

**MT. DIABLO UNIFIED SCHOOL DISTRICT**

1936 Carlotta Drive  
Concord, CA 94519

PERSONNEL SERVICES

**ORIGINAL**

JUL 27 2010

RECEIVED

MDUSD

JUL 07 2010

**AGREEMENT BETWEEN  
MT. DIABLO UNIFIED SCHOOL DISTRICT  
AND INDEPENDENT CONTRACTOR**

FISCAL ANALYST  
PUPIL SERVICES/SPECIAL EDUCATION

THIS AGREEMENT is made this 15th day of June, 2010, by and between the Mt. Diablo Unified School District (hereinafter "District") and Active Reading Clinic (hereinafter "Contractor").

District hereby engages Contractor to render described services under the terms and conditions of this Agreement.

1. Performance of Services

- (a) Contractor agrees to perform the services described on Exhibit "A" (hereinafter "Services") on page 4 of this Agreement as an independent contractor. Contractor will determine the means, manner, method, and details of performing the Services. Contractor shall be responsible for providing the materials, tools, transportation, and workspace necessary for the performance of the services. Contractor may, at Contractor's own expense, use non-District employees to perform the Services under this Agreement. Subcontractors may be used with the written approval of the District only.
- (b) Contractor represents that Contractor has the qualifications and ability to perform the Services in a professional manner, without the advice, control, or supervision of the District. Contractor shall be solely responsible for the professional performance of the services, and shall receive no assistance, direction, or control from District. Contractor shall have sole discretion and control of Contractor's services and the manner in which they are performed.

2. Compensation. District agrees to compensate Contractor for the performance of the Services on the following basis:

\$ 10,000.00 total fee for Services

010 - 1664 - 11 - 5800  
BUDGET CODE

The basis of the fee for Services shall be as follows:

- a. \$ 70.00 per hour,
- b. \$ \_\_\_\_\_ per day, or
- c. \$ \_\_\_\_\_ per engagement.

Check one:

- Partial Payments: Contractor shall invoice District on a monthly basis or as agreed to for all hours worked pursuant to this Agreement.
- Payment in Full: Contractor shall invoice District on completion of services. District Administrator will verify invoice indicating that all required services have been performed.

Contractor shall be responsible for all expenses incurred in association with the performance of the Services.

3. Term and Termination. This Agreement will become effective on 6/15/2010. This Agreement will terminate upon the completion of the Services or when terminated as set forth below.

Either party may terminate this Agreement at any time by giving thirty (30) days written notice to the other party. Should either party default in the performance of this Agreement or materially breach any of its provisions, the non-breaching party may terminate this Agreement by giving written notice to the breaching party. Termination shall be effective immediately on receipt of said notice.

4. Relationship of the Parties. Contractor enters into this Agreement as, and shall continue to be, an independent contractor. Under no circumstances shall Contractor be considered an employee of District within the meaning of any federal, state, or local law or regulation including, but not limited to, laws or regulations governing unemployment insurance, old age benefits, workers' compensation, industrial illness or accident coverage, taxes, or labor and employment in general. Under no circumstances shall Contractor look to District as his/her employer, or as a partner, agent, or principal. Contractor shall not be entitled to any benefits accorded to District's employees, including, without limitation, workers' compensation, disability insurance,

vacation, or sick pay. Contractor shall be responsible for providing, at Contractor's expense, and in the Contractor's name, disability, workers' compensation or other insurance, as well as licenses and permits usual or necessary for conducting the Services hereunder.

Contractor shall pay, when and as due, any and all local, state and federal income or other taxes incurred as a result of Contractor's compensation hereunder, including estimated taxes, and shall provide District with proof of said payments upon demand. Contractor hereby indemnifies District for any claims, losses, costs, fees, liabilities, damages, or injuries suffered by District arising out of Contractor's breach of this Section.

