracy Unified School District Property other than in designated parking lot areas.**

Tobacco use in any form is prohibited at all times, including weekends and evenings, on all property owned or operated by the TUSD. This prohibition includes, but is not limited to, all buildings, parking lots, vehicles parked in parking lots, athletic fields, and patio areas.

Possession or consumption of alcohol, drugs and firearms or explosives is prohibited at all times on TUSD property, including vehicles parked on TUSD property.

## COMMUNITY RENTAL OF SCHOOL DISTRICT FACILITIES

No activity which involves an open flame is allowed inside a Tracy Unified School District building, with the exception of flames instructional uses, such as the use of Bunsen Burners in science classes, or the use of Sterno to heat for food being served from chafing dishes, and in that case only when operated by employees of the Food Services Department.

No Flames may be used on Tracy Unified School District property on outside facilities with the exception of authorized barbeques, and the authorized use of candles or luminaries. Contained blazes generated by the Tracy Fire Department for training purposes may also be authorized. Users conducting activities which include barbeques, candles, or luminaries shall not use flames within ten (10) feet of any combustible material or building, and there shall be available for use a fire extinguisher. Users of flames must follow safety procedures recommended by public safety agencies.

**The California Food and Agricultural Code, section 13186, and the California Code of Regulations, limits the use of pesticides, chemicals, and cleaning products on school sites, and mandates specific reporting responsibilities to any person who applies these types of products on school premises. Therefore, facility users are prohibited from applying pesticides, chemicals, or cleaning products to district facilities or grounds.**

No part of the buildings may be entered or used which are not specifically listed on the approved application.

The organization shall, as a condition of use, agree to be held financially responsible in the cause of loss or damage to TUSD property. **The organization shall never leave a rented building or stadium unattended and will be held financially responsible in the event of loss or damage to TUSD property.**

An approved application may be revoked with reasonable notice when TUSD facilities are needed for TUSD purposes as described in tier 1 of the following section of this administrative regulation.

Permission to use TUSD facilities for a period exceeding one fiscal year, shall not afford to any person or organization a real or implied monopoly. However, within the given tier structure defined below, the City of Tracy will be given priority over other non-district users when assigning new uses at the end of one year's use.

Churches, religious groups and sectarian organizations with no suitable meeting place may occasionally use TUSD facilities for religious services for temporary periods on a one time or renewable basis. A charge will be made for each use.

### Prioritization and Fees

Groups requesting use of Tracy Unified School District Facilities shall fall into one of six general tiers. The tiers are organized from highest priority to lowest priority with tier one having the highest priority and tier six having the lowest priority. Each tier has an associated fee schedule

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**COMMUNITY RENTAL OF SCHOOL DISTRICT FACILITIES**

and requirement for insurance which is described in section II. The tiers are described as follows:

**Tier 1: EDUCATION OF DISTRICT STUDENTS**

1. Curricular, co-curricular, and extra-curricular school events of any official Tracy Unified School District course, team or activity group (provide list), and no participation fee is charged.
2. Also, co-curricular and extra-curricular events involving Tracy Unified School District students from schools other than the sponsoring school, and from which all proceeds are collected into and expended from the school site Associated Student Body fund, and at which the custodial costs are mitigated by a district administrator or certificated employee opening, closing, and ensuring the facility is cleaned, and from which all proceeds go to the school site for use, and at which all labor, including any coaching, is voluntary and not paid.
3. Events officially sponsored by the School Board in support of the District's Service Learning Program, and at which the custodial costs are mitigated by a district administrator or certificated employee opening, closing, and ensuring the facility is cleaned, and for which no heating, ventilation, or air conditioning is to be provided.
4. And, official school parent club, PTA, and district sponsored foundation meetings in which only non-risk activities take place. (High risk activities include athletic events, outside vendors, cooking, serving food, dancing, etc. Note extreme hazardous risks include: trampolines, bungees, and jumping devices, fireworks **viewing**, aircraft, parachutes, domesticated or wild animals, rodeo, racing, circuses. These extreme high risk uses require additional insurance as described later. Food and fund raising vendors must be appropriately licensed and have insurance which includes a certificate designating the district as an "additional insured".)
5. In addition to these uses, and because it is considered the civic duty of the school district, **Tracy Community Council of United Way meetings conducted during the normal work day and for which there are no costs to the district, and the San Joaquin County Registrar of Voters election polls, are included in this tier for election purposes.**
6. **The Annual Relay for Life Event. The district provides no additional paid staffing or overtime for this event. However, the district provides equipment, lighting, and coordination of the event. Fundraising activities and meetings in preparation for this annual event are tier 5.**
7. The Mayor's Community Youth Support Network Basketball Program at **Williams Bohn School.**
8. The Tracy Learning Center for student athletic events which can not reasonably be conducted at their own facilities, and which do not conflict with Tracy Unified School District scheduled curricular, co-curricular, and extra-curricular events. The charter school is expected to pay for all the additional costs that are required for using a facility, e.g. custodians at football games.

**COMMUNITY RENTAL OF SCHOOL DISTRICT FACILITIES**

Example: Adult Education program, High School Athletic teams, debate, drama, IB, Ag, FFA, AP, choir, band, space and engineering academy, employee associations, THS Mat Wizards, Sports Camps (High School basketball and volleyball, etc), Brighter Christmas, etc., parent clubs, parent teacher associations, school community advisory groups, San Joaquin County Registrar of Voters, US Census Bureau (if meeting is conducted on normal school day, and concludes before 10:00 pm), and Delta Blood Bank.

**Tier 2: NON-CURRICULAR DIRECT SUPPORT OF DISTRICT STUDENTS**

1. City sponsored after-school programs during the normal school year of each school, and which provides daycare and other services to K-8 students covered by the district insurance policy. [Note: these activities require a certificate of insurance from City of Tracy.]
2. American Red Cross and for mass care welfare shelters during disasters or other emergencies affecting the public health and welfare.
3. Official school parent club and PTA activities in which high risk activities take place)

Example: City After School programs, Boys and Girls Club, Girl Scouts, Boy Scouts, Campfire Girls, 4H, American Red Cross Shelter, **Tracy Community Council of United Way events for public health and welfare**, Sister City Schools.

**Tier 3: NON-CURRICULAR INDIRECT SUPPORT OF DISTRICT STUDENTS**

Non-curricular events, programs, services and activities, sponsored by a non-district non-profit organization (Kiwanis, Lions, Rotary, etc. provide list) in which participants are NOT covered by the TUSD insurance policy and from which proceeds are returned to schools or scholarships for students in schools in the form of donations. Users in this tier must provide an accounting of revenues, expenditures, and donation amount to serve as a back-up document validating that proceeds are being returned to schools.

Example: Junior Miss, Delta College, Tracy African American Association, Tracy Latin Athletic Club Pancake Breakfast, Elks, Tracy Peaker Power Plant Over site Committee.

**Tier 4: YOUTH RECREATION**

Supervised youth recreational activities sponsored by official youth organizations, leagues, or the City of Tracy, and serving the residents of the Tracy Unified School District.

Example: Football (Raiders, Cougars, Buccaneers), Baseball & Softball (Little League, Babe Ruth, ASSA, Liberty, Tracy Express, Delta Rebels, Cardinals, Outlaws, West Coast, Delta Charter), Soccer (TYSL), Swimming (Tritons), Basketball (National Junior Basketball, Cyclones), City Summer Day Camp, City Art Camp.

**Tier 5: OTHER NON-PROFIT USES OF FACILITIES**

1. Adult recreational activities sponsored by official non-profit organizations or leagues, or the City of Tracy, and serving the residents of the Tracy Unified School District.

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**COMMUNITY RENTAL OF SCHOOL DISTRICT FACILITIES**

2. Administration of examinations for the selection of personnel by public agencies.
3. Conduct of religious services for temporary periods (renewal at least annually) on a one-time or a renewable basis, by any Tracy-based church or religious organization that has no suitable meeting place for the conduct of services.

Example: Old Timer Baseball, Adult Soccer, State & Federal Government, McHenry House, University of San Diego for Teacher Staff Development programs, Tracy Interfaith Ministries, Sutter Hospital, Tracy Community Band, Churches, McHenry House "Kids in a Box", **fundraising activities and meetings in preparation for Relay for Life, supervised youth recreational activities sponsored by official youth organizations or leagues, serving youths who live outside the boundaries of the Tracy Unified School District.**

**Tier 6: FOR PROFIT ORGANIZATIONS OR NOT FOR PROFIT ORGANIZATIONS SCHEDULING ACTIVITIES IN WHICH A PARTICIPATION, ADMISSION, OR ENTRY FEE IS CHARGED**

As per Education Code 38134 (e), entertainment, functions or meetings where admission fees are charged or contributions are solicited and where the net receipts are not expended for the welfare of the pupils of the District, or for charitable purposes, a charge shall be levied for the use of school facilities or grounds which shall be equal to fair rental value.

Example: Tracy Community Theater, Vintage Productions, private colleges, private business, CDI, Utility Companies, Chamber of Commerce fireworks, USA Volleyball, University of San Diego for non-teacher staff development programs, Saint Mary's, University of LaVerne.

**CUSTODIAL FEES**

If a custodian is called off his normal work routine, or is called back to work after completion of his regular assignment to provide services to facility users, the district will charge the user a minimum of two hours of custodial fees.

If a use occurs during school hours, the custodian will open and close, but will do no set-up. If set-up is required, a custodial fee will be charged.

**OPENING AND CLOSING**

A select list of Administrators and/or Certificated employees/teachers, approved in advance by the Facility Use Committee, may open and close at the site at which they are assigned on their regular workday if they are certified by the facility use staff at the district office to be properly trained. Training Certification will include:

1. Facility Use Policy and Administrative Regulation
2. Restroom cleanliness standards and procedures
3. Blood Borne Pathogens
4. Hazardous Materials Safety
5. Asbestos safety
6. Fire safety and response
7. Use of district keys

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**COMMUNITY RENTAL OF SCHOOL DISTRICT FACILITIES**

8. Use of site alarm system
9. Heating, Ventilation, and Air Conditioning (HVAC) bypass timers
10. Pre- and Post-Inspections

The administrator and/or teacher will ensure the facility is cleaned after the event. Otherwise, a custodian will be assigned to the event at the cost of the user.

In order to comply with negotiated terms between Tracy Unified School District and the California Schools Employee Association, a greater fee (\$50.00 per hour) will be charged for custodial opening and closing services on the following holidays:

- New Year's Day
- Christmas Day
- Thanksgiving Day
- Easter
- Fourth of July

**INSURANCE REQUIREMENTS AND FEES**

When individuals or groups request use of Tracy Unified School District facilities our grounds, it is important that all reasonable and available protective measures be taken to avoid liability and minimize the district property and liability loss potential. Specific requirements for each category appear below.

A Certificate of Insurance must accompany a Facilities Use Request. In addition to the certificate of insurance, an endorsement must be attached naming Tracy Unified School District as an additional insured. Renters are required to use Accord Forms available through insurance agents. The standard minimum coverage required is \$1,000,000 combined single limit or \$500,000 per person, \$1 million per occurrence, and \$100,000 for property damage. The district reserves the right to adjust its insurance requirements as needed.

The Certificate of Insurance must include all of the following:

- Name of insured (must match name on Facility Use Application)
- The statement: "Naming Tracy Unified School District, its employees, officers, board of directors, and agents, as additional insured, under the above captioned policy."
- Location(s) –School Name and Address
- Date(s) of rental. For occasional use, list specific dates. For continual use, list start date and end date.
- Cancellation clause including 30-day notice

The endorsement will be a separate page and should be attached to the certificate of insurance.

Any extreme hazardous risks (example trampolines, bungees, and jumping devices, fireworks, aircraft, parachutes, domesticated or wild animals, rodeo, racing, circuses,



## COMMUNITY RENTAL OF SCHOOL DISTRICT FACILITIES

climbing walls, deep fat fryers) will require prior approval by the three member facility use committee described later in this policy in the section entitled "Exceptions." These uses will require \$5,000,000 combined single limit insurance.

### DOMESTICATED OR WILD ANIMALS

Before allowing domesticated or wild animals on district property, prior approval is required by the Tracy Unified School District. In addition to the certificate of insurance, an endorsement must be attached naming Tracy Unified School District as an additional insured. Users are required to use Accord Forms available through insurance agents. The special minimum coverage required for this type of usage is \$5,000,000 combined single limit. The district reserves the right to adjust its insurance requirements as needed.

### LIFE GUARD CERTIFICATION

If use of a Tracy Unified School District pool is requested, the user must provide a qualified lifeguard to supervise the events. The lifeguard must be at least 15 years of age, and maintain and possess a current certification in Lifeguard training and CPR for the Professional Rescuer and First Aid. The lifeguard must provide proof he or she has passed a water skills test.

### FEES

The following fee schedule is based on like facilities being used for different types of groups and activities delineated by district goals and proscriptions of the civic center act. Priority is given to school events, then to youth events, and then to non-youth events.

For purposes of charging fees, "hours used" will be rounded to the next higher half hour.

Charges will be made, as provided by law and as outlined below, for any additional cost such as audio/visual equipment, supplies, utilities, custodial services and salaries paid to district employees which are necessitated by the organization's use of the facilities and grounds.

The Administrative Fee assigned for tiers 2-6 will be charged for each "Processing Event". A "Processing Event" is defined as submission of any number of forms at any number of facilities, which are submitted to the district at one time. For example, if a sports group plans to have activities over a three month time period and located at five different school sites, if the entire package of forms is submitted at the same time, only one administrative fee will be charged. If however, an additional form is submitted later, or if a change to the original plan is requested, the fee will also be charged for that processing event.

### CANCELLATION

Because the District must process applications and schedule staff to open and close the facilities, cancellations must be made 24 hours in advance of a scheduled event and/or for weekend events on Friday **by noon** prior to the weekend. Events which are cancelled within 24 hours or for which no notification is made shall forfeit all fees.

## COMMUNITY RENTAL OF SCHOOL DISTRICT FACILITIES

Cancellations may be made up to 24 hours after an outside event when a rainout occurs and when no cost of labor or utilities is incurred by the district.

Tracy Unified School District reserves the right to cancel scheduled facility use activities to perform scheduled or emergency maintenance of district facilities and grounds.

## COMMUNITY RENTAL OF SCHOOL DISTRICT FACILITIES

## FEES AND INSURANCE REQUIREMENTS

	FEES	INSURANCE REQUIREMENT
Tier 1	None	None
Tier 2	<ol style="list-style-type: none"> <li>1. Utilities after 6:15 pm and before 7:00 am, and on non-school days.</li> <li>2. Staff time (custodial and other direct support of the use) outside normal work hours.</li> <li>3. Administration of managing the facility use program.</li> <li>4. Security Deposit</li> </ol> <p>See exhibit b</p>	Users in this tier will provide a Certificate of Insurance including a statement to hold the district harmless and indemnification
Tier 3	<ol style="list-style-type: none"> <li>1. Utilities.</li> <li>2. Staff time (custodial and other direct support of the use) outside normal work hours.</li> <li>3. Administration of managing the facility use program.</li> <li>4. Security Deposit</li> </ol> <p>Note: as an internal control measure, those organizations using facilities to generate funds for school use, must be pre-approved by the site ASB, and must complete and submit a revenue potential form to the site ASB. A copy of the approved revenue potential will be attached to the facility use request form.</p> <p>See exhibit b</p>	Users in this tier will provide a Certificate of Insurance including a statement to hold the district harmless and indemnification
Tier 4	<ol style="list-style-type: none"> <li>1. Utilities.</li> <li>2. Staff time (custodial and other direct support of the use) outside normal work hours.</li> <li>3. Administration of managing the facility use program.</li> <li>4. Wear and Tear on facilities and grounds.</li> <li>5. Security Deposit</li> </ol> <p>See exhibit b</p>	Users in this tier will provide a Certificate of Insurance including a statement to hold the district harmless and indemnification
Tier 5	<ol style="list-style-type: none"> <li>1. Utilities.</li> <li>2. Staff time (custodial and other direct support of the use) outside normal work hours.</li> <li>3. Administration of managing the facility use program.</li> </ol>	Users in this tier will provide a Certificate of Insurance including a statement to hold the district harmless and

**COMMUNITY RENTAL OF SCHOOL DISTRICT FACILITIES**

	4. Wear and Tear on facilities and grounds. 5. Security Deposit  See exhibit b	indemnification
Tier 6	1. Utilities. 2. Staff time (custodial and other direct support of the use) outside normal work hours. 3. Administration of managing the facility use program. 4. Wear and Tear on facilities and grounds. 5. A fair rental fee 6. Security Deposit  See exhibit b	Users in this tier will provide a Certificate of Insurance including a statement to assume "any and all liabilities, regardless of cause..." and provide an additional insured endorsement to their liability policy naming the district as an additional insured with no restrictions.

**EXCEPTIONS/FACILITY USE COMMITTEE**

A committee, known as the Tracy Unified School District Facility Use Committee, consisting of three elected members of the Tracy Unified School District board of trustees shall be formed to review, accept, or reject all requests for exceptions. The Assistant Superintendent for Business Services will act as the convener of this committee. This committee will review and make the final decision on appeals made relating to specific uses. Exceptions to the stated tier and pricing structure stated above may be granted for two purposes:

1. The activity is deemed to fit within a different tier than originally assigned and/or the activity is a curricular, co-curricular, or extra-curricular school event.
2. The user group will substitute activities, services, and/or items of equal value as a form of payment for facility or field use.

**IN-KIND SERVICES**

The district recognizes the desire by individuals, student groups, community groups, and facility use groups to offer in-kind services of work in order to perform incidental or cosmetic type work to school fields in an order to improve the appearance or functionality of those district assets.

In-Kind Services and improvements to outside fields, which mitigate the wear and tear on, or improve the maintenance of those fields, may be accepted in lieu of fees with prior written approval of this committee. In-kind payment requests must include a letter detailing the in-kind services to be offered, the benefit to the school district, and a completed attachment D.

All donated work shall require formal district review and approval, including an required plans, permits and inspections.

**COMMUNITY RENTAL OF SCHOOL DISTRICT FACILITIES**

The district may participate in public service programs sponsored by local, state and federal agencies, including programs charged with performing incidental or cosmetic type work in an effort to improve the appearance of school facilities. Such programs may not result in the layoff or reduction of bargaining unit employees or positions.

The district shall notify the local CSEA bargaining group in writing of all such projects a minimum of ten (10) working days prior to the implementation of the work.

**CONDITIONS OF USE:**

All conditions including insurance, hold harmless, fees, etc., must be met prior to receiving confirmation of permission to use facilities.

Applicants shall be notified in writing whether the request is approved or denied. If approved, a completed copy of the application together with any special requirements shall be faxed or mailed to the applicant.

For user group Tier 1 where no fees are charged, there shall be an employee of the TUSD in charge whose duties shall include the opening and closing of buildings and grounds, the operation of mechanical systems, and the enforcement of regulations and prevention of disturbances.

The use of the TUSD facilities shall not be granted to individuals or unrecognized groups for personal or private functions.

Using organizations shall be responsible for the control and supervision of all persons in attendance during the use of TUSD facilities. The TUSD shall require security as a condition of use whenever it is deemed to be in the TUSD best interests.

Keys required to carry out any and all activities shall remain in the possession of authorized TUSD employees. Keys shall not be turned over to individuals, organizations, clubs, associations, etc. Buildings shall be opened, attended, and closed by an authorized employee of the TUSD.

Groups using TUSD facilities shall be responsible for the condition in which they leave the facilities. Any abuse or misuse of facilities, including playing fields, shall be reported immediately to the Director of Maintenance. The applicant agrees to reimburse Tracy Unified School District for all costs incurred in repairing damages including, but not limited to the facility, furnishings, fixtures, grounds, and/or additional cleaning/litter removal required outside of the normal scope for said facility, which occurred in connection with the permitted activity and caused by the renter, sponsoring organizations, and/or attendees. Reimbursement for such expenses will be in addition to the security deposit. Failure to pay immediately for damage shall be grounds for denial of future facility requests. Any abuse or misuse of TUSD facilities may be grounds for refusal of future facility requests.

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**COMMUNITY RENTAL OF SCHOOL DISTRICT FACILITIES**

No structural or mechanical apparatus may be erected, nor any electrical, mechanical, structural, nor physical changes made to any existing facilities nor grounds on TUSD property, without specific written approval by the TUSD representative approving the Application of the Use of TUSD facilities. Any organization found in violation of this paragraph will be reviewed by the Facilities three member facility use committee which will determine the consequences, which, depending on the circumstances, may include suspension from facility use activities a for greater than a twelve month period of time. Persons and organizations granted the use of TUSD facilities shall assume full responsibility for compliance with all applicable state and local fire, health, and safety laws and regulations.

All draperies, hangings, curtains, drops, and all decorative materials used with or upon the TUSD buildings and grounds, shall be made or treated with flame-retardant process approved by the State Fire Marshall. Any materials placed on the walls during meeting shall be attached with masking tape. Push pins, nails, staples or any materials which might leave marks or holes are strictly prohibited. All groups are expected to clean the rooms and/or fields used and return them to the condition they were in when they arrived or pay a cleaning fee equal to the cost of district expenses. Cooking is strictly prohibited unless a TUSD food service worker is hired to supervise the work.

Failure to meet these requirements may result in loss of the privilege of facility use.

The Superintendent shall have the right to revoke permission for use of the TUSD facility at any time when it is deemed in the best interest of the TUSD.

**4. Reports Required**

Community users in tier 3 must provide an accounting of revenues, expenditures, and donation amount to serve as a back-up document validating that proceeds are being returned to schools.

**5. Record Retention**

Community rental of school district facilities records will be maintained for three years.

**6. Approved by Administrator of Division**

Assistant Superintendent for Business Services

**TUSD Acknowledged:**      ~~October 26, 2004~~  
   **May 13, 2008**

## COMMUNITY RENTAL OF SCHOOL DISTRICT FACILITIES



**TRACY. UNIFIED SCHOOL DISTRICT**  
**Attn: Facility Use Department**  
**1875 W. Lowell Ave.**  
**Tracy, CA 95376**

**APPLICATION AND AGREEMENT**  
**FOR USE OF FACILITY**  
**FACILITY USE DEPT: (209) 830-3200 x1133**  
**Fax Number: (209) 830-3259**

**TRACY**  
 UNIFIED SCHOOL DISTRICT

Instructions to requesting Organization are in full-Section A. (2) Return this request to the Facility Use Dept. at least 15 working days before the date of Insurance/Additional Endorsement Letter and payment of fees must accompany this request. **MUST CARRY SIGNED PERMIT AT ALL TIMES!**

<b>Section A: Organization:</b>		(Name must match Organization on Certificate of Insurance)	
		Certificate of Insurance attached: Y / N Expires:	
Mailing Address	City	State	Zip
Contact Person:	Phone #:	Cell:	Fax#: Email:
Description of Purpose and type of Use:			
Event Sponsored by:	TRACY SCHOOLS CITY	YES/NO YES/NO	Admission Charged YES / NO Estimated Attendance:
(One facility per application)		Example: Multi-Purpose Room, Gym, Fields, Cafeteria	
School:	Room(s)/Location(s):		
Date (s):	OPEN: AM/PM	CLOSE: AM/PM	
	OPEN: AM/PM	CLOSE: AM/PM	
	OPEN: AM/PM	CLOSE: AM/PM	
	OPEN: AM/PM	CLOSE: AM/PM	
Day(s) of Week: CIRCLE: MONDAY, TUESDAY, WEDNESDAY, THURSDAY, FRIDAY, SATURDAY, SUNDAY			
Requested Equipment:		Restrooms: YES/NO	Food Services: YES/NO
Signature of Authorized Representative:		Title:	Date:
<b>Section B: School/Facility Approval:</b>			
Location Available:	Yes/No	Authorizing Signature:	Date:
Equipment Available:	Yes/No	School/Facility Special Notes:	
Site Custodian Available:	Yes/No		
Custodian Assigned: _____		Other: _____	
Contact #: _____			
<b>Section C: District Director of MMO/Facilities:</b>		Acord Form Certificate of Insurance: Approved/Denied	Endorsement Letter (CG2011 or CG2026) Approved / Denied
Authorizing Signature: _____ Date: _____		Expires: _____	
Bob Corsaro <b>Approved / Denied</b>		<b>TOTAL FEES DUE:</b> \$ _____	<b>Posted:</b>
<b>Facility Use Office Only</b> Tier 1 Tier 2 Tier 3 Tier 4 Tier 5 Tier 6			
Facility Use Payment Received: \$ _____ Date: _____ Check# _____			
Security Deposit Payment Received: \$ _____ Date: _____ Check# _____			
<b>Section D: Food Services Approval:</b> Approved / Denied		Authorizing Signature:	Date:

## COMMUNITY RENTAL OF SCHOOL DISTRICT FACILITIES

## APPLICATION AND AGREEMENT FOR USE OF FACILITY - PAGE 2 of 3

Application will not be accepted unless it is filled out and signed completely on all pages. A Certificate of Insurance and Additional Endorsement Letter must accompany this application prior to approval. Confirmation will be faxed or available for pick-up. Upon approval user must carry signed permit at all times when on school premises. Custodians cannot open facility if permit is not presented to them by user.. Tracy Unified School District is not responsible for the set up of outside facility use. Equipment will be limited to what is available in the room (s) you are requesting.

**Use of kitchens:** The use of kitchens requires authorization from the Food Services Department. The Facility User must call to arrange a food service worker at (209) 830-3255. A food service worker and custodian must be secured for the event.

**Parking:** Tracy Unified School District parking lots are to be used only for parking and ancillary activities associated with other pre-approved uses of district facilities listed in attachment B, Schedule of Community Rental Fees. There shall be no parking of any non-district vehicle on Tracy Unified School District Property other than in designated parking lot areas. **Parking Lots:** Tracy Unified School District parking lots are to be used for parking with the exception only of tier-1 activities.

**Portable Toilets & Dumpsters Sport Leagues:** Outside users are not allowed to use district owned toilets and dumpsters. Leagues are required to provide their own portable toilets and garbage dumpsters. Leagues must contact the School Site Business Managers to arrange delivery and the placement area prior to scheduling. Deliveries cannot be made during regular school hours. Leagues are responsible for the arrangement of their own clean outs.

**Keys:** Keys required to carry out any and all activities shall remain in the possession of authorized TUSD employees. Keys shall not be turned over to individuals, organizations, clubs, associations, etc. Buildings shall be opened, attended, and closed by an authorized employee of the TUSD.

