



ASB AGREEMENT FOR SERVICES

THIS AGREEMENT is made and entered into this _____ day of _____ by and between the Associated Student Body of _____ School, hereinafter referred to as the "ASB," and _____, hereinafter referred to as the "CONSULTANT."

1. SERVICES TO BE PERFORMED BY CONSULTANT

- a) **Scope of Work.** CONSULTANT agrees to perform the following services on the dates and times herein stated in accordance with directions stipulated to by ASB (provide attachment if necessary):

- b) **Staffing.** CONSULTANT may, at CONSULTANT's own expense, employ such assistants as CONSULTANT deems necessary to perform the services required of CONSULTANT by this Agreement. ASB will not train, control, direct, or supervise CONSULTANT's assistants or employees in the performance of those services.
- c) **Independent Contractor.** Consultant is, and shall at all times be deemed to be, an independent contractor and shall be responsible for determining the sequence, method, details and manner in which it performs those services required under the terms of this Agreement. Nothing herein contained shall be construed as creating a relationship of employer and employee, or principal and agent, between ASB and CONSULTANT or any of CONSULTANT's agents or employees. CONSULTANT assumes exclusive responsibility for the acts of its employees or agents as they relate to services to be provided during the course and scope of their employment. CONSULTANT, its agents and employees, shall not be entitled to any rights and/or privileges of ASB's employees and shall not be considered in any manner to be ASB's employees.
- d) **Public Entity Employee.** If CONSULTANT is a regular employee of a public entity, all services which CONSULTANT renders under this Agreement will be performed at times other than CONSULTANT's regular assigned work day for said entity or during periods of vacation or leave of absence from said entity, using CONSULTANT's own resources.

2. COMPENSATION

- a) **Compensation for Services.** Except as otherwise provided in this Agreement, ASB agrees to compensate CONSULTANT for services rendered under this Agreement as follows:

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- b) **Travel Expenses.** ASB will pay no additional amount for travel or other expenses of CONSULTANT under this Agreement unless specified below under section 2(c). Should travel or other expenses be specified below, CONSULTANT shall be entitled to the lesser amount of
1. The not to exceed amount stated, or
 2. The actual amount expended. Supporting documentation for the authorized travel or other expenses shall be attached to this Agreement.

c) **Summary of Compensation**

Services: _____
 Travel Expense: _____
 Total contract amount not to exceed (*services + travel*) _____

- d) **Retired STRS or PERS.** If this Agreement is with an individual consultant, CONSULTANT shall notify the ASB whether or not CONSULTANT is a retired member of the California State Teacher's Retirement System (STRS) or the California Public Employees Retirement System (PERS).
- e) **Income Tax.** ASB will not withhold any federal or state income tax for payment made pursuant to this Agreement but, if applicable, will provide CONSULTANT with a statement of earnings at the end of each calendar year. CONSULTANT is hereby advised that such statement of earnings shall, if required, be provided to the Internal Revenue Service and the State Franchise Tax Board.
- f) **Documentation Required For Payment.** Unless specified below, payment for services and travel shall be made by ASB to CONSULTANT after services/travel has been completed and consultant submits documentation for payment (e.g. consultant invoice).

3. **TERM OF AGREEMENT**

The term of this Agreement is from _____ through _____, unless sooner terminated pursuant to the provisions of Section 6 of this Agreement. ASB and CONSULTANT may mutually agree in writing to extend the term of this Agreement provided, however, ASB shall not be obligated to pay CONSULTANT any additional consideration unless CONSULTANT undertakes additional services, in which instance the consideration shall be increased as ASB and CONSULTANT shall agree in writing.

4. **OBLIGATIONS OF CONSULTANT**

- a) **Services Performed.** During the term of this Agreement, CONSULTANT agrees to diligently prosecute the work specified in the "Services to be Performed by Consultant" to completion. CONSULTANT may represent, perform services for, and be employed by such additional clients, persons, or companies as CONSULTANT, in CONSULTANT's sole discretion, sees fit.
- b) **Use of ASB Space and Resources.** CONSULTANT will provide all space, materials, tools, and instrumentalities required to perform the services under this Agreement at CONSULTANT's expense, and shall not be entitled to reimbursement. CONSULTANT shall not be entitled to any benefits the ASB may make available to its employees, including, but not limited to, office or business equipment, office space, supplies, group health, life insurance, vacation or retirement benefits.
- c) **Regulatory Compliance.** CONSULTANT shall comply with all federal, state and local laws and ordinances applicable to the work to be performed under this Agreement.