5. Fingerprinting and Criminal Records Check of Contractor's Employees. Contractor shall comply with the provisions of Education Code §45125.1 regarding the submission of fingerprints to the California Department of Justice and the completion of criminal background investigations of the contractor and/or its employees. Contractor shall not permit any employee to have any contact with District pupils until such time as Contractor has verified in writing to the governing board of the District that such employee has not been convicted of a felony, as defined in Education Code §45125.1.
6. Rules and Regulations. All results and regulations of the Board of Education and all federal, state, and local laws, ordinances and regulations are to be observed strictly by Contractor pursuant to this Agreement.
7. Indemnification. Contractor shall and does hereby indemnify, defend, and hold harmless District, and District's officers, employees, agents and representatives from and against any and all claims, demands, losses, costs, expenses, obligations, liabilities and damages, including, without limitation, interest, penalties, and reasonable attorneys fees and costs, that District may incur or suffer and that arise, result from, or are related to any breach or failure of Contractor to perform any of the representations, warranties, and agreements contained in this Agreement.
8. Insurance. Insurance shall be endorsed to include the District, its officers, officials, agents, employees and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of the Contractor. Such insurance shall contain a provision that the insurance afforded thereby to the District and its officers, officials, agents, employees and volunteers shall be primary insurance to the full limits of liability of the policy, and that if the District, its officers, officials, agents, employees and volunteers have other insurance against a loss covered by such a policy, such other insurance shall be excess insurance only.
9. Ownership of Designs and Plans. Contractor agrees that all designs, plans, reports, specifications, drawings, schematics, prototypes, models, inventions and all other information and items made during the course of this Agreement and arising from the Services shall be owned by and assigned to District as its sole and exclusive property.
10. Notice. Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by telegram, overnight delivery service, or facsimile transmission, addressed as follows:

<u>DISTRICT</u>	<u>CONTRACTOR</u>
Mt. Diablo Unified School District 1936 Carlotta Drive Concord, CA 94519-1397 Attn: Superintendent	Name: <u>Active Reading Clinic</u> Address: <u>1543 Sunnyvale Avenue Suite 101</u> <u>Walnut Creek, CA 94597</u>  Phone: <u>(925) 944-5559</u> Fax: _____ Tax ID #: <u>68-0288669</u>

Any notice personally given or sent by telegram or facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

11. Entire Agreement of Parties. This Agreement constitutes the entire agreement between the parties and supersedes all prior discussions, negotiations and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both parties.
12. California Law. This Agreement shall be governed by and the rights, duties and obligations of the parties shall be determined and enforced in accordance with the laws of the State of California. The parties further agree

that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in Contra Costa County, California.

- 13. Attorneys' Fees. If either party files any action or brings any proceedings against the other arising out of this Agreement, the prevailing party shall be entitled to recover, in addition to its costs of suit and damages, reasonable attorneys' fees to be fixed by the court. The "prevailing party" shall be the party who is entitled to recover its costs of suit, whether or not suit proceeds to final judgment. No sum for attorneys' fees shall be counted in calculating the amount of a judgment for purposes of determining whether a party is entitled to its costs or attorneys' fees.
- 14. Waiver. The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

MT. DIABLO UNIFIED SCHOOL DISTRICT

CONTRACTOR:

By: [Signature] 7/27/2010  
Budget Administrator Date

By: [Signature] July 1, 2010  
Date

Title: Behaviorist Administrator

Title: [Signature] Director

Authorized by: [Signature] SLD 6/29/2010  
Assistant or Associate Superintendent Date

Approved: [Signature] 7/30/10  
Assistant-Superintendent of Personnel Date

**TO BE COMPLETED BY DISTRICT BUDGET ADMINISTRATOR**

It is my determination that this contractor is not required to comply with Ed. Code §45125.1 regarding the submission of fingerprints to the Department of Justice.

OR

This contractor is subject to the requirements of Ed. Code §45125.1 and will not begin services until I have received evidence that the Department of Justice has completed its criminal background investigation.