**Rules of conduct:** Unreasonable conduct of any participant shall be subject to immediate cancellation of use. Any conduct at an activity that is deemed offensive, indecent or contrary to the best interest of the community is classified as unreasonable. SMOKING, TOBACCO PRODUCTS, ALCOHOL, DRUGS, NO FIREARMS OR EXPLOSIVES ARE PROHIBITED ON ANY SCHOOL DISTRICT PROPERTY. Facility users are prohibited from applying pesticides, chemicals, or cleaning products to district facilities or grounds. Organizations or groups using school facilities under the provisions of Board policy shall be liable for any property damages caused by the activity. The Board shall charge the amount necessary to repair any damages and may deny the organization further use of school facilities. Use of District Furniture and Equipment: When a scheduled use includes use of district furniture or equipment, the user will inspect said furniture and equipment prior to use to ensure the safety of user participants. Food and drinks (water included) are prohibited in all main and sub-gymnasiums. A damage/security deposit of \$500.00 is required and will be refunded provided no damage occurs and all other fees have been paid. Facility Users are not permitted to store any of their belongings on sites. Facility Users are not permitted to post banners or advertisement during regular school hours and only during their scheduled facility use time. Regular school hours are defined as 7:00am to 6:15pm Monday through Friday every week of the calendar year except Christmas Eve and Christmas.

**Payment:** A payment of facilities fees will be required prior to use of facilities unless prior approval is granted. No-Show results in full custodial charge. Payments approved after use are required at time of receipt of invoice.

**Return Check Fee:** A Returned Check Fee of \$47.22 will be charged to any User Organization returned to the district for Insufficient Funds.

**Organization Initials:** \_\_\_\_\_

**Date:** \_\_\_\_\_



**COMMUNITY RENTAL OF SCHOOL DISTRICT FACILITIES****APPLICATION AND AGREEMENT FOR USE OF FACILITY - PAGE 3 of 3**

**Scheduling:** It is the user's responsibility to allow sufficient time to set-up and clean up the facility. These hours must be included in the rental period. Trash should be bagged and placed in the trash receptacles. You are responsible for collecting and disposing of litter, trash or garbage generated by your activity that does not fit into the receptacles provided. The user will be charged the actual cost of cleanup if litter, trash, or garbage remains on campus.

**Organizations shall never leave a rented building or stadium unattended and will be held financially responsible in the event in the loss or damage to TUSD property.** In the event the assigned district employee is not present when scheduled, contact a district representative on weekends only at primary number (209) 321-1329.

Permission to use TUSD facilities for a period exceeding one fiscal year shall not afford to any person or organization a real or implied monopoly.

**Normal Insurance Requirements:** Concurrent with the execution of the Use of Facilities permit, permittee shall provide the Tracy Unified School District with a Certificate of Insurance and Endorsement Letter naming the district as an additional insured and which meets the following minimum insurance requirements \$1,000,000 combined single limit or \$500,000 per person, \$1 million per occurrence, and \$100,000 property damage. Permittee further agrees to indemnify, defend and hold harmless the Tracy Unified School District, its officers, agents, and employees against any and all claims, demands damages, costs.

Expenses of whatever nature, including court costs and attorney fees arising out of or resulting from permittee's use of district facilities.

**High Risk Insurance Requirements:** Any extreme hazardous risks (example trampolines, bungees, and jumping devices, fireworks, aircraft, parachutes, domesticated or wild animals, rodeo, racing, circuses, climbing walls, deep fryers) will require prior approval by the three member facility use committee described later in this policy in the section entitled "Exceptions." These uses will require \$5,000,000 combined single limit insurance.

**Insurance Indemnification:** The facility use applicant assumes all responsibility for any and all losses, liability, theft and/or damage to the premises, equipment and other property while on school premises and hereby waives any and all claims and/or demands it may have against the School District, its Governing Board, Officers, Employees, and Agents arising from such losses, and/or liability, theft and/or damage. In addition, the facility use applicant agrees to defend, indemnify and hold harmless the Tracy Unified School District from any and all liabilities, obligations, claims, damages, suits cost and expenses, including, without limitation, attorney fees and costs, arising from directly or indirectly and/or in connection with the applicant's occupancy and/or use of the school's premises or any part thereof. The undersigned applicant state he/she are responsible adults and in case of an organization, the party shall be an officer or a person duly appointed by the organization, the party shall be an officer or a person duly appointed by the organization to make such an application.

**Parking:** The use of TUSD parking lots is limited to parking only, with the exception of pre-approved tier 1 activities.

**Cancellation**

Because the District must process applications and schedule staff to open and close the facilities, cancellations must be made 24 hours in advance of a scheduled event and/or for weekend events on Friday prior to the weekend. Events which are cancelled within 24 hours or for which no notification is made shall forfeit all fees.

## COMMUNITY RENTAL OF SCHOOL DISTRICT FACILITIES

## TRACY UNIFIED SCHOOL DISTRICT

Community Use of School Facilities  
Rules and Regulations

**Statement of Information:** The undersigned states that, to the best of his or her knowledge, the school property for use of which application is hereby made will not be used for the commission of any act intended to further any program or movement the purpose of which is to accomplish the overthrow of the government of the United States by force, violence, or other unlawful means: The organization on whose behalf he or she is making application of use of school property, does not, to the best of his or her knowledge, advocate the overthrow of the government of the United States or of the State of California by force, violence, or other unlawful means, and that, to the best of his or her knowledge, it is not a Communist action organization or Communist front organization required by law to be registered with the Attorney General of the United States. This statement is made under penalty of perjury (per California Education Code 38136).

**Declaration:** We agree to conform to all the rules and regulations and the Board Policy and Administrative Regulations of the Tracy Unified School District.

**Intent:** It is desirable that community use be made of school facilities for public purposes when such use does not interfere with the education program.

**Restrictions:** No use by an individual or group for the commission of any crime or any act prohibited by law; no use shall constitute a monopoly for benefit of any person or organization; no use of school facilities or grounds which is inconsistent with their use for school purposes or which interferes with the regular conduct of school; no permits are issued for longer than one year; and permits are renewable and revocable.

**Application:** Applications are to be completed by a responsible adult and, in the case of an organization, the party shall be an officer or a person duly appointed by the organization to make such an application. All school-related activities shall be given priority in the use of facilities under the Civic Center Act. Thereafter, the use of facilities shall be on a first-come, first served basis. The school principal is authorized to designate the areas at his/her school which are available and suitable for the use requested. The school principal is the authorizing agent to recommend his/her school site as requested and then will forward the facility use form to the Tracy Unified School District, Facility Use Department for final approval or denial.

**Fees:** Unless prior permission is granted, a payment of facilities fees will be required prior to use of facilities and required district personnel fees will be billed after usage date. Payment is to be made to Tracy Unified School District, Facility Use, 1875 W. Lowell Ave., Tracy, CA 95376.

**Rules of Conduct:** Unreasonable conduct of any participant shall be subject to immediate cancellation of use. Any conduct at an activity that is deemed offensive, indecent or contrary to the best interest of the community is classified as unreasonable. **SMOKING, TOBACCO PRODUCTS, ALCOHOL, DRUGS, FIREARMS OR EXPLOSIVES ARE PROHIBITED ON ANY SCHOOL DISTRICT PROPERTY.** Organizations or groups using school facilities under the provisions of Board policy shall be liable for any property damages caused by the activity. The Board shall charge the amount necessary to repair any damages and may deny the organization further use of school facilities.

**Use of District Furniture & Equipment:** When a scheduled use includes use of district furniture or equipment, the user will inspect said furniture and equipment prior to use to ensure the safety of user participants.

**Damage/Security Deposit:** A damage/security deposit of \$500.00 will be charged to any outside user prior to use of facility. This is a refundable deposit and will be refunded after use provided no damage occurs and all other fees have been paid. The applicant agrees to reimburse Tracy Unified School District for all costs incurred in repairing damages including, but not limited to the facility, furnishings, fixtures, grounds, and/or additional cleaning required outside of the normal scope for said facility, which occurred in connection with the permitted activity and caused by the renter,

**COMMUNITY RENTAL OF SCHOOL DISTRICT FACILITIES**

sponsoring organizations, and/or attendees. Reimbursement for such expenses will be in addition to the security deposit.

**Maximum Attendance:** The number of people present, at any activity, shall not exceed the posted occupancy for the room (s) used. This is a FIRE REGULATION.

Organization: \_\_\_\_\_

Signature of Authorized Representative: \_\_\_\_\_

Date: \_\_\_\_\_ Phone: \_\_\_\_\_ Other: \_\_\_\_\_

## COMMUNITY RENTAL OF SCHOOL DISTRICT FACILITIES

## Attachment B: Schedule of Community Rental Fees

Rooms	Utilities / Hr	Wear & Tear/ Hr	Custodia l/ Staff/ Hr	Admin Cost/Processi ng Timeframe or Change	Tier 6 Fair Rental Markup/ Hr
Classroom	\$0.90	\$16.50	\$33.29	\$40.94	\$66.00
Multi-Purpose Room	\$2.33	\$16.50	\$33.29	\$40.94	\$66.00
Library	\$2.33	\$16.50	\$33.29	\$40.94	\$66.00
High School Teacher Lounge	\$2.33	\$16.50	\$33.29	\$40.94	\$66.00
Cafeteria	\$4.98	\$16.50	\$33.29	\$40.94	\$66.00
Kitchen – Elementary	\$5.50	\$16.50	\$33.29	\$40.94	\$66.00
Kitchen – Secondary	\$16.50	\$16.50	\$33.29	\$40.94	\$66.00
Computer Lab	\$2.33	\$16.50	\$33.29	\$40.94	\$66.00
Science Lab	\$2.33	\$16.50	\$33.29	\$40.94	\$66.00
MS Gymnasium	\$8.94	\$16.50	\$33.29	\$40.94	\$66.00
MS Multi-Purpose Room	\$8.94	\$16.50	\$33.29	\$40.94	\$66.00
THS Room 62	\$2.33	\$16.50	\$33.29	\$40.94	\$66.00
High School Dance Room	\$2.33	\$16.50	\$33.29	\$40.94	\$66.00
Theater	\$8.81	\$16.50	\$33.29	\$40.94	\$66.00
Theater Sound Room/Lighting	\$10.00				
Theater Dressing Room	\$0.90	\$16.50	\$33.29	\$40.94	\$66.00
Theater Classrooms	\$0.90	\$16.50	\$33.29	\$40.94	\$66.00
HS Cafeteria	\$7.18	\$16.50	\$33.29	\$40.94	\$66.00
HS Gymnasium	\$9.18	\$16.50	\$33.29	\$40.94	\$66.00
HS Sub Gym	\$8.94	\$16.50	\$33.29	\$40.94	\$66.00
HS Weight Room	\$0.90	\$16.50	\$33.29	\$40.94	\$66.00
Tracy High Swimming Pool*	\$18.01	\$33.00	\$33.29	\$40.94	\$66.00
West High Pool **	36.02	\$104.00	\$33.29	\$40.94	\$66.00
District Education Center Board				\$40.94	
Room (no technology)	\$2.33	\$16.50	\$33.29		\$66.00
District Education Center Board				\$40.94	
Room (w/ technology)	\$2.33	\$16.50	\$68.03		\$66.00
District Education Center				\$40.94	
General Conference Room	\$0.90	\$16.50	\$33.29		\$66.00
ISSET Training Room (no				\$40.94	
technology)	\$2.33	\$16.50	\$33.29		\$66.00
ISSET Training Room (with				\$40.94	
technology)	\$2.33	\$16.50	\$68.03		\$66.00
District Staff Development				\$40.94	
Training Room	\$2.33	\$16.50	\$33.29		\$66.00

## COMMUNITY RENTAL OF SCHOOL DISTRICT FACILITIES

Rooms	Utilities / Hr	Wear & Tear/ Hr	Custodial / Staff/ Hr	Admin Cost/Process ing Timeframe or Change	Tier 6 Fair Rental Markup/ Hr
Grass Covered Baseball Practice Areas (**see note at bottom of page)		\$2.75		\$40.94	\$66.00
Baseball Field (all ages)		\$5.50		\$40.94	\$66.00
Softball Practice Field		\$5.50		\$40.94	\$66.00
Softball Field		\$5.50		\$40.94	\$66.00
Soccer Fields available to all ages (maximum wear and tear fee \$50.00 per day)		\$7.15		\$40.94	\$66.00
Football Practice Field (maximum wear and tear fee \$275/day)		\$7.15		\$40.94	\$66.00
Football Stadium (Includes use of snack bar. Cost of lights is additional. Maximum wear and tear fee \$770/day)****		\$77.00	\$33.29****	\$40.94	\$66.00
Football Field Line Painting			\$33.29	\$40.94	
Football Field Lights	\$11.01				
Tennis Courts		\$5.50	\$33.29	\$40.94	\$66.00
Track (Williams Middle School)		\$5.50		\$40.94	

\*\*The West High Pool has priority of use on weekends from the Memorial Day weekend through the Labor Day weekend, and weekdays from the final regular school day of the school year, , through the first return day of the new school year. Facility Use requests during these dates should be made directly to the City of Tracy. With prior approval, the West High pool may be shared by two user groups, and the cost may be shared.

\*\*\*Not to exceed \$750 per practice field for a season.

\*\*\*\*To supervise use of the facility and protect against damage, a custodian is required to be present starting one hour before the use begins, remain present during the use, and be present one hour after the use.

See following pages for different breakdowns of costs under different scenarios.

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**COMMUNITY RENTAL OF SCHOOL DISTRICT FACILITIES**

Note: Proceeds from Cost Per Head, and Fair Rental Markup will be split equally between the district and the site used to mitigate impacts of use. Proceeds from Wear and Tear will be split 2/3 to sites and 1/3 to the district and include mitigation on the impact of site personnel.

A damage/security deposit of \$500.00 will be charged to any outside user prior to use of facility. This is a refundable deposit and will be refunded after use provided no damage occurs and all other fees have been paid.

## COMMUNITY RENTAL OF SCHOOL DISTRICT FACILITIES

A breakdown of types of fields available at each site is included below:

## Types of Fields Available At Each Site

Site	Small Baseball < 10	Small Base ball < 12	Base ball	Soft ball Practice	Soft ball	Soccer	Football Practice	Stadium
Bohn		3 (*2)				2	2	
Central		2 (*2)				1	1	
Delta Is.								
Freiler	2 (*2)					0	0	
Hirsch	4 (*4)					1	1	
Jacobson	1 (*1)	3				1	1	
Kelly								
McKinley	5 (*5)					2	2	
Monte Vista			6 (*1)			1	1	
North	3					0	0	
Poet Christian		2 (*2)				1	1	
South/ West Park				1	2	1	1	
Stein								
Tracy High			3 (*2)			3	3	1
Villalovoz					2	1	1	
West High			2 (*1)		2	2	2	1
Williams					5	1	1	

\*grassy fields

**COMMUNITY RENTAL OF SCHOOL DISTRICT FACILITIES****Attachment C: Room Use and Clean-Up Check List****Room Cleaning Checklist Before Use**

Please acknowledge that food and drinks (water included) are prohibited in the schools main and sub-gymnasiums (WHS, THS, McKinley and North Elementary) that have wood flooring.

Site: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

Authorized District Employee Opening and Closing Facility: \_\_\_\_\_

User Group Name: \_\_\_\_\_

Responsible Group Representative Signature: \_\_\_\_\_

Actual Custodial hours worked Opening \_\_\_\_\_

Actual Custodial hours worked Closing \_\_\_\_\_

**CONDITION OF PREMISES BEFORE USE:**

CL – Clean ND – No Damage EN – Exceptions Noted

	<b>CL</b>	<b>ND</b>	<b>EN</b>	<b>C</b>
Cafeteria	( )	( )	( )	( )
Kitchen	( )	( )	( )	( )
Gymnasium	( )	( )	( )	( )
Multi-Purpose Room	( )	( )	( )	( )
Library	( )	( )	( )	( )
Pool Area	( )	( )	( )	( )
Locker Room	( )	( )	( )	( )
Classroom	( )	( )	( )	( )
Restrooms	( )	( )	( )	( )
Fields	( )	( )	( )	( )
_____	( )	( )	( )	( )
_____	( )	( )	( )	( )
_____	( )	( )	( )	( )

**Complete Page 2 – Check-Out and  
Return to Maintenance and Operations Department-Facility Use-fax# 209-830-3259**



**COMMUNITY RENTAL OF SCHOOL DISTRICT FACILITIES****Attachment C: Room Use and Clean-Up Check List (Continued)****Room Cleaning Checklist After Use**

Tracy Unified School District will provide paper towels, bathroom tissue, and plastic garbage bags. As a part of the custodial staffing cost, the Tracy Unified School District will clean bathrooms, empty garbage cans, sweep floors, and replace paper products. All other cleaning is the responsibility of the renter. The following checklist describes the cleaning responsibilities of the renter. If the custodian is required to spend more than the minimum two hour allotment, the user will be billed at the rate stated in this administrative regulation. Custodians must have permission granted by a district administrator authorized to expend funds from the facility use budget.

- \_\_\_\_\_ 1. Decorations removed from all walls and ceilings and properly disposed of at the completion of the function.
- \_\_\_\_\_ 2. Tables and chairs wiped off, stacked neatly, and put away.
- \_\_\_\_\_ 3. All trash bagged and placed in the trashcans provided by the district.
- \_\_\_\_\_ 4. Rooms, hallways, and other nearby areas cleaned of food and trash.
- \_\_\_\_\_ 5. Restrooms cleaned of all trash; toilets flushed.
- \_\_\_\_\_ 6. All debris around exterior of building (walkways and planted areas) disposed of properly.
- \_\_\_\_\_ 7. Damage to facility, equipment, property or persons.
- \_\_\_\_\_ 8. Field Use – no damage, no trash.

Describe problems:

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Custodian: \_\_\_\_\_ Date: \_\_\_\_\_

Facility User: \_\_\_\_\_ Date: \_\_\_\_\_

Time: \_\_\_\_\_

Return to Maintenance and Operations-Facility Use Department

Facility Use-(209) 830-3265, Fax# (209) 830-3259

Over time authorization: Bill Willner: 321-0469, Al Faria: 321-0349 Bob Corsaro: 321-1478

## COMMUNITY RENTAL OF SCHOOL DISTRICT FACILITIES

## Attachment D: In-Kind Services Estimate Documentation Form

Organization Name	Contact Person	Start Date
Location	Phone No.	
No. of Workers	Checked by:	End Date

Job Description

The Tracy Unified School District Facility Use Sub-Committee will review all requests for an approval or denial on all site improvements.

DESCRIPTION	QUANTITY	MATERIALS	LABOR	SUB- CONTRACT	TOTAL

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE CITY OF TRACY AND  
THE TRACY UNIFIED SCHOOL DISTRICT  
(MARTIN LUTHER KING DAY BREAKFAST)**

- I. **PARTIES:** This Memorandum of Understanding (hereinafter "MOU") is made by and between the City of Tracy (hereinafter "CITY"), a municipal corporation, and the Tracy Unified School District (hereinafter "TUSD"), a public school district duly organized and existing under the laws of the State of California.
- II. **RECITALS:**
- A. On July 1, 2006, The CITY entered into a Joint Use Collaborative Agreement with TUSD which provides that each entity will abide by the other's facility use policies, procedures, and fee schedules.
  - B. The Joint Use Collaborative Agreement does not accommodate the free use of the Tracy Community Center for the annual Martin Luther King Day Breakfast.
  - C. TUSD coordinates the Martin Luther King Day Breakfast through its Student Leadership Committee, which consists of representatives from TUSD, the CITY, Tracy African American Association, and the Black Student Unions from Tracy High School and West High School.
  - D. The Tracy Community Center has been the location for this annual event, provided free of charge based on the CITY's participation in the TUSD Student Leadership Committee.
  - E. Both the CITY and TUSD wish to formalize this arrangement through a Memorandum of Understanding.
- III. **RESPONSIBILITIES:** It is agreed by and between the parties hereto that each party have the following responsibilities, unless otherwise noted:
- A. **CITY shall:** Allow TUSD to use, at no charge and with early entry, the Tracy Community Center, 950 East Street, Tracy, on one Monday in January each year, specifically Martin Luther King Day, in order to conduct the annual Martin Luther King Day Breakfast.
  - B. **TUSD shall:**
    - 1. Coordinate the Annual Martin Luther King Day Breakfast through its Student Leadership Committee, which consists of representatives from TUSD, the CITY, Tracy African American Association, and the Black Student Unions from Tracy High School and West High School.
    - 2. Provide and conduct adequate fundraising activities to obtain funds needed to insure ongoing operation of the annual Martin Luther King Day Breakfast event.
    - 3. Provide the necessary volunteers, equipment, and promotions to successfully conduct the annual Martin Luther King Day Breakfast event.
    - 4. Adequately clean any CITY facilities to acceptable condition after permitted use and facilitate any repairs to damages caused by such use.
    - 5. Carry insurance coverage and provide proof such insurance with endorsements evidencing the following:
      - a. Policy shall name CITY, its officers, agents and employees as "additional insured" in relation to the activities performed in/on CITY property.
      - b. General liability insurance, including personal injury, in the amount of One Million Dollars (\$1,000,000.00) combined single limit per occurrence, with a Two Million Dollars (\$2,000,000) amount of aggregate coverage including bodily injury, personal injury and property damage.
      - c. TUSD may satisfy these requirements through self insurance.

**C. Indemnity, Defense, and Hold Harmless Agreement:**

1. TUSD shall indemnify, defend, and hold harmless CITY (including its elected officials, officers, agents, and employees) from and against any and all claims, demands, damages, liabilities, costs, and expenses (including court costs and attorney's fees) resulting from or arising out of the performance of this MOU by TUSD or TUSD agents, representatives, contractors, subcontractors, or employees.
2. CITY shall indemnify, defend, and hold harmless TUSD (including its elected officials, officers, agents, and employees) from and against any and all claims, demands, damages, liabilities, costs, and expenses (including court costs and attorney's fees) resulting from or arising out of the performance of this MOU by CITY's agents, representatives, contractors, subcontractors, or employees.
3. This MOU shall be subject to any and all policies, regulations and ordinances of the CITY.

**IV. TERMINATION:** Either party may terminate this MOU by providing prior written notice to the other party of intention to terminate not less than ninety days prior to actual termination.

**V. TERM:** This MOU shall take effect on July 1, 2009, for a term of five years and will then renew automatically on an annual basis (i.e., for a one-year term) unless one or both parties request non-renewal not less than ninety days prior to the annual renewal date. Authority for this MOU must be approved by the TUSD School Board. No other agreement can conflict with this MOU.

**VI. AMENDMENTS:** This MOU may be amended only through written agreement approved by a majority of both the Tracy City Council and Tracy Unified School District Board.

**VII. DESIGNATED REPRESENTATIVES:** For the purposes of administering the Agreement, the Superintendent of TUSD and the Mayor of the CITY, shall act as representatives for their respective parties, and authority for signature shall be provided by a vote of the TUSD School Board and the City of Tracy City Council respectively.

**VIII. NOTICES:**

To CITY:

City of Tracy  
Parks and Community Services Director  
400 East 10<sup>th</sup> Street  
Tracy, CA 95376

With a copy to:

City of Tracy  
City Attorney  
333 Civic Center Plaza  
Tracy, CA 95376

To TUSD:

Tracy Unified School District  
Casey Goodall, Assistant Superintendent  
Business Services  
1875 West Lowell Avenue  
Tracy California 95376

**IX. ENTIRE AGREEMENT:** This MOU constitutes the entire agreement between CITY and TUSD. Any amendment to this MOU, including oral modification, must be reduced to a writing and signed by both CITY and TUSD before it shall be deemed effective.

- X. **SIGNATURES:** The individuals executing this MOU represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this MOU on behalf of the respective legal entities of TUSD and CITY. This MOU shall inure to the benefit of and be binding upon the parties thereto and their respective successors and assigns.

**CITY OF TRACY**

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

Brent H. Ives

Title: Mayor

Date: \_\_\_\_\_

**TRACY UNIFIED SCHOOL DISTRICT**

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

James C. Franco

Title: Superintendent

Date: \_\_\_\_\_

**ATTEST:**

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

Sandra Edwards

Title: City Clerk

Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

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

Bill Sartor

Title: Deputy City Attorney

Date: \_\_\_\_\_

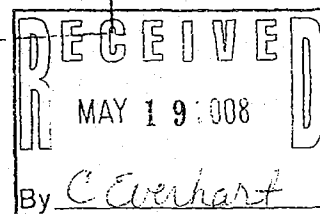
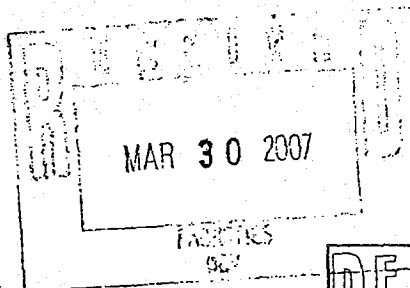


# CITY OF TRACY

## City Manager's Office

325 East Tenth Street  
Tracy, CA 95376

Telephone: (209) 831-4100  
Fax: (209) 831-4110



March 27, 2007

Tracy Unified School District  
Attn: Denise Wakefield  
1875 W. Lowell Avenue  
Tracy, CA 95376

Re: Memorandum of Understanding between the City and TUSD for the  
Development and Operation of a Swimming Pool at West High School

Dear Denise:

Enclosed you will find a fully executed copy of the Memorandum of Understanding as referenced above. Resolution 2007-020 approved this document at its regular City Council meeting on February 6, 2007.

If you have any questions concerning this Agreement, please do not hesitate to call me at (209) 831-4152.

Sincerely,

*Olinda Bauer*  
*Maria Hurtado*

Maria A. Hurtado  
Acting Assistant City Manager

Enclosure

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE CITY OF TRACY AND  
THE TRACY UNIFIED SCHOOL DISTRICT FOR  
THE DEVELOPMENT AND OPERATION OF A  
SWIMMING POOL AT WEST HIGH SCHOOL**

THIS MEMORANDUM OF UNDERSTANDING ("MOU"), made and entered into this 6<sup>th</sup> day of February, 2007, by and between the CITY OF TRACY, a municipal corporation of the State of California, ("City") and the TRACY UNIFIED SCHOOL DISTRICT, a political subdivision of the State of California, ("District").

**RECITALS**

A. Section 10900 *et seq.* of the Education Code authorizes cities and school districts to organize, promote and conduct programs of community recreation; to establish systems of playgrounds and recreation; and to acquire, construct, improve, maintain and operate recreation centers, including facilities such as swimming pools.