- d) **Asbestos Hazard Emergency Response Act (AHERA) and Lead Based Paint Compliance.** CONSULTANT shall comply with the ASB's Asbestos Hazard Emergency Response Act (AHERA) and Lead Based Paint compliance procedures. Prior to starting any construction work at a ASB facility (including demolition, drilling/penetrating, cutting/tearing, sanding, scraping, screwing/unscrewing, or other similar activities) the following requirements must be met:
1. Contact the Ontario-Montclair School District Facilities (OMSD) Planning and Operations Department (909-418-6366) to discuss the project and the planned method of construction or installation to occur.
 2. Receive and review the ASB's Asbestos Hazard Emergency Response Act (AHERA) Management Plan Book that identifies the known location(s) of asbestos and/or lead-based paint containing materials for the subject site to confirm these materials will not be disturbed during the course of your work.
 3. Obtain authorization from the OMSD Facilities Planning and Operations Department.
- e) **Fingerprinting.** CONSULTANT shall comply with the requirements of Education Code section 45125.1 with respect to fingerprinting of employees who may have any interaction with the DISTRICT's pupils (whether such interaction is in person or electronic, and whether the interaction is through writing, voice or video) if CONSULTANT, including but not limited to CONSULTANT if CONSULTANT is among the agents providing services, has any student interaction outside of the immediate supervision and control of the pupils' parent/guardian or a school employee. If at any time during the term of this Agreement CONSULTANT is either notified by the Department of Justice or otherwise becomes aware that any employee of CONSULTANT, including CONSULTANT, performing services under this Agreement has been arrested or convicted of a violent or serious felony as defined in California Education Code Section 45122.1, CONSULTANT agrees immediately to notify the DISTRICT and remove said employee from performing services on this Agreement. CONSULTANT shall certify in writing to the DISTRICT that neither the CONSULTANT nor any of its employees who are required by this section to submit or have their fingerprints submitted to the Department of Justice and who may come in contact with pupils have been convicted of a felony as defined in Education Code section 45122.1 (Exhibit A).
- f) **Indemnification.** CONSULTANT shall indemnify, pay for the defense of, and hold harmless ASB and its officers, agents and employees of and from any and all liabilities, claims, debts, damages, demands, suits, actions and causes of actions of whatsoever kind, nature or sort which may be incurred by reason of CONSULTANT's negligent or willful acts and/or omissions in rendering any services hereunder, including but not limited to the negligent or willful acts and/or omissions of CONSULTANT's employees and agents. CONSULTANT shall assume full responsibility for payments of federal, state and local taxes or contributions imposed or required under the social security, workers' compensation or income tax law, or any disability or unemployment law, or retirement contribution of any sort whatever, concerning CONSULTANT or any employee/agent of CONSULTANT and shall further indemnify, pay for the defense of, and hold harmless ASB of and from any such payment or liability arising out of or in any manner connected with CONSULTANT's performance under this Agreement.

ASB shall indemnify, pay for the defense of, and hold harmless CONSULTANT and its officers, agents and employees of and from any and all liabilities, claims, debts, damages, demands, suits, actions and causes of actions of whatsoever kind, nature or sort which may be incurred by reason of ASB's negligent or willful acts and/or omissions in rendering any services hereunder, including but not limited to the negligent or willful acts and/or omissions of ASB's employees and agents. ASB shall assume full responsibility for payments of federal, state and local taxes or contributions imposed or required under the social security, workers' compensation or income tax law, or any

disability or unemployment law, or retirement contribution of any sort whatever, concerning ASB or any employee/agent of ASB and shall further indemnify, pay for the defense of, and hold harmless CONSULTANT of and from any such payment or liability arising out of or in any manner connected with ASB's performance under this Agreement.