[Signature] 7/27/2010  
Administrator's Signature Date

OK

**Prior to commencement of service, sign and forward completed original contract to Fiscal Services.**

[Signature]  
Originator's Signature

Billing Address if reimbursed by outside agency—i.e. ASB, PTA, PFC

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Distribution  
original: Fiscal Services for payment  
copy: Contractor  
copy: Originator/Budget Administrator

LIST OF SERVICES TO BE PERFORMED BY CONTRACTOR

---

General Description: Contractor will provide behavioral support for Mt. Diablo Special Education students district-wide. .

Rate of Service: \$70.00 per hour

Not to Exceed Amount: \$10,000

010.1664.11.5800 = \$10,000.00

Service Period: ESY 2010 and 2010/11 School Year

---

Services of Contractor arranged by

  
Signature

Special Education / Dent Center

Department / School

MT. DIABLO UNIFIED SCHOOL DISTRICT

ORIGINAL

NOV 16 2010

1936 Carlotta Drive  
Concord, CA 94519

RECEIVED

OCT 28 2010

MDUSD  
AGREEMENT BETWEEN  
MT. DIABLO UNIFIED SCHOOL DISTRICT  
AND INDEPENDENT CONTRACTOR

FISCAL ANALYST  
PUPIL SERVICES/SPECIAL EDUCATION

THIS AGREEMENT is made this 15th day of June 2010, by and between the Mt. Diablo Unified School District (hereinafter "District") and Dr. Clare Ames-Klein (hereinafter "Contractor").

District hereby engages Contractor to render described services under the terms and conditions of this Agreement.

1. Performance of Services

- (a) Contractor agrees to perform the services described on Exhibit "A" (hereinafter "Services") on page 4 of this Agreement as an independent contractor. Contractor will determine the means, manner, method, and details of performing the Services. Contractor shall be responsible for providing the materials, tools, transportation, and workspace necessary for the performance of the services. Contractor may, at Contractor's own expense, use non-District employees to perform the Services under this Agreement. Subcontractors may be used with the written approval of the District only.
- (b) Contractor represents that Contractor has the qualifications and ability to perform the Services in a professional manner, without the advice, control, or supervision of the District. Contractor shall be solely responsible for the professional performance of the services, and shall receive no assistance, direction, or control from District. Contractor shall have sole discretion and control of Contractor's services and the manner in which they are performed.

2. Compensation. District agrees to compensate Contractor for the performance of the Services on the following basis:

\$ 8,000.00 total fee for Services

010 - 1664 - 11 - 5800  
BUDGET CODE

The basis of the fee for Services shall be as follows:

- a. \$ 220.00 per hour,
- b. \$ \_\_\_\_\_ per day, or
- c. \$ \_\_\_\_\_ per engagement.

Check one:

- Partial Payments: Contractor shall invoice District on a monthly basis or as agreed to for all hours worked pursuant to this Agreement.
- Payment in Full: Contractor shall invoice District on completion of services. District Administrator will verify invoice indicating that all required services have been performed.

Contractor shall be responsible for all expenses incurred in association with the performance of the Services.

3. Term and Termination. This Agreement will become effective on 6/15/2010. This Agreement will terminate upon the completion of the Services or when terminated as set forth below.

Either party may terminate this Agreement at any time by giving thirty (30) days written notice to the other party. Should either party default in the performance of this Agreement or materially breach any of its provisions, the non-breaching party may terminate this Agreement by giving written notice to the breaching party. Termination shall be effective immediately on receipt of said notice.