B. Section 10910 of the Education Code provides that the governing body of any school district may use or grant the use of any of the buildings or grounds of the school district to any other public authority for the purpose of organizing, promoting and conducting of community recreation whenever such use will not interfere with the use of such facilities for any other purpose of the public school system.

C. District intends on constructing a swimming pool facility at its West High School site using funds from a voter-approved bond measure (Measure E).

D. The proposed swimming pool facility consists of a 53-meter by 25-yard competition pool ("Pool");

E. The proposed swimming pool facility also includes a 960 square foot restroom building facility and a 960 square foot office/storage/changing room area building facility ("Community Buildings");

F. City is in need of additional aquatics facilities to meet the needs of its residents.

G. District has offered City use of Pool and Community Buildings during specified times, in exchange for contributions towards project and maintenance costs as specified in this MOU.

H. This MOU sets forth the understandings of the parties as it relates to funding, maintenance and use of Pool and Community Buildings.

**NOW THEREFORE**, the parties agree as follows:

**SECTION 1.**

**DEFINITIONS.**

For the purposes of this MOU, the following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section:

A. "Capital Maintenance" shall mean the renovation, repair or replacement of Pool and Community Buildings or any mechanical or operating system contained within Pool and Community Buildings, including, but not limited to: heating, ventilation and cooling systems; plumbing systems; electrical systems; pool heating and filtration systems; building and pool mechanical and lighting systems; seating; walls, including painting and wall covering; floors, including floor covering; and pool deck. "Capital Maintenance" costs do not include Routine Operation, Maintenance and Repair costs or any costs resulting from any of the following:



1. District's failure to perform its obligations related to Routine Operation, Maintenance and Repairs under Section 6.A of this MOU;
2. The negligent or wrongful acts or omissions of District, its agents, employees or subcontractors and/or the negligent or wrongful acts or omissions of City, its agents, employees or subcontractors;
3. An insured casualty or natural disaster to the extent realized by real property insurance coverage; or
4. Any work that is covered by a contractor's warranty or defective workmanship bond.

B. "Community Buildings" shall mean the 960 square foot restroom building facility and the 960 square foot office/storage building facility.

C. "Design and Construction Management Related Services" shall mean the following services, costs and fees related to the construction of Pool and Community Buildings: preparation of working drawings and plans and specifications, including architectural and engineering costs; construction management costs; permit fees; and testing and inspection fees.

D. "Joint Use Agreement" shall mean the Joint Use Collaborative Agreement for Use of Facilities and Active Use Areas, entered into between the City and District on August 25, 2006.

E. "Pool" shall mean the 53-meter by 25-yard competition swimming pool.

F. "Project Costs" shall mean costs for the design and construction of Pool as set forth in Section 4 of this MOU.

G. "Routine Cleanup" shall mean:

1. Removal of all trash, litter and/or garbage from entire Pool area, and deposit of such material in a proper receptacle provided by District;

2. Spray/wash-down of the restroom floors and Pool deck area; and
3. Covering and uncovering Pool (tarps).

H. "Routine Operation, Maintenance and Repairs" shall mean the work necessary to keep Pool and Community Buildings in a neat, clean and working condition, including, but not limited to: graffiti removal; providing custodial services; maintaining the desired water temperature of Pool; and maintaining the proper chemical balance of Pool. "Routine Maintenance and Repairs" shall also include the cost of chemicals and the cost to provide electricity, gas, water, sewer and refuse service necessary to operate Pool and Community Buildings (to the extent as necessary and practicable, additional utility metering facilities shall be installed at the site for the Pool and Community Buildings). Further, unless otherwise agreed to by staff of City and District, the temperature of Pool shall be maintained between 78 and 82 degrees during the time City has priority use of Pool, as set forth in Section 8. If at any point, the District has knowledge that the temperature of the Pool is below 78 degrees, the District shall immediately take reasonable measures to cure and conform to the provisions of this section.

## **SECTION 2. GENERAL PROVISIONS.**

This MOU constitutes the entire agreement between the parties respecting the Pool and City's use of Community Buildings. However, the Joint Use Agreement shall apply to District's use of Community Buildings at any time and City's use of Pool during District's priority use times specified in Section 8.A. of this MOU.

### SECTION 3. TERM.

Subject to provisions set forth elsewhere in this MOU regarding termination, the term of this MOU shall commence as of the date this MOU is signed by both parties, and shall remain in effect for a period of 30 years. The term will automatically extend for two additional 10-year terms, unless the City, in its sole discretion and upon at least 180 days written notice to District prior to the then current expiration date of the MOU, chooses not to allow the MOU to automatically extend.

### SECTION 4. DESIGN AND CONSTRUCTION OF POOL AND COMMUNITY BUILDINGS.

A. District shall be responsible for the design and construction of Pool and Community Buildings. This includes, but is not limited to, the following (which collectively are referred to as "Project Costs"):

1. Design and Construction Management Related Services;
2. Compliance with all legal requirements, including, but not limited to, the Americans with Disability Act, the California Environmental Quality Act, legal advertisements to the public and to qualified bidders;
3. Conducting and administering the bidding process for construction;
4. Awarding the construction contract;
5. Administration of construction;
6. Payment of amounts due to the architect, the contractor and other persons providing services; and
7. Administration and resolution of any claims of, or disputes with, the contractor or any provider of Design and Construction Management Related Services.

B. District shall prepare working drawings and plans and specifications for Pool and Community Buildings (collectively referred to as "Plans and

Specifications"). City shall have a reasonable opportunity to inspect the Plans and Specifications, District's estimated cost of construction and the construction contingency budget. District shall consult with City as to the Plans and Specifications. If City and District cannot agree to the Plans and Specifications after working in good faith for a reasonable time period, the City or District may terminate this MOU by providing written notice to the other party. However, any party providing notice of termination must first attempt to meet with the other party in good faith to attempt to resolve any disputed issues.

C. If the bid from the lowest responsible bidder exceeds District's estimated cost of construction, District shall consult with the project architect and City as to whether and/or how the Plans and Specifications should be modified. If City and District cannot agree as to whether and/or how the Plans and Specifications should be modified after working together in good faith, the City or District may terminate this MOU by providing written notice to the other party. However, any party providing notice of termination must first attempt to meet with the other party in good faith to attempt to resolve any disputed issues.

1. If both parties agree to terminate this MOU pursuant to this Subsection C, the parties shall agree as to a reasonable allocation of Design Related Services costs.

2. If District chooses to terminate this MOU pursuant to this Subsection C, it shall be responsible for all Design Related Services costs and Project Costs.

3. If City chooses to terminate this MOU pursuant to this Subsection C, it shall pay District for Design Related Services costs reasonably necessary to remove Community Buildings and recreation swim area of Pool from the Plans and Specifications.

D. District anticipates that construction of Pool and Community Buildings will be completed approximately twelve (12) months following the opening of bids for construction of the Pool and Community Buildings. District shall exercise its best

efforts to cause the Pool and Community Buildings to be completed no later than eighteen (18) months following opening of bids for construction of Pool.

E. Ownership of Pool and Community Buildings shall vest in District.

F. Pool shall be named by District.

## **SECTION 5. PROJECT COSTS.**

A. The Project Costs shall be funded by contributions from City and District. City's contributions for Project Costs shall be limited to the following:

1. All costs of the construction contract directly related to construction of Community Buildings;
2. Twenty-five percent of the construction contract directly related to construction of Pool; and
3. Twenty-five percent of Design and Construction Management Related Services.

B. Notwithstanding Subsection A, above, if District chooses to bid construction of Pool and/or Community Buildings with other District projects:

1. District shall prepare the bidding documents in such a manner so that the fixed price per unit for each item of work directly associated with the construction of Pool and/or Community Buildings is separately identified; and
2. City's contributions for Project Costs shall be limited to the following:
  - a. All costs directly related to construction of Community Buildings, as identified in the lowest bid for such work, regardless of whom the overall lowest bidder for the project or projects is;

b. Twenty-five percent of costs directly related to construction of Pool, as identified in the lowest bid for such work, regardless of whom the overall lowest bidder for the project or projects is; and

c. Twenty-five percent of Design and Construction Management Related Services.

B. City shall make three (3) separate deposits of its contributions to the Project Costs as follows:

1. Within 60 days of District's issuance of the Notice to Proceed to the construction contractor, City shall deposit with District the amount equal to 50% of the total costs identified in Subsections A or B, above.

2. Within thirty (30) days of the date the architect certifies substantial completion of project construction, City shall deposit with District the amount of equal to 25% of the total costs identified in Subsections A or B, above.

3. Within thirty (3) days following completion of all punch list items to City's reasonable satisfaction, City shall deposit with District the amount equal to 25% of the total costs identified in Subsections A or B, above.

## **SECTION 6. OPERATION, MAINTENANCE AND CLEANUP.**

A. District shall be responsible for all Routine Operation, Maintenance and Repairs and Capital Maintenance of Pool and Community Buildings, except as set forth in this MOU.

B. Within thirty (30) days following the end of each fiscal year, District shall exercise its best efforts to provide City with a detailed summary of actual Routine Operation, Maintenance and Repair costs for the previous year. City shall pay district 25% of such costs within thirty (30) days of receipt of the summary of costs.

C. District shall pay \$134,683 annually, for a period of 30 years, for Capital Maintenance. City shall pay \$44,895 annually, for a period of 30 years, for Capital Maintenance. These amounts reflect the actual costs anticipated for Capital Maintenance and Repair for operation of the Pool and Community Buildings over a 30 year period. These amounts shall be deposited by both parties into a separately established facilities fund to be used solely as a repair and replacement fund for long-term improvements on the Pool and Community Buildings. No expenditures shall be made from such fund unless approved by both the District's Superintendent, or his or her designee, and City's Manager, and his or her designee.

D. City shall be responsible for Routine Cleanup during the hours of use of Pool and Community Buildings by City. District shall be responsible for Routine Cleanup during all other times.

#### **SECTION 7. STAFFING OF POOL.**

A. City shall be responsible for staffing, supervision and control of Pool during the time City uses Pool, including:

1. Providing qualified swimming instructors, lifeguards, attendants and/or other necessary personnel who are Water Safety Instructors, Lifeguard Trained or appropriately certified by the American Red Cross or another comparable association;
2. Following all local and State health and safety laws, statutes and ordinances for operations and personnel certifications;
3. Paying the salaries and other expenses of necessary personnel;  
and
4. Supplying any special equipment necessary for teaching and other uses of Pool by City.

B. District shall be responsible for staffing, supervision and control of Pool during all other times when City does not have priority use or is not using Pool.

**SECTION 8. USE OF POOL AND COMMUNITY BUILDINGS.**

A. District shall have priority use of Pool during school year for:

1. Student educational and recreational purposes during school hours; and
2. District-sponsored extra curricular athletic activities during non-school hours.

B. City shall have priority use of Pool on weekends from the Memorial Day weekend through the Labor Day weekend, and weekdays from the final regular school day of the school year, through the first return day of the new school year.

City's use of Pool and Community Buildings shall include:

1. The ability to provide food and beverage services at City's sole cost and liability;
2. The use of ample District parking facilities for City program participants, which shall be maintained by District but that City shall be responsible for routine clean-up of garbage during its use; and
3. Exclusive year-round access to the Community Buildings to permit secured storage and retention of equipment and materials necessary for City's programming.

C. District and City shall coordinate a schedule for their respective uses of Pool, annually by the end of April of each year prior to the start of the academic year in August, with final schedule completed and agreed upon by August 15 of each year, during the term of this MOU. Adjustments to the coordinated schedule may take place during the year with approval by both District and City. Both parties agree to work in good faith to accommodate reasonable change requests. Should an activity need to be relocated, assistance will be provided by



either party to secure and publicize an alternate location for the activity, whether it is an appropriate District or City facility.

D. District may use Community Buildings in accordance with the Joint Use Agreement.

## **SECTION 9. INDEMNIFICATION.**

A. City shall indemnify, defend and hold harmless District, its officers, employees, elected officials, and agents, from and against any and all claims, losses, damages, expenses or liabilities arising as a result of the negligence or willful misconduct of City, its officers, employees, elected officials, agents, contractors, invitees, or fee-paying patrons in performing under the terms and conditions of this MOU, including compliance with all applicable local, state, and federal regulations and laws. This Section shall not release District from the statutory obligation to comply with the applicable Tort Claims statutes in the event of a claim against the City.

B. District shall indemnify, defend and hold harmless City, its officers, employees, elected officials, and agents, from and against any and all claims, losses, damages, expenses or liabilities arising as a result of the negligence or willful misconduct of District, its officers, employees, elected officials, agents or contractors, invitees, or fee-paying patrons in performing under the terms and conditions of this MOU, including compliance with all applicable local, state, and federal regulations and laws. This Section shall not release City from the statutory obligation to comply with the applicable Tort Claims statutes in the event of a claim against the District.

## **SECTION 10.**

## **INSURANCE.**

A. City and District shall each maintain insurance in connection with this MOU at the following minimum levels:

1. General liability as provided by: City through membership and affiliation with the San Joaquin Valley Risk Management Authority, a retention group; and District through membership and affiliation with NorCalRelief, a retention group.
2. Coverage shall be maintained in an amount not less than \$2,000,000 Aggregate and \$1,000,000 per occurrence for general liability, bodily injury and property damage.
3. Retention (SIR) as agreed upon by City and District.

B. City and District shall maintain worker's compensation coverage as required by the State of California.

C. City shall obtain endorsements to its automobile and commercial general liability coverage naming District (including its elected officials, officers, employees, agents, and volunteers) as an "additional insured"; and District shall obtain endorsements to its automobile and commercial general liability coverage naming City (including its elected officials, officers, employees, agents, and volunteers) as an "additional insured."

D. District shall either carry insurance on the Pool adequate to cover the full replacement value of the Pool to extent available, or provide City with evidence showing that District is adequately self-insured.

## **SECTION 11.**

## **DAMAGE AND DESTRUCTION.**

A. If Pool and/or Community Buildings are substantially damaged through no fault of City so as to render them unusable for City's purposes, City shall have

the option to terminate this MOU upon providing District thirty (30) days written notice. After receipt by the District of City's intention to terminate the MOU, District may elect to undertake repairs within that thirty (30) day period so as to render the Pool and/or Community Buildings usable for City's purposes. If the facilities are reasonably restored or repaired to such extent as to make the Pool and/or Community Buildings usable by City within the thirty (30) day time period, City shall act in good faith as to whether it decides to terminate this MOU. If City chooses to terminate the MOU, City's Contribution shall be refunded according to the schedule set forth in the attached Exhibit A to the extent of insurance coverage paid to District for the loss, less costs to secure the site and render it safe (which costs shall be shared equally). In the alternative, City and District may agree upon rebuilding Pool and/or Community Buildings upon terms that may be negotiated.

## **SECTION 12.**

## **DEFAULT.**

A. Except for the notice and cure provisions contained in this Section, failure or delay by either party to perform any term or provision of this MOU constitutes a breach under this MOU. The party who commits a breach shall promptly commence to cure, correct or remedy such failure or delay and shall complete such cure, correction or remedy with reasonable diligence, and during any period of curing shall not be in default of this MOU.

B. In the event of a breach by either party, the injured party shall give written notice of breach to the party in breach, specifying the breach complained of by the injured party.

C. If a breach, however, is not cured or commenced to be cured within 30 days after receipt of the notice of breach, then the party not so curing or commencing to cure shall be in default under this MOU, and the nondefaulting

party shall have the right to exercise any and all remedies available to it at law or in equity.

**SECTION 13.**

**ELECTIVE TERMINATION.**

A. Only upon completion of Pool and City use of Pool for a period of five (5) years, District may terminate this MOU, without cause, upon one hundred eighty (180) days written notice to City. If District chooses to terminate this MOU pursuant to this Section, City's contributions to all of the Project Costs described in Section 5.A., shall be refunded according to the method set forth in the attached Exhibit A, and any unused amounts paid by City and District for Capital Maintenance shall be refunded with interest to each party.

B. At any time, City may terminate this MOU, without cause, upon one hundred eighty (180) days written notice to District. If City chooses to terminate this MOU pursuant to this Section, City's contributions to the Project Costs described in Section 5.A.2. (costs of construction contract directly related to construction of Pool), shall be refunded according to the method set forth in the attached Exhibit B, and any unused amounts paid by City and District for Capital Maintenance shall be refunded with interest to each party.

C. If District does not have sufficient funds to refund Project Costs to City pursuant to this Section, District may request that the City agree to a reasonable repayment plan.

D. The provisions of this Section are in addition to, and not a limitation of, any other rights or remedies available to the parties.

**SECTION 14.**

**ASSIGNMENT AND SUBLETTING.**

A. Neither City nor District shall assign its interest in this MOU without the prior written consent of the other.

B. Notwithstanding Subsection A, above, City may allow groups and individuals to reserve Pool and Community Buildings pursuant to the City's policies and procedures, during the time City has priority use of Pool.

C. All covenants, promises, conditions, representations, and agreements expressed in this MOU shall be binding on the party who makes them and on that party's representatives, successors, and permitted assigns.

**SECTION 15.**

**WAIVER.**

In no event shall any payment by City or any acceptance of payment by District hereunder constitute or be construed to be a waiver by City or District of any breach of covenants or conditions of this MOU or any default which may then exist on the part of City or District, and the making of any such payment or the acceptance of any such payment while any such breach or default exists, shall in no way impair or prejudice any right or remedy available to City or District with respect to such breach or default. The waiver by one party of any breach by the other party of any of the provisions of this MOU shall not constitute a continuing waiver or a waiver of any subsequent breach either of the same or of another provision of this MOU.

**SECTION 16.**

**INDEPENDENT CONTRACTOR.**

Under no circumstances shall this MOU be construed as one of agency, partnership, joint venture or employment between District and City. Each party acknowledges and agrees that it neither has, nor will give the appearance or

impression of having, any legal authority to bind or commit the other party in any way. The City and District agree that each party shall be responsible for the payment of wages and benefits of each of their respective employees and agents.

**SECTION 17.**                      **AMENDMENTS.**

Amendments to the terms and conditions of this MOU shall be requested in writing by the party desiring such revision, and any such adjustment to this MOU shall be determined and effective only upon the mutual agreement in writing of the parties.

**SECTION 18.**                      **NOTICES.**

Any and all notices or other communication required or permitted by this MOU or by law to be served on or given to either party by the other party shall be in writing and shall be deemed duly served and given when personally delivered to the party to whom it is directed, or in lieu of personal service, when deposited in the United States mail, first class, postage prepaid, addressed to:

City:                      City of Tracy  
                                Maria Hurtado  
                                Director of Parks and Community Services  
                                400 East 10<sup>th</sup> Street  
                                Tracy, California 95376

District:                Tracy Unified School District  
                                Casey Goodall  
                                Assistant Superintendent of Business Services  
                                1875 West Lowell Avenue  
                                Tracy, California 95376

**SECTION 19.**

**FORCE MAJEURE.**

If either party shall be delayed or prevented from the performance of any act required by this MOU by reason of acts of God, strikes, lockouts, labor troubles, inability to procure materials, hazardous materials testing or remediation ordered by any governmental entity with authority therefore or other cause, without fault and beyond the reasonable control of the party obligated (financial inability excepted), performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

**SECTION 20.**

**ENTIRE AGREEMENT.**

This MOU, including the attached exhibits, constitutes the entire agreement between the parties respecting the Pool and Community Buildings, and correctly sets forth the obligations of City and District to each other as of the Effective Date. Any agreements or representations not expressly set forth in this Agreement shall be null and void.

**SECTION 21.**

**PARTIAL INVALIDITY.**

If any provision of this MOU is held by a court of competent jurisdiction to be either invalid, void or unenforceable, the remaining provisions of this MOU shall remain in full force and effect and unimpaired by the holding. All laws, rules, requirements, and regulations of the State of California, applicable to school districts and the functioning, powers, and administration of school districts and school facilities, are deemed included in this MOU as if fully set forth to the extent they apply to the design, construction, administration, and operation of the Pool, and shall be complied with in the performance of this MOU. Upon request by City, District shall use reasonable efforts to provide to City copies of such

requested laws, rules, and regulations applicable to school districts and shall use reasonable efforts to inform City of any changes to foregoing.

SECTION 22.

GOVERNING LAW.

This MOU shall be governed by and in accordance with the laws of the State of California.

SECTION 23.

NONDISCRIMINATION.

Neither City nor District shall discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, disability, ethnicity, or national origin, in connection with or related to the performance of this MOU.

SECTION 24.

COUNTERPARTS.

This MOU may be signed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same MOU.

District

Casey Homler

Associate Superintendent,  
Business Services

Dated: 1/24/07

Approved as to Form:

P. Allen Carter

City

Bruce D. Lee

Mayor

Dated: 3/13/07

Approved as to Form:

Sandra Edwards



## Exhibit A

Under this method, the total actual project costs as defined in Section 5 are divided by 30 years. This is the average annual straight line depreciation. In years one through nine, 50% of the annual straight line depreciation will be deducted for each year that has passed since completion of the pool until termination by the District of the agreement. This amount will be deducted from the total actual project costs and the balance remaining will be due by the District to the City. In years ten through nineteen, 100% of the annual straight line depreciation will be used as a deduction. In years twenty through twenty nine, 150% of the annual straight line depreciation will be used as a deduction. The following table shows this method being applied to the estimated project costs. However, the refund will be based on actual project costs.

CITY'S SHARE OF PROJECT COST	
\$1,789,012	
IF DISTRICT CANCELS AFTER YEAR	DISTRICT REFUNDS
5	\$1,639,012
6	\$1,609,012
7	\$1,579,012
8	\$1,549,012
9	\$1,519,012
10	\$1,459,012
11	\$1,399,012
12	\$1,339,012
13	\$1,279,012
14	\$1,219,012
15	\$1,159,012
16	\$1,099,012
17	\$1,039,012
18	\$979,012
19	\$919,012
20	\$829,012
21	\$739,012
22	\$649,012
23	\$559,012
24	\$469,012
25	\$379,012
26	\$289,012
27	\$199,012
28	\$109,012
29	\$19,012
30	\$0

## Exhibit B

Under this method, 25% of the actual total hard construction costs of the pool are divided by 30 years. This is the average annual straight line depreciation. This amount will be deducted for each year that has passed since completion of the pool until termination by the City of the agreement. This amount will be deducted from the total actual hard construction costs and the balance remaining will be due by the District to the City. The following table shows this method being applied to the estimated project costs. However, the refund will be based on actual project costs.

	25% OF POOL
	\$818,537
IF CITY CANCELS AFTER YEAR	DISTRICT REFUNDS
1	\$788,537
2	\$758,537
3	\$728,537
4	\$698,537
5	\$668,537
6	\$638,537
7	\$608,537
8	\$578,537
9	\$548,537
10	\$518,537
11	\$488,537
12	\$458,537
13	\$428,537
14	\$398,537
15	\$368,537
16	\$338,537
17	\$308,537
18	\$278,537
19	\$248,537
20	\$218,537
21	\$188,537
22	\$158,537
23	\$128,537
24	\$98,537
25	\$68,537
26	\$38,537
27	\$8,537
28	\$0
29	\$0
30	\$0



**TRACY**  
UNIFIED SCHOOL DISTRICT

# BUSINESS SERVICES MEMORANDUM

**TO:** Dr. James Franco, Superintendent  
**FROM:** Dr. Casey Goodall, Associate Superintendent for Business  
**DATE:** June 15, 2009  
**SUBJECT:** **Approve List of Qualified Civil Engineering Services Firms to Perform Required Topographical Surveying, Boundary Services, as well as other Engineering Services on New Construction and Modernization Projects**

**BACKGROUND:** The District is required to hire Civil Engineering Services firms to provide comprehensive topographical surveys and boundary reports as well as other civil engineering services for both new construction and modernization projects. Due to the number of projects that require these services, staff advertised in the Stockton Record and requested the qualifications of several firms that conduct business within our region that can be contacted as needed to perform the necessary studies.

**RATIONALE:** A total of thirty six firms responded to the District's Request for Qualifications (RFQ). Each of the firms was ranked on various categories, including: location; hourly rate; relevant school experience, etc. Ranking was conducted by the District's staff; architects, and construction managers which also took into consideration past experiences working with the firms. There are several projects that will require topographical and civil engineering services in the next several months/years; therefore, the 4 top ranked firms have been recommended for a District "shortlist" and will be contacted for a "Request for Proposal" on an as needed basis.

The firms selected for civil engineering services are:

- Warren Land Surveying, Inc.;
- RSC Engineering, Inc.;
- O'Dell Engineering;
- Siegfried Engineering, Inc.