g) **Insurance Requirements.** During the entire term of this Agreement, CONSULTANT shall procure, pay for and keep in full force and effect the following types of insurance:

1. **General Liability Insurance.** Commercial general liability insurance, covering bodily injury liability, property damage liability and personal injury liability of CONSULTANT with respect to the services provided by, or on behalf of, CONSULTANT under this Agreement. The policy limits shall not be less than One Million dollars (\$1,000,000) per occurrence. The General Liability policy shall include waiver of subrogation via separate endorsement.

a. The ASB requires the Certificate of Liability Insurance to show the ASB as the "Certificate Holder" and "Additional Insured" on the CONSULTANT'S general liability insurance policy. Requested wording in the "Description box" is as follows:

The Ontario-Montclair School District, its departments, officers, agents, and employees are additional insureds with regard to liability and defense of suits arising from the operations and uses performed by or on behalf of the named "Insured."

2. **Auto Liability Insurance.** Business auto liability insurance covering the use of "owned, non-owned and hired" autos by or on behalf of CONSULTANT respect to the services to be performed under this Agreement. The policy limits shall not be less than One Million dollars (\$1,000,000) per occurrence. The Auto Liability Insurance policy shall include waiver of subrogation via separate endorsement.

3. **Sexual Abuse and Molestation Insurance.** In any Scope of Work where direct or incidental contact with students in or out of the classroom setting is likely to take place, CONSULTANT must provide Coverage for sexual abuse and molestation which covers bodily injury, emotional distress or mental anguish related to any claim, cause of action or liability associated with child molestation or sexual abuse, with limits no less than \$1,000,000 per wrongful act and \$2,000,000 aggregate. This coverage may be provided as an endorsement to the Commercial General Liability policy or under a separate policy and must be written on an "occurrence" and not on claims made or claims made and reported basis. Coverage for such claims must not be subject to any exclusion, restriction, or sub-limit. ASB, its board of trustees, employees, agents, and volunteers must be named as additional insureds with respect to sexual abuse and molestation claims. The coverage must contain a severability of interests/cross liability clause or language stating that CONSULTANT's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

4. **Workers' Compensation Insurance.** This coverage is required unless CONSULTANT provides written verification it has no employees. Coverage must be at least as broad as that which is required by the State of California, with Statutory Limits. CONSULTANT must also maintain Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. Workers' compensation policy shall include waiver of subrogation via separate endorsement.

The policies of insurance described in Paragraph (4g.1-4) listed above shall be carried with responsible and solvent insurance companies authorized to do business in the State of California. True and correct copies of all certificates of insurance reflecting the coverage required in Paragraph (4g.1- 4) shall be provided to ASB prior to the commencement of services under this

Agreement. CONSULTANT agrees that it shall not cancel or change the coverage provided by the policies of insurance described in Paragraph (4g.1-4) above without first giving the ASB's School Site Administrator, thirty (30) days prior written notice. Should any such policy of insurance be canceled or changed, CONSULTANT agrees to immediately provide ASB true and correct copies of all new or revised certificates of insurance.

- h) **Written Consent.** Neither this Agreement nor any duties or obligations under this Agreement may be assigned by CONSULTANT without the prior written consent of ASB.

5. **OBLIGATIONS OF ASB**

- a) **Professional Services.** ASB agrees to comply with all reasonable requests by CONSULTANT and to provide access to all documents reasonably necessary for the performance of CONSULTANT's duties under this Agreement.

6. **TERMINATION OF AGREEMENT**

- a) **Termination without Cause.** Unless otherwise terminated as provided below, this Agreement shall continue in force during the term of the Agreement, or until the services provided for herein have been fully and completely performed, whichever shall occur first, and shall thereupon terminate.
- b) **Termination for Breach.** Should CONSULTANT default in the performance of this Agreement or breach any of its provisions, ASB may terminate this Agreement by giving written notification to CONSULTANT.
- c) **Immediate Suspension/Termination by ASB.** If at any time during the performance of this Agreement ASB determines, at its sole discretion, to suspend indefinitely or abandon the work under this Agreement, ASB shall have the right to terminate the performance of CONSULTANT's services hereunder by giving written notification to CONSULTANT of its intention to terminate.
- d) **Effect of Termination.** In the event that ASB terminates this Agreement under paragraph (b) or (c) of this Section, CONSULTANT shall only be paid for those services rendered to the date of termination. All cash deposits made by ASB to CONSULTANT, if any, shall be refundable to ASB in full upon termination of this Agreement unless specified to the contrary below.