4. Relationship of the Parties. Contractor enters into this Agreement as, and shall continue to be, an independent contractor. Under no circumstances shall Contractor be considered an employee of District within the meaning of any federal, state, or local law or regulation including, but not limited to, laws or regulations governing unemployment insurance, old age benefits, workers' compensation, industrial illness or accident coverage, taxes, or labor and employment in general. Under no circumstances shall Contractor look to District as his/her employer, or as a partner, agent, or principal. Contractor shall not be entitled to any benefits accorded to District's employees, including, without limitation, workers' compensation, disability insurance,

Purchase Requisition # \_\_\_\_\_

vacation, or sick pay. Contractor shall be responsible for providing, at Contractor's expense, and in the Contractor's name, disability, workers' compensation or other insurance, as well as licenses and permits usual or necessary for conducting the Services hereunder.

Contractor shall pay, when and as due, any and all local, state and federal income or other taxes incurred as a result of Contractor's compensation hereunder, including estimated taxes, and shall provide District with proof of said payments upon demand. Contractor hereby indemnifies District for any claims, losses, costs, fees, liabilities, damages, or injuries suffered by District arising out of Contractor's breach of this Section.

5. Fingerprinting and Criminal Records Check of Contractor's Employees. Contractor shall comply with the provisions of Education Code §45125.1 regarding the submission of fingerprints to the California Department of Justice and the completion of criminal background investigations of the contractor and/or its employees. Contractor shall not permit any employee to have any contact with District pupils until such time as Contractor has verified in writing to the governing board of the District that such employee has not been convicted of a felony, as defined in Education Code §45125.1.
6. Rules and Regulations. All results and regulations of the Board of Education and all federal, state, and local laws, ordinances and regulations are to be observed strictly by Contractor pursuant to this Agreement.
7. Indemnification. Contractor shall and does hereby indemnify, defend, and hold harmless District, and District's officers, employees, agents and representatives from and against any and all claims, demands, losses, costs, expenses, obligations, liabilities and damages, including, without limitation, interest, penalties, and reasonable attorneys fees and costs, that District may incur or suffer and that arise, result from, or are related to any breach or failure of Contractor to perform any of the representations, warranties, and agreements contained in this Agreement.
8. Insurance. Insurance shall be endorsed to include the District, its officers, officials, agents, employees and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of the Contractor. Such insurance shall contain a provision that the insurance afforded thereby to the District and its officers, officials, agents, employees and volunteers shall be primary insurance to the full limits of liability of the policy, and that if the District, its officers, officials, agents, employees and volunteers have other insurance against a loss covered by such a policy, such other insurance shall be excess insurance only.
9. Ownership of Designs and Plans. Contractor agrees that all designs, plans, reports, specifications, drawings, schematics, prototypes, models, inventions and all other information and items made during the course of this Agreement and arising from the Services shall be owned by and assigned to District as its sole and exclusive property.
10. Notice. Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by telegram, overnight delivery service, or facsimile transmission, addressed as follows:

<u>DISTRICT</u>	<u>CONTRACTOR</u>
Mt. Diablo Unified School District	Name: <u>Clare Ames-Klein, Ph.D</u>
1936 Carlotta Drive	Address: <u>895 Moraga Road, Suite 10</u>
Concord, CA 94519-1397	<u>Lafayette, CA 94549</u>
Attn: Superintendent	
	Phone: <u>(925) 283-6300</u>
	Fax: <u>(925) 254-8389</u>
	Tax ID #: _____

Any notice personally given or sent by telegram or facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

11. Entire Agreement of Parties. This Agreement constitutes the entire agreement between the parties and supersedes all prior discussions, negotiations and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both parties.
12. California Law. This Agreement shall be governed by and the rights, duties and obligations of the parties shall be determined and enforced in accordance with the laws of the State of California. The parties further agree

Purchase Requisition # \_\_\_\_\_

that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in Contra Costa County, California.