**FUNDING:** Project funding will come from a number of resources depending on the nature of the project, including: Developer Fees, Measure E Funds, Measure S Funds, Redevelopment Funds, General Fund and Deferred Maintenance

**RECOMMENDATION:** **Approve List of Civil Engineering Services Firms to Perform Required Topographical Surveying, Boundary Services, as well as other Engineering Services on New Construction and Modernization Projects**

**Prepared by:** Bonny Carter, Facilities Planner

Civil Engineering Services Evaluation  
Request for Qualifications  
Due Date: May 19, 2009

	Firm	Relevant School Experience	Years in Business	Number of Employees	Location	References	Fee Schedule	2 Man Crew Rate (\$/hr)	Engineer Rate (\$/hr)	Constr Mgmt (RGM)	Architect (RGA)	TUSD
6	Precision Civil Engineering	Yes	40	30	Fresno	Yes	Yes	\$ 135.00	\$ 120.00			
25	LHB & Associates, Ltd.	Yes	3	5	San Luis Obispo	Yes	Yes	\$ 175.00	\$ 105.00			
13	GDR Engineering, Inc.	Yes	31	15	Ceres	Yes	Yes	\$ 175.00	\$ 115.00			
8	MCR Engineering, Inc	Yes	12	Unknown	Manteca	Yes	Yes	\$ 180.00	\$ 110.00			
1	O'Dell Engineering	Yes	15	6	Modesto	Yes	Yes	\$ 180.00	\$ 120.00	3	2	2
2	Siegfried Engineering, Inc.	Yes	53	23	Stockton	Yes	Yes	\$ 185.00	\$ 138.00	4		3
9	Mid-Valley Engineering	Yes	40	70	Modesto	Yes	Yes	\$ 190.00	\$ 145.00			
15	Bellecci & Associates, Inc.	Yes	26	26	Concord	Yes	Yes	\$ 190.00	\$ 156.00			
31	Lea & Braze Enginnering, Inc.	Yes	25	35	Hayward	Yes	Yes	\$ 195.00	\$ 165.00			
30	North Star Enginnering Group	Yes	6	Unknown	Modesto	Yes	Yes	\$ 200.00	\$ 115.00		4	
3	RSC Engineering, Inc.	Yes	5	11	Roseville	Yes	Yes	\$ 200.00	\$ 130.00	2		1
19	Udi-Tetrad Consulting Engineers	Yes	29	Unknown	Walnut Creek	Yes	Yes	\$ 200.00	\$ 150.00			
28	Civil Diligence , Inc.	Yes	2	Unknown	Roseville	Yes	Yes	\$ 205.00	\$ 122.00			
26	Associated Engineering Group, Inc.	Yes	7	Unknown	Modesto	Yes	Yes	\$ 205.00	\$ 130.00		3	
32	Chaudhary & Associates, Inc.	Yes	34	35	Napa	No	Yes	\$ 205.00	\$ 165.00			
5	Kier & Wright Civil Engineers & Surveyors	Yes	37	101	Pleasanton	Yes	Yes	\$ 208.00	\$ 146.00			
23	Ruark and Associates	Yes	14	Unknown	San Ramon	Yes	Yes	\$ 210.00	\$ 150.00			
34	Morton & Pitalo, Inc.	Yes	32	Unknown	Folsom	Yes	Yes	\$ 210.00	\$ 190.00			
20	Mark Thomas & Company, Inc.	Yes	82	200	Sacramento	Yes	Yes	\$ 215.00	\$ 170.00			
21	Benchmark Engineering, Inc.	Yes	10	12	Oakdale	Yes	Yes	\$ 220.00	\$ 125.00			
12	Andregg Geomatics	Yes	63	Unknown	Auburn	No	Yes	\$ 220.00	\$ 140.00			
27	Conti and Associates, Inc.	Yes	7	Unknown	Woodbridge	Yes	Yes	\$ 225.00	\$ 95.00			
10	Laugenour and Meikle	Yes	55	25	Woodland	Yes	Yes	\$ 235.00	\$ 150.00			
17	David Evans and Associates	Yes	35	800	Stockton	Yes	Yes	\$ 235.00	\$ 190.00			
33	Stantec Consulting, Inc.	Yes	55	10,000	Sacramento	Yes	Yes	\$ 236.00	\$ 157.00			
11	MacKay & Soms	Yes	55	Unknown	Pleasanton	Yes	Yes	\$ 236.00	\$ 174.00			

Civil Engineering Services Evaluation  
Request for Qualifications  
Due Date: May 19, 2009

	Firm	Relevant School Experience	Years in Business	Number of Employees	Location	References	Fee Schedule	2 Man Crew Rate (\$/hr)	Engineer Rate (\$/hr)	Constr Mgmt (RGM)	Architect (RGA)	TUSD
18	KPFF Consulting Engineers	Yes	49	900	San Francisco	Yes	Yes	\$ 240.00	\$ 145.00			
14	RBF Consulting	Yes	65	750	Sacramento	Yes	Yes	\$ 240.00	\$ 165.00			
16	Mountain Pacific Surveyors	Yes	17	12	Fairfield	Yes	Yes	\$ 245.00	\$ 135.00			
7	Warren Land Surveying, Inc.	Yes	8	7	Folsom	Yes	Yes	\$ 247.00	\$ 175.00	1	1	4
24	Creegan + D'Angelo Infrastructure Engineers	Yes	53	45	Pleasanton	Yes	Yes	\$ 250.00	\$ 155.00			
29	BKF Engineers	Yes	94	220	Pleasanton	Yes	Yes	\$ 250.00	\$ 167.00			
4	Kjeldsen, Sinnock & Neudeck	Yes	53	24	Stockton	Yes	Yes	\$ 274.00	\$ 195.00			
22	TMAD Taylor & Gaines	Yes	54	350	San Francisco	Yes	Yes	Unknown	\$ 155.00			
35	Ruggeri-Jensen-Azar	Yes	14	58	Pleasanton	No	No	Unknown	Unknown			
36	Rincon Consultants, Inc. *	Yes	15	57	San Luis Obispo	No	No	Unknown	Unknown			

17  
Rank 1 through 4 (#1 is top best choice)

\* Arrived after the Due Date



# BUSINESS SERVICES MEMORANDUM

**TO:** Dr. James Franco, Superintendent  
**FROM:** Dr. Casey Goodall, Associate Superintendent for Business Services  
**DATE:** June 15, 2009  
**SUBJECT:** Approve the 2008-09 Revised Deferred Maintenance Project List and the Updated Five Year Deferred Maintenance Plan

**BACKGROUND:** The State's Deferred Maintenance Program provides State matching funds, on a dollar for dollar basis, although not always 100% funded, to assist school districts with expenditures for major repair or replacement of existing school building components so that the educational process may continue safely. An annual grant is provided to Districts based upon a project list compiled by the District and submitted to the Office of Public School Construction (OPSC) in the Five Year Plan. The plan is the projection of deferred maintenance work to be performed over the next five years. The District can update and resubmit the Five Year Plan at any time as long as the plan for the current year is submitted prior to the last working day in June.

The amount of the maximum basic state apportionment is calculated by the Office of Public School Construction and is equal to one half percent of the District's funds budgeted in the general fund and adult education fund, exclusive of any amounts expended for capital outlay, debt service, or revenues that are passed through to other local education agencies. Additionally, TUSD will provide their matching share for the fiscal year based on the maximum basic apportionment. The estimated funds available for the 2008-09 fiscal year is \$3,894,399. This includes a beginning fund balance of \$2,577,834 and combined estimated state and district contributions and estimated interest for a total of \$1,316,565. The District's revised five-year plan estimates that \$2.6 million will be expended on deferred maintenance projects for the current year, the balance will be carried over to 2009-10 fiscal year.

**RATIONALE:** Deferred Maintenance funding is a key financial component of the Measure S projects; and the Deferred Maintenance 5-year plan includes building components that need repair or replacement from the Measure S projects. Also, because deferred maintenance is the principal funding program to ensure major and/or long term repairs are completed, projects as they become a priority will be considered for repair/replacement at various sites.

**FUNDING:** All projects listed on the Five Year Plan will be paid for with Deferred Maintenance Funds.

**TIMING:** Due to the schedule and tight time frame for most deferred maintenance projects and based on the Resolution the Board approved to delegate authority to the Associate Superintendent of Business to accept and award bids, projects on the attached list are being completed on an on-going basis. Staff will bring contracts back to the Board to have them ratified at the next regularly scheduled board meeting.

RECOMMENDATIONS: Approve the 2008-09 Revised Deferred Maintenance Project List  
and the Updated Five Year Deferred Maintenance Plan

**Prepared by:** Bonny Carter, Facilities Planner

Category	Amount	Description
Roofing	\$ (100.00)	
Bohn	\$ 70,273.13	Adm, Rms 1-2 & Walkways
Central	\$ 43,116.04	Admin, Rms 10-28
Jacobson	\$ 225,834.81	MP Bldg, Admin, Rms 3-7, 14-19, inc RR
McKinley	\$ 1,026.32	Walkway outside Rms 2-5
North	\$ 134,268.80	Center of Adm, Rms 41-43, 51-53
Poet Christian	\$ 203,229.84	MP Bldg, Admin, Rms 1-2, 15-20, inc RR
South	\$ 58,715.85	Amd, Rms 1-5, 15-19, & Custodial Closet
Tracy High School	\$ 196,476.63	EB Theater
West High School	\$ 116,168.32	Kitchen, Student Store, Staff Lounge & Breezeway
District Wide	\$ 100,000.00	
Sub Total	\$ 1,149,009.74	
Painting		
Tracy High School	\$ 971.98	EB Theater
District Wide	\$ 15,000.00	
Subtotal	\$ 15,971.98	
Paving		
Hirsch	\$ 8,281.00	Sealing Parking Lot, Hardcourt
McKinley	\$ 6,455.66	Asphalt Back of Campus
District Wide	\$ 15,000.00	
Subtotal	\$ 29,736.66	
Plumbing		
Clover	\$ 83,769.89	Sewer Line
THS	\$ 244,947.03	Locker Rooms, EB Theater
District Wide	\$ 15,000.00	
Subtotal	\$ 343,716.92	
HVAC		
Tracy High School	\$ 67,362.25	Locker Rms Ventilation System, EB Theater
Monte Vista	\$ 14,600.00	Room 30
District Wide	\$ 15,000.00	
Subtotal	\$ 96,962.25	
Flooring		
Bohn	\$ 26,720.12	Carpet Balance of Library, Rm 14-19
Hirsch	\$ 4,931.00	Kitchen Vinyl Flooring
Poet Christian	\$ 4,878.00	Kitchen Vinyl Flooring
THS	\$ 26,600.00	EB Theater & Locker Rms
District Wide	\$ 71,000.00	
Subtotal	\$ 134,129.12	
Doors:		
Tracy High School	\$ 192.07	EB Theater
District Wide	\$ 5,000.00	
Tracy High School	\$ 5,192.07	
Hazardous Materials Abatement		
Tracy High School	\$ 9,810.00	Asbestos Lockers Rooms
Electrical		
Tracy High School	\$ 630.63	EB Theater
Tracy High School Lighting	\$ 50,000.00	EB Theater-Lighting
District Wide	\$ 10,000.00	
Subtotal	\$ 60,630.63	
Wall Systems		
Williams	\$ 10,650.00	Restroom Partitions
Tracy High School	\$ 520,720.96	Locker Rooms, EB Theater
District Wide	\$ 50,000.00	
Subtotal	\$ 581,370.96	
EMS		
Bohn	\$ 54.83	Energy Management System
Central	\$ 620.56	Energy Management System
Jacobson	\$ 330.85	Energy Management System
McKinley	\$ 334.59	Energy Management System
North	\$ 48,777.18	Energy Management System
Poet-Christian	\$ 68,440.90	Energy Management System
Villalovoz	\$ 79,735.36	Energy Management System
Duncan Russell	\$ 637.47	Energy Management System
Subtotal	\$ 198,931.74	
Totals	\$ 2,625,462.07	



State of California  
**FIVE YEAR PLAN**  
**DEFERRED MAINTENANCE PROGRAM**

STATE ALLOCATION BOARD  
 OFFICE OF PUBLIC SCHOOL CONSTRUCTION

Page 2 of 3

SCHOOL DISTRICT COUNTY FIVE DIGIT DISTRICT CODE N CURRENT FISCAL YEAR

Tracy Unified School District San Joaquin 40175499 2008/2009

ie District: ☐ has not previously submitted a Five-Year Plan. ☒ Is submitting this updated/revised Five-Year Plan which supersedes the plan currently on file with the SAB.

Part 1- The following individual has been designated as a district representative by school board minutes: TELEPHONE NUMBER FAX NUMBER

DISTRICT REPRESENTATIVE TITLE BUSINESS ADDRESS E-MAIL ADDRESS

asey J. Goodall Associate Superintendent of Business Services 1875 Lowell Avenue Tracy, CA 95376 dwakefield@tusd.net

Part II- Estimated Fiscal Year Data

	1. NUMBER OF PROJECTS	2. 2008/09 CURRENT F.Y.	3. 2009/10 SECOND F.Y.	4. 2010/11 THIRD F.Y.	5. 2011/12 FOURTH F.Y.	6. 2012/13 FIFTH F.Y.	7. TOTAL ESTIMATED COST
pestos	6	\$9,810	\$75,000	\$90,000	\$75,000	\$75,000	\$324,810
ssroom Lighting	8	\$50,000	\$75,000	\$350,000	\$375,000	\$575,000	\$1,425,000
ctrical	7	\$10,631	\$250,000	\$350,000	\$250,000	\$500,000	\$1,360,631
or Covering	21	\$134,129	\$75,000	\$228,736	\$466,594	\$536,167	\$1,440,626
AC	14	\$295,894	\$50,000	\$393,760	\$60,000	\$150,000	\$949,654
id	6	\$0	\$50,000	\$86,480	\$87,464	\$39,330	\$263,274
nting	12	\$15,972	\$25,000	\$246,500	\$299,682	\$146,314	\$733,468
ing	14	\$29,737	\$50,000	\$50,000	\$102,200	\$94,800	\$326,737
mbing	10	\$343,717	\$125,000	\$548,000	\$350,000	\$200,000	\$1,566,717
ofing	30	\$1,149,010	\$1,250,000	\$650,000	\$713,215	\$667,939	\$4,430,164
erground Tanks	0	\$0	\$0	\$0	\$0	\$0	\$0
l Systems	19	\$586,563	\$50,000	\$120,000	\$144,000	\$200,000	\$1,100,563
<b>Grand Total</b>	<b>147</b>	<b>\$2,625,462</b>	<b>\$2,075,000</b>	<b>\$3,113,476</b>	<b>\$2,923,155</b>	<b>\$3,184,550</b>	<b>\$13,921,643</b>

Remarks



**TRACY**  
UNIFIED SCHOOL DISTRICT

# BUSINESS SERVICES MEMORANDUM

**TO:** Dr. James Franco, Superintendent  
**FROM:** Dr. Casey Goodall, Associate Superintendent for Business Services  
**DATE:** June 15, 2009  
**SUBJECT:** Adopt Resolution No. 08-40 Authorizing the Governing Board to Delegate Powers to the Associate Superintendent for Business Services

**BACKGROUND:** The Board approved Resolution 04-08, 05-31, 06-34, 07-36 on October 12, 2004, June 27, 2006, June 26, 2007, and June 24, 2008 designating the Associate Superintendent of Business Services to act on behalf of the governing Board to approve Notice of Completions, approve change orders, sign contracts, and accept and/or reject bids. Based on our need to act on construction projects in a timely manner, we are requesting that the Associate Superintendent of Business Services be authorized to act on behalf of the governing Board on matters pertaining to the acceptance and or rejection of bids for goods and services, the execution of contracts on behalf of the District, the execution of contract/agreements with consultants and contractors selected on a qualifications based criteria, and to approve Notice of Completions and Change Orders.

**RATIONALE:** This will allow the Facilities Development Department to continue to accept bids, enter into contracts, enter into agreements based upon qualifications, close projects and make payments in a timely manner.

**FUNDING:** Various funding sources including: Deferred Maintenance, State School Facility Program, Unrestricted Facilities General Fund, Redevelopment, and Local Bonds.

**RECOMMENDATION:** Adopt Resolution No. 08-40 Authorizing the Governing Board to Delegate Powers to the Associate Superintendent of Business Services

**Prepared by:** Bonny Carter, Facilities Planner



## RESOLUTION NO. 08-40

### **RESOLUTION OF THE BOARD OF EDUCATION OF THE TRACY UNIFIED SCHOOL DISTRICT AUTHORIZING THE GOVERNING BOARD TO DELEGATE POWERS TO THE ASSOCIATE SUPERINTENDENT OF BUSINESS SERVICES**

WHEREAS, Education Code section 35161, allows the governing board of any school district to delegate the execution of the powers delegated to it by law to the board or the district of which it is the governing board, to an officer or employee of the district;

WHEREAS, Education Code section 17604, provides for the power to contract invested in the governing board by education code to be delegated to the superintendent or any persons that he or she may designate;

WHEREAS, the Board designated delegate will limit use the of such powers as delegated by the Board as they relate to **rejecting** a bid when a valid protest is received or when informalities or irregularities exist in the bid documents or process, and when advised by an attorney and when waiting until the next scheduled board meeting would significantly impact the cost or schedule of a project;

WHEREAS, the Board designated delegate will limit use the of such powers as delegated by the Board as they relate to **accepting bids** and the **execution of contracts** when waiting until the next regularly scheduled board meeting would significantly impact the cost or schedule of the project and the scope of work has already been approved by the Board;

WHEREAS, the Board designated delegate will limit use the of such powers as delegated by the Board as they relate to **approving the Notice of Completion (NOC)** when waiting until the next regularly scheduled board meeting would significantly impact the cost or schedule of the project and the scope of work has already been approved by the Board;

WHEREAS, the Board designated delegate will limit use the of such powers as delegated by the Board as they relate to **approving Change Orders** when waiting until the next regularly scheduled board meeting would significantly impact the cost or schedule of the project and the scope of work has already been approved by the Board;

WHEREAS, no contract made pursuant to the delegation and authorization shall be valid, until approved or ratified by the governing board and evidenced by a motion of the governing board as duly passed and adopted;

NOW, THEREFORE BE IT RESOLVED that the Associate Superintendent for Business Services be and is hereby appointed and authorized to act on behalf of the governing board as a delegate of the governing board and is directed to act on the on matters pertaining to the acceptance and or rejections of bids for goods and services, the execution of contracts on behalf of the District, and approval of Notice of Completions and Change Orders;

BE IT FUTHER RESOLVED that a copy of this resolution, duly certified by the Clerk of the Board containing the signature of the authorized agent be sent to the County Superintendent of Schools and the Audit/Controller of San Joaquin County.

PASSED AND ADOPTED by the Board of Trustees of the Tracy School District, County of San Joaquin, State of California this 23<sup>rd</sup> day of June, 2009 by the following vote:

AYES:

ABSENT:

NOES:

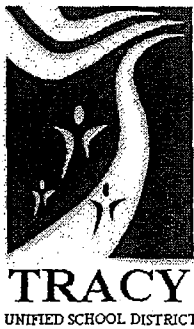
ABSTAIN:

\_\_\_\_\_  
Chair  
Board of Education  
Tracy Unified School District

ATTEST:

\_\_\_\_\_  
Secretary  
Board of Education  
Tracy Unified School District

DATE \_\_\_\_\_



# BUSINESS SERVICES MEMORANDUM

**TO:** Dr. James Franco, Superintendent  
**FROM:** Dr. Casey Goodall, Associate Superintendent for Business  
**DATE:** June 12, 2009  
**SUBJECT:** Adopt Resolution 08-41 Finding That the Tracy Learning Center Classrooms Addition Project Qualifies as a Categorical Exemption from California Environmental Quality Act

**BACKGROUND:** A public agency is required to examine a project to determine whether the project is subject to CEQA or if the project is exempt. If it is determined that the project to be completed is exempt from the preparation of CEQA environmental documents by statutory, categorical or general rules of exemption, the District is required to prepare a Notice of Exemption (NOE) and file the NOE with the County Clerk.

**RATIONALE:** The proposed project will include the addition of two portables, with space for approximately 40 students, to serve the K-4 Primary Charter School. The school will soon reach it's agreed upon enrollment cap of 315 students, regardless of the addition of the two portables. The portables are intended to maintain student-to teacher ratios in grades K-3 to continue participation in the class size reduction program.

These projects qualify as a "Categorical Exemption" from CEQA under Article 19, Section 15314 of the CEQA Guidelines because the addition is to an existing school site and does not increase original student capacity by more than 25% or ten classrooms, whichever is less. Therefore, the necessary Resolution calling out these findings and the "Notice of Exemption" is attached to this agenda item for Board approval.

**FUNDING:** Not applicable

**RECOMMENDATIONS:** Adopt Resolution 08-41 Finding That the Tracy Learning Center Classrooms Addition Project Qualifies as a Categorical Exemption from California Environmental Quality Act

**Prepared by:** Bonny Carter, Facilities Planner



## **TRACY UNIFIED SCHOOL DISTRICT**

### **RESOLUTION NO. 08-41**

#### **Resolution Finding That the Tracy Learning Center Classrooms Addition Project Qualifies as a Categorical Exemption from California Environmental Quality Act**

WHEREAS, the California Environmental Quality Act (CEQA) requires state and local agencies to identify the significant environmental impacts of their actions and avoid or mitigate those impacts;

WHEREAS, a public agency must comply with CEQA when it undertakes an activity defined by CEQA as a "project;"

WHEREAS, a project is an activity undertaken by a public agency or a private activity which must receive some discretionary approval from a government agency which may cause either a direct physical change in the environment or a reasonably foreseeable indirect change in the environment;

WHEREAS, a public agency is required to examine a project to determine whether the project is subject to CEQA or if the project is exempt;

WHEREAS, if the public agency has determined the project is exempt from CEQA, it is required to prepare a notice of exemption ("Notice of Exemption");

WHEREAS, Article 19, Section 15314 of the CEQA Guidelines, categorizes the Tracy Learning Center Classrooms Addition Project as categorically exempt from CEQA if the project(s) consists of minor additions to existing schools within existing school grounds where the addition does not increase original student capacity by more than 25% or ten classrooms, whichever is less;

NOW, THEREFORE BE IT RESOLVED that the District finds that the Tracy Learning Center Classrooms Addition Project meets the CEQA exemption criteria because the project consists of minor additions to the existing school facilities, will be within the existing school grounds, and will not increase the capacity of the Tracy Learning Center Charter Schools, Clover Site by more than 25% or ten classrooms;

BE IT FUTHER RESOLVED that the District Board authorizes the Superintendent to file a Notice of Exemption with the County Clerk of San Joaquin County.

PASSED AND ADOPTED by the Board of Trustees of the Tracy School District, County of San Joaquin, State of California this 23<sup>rd</sup> day of June, 2009 by the following vote:

AYES:

ABSENT:

NOES:

ABSTAIN:

---

Ted Guzman, President  
Board of Trustees  
Tracy Unified School District

ATTESTED

I certify that the following resolution was adopted by the Board of Trustees of the Tracy Unified School District of San Joaquin County on the date shown above.

---

Clerk  
Board of Trustees  
Tracy Unified School District

# Notice of Exemption

Form D

To: Office of Planning and Research  
P.O. Box 3044, Room 212  
Sacramento, CA 95812-3044

From: (Public Agency) Tracy Unified School District;  
1875 West Lowell Avenue; Tracy, CA 95376

County Clerk  
County of San Joaquin County  
6 El Dorado Street, Second Floor  
Stockton, CA 95202

(Address)

Project Title: Tracy Learning Center Classrooms Addition

## Project Location - Specific:

Within site of the existing Tracy Learning Center campus, located at 51 East Beverly Place, in the northeast part of the City of Tracy. The Primary Charter School, where the project is sited, is situated on the west side of 51 East Beverly Place immediately adjacent to the Discovery Charter School, which serves students in grades 5 through 8.

Project Location - City: Tracy

Project Location - County: San Joaquin

## Description of Nature, Purpose and Beneficiaries of Project:

The proposed project will include the addition of two portables, with space for approximately 40 students, to serve the K-4 Primary Charter School. The school will soon reach its agreed upon enrollment cap of 315 students, regardless of the addition of the two portables. The portables are intended to maintain student-to teacher ratios in grades K-3 to continue participation in the class reduction program, and thereby enhancing the learning environment for students.

Name of Public Agency Approving Project: Tracy Unified School District

Name of Person or Agency Carrying Out Project: Tracy Unified School District

## Exempt Status: (check one)

- ☐ Ministerial (Sec. 21080(b)(1); 15268);  
☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));  
☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));  
☒ Categorical Exemption. State type and section number: Section 15314 - Minor Additions to Schools  
☐ Statutory Exemptions. State code number: \_\_\_\_\_

## Reasons why project is exempt:

The addition of two portables to the current campus will be implemented within the grounds of an existing school. The addition does not increase original student capacity by more than 25 percent or ten classrooms.

Lead Agency  
Contact Person: Casey J. Goodall, Asso. Supt Business Services Area Code/Telephone/Extension: (209) 830-3200

## If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☐ Yes ☐ No

Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Title: \_\_\_\_\_

☒ Signed by Lead Agency

Date received for filing at OPR: \_\_\_\_\_

☐ Signed by Applicant

Revised 2005





# BUSINESS SERVICES MEMORANDUM

**TO:** Dr. James C. Franco, Superintendent  
**FROM:** Dr. Casey Goodall, Associate Superintendent for Business Services  
**DATE:** June 15, 2009  
**SUBJECT:** Adopt Resolution 08-42, Authorizing the Director of Transportation to Apply  
For a Grant from the San Joaquin Valley Air Pollution Control District for  
Diesel Emission Retrofit Program

**BACKGROUND:** On June 10, 2009 the Transportation Department was made aware of a grant from the San Joaquin Valley Air Pollution Control District.

**RATIONALE:** This grant will allow Tracy Unified School District to retrofit five school buses with diesel emission reduction devices to ensure compliance with the 2012 emission standards. With diesel exhaust being identified by a growing number of health authorities including the United States Environmental Protection Agency (EPA) and the State of California, to be the leading cause of air pollution in San Joaquin Valley and a likely health risk.

**FUNDING:** None-100 % funded by the grant.

**RECOMMENDATION:** Adopt Resolution 08-42, authorizing the Director of Transportation to apply for a grant from the San Joaquin Valley Air Pollution Control District for diesel emission retrofit program

**Prepared by:** Dr. Casey Goodall, Associate Superintendent of Business Services and John Heerema, Director of Transportation.



**TRACY UNIFIED SCHOOL DISTRICT  
RESOLUTION NO. 08-42**

**Approve Application to the San Joaquin Air Pollution Control  
District Grant for Diesel Emission Retrofit**

**WHEREAS,** Several Local, State and Federal programs allow public and non-profit transportation providers to apply for administration, capital, and operation assistance programs or grants and

**WHEREAS,** Tracy Unified School District Governing Board must authorize someone by resolution, as the "Authorized Individual" to make application and administer the retrofit device installation program;

**NOW, THEREFORE BE IT RESOLVED,** that the Tracy Unified School District Governing Board hereby authorizes John Heerema, Director of Transportation to make application, to sign required assurances, and to administer the retrofit device installation program with respect to applications for Local, State and Federal programs, projects or grants, on behalf of this school district.

**PASSED AND ADOPTED** this 23rd day of June, 2009, by the Board of Trustees of the Tracy Unified School District by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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**President  
Board of Trustees  
Tracy Unified School District**

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**Clerk  
Board of Trustees  
Tracy Unified School District**



# BUSINESS SERVICES MEMORANDUM

**TO:** Dr. James Franco, Superintendent  
**FROM:** Dr. Casey Goodall, Associate Superintendent for Business  
**DATE:** May 19, 2009  
**SUBJECT:** Adopt Resolution 08-43 In Support of Unification of the Lammersville Elementary School District and Approve Pre-Unification Agreement By and Between Tracy Unified School District and Lammersville Elementary School District

**BACKGROUND:** A number of unification meetings have been conducted since August of 2008 at which board members and staff members of the Lammersville School District and the Tracy Unified School District. The purpose of these meetings has been to explore and resolve issues related to the possible unification of Lammersville School District. Attorneys for the two school districts have developed a Pre-Unification Agreement which addresses most or all of the issues which have been identified. The Board was presented a draft proposal of this agreement at the June 9<sup>th</sup> Board Meeting.

