



**Encinitas Union School District
CONSULTANT AGREEMENT**

THIS AGREEMENT made this day of , in the County of San Diego, California, by and between The Encinitas Union School District (hereinafter "DISTRICT") and (hereinafter "CONSULTANT"). DISTRICT and CONSULTANT hereby agree to the following:

1. **TERM and LOCATION:** The term of the Agreement shall be for the period , thru , at Elementary School located at , , CA unless earlier terminated as provided herein. The parties may mutually agree to extend this term by written amendment.
2. **SERVICES:** The CONSULTANT shall furnish the following services as indicated below (the "Services"). CONSULTANT shall be responsible for all costs and expenses applicable to the performance of services for DISTRICT. DISTRICT shall not be responsible for any expenses incurred by CONSULTANT in performing services for DISTRICT except as provided by the agreement. **A detailed scope of services and all supporting documentation must be attached to this Agreement.**

☐ Scope of Work is attached or prefilled above.

3. **COMPENSATION:** DISTRICT agrees to pay CONSULTANT \$ per , not to exceed \$, upon CONSULTANT'S submission of a request for payment submitted to accounts.payable@eusd.net within 30 days of service.
4. **TERMINATION:** DISTRICT may, by written notice to CONSULTANT, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to CONSULTANT of such termination no less than seven (7) days before termination date. Upon termination, CONSULTANT shall be compensated for services which have been adequately rendered to DISTRICT, and CONSULTANT shall be entitled to no further compensation. CONSULTANT may not terminate this Agreement except for cause.
5. **STATUS OF CONSULTANT:** It is expressly understood that at all times while rendering the services described herein and in complying with any terms and conditions of this Agreement, CONSULTANT is acting as an independent contractor not as an officer, agent, or employee of DISTRICT. In executing this agreement, CONSULTANT certifies that no one who has or who will have any financial interest under this agreement is an officer or employee of DISTRICT.
6. **STANDARD OF CARE.** CONSULTANT shall perform all Services under this Agreement in a skillful, competent, and timely manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. CONSULTANT warrants that all of its employees and subcontractors shall have sufficient skill and experience to perform the Services, as well as possess all current and valid licenses, permits, and qualifications legally required to perform the Services throughout the term of this Agreement. Any of CONSULTANT'S employees who are unable to perform the Services in a manner acceptable to DISTRICT shall be promptly removed from the Project.
7. **LAWS AND REGULATIONS.** CONSULTANT shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations, and shall be liable for any violations of such laws and regulations in connection with the Services.
8. **SAFETY.** CONSULTANT shall execute and maintain its work so as to avoid injury or damage to any person or property and shall exercise all necessary precautions for the safety of its employees, subcontractors, DISTRICT employees, students, and volunteers.
9. **MAINTENANCE OF ACCOUNTING RECORDS.** CONSULTANT shall maintain complete, accurate, and clearly identifiable records with respect to all costs and expenses incurred under this Agreement. Upon request CONSULTANT shall

allow a representative of DISTRICT during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement for a period of four (4) years from the date of final payment.

10. **DELIVERY OF NOTICES.** All notices under this Agreement shall be given to the respective parties at the following address or email and shall be deemed adequate on the date the actual notice occurred, regardless of the method of service.

Consultant notices sent to: _____ Address or Email: _____

District notices sent to: Business Services Address: 101 S. Rancho Santa Fe Road, Encinitas, CA 92024