- 13. Attorneys' Fees. If either party files any action or brings any proceedings against the other arising out of this Agreement, the prevailing party shall be entitled to recover, in addition to its costs of suit and damages, reasonable attorneys' fees to be fixed by the court. The "prevailing party" shall be the party who is entitled to recover its costs of suit, whether or not suit proceeds to final judgment. No sum for attorneys' fees shall be counted in calculating the amount of a judgment for purposes of determining whether a party is entitled to its costs or attorneys' fees.
- 14. Waiver. The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

MT. DIABLO UNIFIED SCHOOL DISTRICT

CONTRACTOR:

By: [Signature] 10/7/2010  
Budget Administrator Date

By: [Signature] 25 October 2010  
Date

Title: Behaviorist Administrator

Title: Clare Ames-Klein, Ph.D

Authorized by: Mildred D. Brown EQD 11-10-2010  
Assistant or Associate Superintendent Date

Approved: [Signature] 11/17/10  
Assistant Superintendent of Personnel Date

**TO BE COMPLETED BY DISTRICT BUDGET ADMINISTRATOR**

It is my determination that this contractor is not required to comply with Ed. Code §45125.1 regarding the submission of fingerprints to the Department of Justice.

OR

This contractor is subject to the requirements of Ed. Code §45125.1 and will not begin services until I have received evidence that the Department of Justice has completed its criminal background investigation.

[Signature] 10/7/2010  
Administrator's Signature Date

OK

Prior to commencement of service, sign and forward completed original contract to Fiscal Services.

[Signature] 10/7/2010  
Originator's Signature

Billing Address if reimbursed by outside agency—i.e. ASB, PTA, PFC

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Distribution  
original: Fiscal Services for payment  
copy: Contractor  
copy: Originator/Budget Administrator

**LIST OF SERVICES TO BE PERFORMED BY CONTRACTOR**

---

General Description: Contractor will provide neuropsychological assessment for Mt. Diablo Special Education students district-wide. These include the following- developmental history from parents, review of school records, review of previous assessments, consultation with school staff as needed, consultation with medical professional involved with student as necessary, neuropsychological testing which includes scoring and written report, feedback to parents, and participation in IEPs or 504 plans.

Rate of Service: \$220.00 per hour

Not to Exceed Amount: \$8,000.00

010.1664.11.5800 = \$8,000.00

Service Period: ESY 2010 and 2010/11 School Year

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Services of Contractor arranged by

  
\_\_\_\_\_  
Signature

Special Education / Dent Center

\_\_\_\_\_  
Department / School



**MT. DIABLO UNIFIED SCHOOL DISTRICT**

1936 Carlotta Drive  
Concord, CA 94519

**ORIGINAL**

PERSONNEL SERVICES

RECEIVED

AUG 13 2010

**AGREEMENT BETWEEN  
MT. DIABLO UNIFIED SCHOOL DISTRICT  
AND INDEPENDENT CONTRACTOR**

AUG 17 2010

MDUSD

FISCAL ANALYST  
PUPIL SERVICES/SPECIAL EDUCATION

THIS AGREEMENT is made this 15th day of June, 2010, by and between the Mt. Diablo Unified School District (hereinafter "District") and Sherry Burke (hereinafter "Contractor").

District hereby engages Contractor to render described services under the terms and conditions of this Agreement.

1. Performance of Services

- (a) Contractor agrees to perform the services described on Exhibit "A" (hereinafter "Services") on page 4 of this Agreement as an independent contractor. Contractor will determine the means, manner, method, and details of performing the Services. Contractor shall be responsible for providing the materials, tools, transportation, and workspace necessary for the performance of the services. Contractor may, at Contractor's own expense, use non-District employees to perform the Services under this Agreement. Subcontractors may be used with the written approval of the District only.
- (b) Contractor represents that Contractor has the qualifications and ability to perform the Services in a professional manner, without the advice, control, or supervision of the District. Contractor shall be solely responsible for the professional performance of the services, and shall receive no assistance, direction, or control from District. Contractor shall have sole discretion and control of Contractor's services and the manner in which they are performed.