7. **GENERAL PROVISIONS**

- a) **Notices.** Any notices to be given hereunder by either party to the other may be effected either by personal delivery in writing or by mail, registered or certified, postage prepaid with return receipt requested. Notices shall be deemed given and served upon delivery personally, or three (3) days after depositing in the United States Mail. Mailed notices shall be addressed to the parties at the addresses set forth in this Agreement for ASB and CONSULTANT. The foregoing addresses may be changed by written notice to the other party as provided herein.
- b) **Validity of Agreement.** This Agreement supersedes any and all agreements either oral or written, between the parties hereto with respect to the rendering of services by CONSULTANT and contains all of the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement will be effective only if it is in writing, signed by both parties, except ASB may unilaterally amend the Agreement to accomplish the changes listed below:

- (1) Increase dollar amounts; (2) Administrative changes; and (3) Changes as required by law.

- c) **Court Findings.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.
- d) **California Laws.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.
- e) **Audit.** Pursuant to and in accordance with the provisions of Government Code Section 8546.7 or any amendments thereto, all books, records and files of ASB, CONSULTANT, or any subcontractor connected with the performance of this Agreement involving the expenditure of public funds in excess of Ten Thousand Dollars (\$10,000), including, but not limited to the administration thereof, shall be subject to the examination and audit of the State Auditor General of the State of California, at the request of the ASB or as a part of any audit of ASB, for a period of three (3) years after final payment is made under this Agreement. CONSULTANT shall preserve and cause to be preserved such books, records and files for the audit period.
- f) **Contractual/Equitable Remedies.** CONSULTANT agrees that the ASB is the sole entity against whom the CONSULTANT may seek either contractual or equitable remedies, and further agrees not to seek contractual or equitable remedies (including, but not limited to injunctive relief and quantum meruit) against ASB employees or beneficiaries of the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first written.

“ASB”	“CONSULTANT”
Signature	Signature
Date	Printed Name/Title
Printed Name/Title	Date
Ontario-Montclair School ASB 950 West D Street Ontario, CA 91762	Email Address
	Street Address
	City, State, Zip Code
	Telephone Number

Exhibit A

Certification of Compliance with California Education Code Section 45125.1

In compliance with California Education Code Section 45125.1, I hereby certify that no owner or employee of _____ [name of **CONSULTANT**] (“**CONSULTANT**”) who may have any interaction with pupils (whether such interaction is in person or electronic, and whether the interaction is through writing, voice or video) outside of the immediate supervision and control of the pupils’ parent/guardian or a school employee, shall be permitted to have any contact with students until after I have received and reviewed a report based on their LiveScan fingerprint report that they have not been convicted of a felony as defined in California Education Code Section 45122.1. In advance of their contact with pupils, I shall certify receipt and review of a report from the LiveScan report that they have not been convicted of a felony as defined in California Education Code Section 45122.1. I also understand that I must provide to the Ontario-Montclair School District any subsequent arrest and conviction information that we receive concerning these individuals, and that I shall immediately remove the person from performing services on this Agreement. The Ontario-Montclair School District is entitled to rely upon my representations in this Certification. **CONSULTANT** hereby agrees to indemnify Ontario-Montclair School District for any and all claims, damages, suits and liability that arise out of, relate to or is associated with a failure of **CONSULTANT** to comply with California Education Code Section 45125.1 or with a failure to exercise reasonable care with respect to proper selection and/or supervision of **CONSULTANT**’s employees who may come in contact with pupils.

CONSULTANT INFORMATION

Signature

Printed Name/Title

Date

Email Address

Street Address

City, State, Zip Code

Telephone Number

END OF AGREEMENT FOR CONSULTANT SERVICES