**RATIONALE:** A final agreement reflecting any proposed changes, and a resolution for consideration of unification of Lammersville Elementary School District, will be provided to the Board by June 23<sup>rd</sup>.

**FUNDING:** The agreement provides immediate access to \$3 million of developer fees to mitigate temporary housing of Lammersville students. There will also be an unpredictable long-term impact on the enrollment of Tracy Unified School District students. These changes will impact revenues and expenditures of the District. By planning in advance, the District can take the necessary steps to mitigate the impacts of unification.

**RECOMMENDATION:** Adopt Resolution 08-42 In Support of Unification of the Lammersville Elementary School District and Approve Pre-Unification Agreement By and Between Tracy Unified School District and Lammersville Elementary School District

**Prepared by:** Dr. Casey Goodall, Associate Superintendent for Business Services.



**TRACY UNIFIED SCHOOL DISTRICT  
RESOLUTION NO. 08-43**

**A Resolution in Regard to the Proposed Unification  
of the Lammersville Elementary School District and  
Approving a Pre-Unification Agreement**

**WHEREAS**, Tracy Joint Unified School District ("Tracy District") is a unified school district serving grades kindergarten through 12<sup>th</sup> within the boundaries of the former Tracy Elementary School District, the former Delta Island Elementary School District, and the former Holt Elementary School District as well as serving grades 9<sup>th</sup> through 12<sup>th</sup> within the territory that it shares in common with Banta Elementary School District, the New Jerusalem Elementary School District, the Jefferson Elementary School District and the Lammersville Elementary School District ("Lammersville District") within San Joaquin County and the Mountain House Elementary School District ("Mountain House District") within Alameda County (a map of the boundaries of the Tracy District is attached hereto as Exhibit A);

**WHEREAS**, Lammersville District is a non-unified school district serving grades kindergarten through 8<sup>th</sup>;

**WHEREAS**, Mountain House District is a non-unified school district serving grades kindergarten through 8<sup>th</sup>;

**WHEREAS**, the Lammersville District is located entirely within the boundaries of the Tracy District, and its residents currently receive high school educational services from the Tracy District;

**WHEREAS**, the Mountain House District is located entirely within the boundaries of the Tracy District, and its residents currently receive high school educational services from the Tracy District, but are required to travel through the Lammersville District to receive such services;

**WHEREAS**, the Tracy District has been advised that there is a desire by the Governing Board of the Lammersville District to reorganize the Lammersville District into a new unified district serving grades kindergarten through 12<sup>th</sup> for students within the existing Lammersville District and grades 9<sup>th</sup> through 12<sup>th</sup> for the Mountain House District students, with boundaries coterminous with the existing boundaries of the Lammersville District and Mountain House District (as identified in Exhibit B)

("Unification"), and with such unified school district to be referred to as the Lammersville Unified School District ("Lammersville Unified School District");

**WHEREAS**, the Board of the Tracy District has had presented to it for review, a proposed Pre-Unification Agreement between the Tracy District and the Lammersville District ("Pre-Unification Agreement," a copy of which is attached hereto and incorporated herein as Exhibit C), which will become effective upon approval of a Petition for Unification ("Petition") signed by the majority of the members of the Governing Boards of the Tracy District and the Lammersville District;

**WHEREAS**, the Pre-Unification Agreement sets forth the obligations and rights of the Lammersville District and the Tracy District in relation to the formation of the Lammersville Unified School District, including, but not limited to, agreed upon procedures to accommodate students and programs, interdistrict attendance of pupils who are residents of the respective districts, the procedures and processes to carry out the Unification consistent with Education Code sections 35700 through 35785, and the equitable division of resources following the Unification;

**WHEREAS**, pursuant to Education Code section 35700, the Unification process can be initiated by a Petition signed by a majority of the members of the Governing Boards of the Tracy District, the Mountain House District and the Lammersville District, requesting the Alameda and San Joaquin County Committees on School District Organization to approve said Unification; and

**WHEREAS**, the Board now wishes to proceed with initiating said Unification in accordance with law.

**NOW THEREFORE, BE IT RESOLVED** that the Board of Trustees hereby finds, determines and orders as follows:

1. The foregoing recitals are adopted as true and correct.
2. The Board hereby approves the Pre-Unification Agreement in substantially final form and authorizes the Superintendent to execute such Agreement on behalf of the District along with such changes therein as the Superintendent deems fit, consistent with the terms of this Resolution.
3. The Board directs staff to prepare a proposed Petition, which following its approval by the Board in the manner described at Paragraph 4 below, will be submitted to the Alameda and San Joaquin County Superintendents of Schools and the Alameda and San Joaquin County Committees on School District Organization to approve and authorize the reorganization of the Lammersville Elementary School District and the Tracy Joint Unified School District by Unification of the area of San Joaquin County shown on the attached Exhibit B in order to form the Lammersville Unified School District.

4. The Board further directs staff to prepare all necessary materials in support of the proposed Petition, addressing the conditions of approval set forth in Education Code section 35753 and to then submit to the Board such proposed Petition for final review and approval of the Board at its next upcoming meeting.

5. The following are to be designated in the Petition as the "Chief Petitioners" for purposes of receiving notices concerning this matter:

James Franco  
Superintendent  
Tracy Joint Unified School District  
1875 W. Lowell Avenue  
Tracy, CA 95376

Dale Hansen  
Superintendent  
Lammersville Elementary School District  
300 Legacy Drive  
Mountain House, CA 95391

The foregoing was adopted this \_\_\_\_ day of June, 2009, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

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President, Board of Trustees  
Tracy Joint Unified School District  
San Joaquin County, California

Attest:

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Clerk, Board of Trustees  
Tracy Joint Unified School District  
San Joaquin County, California

## **EXHIBIT A**

### **Map of Boundaries of Tracy Joint Unified School District**

**EXHIBIT B**

**Map of Boundaries of Lammersville Elementary School District and Mountain  
House Elementary School District**



## **EXHIBIT C**

### **Pre-Unification Agreement**

**PRE-UNIFICATION AGREEMENT**

**By and Between**

**TRACY JOINT UNIFIED SCHOOL DISTRICT**

**and**

**LAMMERSVILLE ELEMENTARY SCHOOL DISTRICT**

This Pre-Unification Agreement (hereafter, the "Agreement"), dated June 23, 2009, is made and entered into by and between the Tracy Joint Unified School District (hereafter the "Tracy District") and the Lammersville Elementary School District (hereafter the "Lammersville District"), collectively the "Districts," both school districts organized and existing under the laws of the State of California, and is predicated upon the following:

**WITNESSETH:**

WHEREAS, the Lammersville District is a non-unified District serving grades kindergarten through 8<sup>th</sup>;

WHEREAS, the Tracy District is a unified school district serving grades kindergarten through 12<sup>th</sup> within the boundaries of the Tracy Elementary School District and serving grades 9<sup>th</sup> through 12<sup>th</sup> within that territory that it shares in common with the Banta Elementary School District, the New Jerusalem Elementary School District, the Jefferson Elementary School District and the Lammersville District within San Joaquin County and the Mountain House Elementary School District within Alameda County (a map of the boundaries of the Tracy District is attached hereto as Exhibit A);

WHEREAS, the Lammersville District is located entirely within the boundaries of the Tracy District and its residents currently receive high school educational services from the Tracy District;

WHEREAS, the Governing Board of the Lammersville District and residents thereof have a longstanding desire to reorganize the Lammersville District into a new unified district serving grades kindergarten through 12<sup>th</sup>, with such unified school district to be referred to as the Lammersville Unified School District (the "Lammersville Unified School District");

WHEREAS, the Board of the Tracy District supports the concept of the unification of the Lammersville District into the Lammersville Unified School District, subject to agreement by the Districts to certain unification conditions as set forth herein;

WHEREAS, in order to accommodate high school age students on a long-term basis, the future Lammersville Unified School District seeks to design, fund, construct and operate a Lammersville Unified School District high school ("Mountain House High School") within its boundaries;

WHEREAS, in the event of voter approval of unification of the Lammersville District, construction of the Mountain House High School is anticipated to commence in the summer of 2013 and anticipated to become operational following the conclusion of construction. Even though the planning of Mountain House High School will commence immediately, the exact dates of commencement of construction and completion are merely estimates, and are not known with certainty;

WHEREAS, unification of the Lammersville District will require a variety of administrative arrangements and agreed upon procedures in order to accommodate students and programs. Prior to the construction of a suitable high school facility within Lammersville Unified School District, it will be necessary for Lammersville Unified School District students of high school age to enroll in the Tracy District. The Districts must also address the provision of certain facilities, programs and services to Lammersville Unified School District following the construction of such a high school facility and until such facilities, programs and services are available to students within the Lammersville Unified School District. The Districts must further address allocation of certain costs and expenses arising from the Tracy District's provision of such facilities, programs and services to the future Lammersville Unified School District following the completion of unification;

WHEREAS, the Districts acknowledge that Education Code section 46600 authorizes two or more school districts to enter into an agreement for the interdistrict attendance of pupils who are residents of the respective districts;

WHEREAS, the Districts further acknowledge that those procedures of the Education Code governing in part the process for unification of school districts, namely Education Code sections 35500 through 35785, provide further guidance and authority for the anticipated unification of the Lammersville District, and it is the intent of the parties to this Agreement to delineate certain procedures, and agree upon certain approaches to carry out the process for unification as contemplated by the parties hereto. The procedures set forth in the Education Code sections 35500 through 35785 shall hereinafter be referred hereto as the "Unification Law";

WHEREAS, the Districts additionally wish to negotiate an equitable division of resources following unification and formation of the Lammersville Unified School District and provide for an orderly transition, while ensuring the availability of adequate facilities for high school students of both Districts; and

WHEREAS, it is the intent of this Agreement to set forth the obligations and rights of the Districts in relation to the application of the Unification Law and the formation of the Lammersville Unified School District.

NOW THEREFORE, in consideration of the mutual agreements set forth herein, the Districts do hereby agree as follows:

AGREEMENT:

1. Recitals. The above recitals are true and correct and are incorporated herein by reference.

2. Definitions. The following additional capitalized terms shall have the following meanings:

A. "Developer Mitigation Fees" shall mean those fees collected under the Tracy Mitigation Agreement to finance the costs of development and construction of a high school to serve the Mountain House Project, as well as the portion applicable to development and construction of a high school to serve the Mountain House Project of any other developer mitigation agreements entered into by the Tracy District or of developer mitigation payments made pursuant to current or future state law, including, but not limited to, Education Code section 17620 et seq. and Government Code sections 65995 et seq.

B. "Effective Date" shall mean the effective date of this Agreement, \_\_\_\_\_, 2009, as specified above.

C. "General Obligation Bonds" or "Bonds" shall mean the general obligation bonds issued by the Tracy District as authorized by the voters at an election on June 6, 2006, and commonly known as "Measure E."

D. "Grandfather" shall mean the process of allowing students to continue attendance at an existing school until their graduation, as described in Paragraph 5.C below.

E. "Lammersville Mitigation Agreement" shall mean the School Facilities Impact Mitigation Agreement dated November 19, 1998 by and between the Developer, as defined in Paragraph 7.A below, and the Lammersville District.

F. "Tracy Mitigation Agreement" shall mean the School Facilities Impact Mitigation Agreement dated October 27, 1998 by and between the Developer, as defined in Paragraph 7.A below, and the Tracy District.

G. "Unification Date" shall mean the July 1 following the successful conclusion of the unification process, including an election, in accordance with the procedures of the Unification Law, including, but not limited to, Education Code section 35534 thereof.

3. Initiation of Unification. The parties anticipate that their respective governing boards will initiate the process for unification of the Lammersville District by way of reorganization petitions (the "Petitions") signed by the majority of the membership of each

District's governing board in accordance with the procedures set forth at Education Code section 35700.

A. This Agreement shall not be binding on either party until approved by the governing boards of both Districts, and further, until both governing boards have approved the respective Petitions.

B. The Tracy District agrees to implement the terms and conditions as set forth herein and the Lammersville District agrees to comply with and support the terms and conditions set forth herein until such time as the Lammersville District ceases operation following unification for all purposes.

C. The parties acknowledge that the process of unification shall include the review, preparation and approval, by the San Joaquin County Committee on School District Organization and the State Board of Education of a petition, recommendation, report and order as provided for by way of Education Code sections 35707 and 35708 (the "Order"). The parties further acknowledge that the Order shall set forth certain conditions, rights and obligations of the future Lammersville Unified School District which are intended as conditions of its unification.

The parties to this Agreement base their approval hereof, in part, upon the adherence and satisfactory compliance by the future Lammersville Unified School District with such conditions, rights and obligations as are set forth herein. Accordingly and notwithstanding Paragraph 4 below, the parties agree that if this Agreement has not been approved and adopted by the new Lammersville Unified School District governing board within sixty (60) days after its first public meeting, this Agreement shall terminate and be of no further force and effect. In such event, the Tracy District and the Lammersville Unified School District shall meet in good faith for the purpose of discussing and agreeing upon a mutually acceptable modified version of this Agreement.

D. Both existing Districts agree to provide information requested by the San Joaquin County Committee on School District Organization and the State Board of Education.

4. Term. The term of this Agreement shall commence upon its Effective Date as identified above and shall terminate upon the earlier of: (A) the failure of eligible voters to approve the unification of the Lammersville District, (B) the completion of construction of, and the ability to accommodate students in all of grades 9<sup>th</sup> through 12<sup>th</sup> at Mountain House High School, or (C) five (5) years from the Unification Date in the event substantial completion of the Mountain House High School has not been completed.

In the event that the San Joaquin County Committee on School District Organization, the State Board of Education, or their respective staffs require material changes in the terms of this Agreement, the Districts shall meet and confer regarding the acceptability of the required changes. If, following this meet and confer, either District determines that the changes are not acceptable, that District may terminate this Agreement upon thirty (30) days notice to the other District. Following such termination, either District may pursue such other unification

petitions as they deem appropriate.

5. High School Educational Services Following Unification. It is anticipated that in the event of unification, it may be two or more years before the Lammersville Unified School District will complete construction and commence operation of a high school facility suitable to serve its student body. During the interim, the Tracy District shall continue to allow the enrollment of high school age students residing within the Lammersville Unified School District at high schools within the Tracy District. The Districts hereby agree that such students shall attend Tracy District's high schools subject to the terms set forth below, and as may be further set forth in a master interdistrict attendance agreement which shall require, at a minimum, terms and conditions specifying:

A. The Tracy District will continue to serve all grades 9<sup>th</sup> through 12<sup>th</sup> students from the Lammersville Unified School District until a high school is constructed within the Lammersville Unified School District suitable to house such students.

B. Following construction of a high school within Lammersville Unified School District suitable to house students from that District, those students residing in Lammersville Unified School District will be allowed to attend Tracy District high schools by way of approved interdistrict attendance agreements, subject to Tracy District policies existing at the time of such interdistrict transfer.

C. The Tracy District will Grandfather all grades 9<sup>th</sup> through 12<sup>th</sup> students residing within the boundaries of the Lammersville Unified School District who attend high schools in the Tracy District as of the Unification Date, and allow such students to continue attendance in the Tracy District until their graduation, unless Mountain House High School is then offering such students appropriate grade level courses, and such students elect to attend Mountain House High School.

D. In the event that Lammersville Unified School District does not offer all high school grade level programs upon the initial completion of construction and commencement of operations of Mountain House High School, the Tracy District shall permit students from Lammersville Unified School District to attend high schools in the Tracy District until Lammersville Unified School District offers the grade level programs for those students at a Lammersville Unified School District facility, subject to the terms of this Agreement.

E. Students from Lammersville Unified School District attending high schools in the Tracy District pursuant to this Agreement shall be allowed to attend high schools within the Tracy District as long as adequate capacity exists within the Tracy District's high schools, or if such capacity no longer exists, can be created by the addition of interim housing as described in Paragraph 5.H.1 below.

F. Average daily attendance revenue ("ADA") and categorical funding of \_\_\_\_\_ for Lammersville Unified School District students attending high schools in the Tracy District shall be allocated to the Tracy District. The Districts shall

develop a process for inclusion in the master interdistrict attendance agreement setting forth the method of such allocation.

G. The Lammersville Unified School District shall either pay reasonable costs for transportation of Lammersville Unified School District students to high schools in the Tracy District, or shall itself provide such transportation. The Districts shall develop a process for inclusion in the master interdistrict attendance agreement setting forth the method of identifying and valuing costs relating to such transportation services, including equipment, staff salaries and operational costs.

H. In consideration for the Tracy District's retention of Developer Mitigation Fees, as set forth below, and the other consideration set forth herein, neither the Lammersville District nor the Lammersville Unified School District shall be responsible for the anticipated costs related to the interdistrict attendance by Lammersville Unified School District students at high schools in the Tracy District, except as set forth herein.

(1) Consistent with Paragraph 5.E above, in the event that Mountain House High School is not ready to receive students by the commencement of the 2014-2015 school year, and the Tracy District is able to demonstrate based on objective, defined standards that it lacks capacity to accommodate students from Lammersville Unified School District in Tracy District's then-existing high school facilities, Lammersville Unified School District will fund the leasing, acquisition and installation of portable classrooms or provide other interim housing within the Tracy District ("Interim Housing") in order to accommodate the number of Lammersville Unified School District high school students attending the Tracy District's high schools that is greater than the Tracy District's then-available student capacity. In addition to the above, the Tracy District reserves the right to request that the parties meet and confer to determine whether the funding, acquisition, and installation of permanent facilities that can be used to accommodate Lammersville Unified School District's high school students may be an appropriate alternative to Interim Housing. The Lammersville Unified School District will reasonably cooperate with and accommodate this meet and confer process.

(2) Lammersville Unified School District will continue to fund such Interim Housing until such time as Lammersville Unified School District has capacity for all of its high school students. As Lammersville Unified School District students housed in the Interim Housing become housed at Mountain House High School, and the portables comprising the Interim Housing are no longer needed for Lammersville Unified School District high school students, then the portables shall be returned to the Lammersville Unified School District, and the cost of returning these portables, including the cost of site repair shall be borne by Lammersville Unified School District, unless otherwise agreed to by the Districts.

(3) Nothing herein is intended to limit or restrict any rights that the Districts may have to hold developers responsible for the cost of the Interim

Housing under the developer mitigation agreements described herein in Paragraph 7.

I. Special Education Services. Together with the San Joaquin County Office of Education Special Education Local Plan Area (the "County SELPA"), the Tracy District provides special education services to non-severe and severe special education students. Until Lammersville Unified School District is able to offer special education services to non-severe and severe special education students, the Tracy District will continue to provide such services consistent with the terms of provision of services pursuant to the interdistrict attendance terms set forth above, subject to the availability of State and/or Federal funding. The ADA and categorical funding, consistent with Paragraph 5.F. above, for both non-severe and severe special education students attending Tracy District schools shall be allocated to the Tracy District. Additionally, any additional funding for provision of special education services to Lammersville Unified School District students attending schools in the Tracy District shall be allocated to the Tracy District. To the extent that the cost of providing services to Lammersville Unified School District's special education students being served by the Tracy District are not fully funded by allocation of ADA and additional funding, the Lammersville Unified School District shall be responsible for such reasonable costs. In consideration for the Tracy District's retention of certain of the Developer Mitigation Fees as set forth below and the other consideration set forth herein, non-severe or severe special education students attending high schools in the Tracy District pursuant to this Agreement shall be allowed to attend high schools within the Tracy District, and the Tracy District's obligations regarding provision of services and facilities to Lammersville Unified School District's special education students shall continue until Lammersville Unified School District is able to provide such services and facilities itself. At any time following the Unification Date, in the event the Tracy District is able to demonstrate based on objective, defined standards that it lacks capacity or facilities to accommodate non-severe or severe special education students from Lammersville Unified School District, then the Lammersville Unified School District shall seek to obtain such services from the County SELPA.

J. Regional Occupational Program Services. The Tracy District currently offers a Regional Occupational Program (ROP) for grades 9<sup>th</sup> through 12<sup>th</sup> students. Specific programs offered include auto shop, floriculture, culinary arts, welding and meat cutting. Specialized facilities are needed for many of these programs, especially auto shop and welding. The Tracy District will serve students from the future Lammersville Unified School District in these programs, to the same extent that the Tracy District serves its own students and to the extent that State or other funding is available to the Tracy District for such programs, until the Mountain House High School is constructed and commences operations, and is available to house students with specialized facilities sufficient to provide such programs. Any Lammersville Unified School District students attending the Tracy District's ROP program shall attend consistent with the terms of provision of services pursuant to the interdistrict attendance terms set forth above. In consideration for the Tracy District's retention of certain of the Developer Mitigation Fees as set forth below and the other consideration set forth herein, neither the



Lammersville District nor the Lammersville Unified School District shall be responsible for the cost of providing facilities and programs for ROP students from Lammersville Unified School District who are attending high schools in the Tracy District, unless special ROP funding is made available to the Lammersville Unified School District to offset operational costs. In such case, the Districts shall confer on the appropriate treatment of such revenue. The Tracy District's obligations regarding provision of services and facilities to Lammersville Unified School District's ROP students shall continue until Lammersville Unified School District is able to provide such services and facilities itself.

K. Continuation High School Programs. The Tracy District will serve continuation high school students from Lammersville Unified School District after the Unification Date until a continuation high school facility in the Lammersville Unified School District is constructed and commences operations, to the same extent that the Tracy District serves its own students and to the extent that State or other funding is available to the Tracy District for such continuation high school programs. Current practices of the Tracy District regarding acceptance into a continuation high school program will apply to all such students. Tracy District currently provides continuation and alternative education opportunities for grades 9<sup>th</sup> through 12<sup>th</sup> students at Stein and Duncan-Russell high schools. Any Lammersville Unified School District students attending the Tracy District's continuation high school facilities shall attend consistent with the terms of provision of services pursuant to the interdistrict attendance terms set forth above. In consideration for the Tracy District's retention of certain of the Developer Mitigation Fees as set forth below and the other consideration set forth herein, neither the Lammersville District nor the Lammersville Unified School District shall be responsible for the cost of providing facilities and programs for continuation high school students from Lammersville Unified School District who are attending high schools in the Tracy District, unless special continuation high school funding is made available to the Lammersville Unified School District to offset operational costs. In such case, the Districts shall confer on the appropriate treatment of such revenue. The Tracy District's obligations regarding provision of services and facilities to Lammersville Unified School District's continuation high school students shall continue until Lammersville Unified School District is able to provide such services and facilities itself.

L. Adult Education Services. The Tracy District operates an adult education program consisting of eight (8) exclusive-use portable classrooms in addition to use of regular high school classrooms in the evening hours. The Tracy District will provide adult education services and facilities to the Lammersville Unified School District until Lammersville Unified School District is able to provide such services and facilities itself, to the same extent that the Tracy District serves its own students and to the extent that State or other funding is available to the Tracy District for such services. Any Lammersville Unified School District residents attending the Tracy District's adult education program shall attend consistent with the terms of provision of services pursuant to the interdistrict attendance terms set forth above. The Tracy District shall receive the adult education apportionment for Lammersville Unified School District residents attending the Tracy District's adult education program. In consideration for the Tracy

District's retention of certain of the Developer Mitigation Fees as set forth below and the other consideration set forth herein, neither the Lammersville District nor the Lammersville Unified School District shall be responsible for the cost of providing facilities and services for adult education students from Lammersville Unified School District until Lammersville Unified School District is able to provide such facilities and services itself, unless special adult education funding is made available to the Lammersville Unified School District to offset operational costs. In such case, the Districts shall confer on the appropriate treatment of such revenue.

M. Specialized Education Programs and Services. The following is a list of specialized academy/magnet programs that have been tailored for each of the comprehensive Tracy District high schools (the "Specialized Programs"). Open capacity is expected to remain available in the Specialized Programs listed below for several more years. As long as there is available capacity in these Specialized Programs, and these Specialized Programs continue to be offered, Lammersville Unified School District high school students shall be entitled to attend these programs, subject to the same admissions requirements and criteria as are applicable to residents of the Tracy District. Any Lammersville Unified School District students attending the Tracy District's Specialized Programs identified below shall attend consistent with the terms of provision of services pursuant to the interdistrict attendance terms set forth above. In consideration for the Tracy District's retention of certain of the Developer Mitigation Fees as set forth below and the other consideration set forth herein, neither the Lammersville District nor the Lammersville Unified School District shall be responsible for the cost of providing facilities and programs for Specialized Program students from Lammersville Unified School District who are attending high schools in the Tracy District, unless special funding for Specialized Programs is made available to the Lammersville Unified School District to offset operational costs. In such case, the Districts shall confer on the appropriate treatment of such revenue. The Tracy District's obligations regarding provision of services and facilities to Lammersville Unified School District's Specialized Program high school students shall continue until Lammersville Unified School District is able to provide such Specialized Programs itself.

1. Tracy High School
  - i. IB Academy (International Baccalaureate)
  - ii. Agricultural Academy/Science-Focused Program
  - iii. Performing Arts Magnet
2. West High School
  - i. Space and Engineering Academy
  - ii. Advanced Placement (AP)
  - iii. Institute for Global Commerce and Government

3. Kimball High School (Proposed themes)
  - i. Medical Magnet in conjunction with Sutter Health, to be located in the Gateway Project
  - ii. Mass Communications
  - iii. New American High School (AP)
  - iv. Construction Technology and Architecture

N. Summer School. The Tracy District currently offers a summer school program for grades 9<sup>th</sup> through 12<sup>th</sup> students. If a summer school program is offered to the students of the Tracy District, the Tracy District will serve students from the future Lammersville Unified School District in this program until the Mountain House High School is constructed and commences operations, and the Lammersville Unified School District is able to offer such program, to the same extent that the Tracy District serves its own students and to the extent that State or other funding is available to the Tracy District for such program. Any Lammersville Unified School District students attending the Tracy District's summer school program shall attend consistent with the terms of provision of services pursuant to the interdistrict attendance terms set forth above. In consideration for the Tracy District's retention of certain of the Developer Mitigation Fees as set forth below and the other consideration set forth herein, neither the Lammersville District nor the Lammersville Unified School District shall be responsible for the cost of providing facilities and program for summer school students from Lammersville Unified School District who are attending high schools in the Tracy District, unless special summer school funding is made available to the Lammersville Unified School District to offset operational costs. In such case, the Districts shall confer on the appropriate treatment of such revenue. The Tracy District's obligations regarding provision of a summer school program to Lammersville Unified School District's students shall continue until Lammersville Unified School District is able to provide such program itself.