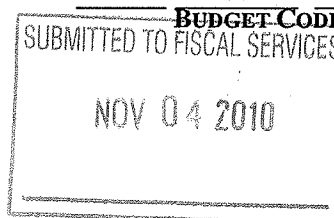
2. Compensation. District agrees to compensate Contractor for the performance of the Services on the following basis:

\$ 15,000.00 total fee for Services

010 - 1664 - 11 - 5800

The basis of the fee for Services shall be as follows:

- a. \$ 125.00 per hour,
- b. \$ \_\_\_\_\_ per day, or
- c. \$ \_\_\_\_\_ per engagement.



Check one:

- Partial Payments: Contractor shall invoice District on a monthly basis or as agreed to for all hours worked pursuant to this Agreement.
- Payment in Full: Contractor shall invoice District on completion of services. District Administrator will verify invoice indicating that all required services have been performed.

Contractor shall be responsible for all expenses incurred in association with the performance of the Services.

3. Term and Termination. This Agreement will become effective on 6/15/2010. This Agreement will terminate upon the completion of the Services or when terminated as set forth below.

Either party may terminate this Agreement at any time by giving thirty (30) days written notice to the other party. Should either party default in the performance of this Agreement or materially breach any of its provisions, the non-breaching party may terminate this Agreement by giving written notice to the breaching party. Termination shall be effective immediately on receipt of said notice.

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Purchase Requisition # \_\_\_\_\_

vacation, or sick pay. Contractor shall be responsible for providing, at Contractor's expense, and in the Contractor's name, disability, workers' compensation or other insurance, as well as licenses and permits usual or necessary for conducting the Services hereunder.

Contractor shall pay, when and as due, any and all local, state and federal income or other taxes incurred as a result of Contractor's compensation hereunder, including estimated taxes, and shall provide District with proof of said payments upon demand. Contractor hereby indemnifies District for any claims, losses, costs, fees, liabilities, damages, or injuries suffered by District arising out of Contractor's breach of this Section.

- 5. Fingerprinting and Criminal Records Check of Contractor's Employees. Contractor shall comply with the provisions of Education Code §45125.1 regarding the submission of fingerprints to the California Department of Justice and the completion of criminal background investigations of the contractor and/or its employees. Contractor shall not permit any employee to have any contact with District pupils until such time as Contractor has verified in writing to the governing board of the District that such employee has not been convicted of a felony, as defined in Education Code §45125.1.
- 6. Rules and Regulations. All results and regulations of the Board of Education and all federal, state, and local laws, ordinances and regulations are to be observed strictly by Contractor pursuant to this Agreement.
- 7. Indemnification. Contractor shall and does hereby indemnify, defend, and hold harmless District, and District's officers, employees, agents and representatives from and against any and all claims, demands, losses, costs, expenses, obligations, liabilities and damages, including, without limitation, interest, penalties, and reasonable attorneys fees and costs, that District may incur or suffer and that arise, result from, or are related to any breach or failure of Contractor to perform any of the representations, warranties, and agreements contained in this Agreement.
- 8. Insurance. Insurance shall be endorsed to include the District, its officers, officials, agents, employees and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of the Contractor. Such insurance shall contain a provision that the insurance afforded thereby to the District and its officers, officials, agents, employees and volunteers shall be primary insurance to the full limits of liability of the policy, and that if the District, its officers, officials, agents, employees and volunteers have other insurance against a loss covered by such a policy, such other insurance shall be excess insurance only.
- 9. Ownership of Designs and Plans. Contractor agrees that all designs, plans, reports, specifications, drawings, schematics, prototypes, models, inventions and all other information and items made during the course of this Agreement and arising from the Services shall be owned by and assigned to District as its sole and exclusive property.
- 10. Notice. Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by telegram, overnight delivery service, or facsimile transmission, addressed as follows:

<u>DISTRICT</u>	<u>CONTRACTOR</u>
Mt. Diablo Unified School District	Name: <u>Sherry Burke, Burke Educational Consulting</u>
1936 Carlotta Drive	Address: <u>4969 Bayleaf Court</u>
Concord, CA 94519-1397	<u>Martinez, CA 94553</u>
Attn: Superintendent	_____
	Phone: <u>925-957-6401</u>
	Fax: _____
	Tax ID #: _____

Any notice personally given or sent by telegram or facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

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Purchase Requisition # \_\_\_\_\_

that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in Contra Costa County, California.