11. **INDEMNIFY:** To the fullest extent permitted by law, CONSULTANT shall defend (with counsel of DISTRICT'S choosing), indemnify and hold DISTRICT, its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of CONSULTANT, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of CONSULTANT'S Services, the project or this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses. CONSULTANT shall reimburse DISTRICT and its officials, officers, employees, agents, and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. CONSULTANT'S obligation to indemnify shall not be restricted to insurance proceeds, if any, received by DISTRICT, its directors, officials officers, employees, agents, or volunteers. Notwithstanding the foregoing, to the extent CONSULTANT'S Services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT. CONSULTANT agrees to waive all rights of subrogation against DISTRICT.
12. **INSURANCE:** CONSULTANT shall, at its sole expense, maintain throughout the term of this Agreement commercial general liability insurance, automobile liability insurance, and workers' compensation insurance as required by law, in amounts reasonably sufficient to satisfy the obligations set forth in the indemnification provisions of this Agreement. CONSULTANT shall provide certificates of insurance and any required endorsements evidencing such coverage to the DISTRICT no later than five (5) business days prior to the commencement of any services under this Agreement. CONSULTANT shall not begin work until the required proof of insurance has been received and approved by the DISTRICT. When CONSULTANT'S Services involve the use of DISTRICT facilities, CONSULTANT shall comply with all applicable DISTRICT facility-use requirements, site rules, safety procedures, and administrative directives, including the completion, submission, and approval of any required Facility Use Form prior to such use. Approval of this Agreement shall not constitute approval to use DISTRICT facilities, and CONSULTANT shall not use any DISTRICT facility unless and until all required facility-use approvals have been obtained.
13. **NON-DISCRIMINATION/AFFIRMATIVE ACTION:** No discrimination shall be made in the employment of persons under this Agreement because of the race, color, national origin, age, ancestry, physical handicap, religion, or sex of such person or any other basis protected by law.
14. **TAX REPORTING/PAYMENT RESPONSIBILITIES:** DISTRICT shall provide an annual statement of compensation paid on the appropriate federal and/or state information forms. CONSULTANT is responsible for payment of any federal and/or state tax amounts due.
15. **FINGERPRINTING AND CRIMINAL RECORDS CHECK:** CONSULTANT shall comply with the provisions of Education Code Section 45125.1 regarding the submission of employee fingerprints to the California Department of Justice. CONSULTANT shall not permit any of its employees or consultants to have any contact with DISTRICT pupils until such time as CONSULTANT has verified in writing to the DISTRICT that all employees/consultants have complied with Education Code Section 45125.1. This section may be waived (site administrator initial to waive _____) if DISTRICT determines that CONSULTANT and/or its employees will have limited contact with DISTRICT pupils or if CONSULTANT and /or its employees will be supervised at all times by DISTRICT employees. CONSULTANT further acknowledges that other fingerprinting requirements may apply, as set forth in Education Code Section 45125 et seq. and will

comply with any such requirements.

16. **TOBACCO-FREE/DRUG-FREE FACILITY:** DISTRICT is a tobacco-free (smoked and smokeless) & drug-free facility. Use is prohibited at all times on all areas of DISTRICT property.
17. **MEDIATION.** Disputes arising from this Agreement may be submitted to mediation if mutually agreeable to the parties hereto. The type and process of mediation to be utilized shall be subject to the mutual agreement of the parties.
18. **ASSIGNMENT:** This agreement is not assignable by CONSULTANT, either in whole or in part, without the written consent of DISTRICT.
19. **GOVERNING LAW:** The validity of this agreement and any of its terms or provisions as well as the rights and duties of the parties hereunder shall be governed by the laws of the State of California.
20. **COMPLETENESS OF AGREEMENT:** This Agreement constitutes the entire understanding of the parties and any change or modification shall be in writing and signed by both parties hereto.
21. **NON-WAIVER.** None of the provisions of this Agreement shall be considered waived by either party, unless such waiver is expressly specified in writing.
22. **COUNTERPARTS.** This Agreement may be executed in counterparts, each of which shall constitute an original and all of which shall constitute one agreement.
23. **BOARD APPROVAL REQUIRED.** This Agreement and any subsequent amendments shall not be binding or take effect unless approved or ratified by DISTRICT'S Board of Education ("Board").

IN WITNESS WHEREOF, DISTRICT and CONSULTANT have executed this Agreement effective as of the date first written above.

ENCINITAS UNION SCHOOL DISTRICT:

CONSULTANT:

Signature: _____

Name: Joseph Dougherty

Title: Assistant Superintendent, Business Services

Signature: _____

Name: _____

Title: _____

INTERNAL USE - CONTRACT COMPLIANCE CHECKLIST

- ☐ W-9 Received
- ☐ COI Received - EUSD listed as Additional Insured and Certificate Holder, if required
- ☐ Fingerprinting Verification Received, if applicable

REQ #: _____

PO #: _____

Vendor No.: _____

Board Approval Date: _____

SITE ADMINISTRATOR ACKNOWLEDGMENT

The Site Administrator acknowledges the proposed Agreement and understands that this acknowledgment does not authorize work to begin, constitute final contract approval, or financially obligate the District. Work may not commence until all required District approvals have been obtained.

Site Administrator Signature

Printed Name

Date