O. Athletic Events, Facilities and Services. In the event a football/track stadium and/or swimming pool are not immediately available following completion of construction and commencement of operation of Mountain House High School, the Tracy District will provide such facilities to Lammersville Unified School District subject to reasonable joint use terms, to be agreed upon under an interdistrict attendance agreement, or other such joint use agreement. In consideration for the Tracy District's retention of certain of the Developer Mitigation Fees as set forth below and the other consideration set forth herein, neither the Lammersville District nor the Lammersville Unified School District shall be responsible to pay for any facilities costs related to such use, but may be required to pay reasonable maintenance costs and other costs allowable pursuant to the Civic Center Act (Education Code sections 38130 et seq.), unless special funding for such athletic events, facilities and services is made available to the Lammersville Unified School District to offset operational costs. In such case, the Districts shall confer on the appropriate treatment of such revenue.

P. Other Extracurricular and Co-Curricular Activities. The parties acknowledge that students within the Lammersville Unified School District may seek other extracurricular or co-curricular activities as are made available by the Tracy District. Prior to the construction and operation of Mountain House High School, the Tracy District shall provide such extracurricular and co-curricular activities as are made available to Tracy District high school students. Upon the completion of Mountain House High School, such students shall be entitled to engage in extracurricular and co-curricular activities as such activities are made available by the Lammersville Unified School District. Eligibility for such activities shall be subject to the rules and regulations of the governing boards of the Tracy District and the Lammersville Unified School District and to the rules and regulations of other applicable governing agencies including, but not limited to the California Interscholastic Federation.

6. Property, Funds and Obligations. All matters relating to property, funds and obligations not otherwise specified herein shall be apportioned and assumed in accordance with the Unification Laws, including but not limited to Education Code section 35560. Such apportionment shall include apportionment of excess vehicles previously used to transport Lammersville Unified School District students to the Tracy District's high schools following the commencement of operations of Mountain House High School. Lammersville Unified School District shall not acquire any real property or facilities within the Tracy District as a result of the unification, nor shall Tracy District acquire any real property or facilities within Lammersville Unified School District as a result of the unification. In the event that the Tracy District acquires the site of the future Mountain House High School, or commences construction of Mountain House High School, title to such property and any improvements thereon shall be transferred to Lammersville Unified School District upon the Unification Date.

7. Developer Mitigation Agreements.

A. Mitigation Agreements. Both Districts are parties to and acknowledge the existence of School Facilities Impact Mitigation Agreements with Trimark Communities and/or its successors in interest, including but not limited to Shea Homes, Inc. ("Developer"). The Tracy District entered into that Tracy Mitigation Agreement, and the Lammersville District entered into that Lammersville Mitigation Agreement, as thereafter amended. These agreements in part govern the terms and conditions for the funding of high school facilities to serve the ongoing development project commonly referred to as the "Mountain House Project."

The Districts agree that, subject to the successful negotiation of alternative replacement school impact mitigation agreements by and between the Developer and Lammersville Unified School District and the Tracy District, upon the Unification Date, the Tracy District assigns to the Lammersville Unified School District all of its rights, without reservation, and consistent with the terms of the Tracy Mitigation Agreement, regarding the acquisition of a site for a high school in the future Lammersville Unified School District and for funding from the Developer for construction of that high school and/or responsibility for construction of the high school. This assignment shall include assignment of the right to collect future Developer Mitigation Fees. The Districts will

fully cooperate with one another to establish and enforce the assignment responsibilities set forth herein.

By way of separate agreements with the Developer, the Tracy District shall endeavor to negotiate and enter into modifications of the Tracy Mitigation Agreement, and the Lammersville District shall endeavor to negotiate and enter into modifications of the Lammersville Mitigation Agreement. The purpose of the modifications shall be to accommodate the unification of the Lammersville District, to meet the needs of the Tracy District both prior to and subsequent to the unification, and for the specific purpose of carrying out the terms and conditions of this Agreement.

B. Developer Mitigation Fees Collected to Date. As of the Effective Date, the Tracy District has collected substantial Developer Mitigation Fees that are intended in part for construction of a new high school (the "Collected High School Mitigation"). The Districts agree that, except as set forth herein, the Collected High School Mitigation shall be reserved for construction of said high school in the boundaries of the future Lammersville Unified School District. In order to ensure that the Collected High School Mitigation is utilized as intended by the Districts, the Collected High School Mitigation shall be placed in an interest-bearing account maintained and administered by the San Joaquin County Treasurer ("High School Mitigation Account"), and expenditures shall not be made from said High School Mitigation Account without the approval of both Districts. Neither District shall unreasonably withhold consent to such expenditures, and all such expenditures shall be solely for the planning, development and construction of the Mountain House High School. Prior to placement of the Collected High School Mitigation in the High School Mitigation Account, the Tracy District may withhold three million dollars (\$3,000,000.00) of the Collected High School Mitigation for its own use, as consideration for the Tracy District's prior and ongoing provision of facilities and services to the Lammersville District's students and, following the Unification Date, the Lammersville Unified School District's students as set forth herein. The aforementioned three million dollars (\$3,000,000.00), as well as the other terms set forth in this Agreement, shall constitute the entire consideration to the Tracy District for this Agreement. Pending the deposit of the Collected High School Mitigation in the High School Mitigation Account, and effective immediately upon the Effective Date, the Tracy District shall treat the Collected High School Mitigation in the same fashion as it will be treated following its deposit into the High School Mitigation Account, including all limitations on expenditure, the requirement of joint approval by the Districts prior to any such expenditure, and the requirement of accounting for all such expenditures by the Tracy District. Upon the Effective Date, Tracy shall specifically cease utilizing the Collected High School Mitigation for the purpose of purchasing busses or other equipment without approval by the Lammersville District, which approval shall not unreasonably be withheld. Upon the Unification Date, the Districts agree that any funds remaining in the High School Mitigation Account will be released in its entirety to the Lammersville Unified School District.

C. Funding Pre-Unification Planning and Design. The parties to this Agreement acknowledge that no expenditures from the Collected High School Mitigation

shall be made for actual construction of a new high school until the Unification Date. Nevertheless, the parties further acknowledge that certain pre-planning, design, cost estimating and high school project processing activities, relating to the Mountain House High School may be necessary prior to finalization of the unification process. Therefore, prior to the unification election, in anticipation of the need for pre-unification planning and cost estimating for a high school deemed by the parties hereto to be satisfactory, the Tracy District shall authorize not to exceed \$100,000 of the Collected High School Mitigation to be used for such pre-unification planning and cost estimating for the Mountain House High School. However, the \$100,000 of the Collected High School Mitigation shall be released only upon receipt of an invoice and other supporting documentation by the Tracy District, and only after the San Joaquin County Committee on School District Organization approves the proposed reorganization and related unification and forwards the Petition to the State Board of Education for consideration. For construction planning activities that occur from the date of the election until the Unification Date, the costs of such activities shall be paid from the Collected High School Mitigation. The parties shall utilize the joint approval process described at Paragraph 7.B above in order to facilitate the expenditure of Collected High School Mitigation revenue to fund such activities.

The parties acknowledge and agree that the Tracy District shall have no responsibility, other than the funding mechanisms provided herein, for planning, site acquisition, development, and construction of the Mountain House High School.

D. Developer Mitigation Fees Collected After the Effective Date and Prior to the Unification Date. All Developer Mitigation Fees collected by the Tracy District after the Effective Date and prior to the Unification Date that are intended and reserved for construction of a new high school shall be promptly placed by the Tracy District in the High School Mitigation Account, and shall thereafter be treated in the same fashion as the Collected High School Mitigation. The Tracy District shall provide the Lammersville District and, following the Unification Date, the Lammersville Unified School District, with accounting verifying the amounts of Developer Mitigation Fees reserved for high school mitigation that is collected by the Tracy District following the Effective Date. Such accounting shall be provided at least every sixty (60) days following the Effective Date. On and after the Effective Date, the Tracy District shall be entitled to retain a reasonable administrative fee, not to exceed 3%, for the costs associated with the collection and accounting of the Developer Mitigation Fees.

8. Treatment of Existing General Obligation Bond Programs. The Districts acknowledge and agree that current General Obligation Bonds applicable to the Lammersville District portion of the Tracy District, shall remain in full force and effect for the remaining term of such Bonds, including all applicable ad valorem-based property taxes in support of such Bonds. The Districts recognize and acknowledge that high school students residing in the Lammersville District, and, following unification, the Lammersville Unified School District, have enjoyed the benefits of the Tracy District's high school facilities to date, will continue to utilize such facilities until the Unification Date, and further, are entitled to continue to utilize such facilities both after the Unification Date and the date of completion of construction and

commencement of operations of Mountain House High School pursuant to the terms set forth in this Agreement. As such, the Districts acknowledge that the residents of the Lammersville District, and, following unification, the Lammersville Unified School District, have been and will continue to be benefitted by use of facilities funded by the Bonds.

9. Allocation of Additional State and Federal Grants. To the extent that the Tracy District is in possession of additional state or federal grants prior to the Unification Date that are not otherwise addressed by this Agreement, the Districts will meet and confer and cooperatively agree on an equitable division of such state and federal grants.

10. Personnel Matters. All matters relating to the treatment of certificated, classified and other employees of the Tracy District shall be treated in accordance with the Unification Laws, including but not limited to Education Code sections 35555 and 35556, as well as Education Code section 45121. At least six (6) months prior to Lammersville Unified School District's first date of hiring of any non-administrative certificated or classified employee (the "Initial Hire Date"), the Districts shall identify specific classified, certificated and other employees of the Tracy District who would become employees of Lammersville Unified School District, if any. With respect to classified and certificated employees, and to the extent allowed by law, the Tracy District shall extend the employment rights identified the Unification Laws so that any time periods that would otherwise commence on the Unification Date will instead commence on the Initial Hire Date. The Lammersville District shall support the extension of such rights in a like fashion by the Lammersville Unified School District.

11. Reservation. Nothing herein shall limit the ability of the Districts to allocate local funds, including, but not limited to Bonds and Developer Mitigation Fees, in any legal fashion, including allocation to provide for costs related to the provisions of this Agreement.

12. Indemnification. The Tracy District agrees to indemnify, defend and hold harmless the Lammersville District, and, following the Unification Date, the Lammersville Unified School District, its officers, officials, agents, employees and representatives, from any and all claims, losses, liabilities, damages, demands, or expenses, including attorneys' fees and costs, arising out of or in connection with the Tracy District's negligent implementation of this Agreement or its negligent failure to comply with any of its obligations under state and local laws with respect to this Agreement, except such loss or damage which is caused by the active negligence, sole negligence, or willful misconduct of the Lammersville District, and, following the Unification Date, the Lammersville Unified School District. The Lammersville District, and, following the Unification Date, the Lammersville Unified School District, agrees to indemnify, defend and hold harmless the Tracy District, its officers, officials, agents, employees and representatives, from any and all claims, losses, liabilities, damages, demands, or expenses, including attorneys' fees and costs, arising out of or in connection with the Lammersville District's, and, following the Unification Date, the Lammersville Unified School District's, negligent implementation of this Agreement or its negligent failure to comply with any of its obligations under state and local laws with respect to this Agreement, except such loss or damage which is caused by the active negligence, sole negligence, or willful misconduct of the Tracy District.

13. Notices. All notices that are required to be given by one party to the other under this Agreement shall be in writing and shall be deemed to have been given if delivered personally or enclosed in a properly addressed envelope deposited in a United States Post Office for delivery by registered or certified mail addressed to the Districts at the following address:

Tracy Joint Unified School District: 1875 W. Lowell Avenue  
Tracy, CA 95376  
Attn: Superintendent

With a copy to: Kronick Moskovitz Tiedemann & Girard  
400 Capitol Mall, 27 Floor  
Sacramento, CA 95814  
Attn: P. Addison Covert, Esq.

Lammersville Elementary School District: 300 Legacy Drive  
Mountain House, CA 95391  
Attn: Superintendent

With a copy to: Lozano Smith  
2000 Crow Canyon Place, Suite 200  
San Ramon, CA 94583  
Attn: Harold M. Freiman, Esq.

14. Mountain House Elementary School District. The Tracy District will cooperate with efforts to enable the Mountain House Elementary School District, located within the County of Alameda, to become a Thompsonville District for the purpose of receiving high school educational services from the future Lammersville Unified School District.

15. Entire Agreement. This Agreement contains the entire agreement of the Districts as to the subject matter herein. This Agreement supersedes any prior or contemporaneous negotiations, representations, agreements, and understandings of the Districts with respect to the subject matter herein.

16. Choice of Law. This Agreement is made under and will in all respects be interpreted, enforced, and governed by the laws of the State of California, without regard to rules regarding conflict of interest law. Any litigation by either District to enforce or interpret the terms of this agreement shall be brought in San Joaquin County, California.

17. Construction. This Agreement has been jointly negotiated and drafted. The language of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against either of the Districts.

18. Enforcement. If there is litigation of any kind by either of the Districts to enforce the provisions of this Agreement, each party shall be responsible for their own fees and costs incurred in connection with such litigation or appeal thereof.



19. Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the Districts have caused this Agreement to be executed by their respective officers thereunto duly authorized, all as of the day and year first written above.

TRACY DISTRICT:

LAMMERSVILLE DISTRICT

**Tracy Joint Unified School District**

**Lammersville Elementary School District**

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

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

**EXHIBIT A**

**Map of Boundaries of Tracy Joint Unified School District**

*[To Come]*



# BUSINESS SERVICES MEMORANDUM

**TO:** Dr. James Franco, Superintendent  
**FROM:** Dr. Casey Goodall, Associate Superintendent for Business  
**DATE:** June 16, 2009  
**SUBJECT:** Approve Resolution 08-44 accepting State categorical funds and implementing flexibility authorized by SBX3 4

**BACKGROUND:** The Enacted 2009/10 California State Budget and SBX3 4, Chapter 12, Statutes of 2009 authorizes school districts to use funding received from the State for Tier Three programs, for any educational purpose, to the extent permitted by federal law. The flexibility to use funds from these programs is authorized for five years from 2008/09 through 2012/13 by Education Code 42605.

**RATIONALE:** The Enacted 2009/10 California State Budget reduces funding to education by \$8.6 billion. Education Code 42605 provides school districts the flexibility to use funds from Tier Three programs to other educational programs as deemed necessary.

**FUNDING:** Not applicable.

**RECOMMENDATION:** Approve Resolution 08-44 accepting State categorical funds and implementing flexibility authorized by SBX3 4.

**Prepared by:** Reed Call, Director of Financial Services



## BOARD BACK-UP TO FLEXIBILITY RESOLUTION TRACY UNIFIED SCHOOL DISTRICT

### **Background Information:**

The 2008-09 California State Budget authorizes school districts to use funding received from the state for Tier 3 Programs for any educational purpose, to the extent permitted by state law. The flexibility to transfer funds from these programs is authorized for five years from the current year through 2012-13 by Education Code 42605.

### **Rationale:**

The enacted 2008-09 California State Budget reduces funding to education by \$11.6 billion. Education Code 42605 provides school districts the flexibility to transfer funds from Tier 3 Programs to other education programs for any educational purpose as deemed necessary.

The Board has held the required Public Hearing to accept the funds and use the flexibility provisions. The following fund transfers are proposed:

PROGRAM NAME	SACS RESOURCE CODE	AMOUNT OF TRANSFER	PROPOSED USE
Community Day School	2430	\$ 323,360.01	Any educational purpose
CalSAFE	6091	\$ 244,172.00	Any educational purpose
CalSAFE	6092	\$ 202,892.73	Any educational purpose
Community Based English Tutoring (CBET)	6285	\$ 162,099.37	Any educational purpose
School Safety Block Grant	6405	\$ 495,176.50	Any educational purpose
Art & Music Block Grant	6760	\$ 589,396.40	Any educational purpose
Counselors, Grades 7-12	7080	\$ 1,213,430.11	Any educational purpose
Educational Technology	7110	\$ 513,724.10	Any educational purpose
High Priority Schools	7258	\$ 244,179.00	Any educational purpose
Gifted and Talented Ed. (GATE)	7140	\$ 194,017.30	Any educational purpose
PAR	7271	\$ 132,132.25	Any educational purpose
Certificated Staff Mentoring Program	7276	\$ 11,113.00	Any educational purpose

International Baccalaureate	7286	\$ 28,083.00	Any educational purpose
Math & Reading Training	7294	\$ 21,632.13	Any educational purpose
Pupil Retention Block Grant	7390	\$ 1,156,439.16	Any educational purpose
Teacher Credentialing Block Grant	7392	\$ 287,809.39	Any educational purpose
Professional Development Block Grant	7393	\$ 635,895.13	Any educational purpose
School and Library Improvement Block Grant	7395	\$ 1,023,849.83	Any educational purpose
Teacher Retention and Recruitment	6275	\$ 74,930.36	Any educational purpose
English Language Acquisition Program	6286	\$ 207,056.51	Any educational purpose
Career Technical Education	6377	\$ 275.92	Any educational purpose
Art, Music & PE Block Grant	6761	\$ 565,803.80	Any educational purpose
Site Discretionary Block Grant	7396	\$ 434,246.08	Any educational purpose
District Discretionary Block Grant	7397	\$ 276,448.52	Any educational purpose
Education Technology & Instructional Materials	7398	\$ 70,625.36	Any educational purpose
Adult Education	0639	\$ 1,007,871.00	Any educational purpose
CAHSEE Intervention Grant	7055	\$ 163,838.00	Any educational purpose
Instructional Material Realignment	7156	\$ 969,148.00	Any educational purpose
Targeted Instructional Improvement Block Grant	7394	\$ 487,805.00	Any educational purpose
Deferred Maintenance	Fund 14/0000	\$ 550,610.00	Any educational purpose
<b>TOTAL</b>		<b>\$12,288,059.96</b>	



**Board Resolution 08-44**  
**Accepting State Categorical Funds and Implementing Flexibility**  
**Authorized By SBX3 4**

**WHEREAS**, the students in the Tracy Unified School District deserve the highest quality education; and

**WHEREAS**, the Legislature and Governor already imposed \$11.6 billion in statewide education budget reductions since September 2008, resulting in significant reduction of essential programs and services to students that are integral to their success; and

**WHEREAS**, these statewide budget reductions have resulted in serious cuts in programs and services in the Tracy Unified School District; and

**WHEREAS** SBX3 4 provided limited fiscal flexibility for the next five fiscal years to allow school districts to utilize funding received from the State Budget Act for "Tier 3" categorical programs for any educational purpose; and

**WHEREAS**, the Governing Board of the Tracy Unified School District took testimony at a regularly scheduled public hearing from the public, including parents, community members, and representatives from all school personnel including teachers, administrators and classified employees; and

**WHEREAS**, following the public testimony, the Board discussed the flexibility provision, how to prioritize the use of limited resources, and the effect on the specific programs offered by the school district; and

**WHEREAS**, any transfer of funds will be used to ensure that the district's overall goals for student learning will be at the forefront of the use of this flexibility; and

**NOW, THEREFORE, BE IT RESOLVED**, that, following a public hearing in which an opportunity to provide input was offered to a broad array of stakeholders, the Tracy Unified School District agrees to accept state categorical funds and will utilize the flexibility provided through SBX3 4 during the state's fiscal crisis to transfer funds in Tier 3 categorical programs for use for any educational purpose.

**NOW, THEREFORE, BE IT FURTHER RESOLVED**, that, in order to provide transparency and accountability, the Superintendent or designee shall establish an accounting procedure that identifies the funding sources affected and the program to which the funding will be transferred to.

Resolved this 23<sup>rd</sup> day of June, 2009, at a regular meeting of the Board of Education of the Tracy Unified School District by the following vote:

Ayes:

Noes:

Abstain:

Absent:

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President/Governing Board

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Secretary/Governing Board



# BUSINESS SERVICES MEMORANDUM

**TO:** Dr. James Franco, Superintendent  
**FROM:** Dr. Casey Goodall, Associate Superintendent for Business  
**DATE:** June 12, 2009  
**SUBJECT:** Approve the Memorandum of Understanding between Tracy Joint Unified School District and Tracy Learning Center

**BACKGROUND:** The Tracy Learning Center Charter Schools (TLC) has determined the need for an additional two portable classrooms on the Clover Site. Because the District is responsible for certain oversight of the operations of TLC, including compliance with the California Environmental Quality Act (CEQA) in regard to any project undertaken on behalf of TLC, the District and TLC met with a CEQA consultant, Benson Lee, Consulting in order to discuss the existing traffic/circulation issues, the appropriate level of CEQA documentation needed for the proposed project, and the District's desire to ensure that any CEQA documentation be adequate and withstand any legal challenge that might occur.

Furthermore, because of the existing traffic/circulation issues that have not previously been resolved the CEQA consultant, District staff and TLC met with the City of Tracy in order to receive their input and recommendation into the situation. The City suggested that an off-site improvement plan be submitted to the City which resulted in the need for a Traffic Study. TLC has agreed to reimburse TUSD for the costs of the Traffic Study as well as for the costs associated with the District's efforts to satisfy the requirements of CEQA.

**RATIONALE:** In consideration of the District's cooperation and oversight in TLC's installation of the Project, TLC has agreed to indemnify the District for any challenges that may be raised in connection with the installation of the Project, including, but not limited to, the District's compliance efforts pertaining to the requirements of CEQA. Additionally, TLC has agreed to pay the costs of any vendors or contractors to design, develop and install the off-site improvements and any improvements or mitigation that may be necessary as a result of the Traffic Study. TLC has also agreed to be financially responsible for all costs regarding the installation of the portable installation project. Moreover, TLC has agreed to no further expansion of the Clover Site.

The attached MOU, drafted by District's legal counsel, memorializes the understanding of both TUSD and TLC concerning the Off-Site Improvements and Traffic Study, the Portable Classrooms, CEQA Compliance and Indemnification, and the agreement that no further expansion will occur on the Clover Site.

**FUNDING:** All costs are to be paid by or reimbursed by Tracy Learning Center Charter School

**RECOMMENDATIONS:** Approve the Memorandum of Understanding between Tracy Joint Unified School District and Tracy Learning Center

**Prepared by:** Bonny Carter, Facilities Planner



**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
TRACY JOINT UNIFIED SCHOOL DISTRICT  
AND  
TRACY LEARNING CENTER  
Clover Site Improvements**

THIS MEMORANDUM OF UNDERSTANDING ("MOU"), dated this \_\_\_\_\_ day of June, 2009, is made and entered into by and between the Tracy Joint Unified School District, a school district organized and existing under the laws of the State of California (hereinafter referred to as "District"), and the Tracy Learning Center, a charter school organized and existing under the laws of the State of California (hereinafter referred to as "TLC").

**RECITALS**

**WHEREAS**, TLC operates a charter school on real property owned by the District, commonly referred to as the Clover Site, and located at 51 East Beverly Place, within the City of Tracy, County of San Joaquin, State of California (the "Clover Site");

**WHEREAS**, TLC has determined a need for and, with the approval of the District, intends to install two (2) additional portable classrooms at its charter school located upon the Clover Site (the "Project");

**WHEREAS**, the District is responsible for certain oversight of the operations of TLC, including compliance with the California Environmental Quality Act, Public Resource Code sections 21000 et seq. ("CEQA") and the CEQA Guidelines, Title 14, section 15000 et seq. ("CEQA Guidelines") in regard to any project undertaken on behalf of TLC;

**WHEREAS**, on behalf of TLC and as part of its oversight responsibilities, the District anticipates filing a notice of exemption pursuant to the CEQA Guidelines for the installation of the Project requested by TLC to be installed at the Clover Site;

**WHEREAS**, in consideration of the District's cooperation and oversight in TLC's installation of the Project, TLC has agreed to indemnify the District for any challenges that may be raised in connection with the installation of the Project, including, but not limited to, the District's compliance efforts pertaining to the requirements of CEQA and the CEQA Guidelines; and

**WHEREAS**, the parties desire to enter into this MOU pertaining to such indemnification and memorializing the understanding of the parties arising from previous negotiations concerning the responsibility for paying for and preparing a traffic study and documents and materials pertaining to the District's efforts to satisfy the requirements of CEQA and the CEQA Guidelines.

## AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants herein, the District and TLC hereby agree as follows:

1. Recitals. The Recitals set forth above are true and correct and are hereby incorporated herein.

2. Off-Site Improvements and Traffic Study. TLC hereby agrees to submit plans to the City of Tracy ("City") for proposed off-site improvements (the "Improvements"). The parties understand that the City will, in turn, determine whether such proposed Improvements create the need for a Traffic Study, as defined below.

A. In the event that the City determines that a traffic study (the "Traffic Study") is required, the District and TLC hereby agree that the CEQA consultant will work with the City to determine the scope of the study, and the Traffic Study will be prepared by Benson Lee of Benson Lee, Consulting. If the Traffic Study is necessary, the District hereby agrees to enter into a contract with Benson Lee to prepare such Traffic Study. TLC will be invoiced for the consulting services and preparation of the Traffic Study. In connection with such invoice, the District shall submit receipts or other evidence of costs of such services.

B. TLC acknowledges and hereby agrees that it is obligated to separately contract with and pay the costs of any vendors or contractors to design, develop and install the Improvements, as provided for herein, in addition to any improvements or mitigation that may be necessary as a result of the Traffic Study.

3. Portable Classrooms. TLC hereby agrees to be financially responsible for all the costs of acquisition and installation of the Project described above and all expenses associated with such installation. TLC further agrees to assume responsibility for contracting for all work to be performed in relation to the installation of the Project, subject to oversight by the District. TLC understands and agrees that all such work, including installation and permitting, shall be subject to the requirements applicable to District-owned property, the Division of the State Architect ("DSA") and the City.

A. TLC desires to move forward with the installation of the Project on an expedited timeline. Accordingly, TLC understands and acknowledges that TLC will be responsible for any additional costs that may arise as the result of installation of the Project on an expedited basis.

B. TLC further understands and acknowledges that the portable classrooms may not be available for the beginning of the school year, which will commence on August 1, 2009.

4. TLC has indicated that they wish to move forward with both the installation of Improvements and the installation of the Project described above concurrently and recognizes and acknowledges that it is responsible for all costs associated with such Improvements and Project, including any traffic improvements necessary. TLC agrees that they will be responsible to remove any previously begun improvements as a result of moving forward concurrently.