- 13. Attorneys' Fees. If either party files any action or brings any proceedings against the other arising out of this Agreement, the prevailing party shall be entitled to recover, in addition to its costs of suit and damages, reasonable attorneys' fees to be fixed by the court. The "prevailing party" shall be the party who is entitled to recover its costs of suit, whether or not suit proceeds to final judgment. No sum for attorneys' fees shall be counted in calculating the amount of a judgment for purposes of determining whether a party is entitled to its costs or attorneys' fees.
- 14. Waiver. The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

MT. DIABLO UNIFIED SCHOOL DISTRICT

CONTRACTOR:

By: [Signature] 8/16/2010  
Budget Administrator Date

By: [Signature] 8-7-10  
Date

Title: Behaviorist Administrator

Title: LEP contractor

Authorized by: Mildred D. Brown EDD 6/24/2010  
Assistant or Associate Superintendent Date

Approved: [Signature] 8/18/10  
Assistant Superintendent of Personnel Date

**TO BE COMPLETED BY DISTRICT BUDGET ADMINISTRATOR**

It is my determination that this contractor is not required to comply with Ed. Code §45125.1 regarding the submission of fingerprints to the Department of Justice.

OR

This contractor is subject to the requirements of Ed. Code §45125.1 and will not begin services until I have received evidence that the Department of Justice has completed its criminal background investigation.

[Signature] 8/16/2010  
Administrator's Signature Date

OK

Prior to commencement of service, sign and forward completed original contract to Fiscal Services.

[Signature] 8/16/2010  
Originator's Signature

Billing Address if reimbursed by outside agency—i.e. ASB, PTA, PFC

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

<i>Distribution</i>	
original:	Fiscal Services for payment
copy:	Contractor
copy:	Originator/Budget Administrator

**LIST OF SERVICES TO BE PERFORMED BY CONTRACTOR**

---

General Description: Contractor will provide behavioral support for Mt. Diablo Special Education students district-wide.

Rate of Service: \$125.00 per hour

Not to Exceed Amount: \$15,000.00

010.1664.11.5800 = \$15,000.00

Service Period: ESY 2010 and 2010/11 School Year

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Services of Contractor arranged by

 8/16/2010

Signature

Special Education / Dent Center

Department / School

**MT. DIABLO UNIFIED SCHOOL DISTRICT**  
1936 Carlotta Drive  
Concord, CA 94519

PERSONNEL SERVICES

JUN 30 2010

**AGREEMENT BETWEEN  
MT. DIABLO UNIFIED SCHOOL DISTRICT  
AND INDEPENDENT CONTRACTOR**

MDUSD

THIS AGREEMENT is made this 18th day of May, 2010, by and between the Mt. Diablo Unified School District (hereinafter "District") and Cherri Duffy (hereinafter "Contractor").

District hereby engages Contractor to render described services under the terms and conditions of this Agreement.

1. Performance of Services

- (a) Contractor agrees to perform the services described on Exhibit "A" (hereinafter "Services") on page 4 of this Agreement as an independent contractor. Contractor will determine the means, manner, method, and details of performing the Services. Contractor shall be responsible for providing the materials, tools, transportation, and workspace necessary for the performance of the services. Contractor may, at Contractor's own expense, use non-District employees to perform the Services under this Agreement. Subcontractors may be used with the written approval of the District only.
- (b) Contractor represents that Contractor has the qualifications and ability to perform the Services in a professional manner, without the advice, control, or supervision of the District. Contractor shall be solely responsible for the professional performance of the services, and shall receive no assistance, direction, or control from District. Contractor shall have sole discretion and control of Contractor's services and the manner in which they are performed.