5. CEQA Compliance and Indemnification. After it is determined that as a result of the installation of the proposed Project, no significant environmental impacts will occur, or to the extent such impacts exist, it is determined by the District that such impacts can be mitigated to acceptable levels, including any mitigation measures deemed necessary by the District, which TLC hereby agrees to undertake at its expense, the District shall complete and file a notice of exemption in accordance with the CEQA Guidelines. To the fullest extent permitted by law, TLC shall indemnify, defend and hold harmless the District, its Board of Education, officers, agents and employees from and against any and all claims, costs, demands, expenses (including attorneys' fees), losses, damages, injuries and liabilities, because of, arising out of, or in any way related to, or in connection with, any challenge that may be raised under CEQA related to the Project, within the applicable statute of limitations period. TLC shall not be responsible for the sole negligence or willful misconduct of the District. It is understood that this indemnity shall survive the termination of this MOU.

6. Clover Site. Notwithstanding the installation of the Project described herein, TLC hereby agrees to no further expansion of the Clover Site.

7. Notices. Any and all notices or demands by or from the District to TLC, or from TLC to the District shall be in writing. They shall be served either personally or by mail. If served personally, service shall be conclusively deemed made at the time of service. If served by mail, service of notices or demands shall be conclusively deemed made as of the time of deposit in the United States mail, postage paid.

Any notice or demand to the District or TLC may be given to:

DISTRICT: Tracy Joint Unified School District  
1875 W. Lowell Avenue  
Tracy, CA 95376  
Attn: Superintendent

TLC: Tracy Learning Center  
51 East Beverly Place  
Tracy, CA 95376  
Attention: Executive Director

Any party hereto may change the address for notice by giving written notice to the other party according to this section.

8. Legal Effect. All obligations of the District and TLC are expressly made conditions of this MOU.
9. Titles. The titles or headings to paragraphs shall have no effect on interpretation of provisions.
10. Successors. The provisions of this MOU shall apply to and bind the heirs, successors, and assigns of the parties.
11. Waiver. The failure of the District to enforce a provision of this MOU shall not be deemed a waiver for any purpose.
12. Entire Agreement. This MOU constitutes the entire agreement, and supersedes any prior written or oral agreements between the parties with respect to the matters contained herein.
13. Time of the Essence. Time is of the essence in the performance of TLC's obligations under this MOU.
14. Governing Law. This MOU shall be governed by and construed in accordance with California law. Any action to enforce or interpret this MOU shall be brought in San Joaquin County, California.
15. Severability. Every provision of this MOU is intended to be severable. If any provision of this MOU is held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired.
16. Counterparts. This MOU and all other agreements executed pursuant to this MOU may be executed in counterpart originals, each of which shall be deemed an original, but all of which, together shall constitute one and the same instrument.

*[Remainder of This Page Intentionally Left Blank]*

**IN WITNESS WHEREOF**, the parties hereby have executed this Memorandum of Understanding as of the date first written above.

**DISTRICT:**

TRACY JOINT UNIFIED SCHOOL DISTRICT,  
a school district

By: \_\_\_\_\_  
James C. Franco, Superintendent

**TLC:**

TRACY LEARNING CENTER,  
a California charter school

By: \_\_\_\_\_  
Virginia Stewart, Executive Director



# BUSINESS SERVICES MEMORANDUM

**TO:** Dr. James C. Franco, Superintendent  
**FROM:** Dr. Casey Goodall, Associate Superintendent for Business Services  
**DATE:** June 16, 2009  
**SUBJECT:** Approve Increase of Bus Pass Prices for the 2009-2010 School Year for the Home-To-School Transportation Program for Students in Grades Pre-K through 12<sup>th</sup> Grade

**BACKGROUND:** On April 28<sup>th</sup>, 2009 the Board of Trustees adopted a budget reduction package which included a rate increase for bus passes from \$1.00 per day (\$181.00 per year) to \$1.50 per day (\$270.00 per year).

**RATIONALE:** Since this decision was made, fuel prices have risen and the state has recommended a reduction in Home-to-School Transportation funding anywhere from 25%-65%. Since the District is adding additional routes due to growth in the Mt. House area and due to boundary changes for Kimball High School, the District is expecting the Home-to-School program to encroach on the general fund. Increasing the cost of a bus pass to \$2.00 per day (\$362.00 per year) would help offset the encroachment in Home-to-School Transportation.

**FUNDING:** Based on the current Transportation fees the District expects the Home-to-School Transportation program to encroach in the 2009-2010 school year by approximately \$180,000.00. Increasing the fee to \$2.00 per day, encroachment in the Home-to-School Transportation program would encroach by approximately \$60,000.00.

**RECOMMENDATION:** Approve Increase of Bus Pass Prices for the 2009-2010 School Year for the Home-To-School Transportation Program for Students in Grades Pre-K through 12<sup>th</sup> Grade

**Prepared by:** Dr. Casey Goodall, Associate Superintendent for Business Services  
John Heerema-Director of Transportation



**TRACY**  
UNIFIED SCHOOL DISTRICT

# BUSINESS SERVICES MEMORANDUM

**TO:** Dr. James Franco, Superintendent  
**FROM:** Dr. Casey Goodall, Associate Superintendent for Business  
**DATE:** June 16, 2009  
**SUBJECT:** Approve Financial Projections of the District's Fund Balances through June 30, 2008 ("Third Interim Report")

**BACKGROUND:** Education Code 42131(e) requires the governing board of each school district filing a qualified or negative certification for the second report required under Section 42130, or classified as qualified or negative by the county superintendent of schools, shall provide to the County Superintendent of Schools, the Controller, and the Superintendent of Public Instruction no later than June 1, financial statement projections of the District's fund and cash balances through June 30 for the prior ending April 30.

**RATIONALE:** The financial projections of the district's fund balances through June 30, 2008 show that the district will be able to meet its financial obligations during the current fiscal year and is consistent with the Approved 2009-10 Annual District Budget which will enable the district to meet its multiyear financial obligations.

**FUNDING:** Not applicable.

**RECOMMENDATION:** Approve Financial Projections of the District's Fund Balances through June 30, 2008 ("Third Interim Report")

**Prepared by:** Reed Call, Director of Financial Services and Casey Goodall, Associate Superintendent for Business Services.



# ADMINISTRATIVE SERVICES MEMORANDUM

**TO:** Board of Education  
**FROM:** Dr. James C. Franco, Superintendent  
**DATE:** June 16, 2009  
**SUBJECT:** Approve the Letter Sent to the Grand Jury Dated March 16, 2009

**BACKGROUND:** June 8<sup>th</sup>, 2009, TUSD received a letter from the grand jury of San Joaquin County requesting a response to the finding that contradictory reports on student truancy rates were submitted to state agencies by the TUSD for the fiscal year of 2007-08. The district reported a truancy rate of 22.73% to the California Department of Education (CDE) while reporting a Truancy Rate of 11% to the State Controller's Office (SCO).

**RATIONALE:** The 2008-09 San Joaquin County Grand Jury became aware of inconsistent Truancy Rate reports that were submitted to two separate State agencies by TUSD. The Grand Jury sent a letter to the district with a request for clarification of the differentials contained in the truancy reports, to which the district responded. Upon receiving the letter from the grand jury regarding the inconsistency of the reported truancy rate, district staff conducted an investigation and determined that the truancy rate information was collected from two different district sources and reported to Clear Vue, the Consultant who collects and reports the truancy rate to the state offices. Each source calculated the truancy rate incorrectly. The truancy rate was re-calculated using the correct query and reported to Clear Vue. The letter to the grand jury dated March 16<sup>th</sup> with the correct truancy data. Clear-Vue forwarded the correct information to the appropriate state offices. The TUSD is contacted the CDE and reported the corrections

**FUNDING:** There is no cost associated with this item. Since the reported Truancy Rate was lower than the revised rate there were no additional funds gained by the district as a result of the inaccuracy in the data supplied.

**RECOMMENDATION:** Approve the Letter Sent to the Grand Jury dated March 16, 2009.

**Prepared by:** Dr. James C. Franco, Superintendent.





March 16, 2009

Grand Jury  
County of San Joaquin Courthouse  
222 East Weber Avenue-Room 303  
Stockton, California 95202  
(209) 468-3855

Attention: Trista Martinez  
Grand Jury Staff Secretary

This letter is written in regards to the information you requested on March 4, 2009, requesting a detailed analysis of the Truancy report submitted to the California Department of Education (CDE) and the California State Controller Office (SCO).

An investigation was conducted by Mr. Paul Hall, Director of Student Services and Curriculum. The following are findings of the investigation:

In reference to the CDE and the SCO truancy reports, it was discovered that both organizations received incorrect data for the 2007-2008 report. Previously, two departments were compiling the data from various sources and providing reports to the two receiving entities separately. Due to human error in querying the system, data reported to both sources was incorrect and incomplete. The student enrollment provided (17,235) was incorrect. The correct student enrollment should have been 17,333 as verified by CDE and CBED reports. The query errors have also been resolved and the actual number of first letter notifications of truancy in accordance to California Education Code (CEC) 48260 was 5,913 letters. This total includes both active and inactive students that were enrolled during the 2007-2008 year. This information was correctly obtained by performing a query to track and produce all letters when students meet the definition of truant (CEC 48260); truant repeat (CEC 48261) and habitual truant (CEC 48262) on the Aeries student information system that is utilized by Tracy Unified School District.

Tracy Unified school District will submit the following truancy reports for the fiscal year 2007-2008:

Student enrollment.....	17,333
Truancy notifications.....	5,913
Truancy rate.....	34.1 %

A summary truancy report for each school, with district totals and a complete query report that includes each student by SEIS number are attached.

Tracy Unified School District will contact Clear Vue Consultant Company that reports mandated reporting to CSO to immediately correct the data.

Tracy Unified School District's Business Office is contacting CDE with the same corrections.

Beginning immediately, all truancy report information will be generated from the Student Services Office and reported to both Clear Vue Consultant Company for

*"The future belongs  
to the educated"*

Dr. James C. Franco  
Superintendent  
(209) 830-3201  
(209) 830-3204 Fax

Dr. Casey J. Goodall  
Associate Superintendent  
of Business Services  
(209) 830-3230  
(209) 830-3234 Fax

Dr. Sheila Harrison  
Assistant Superintendent  
of Educational Services  
(209) 830-3202  
(209) 830-3209 Fax

Ryan Davis  
Assistant Superintendent  
of Human Resources  
(209) 830-3260  
(209) 830-3264 Fax

1875 W. Lowell Avenue  
Tracy, CA 95376  
www.tracy.k12.ca.us

mandated reporting (Clear Vue then reports data to CSO) and CDE. This will ensure that correct data is being disseminated to all agencies.

We would like to thank the Grand Jury for their thoroughness on this matter and appreciate the revenue garnered for our school district with these corrections. This investigation has allowed us to review the reporting process in the Continuous Improvement model and has led to increased efficiency and accuracy.

Thank you for your attention and understanding.

Sincerely,

James C. Franco, Ed.D.  
Superintendent

JCF/jc

cc: Ted Guzman, TUSD Board President  
Paul Hall, Director of Student Services and Curriculum



**TRACY**  
UNIFIED SCHOOL DISTRICT

# EDUCATIONAL SERVICES MEMORANDUM

**TO:** Dr. James C. Franco, Superintendent  
**FROM:** ~~Dr.~~ Sheila Harrison, Assistant Superintendent of Educational Services  
**DATE:** June 8, 2009  
**SUBJECT:** Approve Early Release Policy for After School Safety and Education Program Grant (ASES)

**BACKGROUND:** Southwest Park, North, Central, Monte Vista, and Delta Island receive After School Safety and Education Program (ASES) grant funding to serve students in afterschool programs. With the closure of Delta Island, we have petitioned the State to transfer Delta Island's grant award to Villalovoz. All of the schools served by the grant collaborate with the Tracy Boys and Girls Club to provide the after school services. Education Code 8483 (a) requires that after school programs operate a minimum of 15 hours per week, and at least until 6 p.m. on every regular school day. Every school with an after school program is required to establish a policy regarding reasonable early daily release of pupils from the program. Consequently, one requirement of the ASES grant is that the schools receiving ASES funds develop an early release policy. The attached early release policy was developed jointly by the Boys and Girls Club of Tracy and TUSD staff and implemented at all sites receiving funding. However, at a recent Coordinated Program Monitoring workshop, it was learned that the early release policy needs to be approved by the District's school board.

**RATIONALE:** Education Code 8483 (a) requires that after school programs operate a minimum of 15 hours per week, and at least until 6 p.m. on every regular school day. Every school with an after school program is required to establish a policy regarding reasonable early daily release of pupils from the program. Tracy Unified School District receives \$591,450 annually in ASES grant funding. Continued receipt of ASES funding requires gaining Board approval of an early release policy that will be implemented at all sites supported by the grant. This agenda item meets Strategic Goal #7: Develop and utilize partnerships that contribute to the achievement of District Goals.

**FUNDING:** There is no cost associated with implementing an early release policy.

**RECOMMENDATION:** Approve Early Release Policy for After School Safety and Education Program Grant (ASES).

**Prepared by:** Dr. Donna Sonnenburg, Director of Instructional Media and Curriculum

## **After School Safety and Education Early Release Policy**


The education Code 8483 requires that after school programs have established policies for reasonable early release of pupils. The after school program minimally stays open until 6:00 p.m. and operates 15 hours per week. Students may be released early from the after school program prior to the end of the program time based upon the following conditions:

- a) Attending a parallel program (programs in the school or community centers such as soccer, basketball, etc.) as long as an agreement or partnership with the program exists thus making this parallel program the child's enrichment component.
- b) Family or community emergencies (such as death in the family, catastrophic incidents, etc.).
- c) Medical, dental or other professional health related care appointments.
- d) Weather or other conditions that impact student safety if the child walks home or as prescribed by the school.
- e) Child accidents that occur during program time (program staff should contact parents, guardian or identified adult).
- f) If the parent opts to have the child come home from the after school program.

Whatever the case may be, the student or staff will record the date and time of early release departure of the students through the Kidtrax system or on the sign-out sheet, which ever tracking system is used at the site.



# EDUCATIONAL SERVICES MEMORANDUM

**To:** Dr. James Franco, Superintendent  
**From:**  Dr. Sheila Harrison, Assistant Superintendent for Educational Services  
**Date:** June 8, 2009  
**Subject:** Approve 2009-2010 Preliminary School Plans and Site Categorical Budgets for 2009-2010

**BACKGROUND:** Each school site is required to develop a school plan which evaluates the progress toward meeting the goals for that year, establishes goals for the following year, and develops a budget to support the successful implementation of the goals. Each school has submitted a Preliminary School Site Plan for 2009/10 which indicates the activities to be funded with categorical funds. The first step in the school plan process is the development and submission of a preliminary budget to the Board for approval. Much of the evaluation of this year's goals and the possible need to refine next year's goals is based upon assessment data that is not yet available to the sites; therefore sites will be submitting a detailed School Plan in the Fall. This will include an analysis of their 2008-2009 assessment data including district assessments and the STAR results. Based upon an analysis of the data, there may be some modifications to the school goals and budgets contained in this proposed budget. Schools will be presenting modified budgets with their school plan submitted in the Fall of 2009.

**RATIONAL:** State law requires local Governing Board approval of budgets prior to the spending of funds. This supports Strategic Plan Goal # 1: Provide a variety of learning opportunities through standards-based curriculum and assessments, and research-based instruction that ensures that all students meet or exceed grade level standards and results in closing the achievement gap, and Goal # 2: Provide a safe environment for students and staff that is conducive to learning, and Goal # 4: Continuously improve fiscal and human resources, facilities and operational processes in order to support our efforts to meet or exceed district, state and federal targets.

**FUNDING:** There is no cost to the district.

**RECOMMENDATION:** Approve 2009-2010 Preliminary School Plans and Site Categorical Budgets for 2009-2010.

**Prepared by:** Linda Boragno-Dopp, Director of Alternative Programs



# EDUCATIONAL SERVICES MEMORANDUM

**TO:** Dr. James Franco, Superintendent  
**FROM:** ~~Dr.~~ Sheila Harrison, Assistant Superintendent of Educational Services  
**DATE:** June 12, 2009  
**RE:** Approve Changes to Coaches and Athletes Handbooks

**BACKGROUND:** The Board of Trustees is asked yearly to accept revisions and changes to Coaches and Athletes Handbooks. The Coaches and Athletes handbooks have changes in staff, a change in fee for transportation in sports and Title IX Information/Complaint statement.

**RATIONALE:** Changes in Coaches and Athletes Handbooks need to be reviewed with the Board of Trustees. It is important that the handbooks are reviewed yearly for accuracy and compliance with new policies. Athletic Director(s) review handbooks on site and then propose changes to the Director of Student Services. The Director of Student Services works with all the high schools to maintain consistency between their handbooks. The proposed changes are then presented to the Board for approval. This agenda item meets strategic goal #2-Provide a safe environment for students and staff that is conducive to learning.

**FUNDING:** N/A

**RECOMMENDATION:** Approve Changes to Coaches and Athletes Handbooks

**Prepared by:** Paul E. Hall, Director of Student Services and Curriculum



# HUMAN RESOURCES MEMORANDUM

**TO:** Dr. James Franco, Superintendent  
**FROM:** Ryan Davis, Assistant Superintendent for Human Resources  
**DATE:** June 23, 2009  
**SUBJECT:** Approve Revised Job Description for Athletic Director

**BACKGROUND:** Some job descriptions for District positions are outdated and do not accurately reflect current job duties and responsibilities. Therefore, the Human Resources division has established as one of its priorities, to review and revise outdated job descriptions. The District continues the process of updating job descriptions to ensure that they accurately reflect current essential functions of the position, District requirements, and any Federal, State, or Department of Education requirements.

The changes and additions to the job description are currently being proposed to ensure it accurately reflects the essential functions of the position of Athletic Director. It is not made with the intention of reclassifying employees or making salary changes.

**RATIONALE:** The revised job description is being proposed to ensure it accurately reflects the essential functions, education and experience, skills and qualifications, physical requirements and work environment for the position of Athletic Director.

**STRATEGIC GOAL:** #7—Educational Leadership

**FUNDING:** None.

**RECOMMENDATION:** Approve Revised Job Description for Athletic Director

**Prepared by:** Ryan Davis, Assistant Superintendent for Human Resources.

## TRACY UNIFIED SCHOOL DISTRICT JOB DESCRIPTION

**POSITION:** Athletic Director

**DEPARTMENT:** Comprehensive High Schools

### **POSITION SUMMARY:**

Under the direction of the Principal, plan, organize, control and direct high school athletic activities; schedule and coordinate athletics programs and events on campus; serve as liaison between administrators, personnel, parents, students and outside agencies (e.g. Booster Clubs); supervise and evaluate the performance of assigned personnel.

### Minimum Qualifications:

~~The Athletic Director shall hold a valid California teaching credential. It is desirable that he/she be a member of the coaching staff.~~

### Immediate Supervisor:

~~The Athletic Director will be responsible to the building level principal and his/her performance will be evaluated each year on an annual basis.~~

### Hours and Days of Work

~~Days of work as per contract which include regular teaching days plus registration and orientation days.~~

~~Hours of work as per District Board Policy #5042.~~

### **ESSENTIAL FUNCTIONS:**

#### Major Duties and Responsibilities:

**1. Plan, organize, control and direct high school athletic activities; develop standards and procedures for high school athletic programs; coordinate athletic camps on school facilities and security at athletic events.**

~~The major responsibility for the preparation and organization of any athletic event rests with the Athletic Director. In cooperation with the principal and the coach, he/she sets the stage for the contest. He/she must see that good advance publicity is given each contest, and keep the public informed about site, date, time or any late change of plan. He/she must make sure that the opponent is notified in writing of all the necessary details such as time and place of the contest, dressing facilities, pre-contest procedure, and specific information, which applies to the particular sport.~~

**2. Serve as liaison between administrators, personnel, parents, students, boosters and outside agencies; respond to inquiries and provide information concerning school athletics programs; coordinate activities and programs, resolve issues and conflicts and exchange information with groups involved.**

**3. The Athletic Director is to take primary responsibility for staffing the athletic program and should be involved in the staffing of coaches. coordinate the interviews, reference checks, selection, and assignments of both voluntary and paid coaching staff. The Athletic Director is to ensure all paid or voluntary coaches meet the requirements for the position and are cleared for employment and to be at a school site through the Human Resources office, including submission of negative T.B. test results. Maintain confidentiality of any and all employee medical information.**



**4. The Athletic Director will regularly observe and evaluate all coaches in order to ensure they meet District requirements, support District philosophy regarding athletics, and are providing role models for student athletes in compliance with District guidelines (such as Character Counts and ASEP).**

**5. Develop and submit a timely annual budget for the site athletic programs and activities; analyze and review budgetary and financial data to remain fiscally sound; control and authorize expenditures in accordance with established limitations; coordinate the purchase and maintenance of athletic equipment. At the end of the school year the Athletic Director will submit a financial report to the site Principal, and a copy of the report will be provided to the Superintendent and the Board of Education.**

**6. The Athletic Director should be responsible for the organization and operation of the interscholastic athletic program for the school and develop and approve athletic schedules for the high schools. Schedule all officials for athletic events and arrange for their compensation, coordinate medical staff and equipment necessary during games, and establish game contracts and guarantees with visiting schools. Should an athletic event be cancelled, the Athletic Director is responsible for contacting all parties involved and rescheduling the make-up event.**

**7. Administer and set up game day requirements such as tables, chairs and equipment; and supervise gate personnel. Attend District sporting events on a regular basis and assist as needed with tasks related to the event such as team or spectator control. He/she should organize and maintain a program that is consistent with the objectives and needs for the total education program. In fulfillment of this responsibility he/she may delegate to others certain assignments but he/she should still be held responsible for the ultimate fulfillment of those assignments.**

~~The Athletic Director should be a "counselor" both in regard to the coaches and the athletes. The Athletic Director should visit individually with each head coach, at least once before the season, once during the season, and once following the season.~~

~~At these meetings, especially after the season, the coach should be praised when praise is deserved and also made aware of any deficiencies. He/she should be available to athletes as well. Students having difficulty in school as well as athletes will need constant counseling from the Athletic Director as well as coaches.~~

**8. Administer all interscholastic policies and procedures working within the confines of the Rules and By-Laws of the California Interscholastic Federation and the particular League for each High School Athletic Department (for example, S.J.A.A., T.C.A.L. and V.O.L.); title IX compliance as it relates to athletics and facilities, and all District Board policies related to the Athletic Departments. Represent the school as necessary in all athletic business at District, League, Section and State meetings.**

**9. Arrange for and purchase awards to be presented and schedule banquets. Obtain prior approval from the Superintendent regarding the naming of athletic awards.**

**10. Arrange for Schedule, promote, and staff physical examinations for each athletic candidate prior to the fall, winter, and spring sports sessions. Maintain a permanent confidential file at the school site of medical examinations, insurance forms, parent consent forms and information on athlete team suspensions and expulsions. Assisting head coaches in checking athletes to be sure all proper clearance forms have been turned in by the athlete.**

**11. Host Chair and administer League coaches meetings as necessary assigned, and host All League tournaments and League meets as necessary.**

**12. Arrange for equipment storage with the head coaches. Ensure that equipment is properly inventoried and maintained. Coordinate with coaches regarding athletic equipment inventory, and maintain a record of the location of equipment being used and stored.**

The following responsibilities will be within the scope of the Athletic Director's position:  
Assist in the interviewing, selection, assignments and evaluation of personnel which fill the coaching positions.

**13. Coordinate athletic facility use with other school sites and outside groups including use of facilities between men and women's athletic programs. Review and approve facility use agreements as necessary for athletic programs.**

~~First approval of the tentative athletic schedule submitted by the head coaches and the maintenance of the master schedule of all athletic events.~~

~~Assisting head coaches with athletic awards. Scheduling of banquets.~~

~~Conduct all coaches meetings, and be the school representative at all League meetings involving the athletic program.~~

**14. Communicate with the site Principal, P.E. Dept. Chair, and Maintenance/Grounds Supervisors on a regular basis to ensure the best use and maintenance** ~~Coordinate with the district the proper water, mowing and general field and building maintenance as is necessary.~~ **of athletic facilities and buildings.**

~~Coordinate with the aid of the coaches, the overall school philosophy about athletics at Tracy High. Work with outside interest groups, such as athletic clubs or parent advisory groups.~~

**15. Provide input, when necessary, to** ~~Work with the site Principal and Facilities Dept. district personnel in the~~ **regarding the planning and development of new facilities.** ~~and the maintaining of the existing facilities.~~

~~Prepare, with the assistance of head coaches, a budget, a procedure control of equipment, and an annual inventory of equipment.~~

~~In coordination with the head coaches, and principal, the planning and purchasing of items necessary to develop a total athletic budget.~~

~~Work with the district insurance program.~~

~~Establishing game contracts and guarantees with visiting schools.~~

~~Acquire officials and see that they are adequately compensated.~~

~~Make certain coaches are aware of all rules and regulations governing their sport. Be able to interpret the specific application of rules and regulations.~~

~~Work with the recreation department in coordinating facilities, personnel and equipment.~~

~~Be present at evening and afternoon home contests and assist with teams or spectator control.~~

~~Supervise all matters in preparation for organization and administration of interscholastic contest such as:~~

~~——— Schedule dates, times and officials.~~

~~——— Payment of officials, ticket sellers, ticket takers and supervisors.~~

~~——— Transportation of athletes.~~

~~——— Coordinate usage plan for practice and contest facilities.~~

~~——— Arrange for contest equipment.~~

~~——— Secure and assign team doctors.~~

~~——— Game site preparation.~~

~~——— Arrange for ticket sellers, ticket takers and proper supervision of all athletic contest.~~

~~Keep a coaches handbook up to date.~~

~~Be chairperson of the Athletic Board of Control.~~

**16. Coordinate with the Principal, director of student activities, cheer advisor and coaches on the scheduling of athletic assemblies and rallies, including ~~Work with student activities director concerning~~ rooter buses, band and pep squad, etc.**

~~Coordinate the annual Lion's Basketball Tournament.~~

~~Coordinate the sale of reserved seats for the football season.~~

~~Coordinate the activities of Block "T", such as football and basketball programs.~~

**17. Supervise and evaluate head coaches on a regular basis. Ensure that head coaches are evaluating the assistant coaches annually.**

**Range**

~~The Athletic Director will receive 15% of base pay on the salary schedule and will be allowed to coach one other sport during the school year.~~

#### **EDUCATION AND EXPERIENCE:**

**Ability to carry out oral and written directions, read, write, and speak at a level sufficient to fulfill the duties to be performed. The Athletic Director shall hold an appropriate valid California teaching credential. It is desirable that he/she be a member of the coaching staff, not coach a major varsity sport during his/her service as Athletic Director. Previous successful coaching experience preferred.**

#### **SKILLS AND QUALIFICATIONS:**

##### **Minimum Qualifications:**

**1. Knowledge of intermediate computer skills including the ability to maintain the school's Athletic Website and respond to electronic communications from inside and outside the District.**

**2. Ability to communicate effectively, orally and in writing in order to arbitrate and mediate problems arising between coaches within the ranks of the athletic department, between coaches and athletes, or between coaches, parents and other adults.**

**3. Knowledge of all Rules and By-Laws of the California Interscholastic Federation and individual Leagues in order to be responsible to the Principal for League and CIF eligibility of the athletes and be responsible for adherence to all CIF eligibility criteria of the athletes, including scholastic eligibility of all candidates.**

**4. Be able to interpret the specific application of rules and regulations for a sport, and make certain coaches are aware of all rules and regulations governing their sport.**

**5. Ability to work effectively with outside interest groups, such as athletic clubs or parent advisory groups and seek and find ways for supporting (including recruitment) and financing the athletic program. Support eligible coaches' participation in Arrange for scouting activities and clinic participation by eligible and interested coaches scouting activities and clinics to strengthen athletic programs.**

**6. Knowledge of works with the District insurance program.**

**7. Evaluate the athletic program and seek ways of improving interscholastic athletics. Present recommendations for changes in policies from the athletic department to the site Principal, and keep a coaches be responsible for the annual review of the Coaches Handbook and Athletic Code book up-to-date.**

8. Maintain a wholesome **good working** relationship with the local press, and ~~be responsible~~ **strive to ensure** that each of the **activity** areas ~~are receive ing~~ proper publicity.

9. **Communicate athletic team transportation needs to the Transportation Department** ~~Coordinating and approval of the various requests from athletic coaches for athletic team transportation~~ **and forward documents to Transportation for the purpose of clearing parent/volunteer drivers. Communicate the approval or disapproval of parent and volunteer drivers to the responsible coach.**

#### **PHYSICAL REQUIREMENTS:**

Employees in this position must be able/have the ability to:

1. Stand for extended periods of time.
2. Enter data into a computer terminal/typewriter and operate standard office equipment.
3. See and read a computer screen and printed matter with or without vision aids.
4. Speak so that others may understand at normal levels and on the telephone with or without hearing aids.
5. Hear and understand at normal levels and on the telephone with or without hearing aids.
6. Stand and/or walk on hard and/or uneven surfaces for extended periods of time.
7. Bend, squat, stoop and/or climb for extended periods of time.
8. Reach overhead, grasp, push/pull up to 25 pounds for short distances.
9. Lift and/or carry up to 75 pounds at waist height for short distances.

#### **WORK ENVIRONMENT:**

Employees in this position will be required to work in indoors and outdoor environments and come in direct contact with school site staff, students, parents, and the public. In addition, the Athletic Director must perform duties and responsibilities that occur outside school buildings and facilities on the school campus and at other school related activities and events.

#### Hours and Days of Work

~~Days of work as per contract which include regular teaching days plus registration and orientation days.~~

**SALARY:** Per current TEA Master Agreement.

**DAYS OF SERVICE:** Per current TEA Master Agreement.

Board Revised:



# HUMAN RESOURCES MEMORANDUM

**TO:** Dr. James Franco, Superintendent  
**FROM:** Ryan Davis, Assistant Superintendent for Human Resources  
**DATE:** June 16, 2009  
**SUBJ:** Adopt the Evaluation Forms to be Used for Head Coaches, Assistant Coaches and Volunteer Coaches

**BACKGROUND:** Currently, there is no evaluation process in place for the District's athletic coaches and volunteer coaches.

**RATIONALE:** The purpose of an evaluation is the improvement of instruction and a better athletic program. The identification of the coaches' strengths and weaknesses is the basis for assistance towards growth and the correction of any deficiencies. The evaluation also provides a sound basis for administrative decisions regarding continued employment. (See attached)

This agenda item meets strategic goal #7, Educational Leadership

**RECOMMENDATION:** Adopt the Evaluation Forms to be Used for Head Coaches, Assistant Coaches and Volunteer Coaches

**Prepared by:** Ryan Davis, Assistant Superintendent for Human Resources

**TRACY UNIFIED SCHOOL DISTRICT**  
**HEAD COACH EVALUATION FORM**

Evaluatee \_\_\_\_\_ School \_\_\_\_\_

Sport \_\_\_\_\_ Level \_\_\_\_\_ School Year \_\_\_\_\_

Evaluator \_\_\_\_\_

S = Satisfactory

RI = Requires Improvement

U = Unsatisfactory

I. Professional Duties and Responsibilities

- a. \_\_\_\_\_ manages all matters relating to the organization and administration of the team under his/her direction
- b. \_\_\_\_\_ abides by all relevant Board policies and administrative guidelines
- c. \_\_\_\_\_ enforces all rules of the California Interscholastic Federation (CIF) related to his/her sport
- d. \_\_\_\_\_ maintains required certifications for coaching, including CPR, First Aid, TB test, Water Safety (if applicable), etc.; takes/passes appropriate coaching course as required by the CIF
- e. \_\_\_\_\_ assigns duties to assistant coaches and evaluates their performance
- f. \_\_\_\_\_ plans all practice sessions with specific training objectives
- g. \_\_\_\_\_ prepares public information releases regarding his/her sport
- h. \_\_\_\_\_ assists and/or coordinates special events such as freshman orientation, summer camps, banquets, etc.
- i. \_\_\_\_\_ maintains a complete and accurate team roster and submits copies to the athletic director as requested
- j. \_\_\_\_\_ cooperates with the athletic director in setting up physical examination schedules and verifies that no student is issued equipment or allowed to practice until his/her examination card has been completed and his/her insurance coverage is in effect
- k. \_\_\_\_\_ assigns at least one (1) coach to be with the team at all times, including locker room supervision until all team members have left the building
- l. \_\_\_\_\_ arranges for or conducts spot checks to confirm that all windows, doors, and gates are locked in any area that has been used; is prudent in the handling of keys for buildings and equipment
- m. \_\_\_\_\_ prepares a detailed equipment and supply request form and submits it to the athletic director in sufficient time to obtain the material when needed
- n. \_\_\_\_\_ arranges for the presentation of team awards through the appropriate school office

- o. \_\_\_\_\_ assists the athletic director in scheduling by recommending teams to be played and officials to be employed
- p. \_\_\_\_\_ enforces rules and regulations concerning conditioning of players, their health and safety, and conduct pursuant to the Coaching Handbook and the Athletic/Parent Student Handbook
- q. \_\_\_\_\_ reports injuries promptly and exercises great care in dealing with all injuries, particularly those that are of a serious nature; fills out required incident/injury forms
- r. \_\_\_\_\_ serves as a role model for his/her athletes (in the classroom, during the season, during the off-season)

In all cases, the coach confirms that the injured athlete is receiving competent medical care. Following injuries of a serious or prolonged nature, the coach secures the signed approval of the doctor and parent before the athlete is allowed to participate again in athletic activities.

## II. Coaching Performance

- a. \_\_\_\_\_ develops respect by example in appearance, manners, behavior, language and conduct; suitable sideline conduct at all times (including practices and athletic events); maintains appropriate relationship with game officials.
- b. \_\_\_\_\_ maintains suitable sideline control at games and tournaments
- c. \_\_\_\_\_ provides proper supervision in all situations
- d. \_\_\_\_\_ maintains effective individual and team discipline and control
- e. \_\_\_\_\_ develops a well-organized practice schedule which utilizes his/her staff and team to its maximum potential
- f. \_\_\_\_\_ establishes the fundamental philosophy, skills and knowledge to be taught to the athletes
- g. \_\_\_\_\_ is fair, understanding, tolerant, empathetic and patient with team members
- h. \_\_\_\_\_ is innovative in trying and assessing new coaching techniques and ideas
- i. \_\_\_\_\_ shows an interest in athletes' academic achievements and on-season/off-season activities
- j. \_\_\_\_\_ provides leadership and demonstrates attitudes that produce positive efforts by participants
- k. \_\_\_\_\_ delegates authority with responsibility while remaining accountable for such delegations
- l. \_\_\_\_\_ models behaviors which reflect the values of good sportsmanship, fair competition and ethical behavior
- m. \_\_\_\_\_ provides opportunities for all members of the team to participate, consistent with their ability and persistence of effort

**TRACY UNIFIED SCHOOL DISTRICT**  
**ASSISTANT/VOLUNTEER COACH EVALUATION FORM**

Evaluatee \_\_\_\_\_ School \_\_\_\_\_

Sport \_\_\_\_\_ Level \_\_\_\_\_ School Year \_\_\_\_\_

Evaluator \_\_\_\_\_

S = Satisfactory

RI = Requires Improvement

U = Unsatisfactory

**I. Professional Duties and Responsibilities**

- a. \_\_\_\_\_ assists head coach with matters relating to the organization and administration of the team
- b. \_\_\_\_\_ abides by all relevant Board policies and administrative guidelines
- c. \_\_\_\_\_ enforces all rules of the California Interscholastic Federation (CIF) related to his/her sport
- d. \_\_\_\_\_ maintains required certifications for coaching, including CPR, First Aid, TB test, Water Safety (if applicable), etc.; takes/passes appropriate coaching course as required by the CIF
- e. \_\_\_\_\_ assists in planning practice sessions
- f. \_\_\_\_\_ assists in preparation of public information releases regarding his/her sport
- g. \_\_\_\_\_ assists in coordination of special events such as freshman orientation, summer camps, banquets, etc.
- h. \_\_\_\_\_ cooperates with the head coach and athletic director in setting up physical examination schedules and verifies that no student is issued equipment or allowed to practice until his/her examination card has been completed and his/her insurance coverage is in effect
- i. \_\_\_\_\_ assists with supervision of athletes until all team members have left the building and/or field
- j. \_\_\_\_\_ arranges for or conducts spot checks to confirm that all windows, doors, and gates are locked in any area that has been used; is prudent in the handling of keys for buildings and equipment
- k. \_\_\_\_\_ assists with preparation of detailed equipment and supply request form and submits it to the athletic director in sufficient time to obtain the material when needed
- l. \_\_\_\_\_ assists with arrangements for the presentation of team awards through the appropriate school office
- m. \_\_\_\_\_ assists the head coach and/or the athletic director in scheduling by recommending teams to be played and officials to be employed



- n. \_\_\_\_\_ enforces rules and regulations concerning conditioning of players, their health and safety, and conduct pursuant to the Coaching Handbook and the Athletic/Parent Student Handbook
- o. \_\_\_\_\_ reports injuries promptly and exercises great care in dealing with all injuries, particularly those that are of a serious nature; fills out required incident/injury forms
- p. \_\_\_\_\_ serves as a role model for his/her athletes (in the classroom, during the season, during the off-season)

In all cases, the coach confirms that the injured athlete is receiving competent medical care. Following injuries of a serious or prolonged nature, the coach secures the signed approval of the doctor and parent before the athlete is allowed to participate again in athletic activities.

## II. Coaching Performance

- a. \_\_\_\_\_ develops respect by example in appearance, manners, behavior, language and conduct; suitable sideline conduct at all times (including practices and athletic events); maintains appropriate relationship with game officials.
- b. \_\_\_\_\_ maintains suitable sideline control at games and tournaments
- c. \_\_\_\_\_ provides proper supervision in all situations
- d. \_\_\_\_\_ maintains effective individual and team discipline and control
- e. \_\_\_\_\_ develops a well-organized practice schedule which utilizes his/her staff and team to its maximum potential
- f. \_\_\_\_\_ establishes the fundamental philosophy, skills and knowledge to be taught to the athletes
- g. \_\_\_\_\_ is fair, understanding, tolerant, empathetic and patient with team members
- h. \_\_\_\_\_ is innovative in trying and assessing new coaching techniques and ideas
- i. \_\_\_\_\_ shows an interest in athletes' academic achievements and on-season/off-season activities
- j. \_\_\_\_\_ provides leadership and demonstrates attitudes that produce positive efforts by participants
- k. \_\_\_\_\_ delegates authority with responsibility while remaining accountable for such delegations
- l. \_\_\_\_\_ models behaviors which reflect the values of good sportsmanship, fair competition and ethical behavior
- m. \_\_\_\_\_ provides opportunities for all members of the team to participate, consistent with their ability and persistence of effort

III. Professional and Personal Relationships

- a. \_\_\_\_\_ works cooperatively and develops rapport with the head coach, athletic director, coaching staff, teachers and district administration
- b. \_\_\_\_\_ conducts and/or participates in necessary inservice meetings and coaches' clinics to improve coaching performance and attends meetings as required by the district and/or athletic department
- c. \_\_\_\_\_ develops sound public relations by cooperating with newspaper, radio, television, Booster Club and interested spectators
- d. \_\_\_\_\_ promotes all sports in the athletic program
- e. \_\_\_\_\_ communicates and cooperates with parents

IV. Evaluator's Comments

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The coach's signature indicates only that all phases of the evaluation have been conducted with the full knowledge of the coach.

\_\_\_\_\_  
Assistant Coach's Signature

\_\_\_\_\_  
Date

VI. Check One:

\_\_\_\_\_ SATISFACTORY (recommended for continued assignment)

\_\_\_\_\_ REQUIRES IMPROVEMENT (recommended for continued assignment provided an understanding can be reached in areas where improvement is suggested)

\_\_\_\_\_ UNSATISFACTORY (not recommended for continued assignment)

\_\_\_\_\_  
Head Coach's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Athletic Director's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Site Administrator's Signature

\_\_\_\_\_  
Date



# HUMAN RESOURCES MEMORANDUM

**TO:** Dr. James Franco, Superintendent  
**FROM:** Ryan Davis, Assistant Superintendent of Human Resources  
**DATE:** June 16, 2009  
**SUBJECT:** Approve Declaration of Need for Fully Qualified Educators

**BACKGROUND:** In order for Tracy Unified School District teachers to be granted emergency permits if needed, the governing board is required to certify that there is an insufficient number of certificated persons who meet the District's specified employment criteria for the positions listed on the attached forms.

**RATIONALE:** Each school year the district has to submit an estimate of the number of emergency permits that the district anticipates needing for the upcoming school year. This Declaration of Need must be approved by the School Board at a regular public meeting before being submitted to the California Commission on Teacher Credentialing. An estimate of District's need is shown on the attached forms. This Declaration of Need can be modified during the school year if the needs of the District change.

**FUNDING:** There is no cost to the District.

**RECOMMENDATION:** Approve Declaration of Need for Fully Qualified Educators.

**Prepared by:** Ryan Davis, Assistant Superintendent of Human Resources.



## DECLARATION OF NEED FOR FULLY QUALIFIED EDUCATORS

☒ Original Declaration of Need for year: 2009-10

☐ Revised Declaration of Need for year: \_\_\_\_\_

### FOR SERVICE IN A SCHOOL DISTRICT

Name of District: Tracy Unified School District District CDS Code: 75499

Name of County: San Joaquin County CDS Code: 39

By submitting this annual declaration, the district is certifying the following:

- A diligent search, as defined below, to recruit a fully prepared teacher for the assignment(s) was made
- If a suitable fully prepared teacher is not available to the school district, the district will make a reasonable effort to recruit based on the priority stated below

The governing board of the school district specified above adopted a declaration at a regularly scheduled public meeting held on 06 / 23 / 2009 certifying that there is an insufficient number of certificated persons who meet the district's specified employment criteria for the position(s) listed on the attached form. The attached form was part of the agenda, and the declaration did NOT appear as part of a consent calendar.

► **Enclose a copy of the board agenda item**

With my signature below, I verify that the item was acted upon favorably by the board. The declaration shall remain in force until June 30, 2010.

Submitted by (Superintendent, Board Secretary, or Designee):

Ryan Davis

Assistant Superintendent

Name  
209-830-3264

Signature  
209-830-3260

Title  
June 16, 2009

Fax Number

Telephone Number

Date

1875 W. Lowell Ave. - Tracy CA 95376

Mailing Address

smartin@tusd.net

E-Mail Address

### FOR SERVICE IN A COUNTY OFFICE OF EDUCATION, STATE AGENCY OR NONPUBLIC SCHOOL OR AGENCY

Name of County -- County CDS Code --

Name of State Agency --

Name of NPS/NPA -- County of Location --

The Superintendent of the County Office of Education or the Director of the State Agency or the Director of the NPS/NPA specified above adopted a declaration on - / - / -, at least 72 hours following his or her public announcement that such a declaration would be made, certifying that there is an insufficient number of certificated persons who meet the county's, agency's or school's specified employment criteria for the position(s) listed on the attached form.

The declaration shall remain in force until June 30, --.

► **Enclose a copy of the public announcement**

Submitted by Superintendent, Director, or Designee:

_____ Name	_____ Signature	_____ Title
_____ Fax Number	_____ Telephone Number	_____ Date
_____ Mailing Address		
_____ E-Mail Address		

- This declaration must be on file with the Commission on Teacher Credentialing before any emergency permits will be issued for service with the employing agency

### AREAS OF ANTICIPATED NEED FOR FULLY QUALIFIED EDUCATORS

Based on the previous year's actual needs and projections of enrollment, please indicate the number of emergency permits the employing agency estimates it will need in each of the identified areas during the valid period of this Declaration of Need for Fully Qualified Educators. This declaration shall be valid only for the type(s) and subjects(s) identified below.

This declaration must be revised by the employing agency when the total number of emergency permits applied for exceeds the estimate by ten percent. Board approval is required for a revision.

Type of Emergency Permit	Estimated Number Needed
CLAD (applicant already holds teaching credential)	35
BCLAD (applicant already holds teaching credential)	5
List target language(s) for BCLAD: Spanish	
Resource Specialist	5
Teacher Librarian Services	2
Visiting Faculty Permit	-

### LIMITED ASSIGNMENT PERMITS

Limited Assignment Permits may only be issued to applicants holding a valid California teaching credential based on a baccalaureate degree and a professional preparation program including student teaching.

Based on the previous year's actual needs and projections of enrollment, please indicate the number of Limited Assignment Permits the employing agency estimates it will need in multiple subject and single subject areas.

TYPE OF LIMITED ASSIGNMENT PERMIT	ESTIMATED NUMBER NEEDED
Multiple Subject	1
Single Subject	3
TOTAL	4

### EFFORTS TO RECRUIT CERTIFIED PERSONNEL

The employing agency declares that it has implemented in policy and practices a process for conducting a diligent search that includes, but is not limited to, distributing job announcements, contacting college and university placement centers, advertising in local newspapers, exploring incentives included in the Teaching as a Priority Block Grant (refer to [www.cde.ca.gov](http://www.cde.ca.gov) for details), participating in state and regional recruitment centers and participating in job fairs in California.

If a suitable fully prepared teacher is not available to the school district, the district made reasonable efforts to recruit an individual for the assignment, in the following order:

- A candidate who qualifies and agrees to participate in an approved internship program in the region of the school district
- An individual who is scheduled to complete initial preparation requirements within six months

### EFFORTS TO CERTIFY, ASSIGN, AND DEVELOP FULLY QUALIFIED PERSONNEL

Has your agency established a District Intern program?

☒ Yes

☐ No

If no, explain. \_\_\_\_\_

Does your agency participate in a Commission-approved college or university internship program?

☒ Yes

☐ No

If yes, how many interns do you expect to have this year? 30

If yes, list each college or university with which you participate in an internship program.

San Joaquin Office of Ed-IMPACT; CSU Stanislaus, Project Pipeline, University of Pacific,  
University of Phoenix, National, Chapman, Sacramento State University, University of SF

If no, explain why you do not participate in an internship program.  
\_\_\_\_\_  
\_\_\_\_\_



# HUMAN RESOURCES MEMORANDUM

**TO:** Dr. James Franco, Superintendent  
**FROM:** Ryan Davis, Assistant Superintendent  
**DATE:** June 18, 2009  
**SUBJECT:** Acknowledge Receipt of CSEA's Sunshine Proposal for the 2009-2010 School Year

**Background:** The three-year contract between the California School Employees Association (CSEA) and the Tracy Unified School District expired on June 30, 2008. The District and CSEA concluded negotiations for a successor agreement; however, the newly-negotiated CSEA Master Agreement cannot be ratified until a balanced budget is submitted to the San Joaquin County Office of Education. The contract has a provision for parties to "meet and negotiate" if mutually agreed upon by both parties, with respect to any subject or matter whether referred to or covered in the Master Agreement or not. The CSEA is requesting to meet and negotiate with the District for the Articles shown on the attached proposal. The District's proposal shall be submitted at the next regularly scheduled Board Meeting.

**Recommendation:** Acknowledge Receipt of CSEA's Sunshine Proposal for the 2009-2010 school year.

**Prepared by:** Ryan Davis, Assistant Superintendent



California  
School  
Employees  
Association

5375 West Lane  
Stockton, CA 95210

(209) 472-2170  
(800) 757-4229  
FAX (209) 472-2089  
[www.csea.com](http://www.csea.com)

Member of the AFL-CIO

*The nation's largest  
independent classified  
employee association*

*Member of the National  
Association of Classified  
School Employees  
(NACSE), representing  
independent public  
employees throughout  
the nation*



April 15, 2009

VIA FACSIMILE

Ryan Davis  
Associate Superintendent of Human Resources  
Tracy Unified School District  
1875 W. Lowell  
Tracy, CA 95376

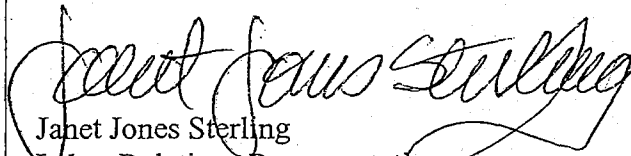
Dear Ryan,

Pursuant to the agreement between the California School Employees Association and its Tracy Chapter #98, and the Tracy Unified School District that expires on June 30, 2011, please find the proposals for amendments and/or modifications to the current collective bargaining agreement for the fiscal year 2009-2010. The current collective bargaining agreement states in Article XLIV – Duration of and Procedure for Modifying This Agreement the parties may reopen two (2) articles of their choice, as well as Pay and Allowances and Fringe Benefits.

Please consider this document for public notice provisions pursuant to Government code Section 3547(a). The California School Employees Association and its Tracy Chapter #98 desire to commence negotiations as soon as possible after the completion of the public notice provisions.

Very truly yours,

CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION

  
Janet Jones Sterling  
Labor Relations Representative

Enclosure

Cc: AD J. Stewart  
FD R. Roach  
RR D. McCowan  
CP D. Cheeseman  
File



**TO THE TRACY UNIFIED SCHOOL DISTRICT  
FROM THE  
CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION  
TRACY CHAPTER #98**

**INITIAL PROPOSAL 2009-2010**

1. Article VIII – Pay and Allowance
2. Article X – Fringe Benefits
3. Article XI – Hours and Overtime
4. Article XXXII – Layoff and Reemployment



**TRACY**  
UNIFIED SCHOOL DISTRICT

# HUMAN RESOURCES MEMORANDUM

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**TO:** Dr. James C. Franco, Superintendent  
**FROM:** Ryan Davis, Assistant Superintendent of Human Resources  
**DATE:** June 18, 2009  
**SUBJECT:** Adopt Resolution 08-46, Reserving Right to Reduce 2009-2010 Compensation for Represented and Unrepresented Employees

**BACKGROUND:** The State of California is projecting an estimated \$24 billion deficit in the state budget. This substantial state budget shortfall will result in a significant decrease in income for our district. This resolution would place the District in a position where it would be able to negotiate and institute a pay reduction if necessary for both represented and unrepresented employees during the 2009-2010 school year, subject to collective bargaining.

**RATIONALE:** Reductions in compensation for both represented and unrepresented employees may be needed to address budget cuts for the 2009/2010 school year.

**RECOMMENDATION:** Adopt Resolution 08-46, Reserving the Right to Reduce 2009-2010 Compensation for Represented and Unrepresented Employees.

**Prepared by:** Ryan Davis, Assistant Superintendent of Human Resources



**RESOLUTION RESERVING RIGHT TO REDUCE 2009-2010 COMPENSATION  
FOR REPRESENTED AND UNREPRESENTED EMPLOYEES**

Resolution No. 08-46

**WHEREAS**, present and projected future reductions in state funding for California school districts have and will result in a significant decrease in income for the Tracy Unified School District; and

**WHEREAS**, the District's local budget situation is made worse by this significant decrease in income.

**WHEREAS**, these financial challenges necessitate that the Governing Board consider all available options for reductions in spending; and

**WHEREAS**, this Board desires to reserve the right, subject to negotiations requirements unless authorized to act based upon business necessity, to reduce compensation for both represented and unrepresented employees for the 2009-2010 school year and thereafter.

**WHEREAS**, this Board has presented, or will present, an initial proposal in collective bargaining to both the Tracy Educators Association (TEA) and the California School Employees Association (CSEA) proposing to reduce employee compensation for the 2009-2010 school year and thereafter; and

**WHEREAS**, this Board is also considering reductions in employee compensation for its management, confidential classified and other unrepresented employees for the 2009-2010 school year and thereafter, and

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THIS BOARD** as follows:

1. This Board reserves the right, subject to negotiations requirements unless authorized to act based upon business necessity, to reduce annual compensation for each of the aforementioned groups of employees effective July 1, 2009, or a date thereafter;
2. The Superintendent or designee is directed to provide written notice to the respective exclusive representatives of the contents of this Resolution;

3. The Superintendent or designee is directed to provide notice to individual employees in the aforementioned employee groups regarding the possibility that their annual compensation may be reduced effective July 1, 2009, or at a date thereafter;

PASSED AND ADOPTED this 23<sup>rd</sup> day of June, 2009 by the Board of Trustees of the Tracy Unified School District by the following vote:

AYES:            NOES:            ABSENT:            ABSTAIN:

---

Ted Guzman, President  
Board of Trustees  
Tracy Unified School District

Attested:

I certify that the foregoing resolution was adopted by the Board of Trustees of the Tracy Unified School District, County of San Joaquin, on the date shown above.

---

Clerk  
Board of Trustees  
Tracy Unified School District