2. Compensation. District agrees to compensate Contractor for the performance of the Services on the following basis: 99,600.00

\$ 92,000.00 total fee for Services

010	1664	11	5100	=	<del>67,000</del>	74,600	
010	-	1664	-	11	-	5800 =	<del>25,000</del> 17,400
BUDGET CODE							
000.	1050	. 11	. 5800	=	7,600		

The basis of the fee for Services shall be as follows:

- a. \$ 100.00 per hour,
- b. \$ \_\_\_\_\_ per day, or
- c. \$ \_\_\_\_\_ per engagement.

Check one:

- Partial Payments: Contractor shall invoice District on a monthly basis or as agreed to for all hours worked pursuant to this Agreement.
- Payment in Full: Contractor shall invoice District on completion of services. District Administrator will verify invoice indicating that all required services have been performed.

Contractor shall be responsible for all expenses incurred in association with the performance of the Services.

3. Term and Termination. This Agreement will become effective on 6/21/2010. This Agreement will terminate upon the completion of the Services or when terminated as set forth below.

Either party may terminate this Agreement at any time by giving thirty (30) days written notice to the other party. Should either party default in the performance of this Agreement or materially breach any of its provisions, the non-breaching party may terminate this Agreement by giving written notice to the breaching party. Termination shall be effective immediately on receipt of said notice.

4. Relationship of the Parties. Contractor enters into this Agreement as, and shall continue to be, an independent contractor. Under no circumstances shall Contractor be considered an employee of District within the meaning of any federal, state, or local law or regulation including, but not limited to, laws or regulations governing unemployment insurance, old age benefits, workers' compensation, industrial illness or accident coverage, taxes, or labor and employment in general. Under no circumstances shall Contractor look to District as his/her employer, or as a partner, agent, or principal. Contractor shall not be entitled to any benefits accorded to District's employees, including, without limitation, workers' compensation, disability insurance,

Purchase Requisition # R60901 / PO # 77000

vacation, or sick pay. Contractor shall be responsible for providing, at Contractor's expense, and in the Contractor's name, disability, workers' compensation or other insurance, as well as licenses and permits usual or necessary for conducting the Services hereunder.

Contractor shall pay, when and as due, any and all local, state and federal income or other taxes incurred as a result of Contractor's compensation hereunder, including estimated taxes, and shall provide District with proof of said payments upon demand. Contractor hereby indemnifies District for any claims, losses, costs, fees, liabilities, damages, or injuries suffered by District arising out of Contractor's breach of this Section.

5. Fingerprinting and Criminal Records Check of Contractor's Employees. Contractor shall comply with the provisions of Education Code §45125.1 regarding the submission of fingerprints to the California Department of Justice and the completion of criminal background investigations of the contractor and/or its employees. Contractor shall not permit any employee to have any contact with District pupils until such time as Contractor has verified in writing to the governing board of the District that such employee has not been convicted of a felony, as defined in Education Code §45125.1.
6. Rules and Regulations. All results and regulations of the Board of Education and all federal, state, and local laws, ordinances and regulations are to be observed strictly by Contractor pursuant to this Agreement.
7. Indemnification. Contractor shall and does hereby indemnify, defend, and hold harmless District, and District's officers, employees, agents and representatives from and against any and all claims, demands, losses, costs, expenses, obligations, liabilities and damages, including, without limitation, interest, penalties, and reasonable attorneys fees and costs, that District may incur or suffer and that arise, result from, or are related to any breach or failure of Contractor to perform any of the representations, warranties, and agreements contained in this Agreement.
8. Insurance. Insurance shall be endorsed to include the District, its officers, officials, agents, employees and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of the Contractor. Such insurance shall contain a provision that the insurance afforded thereby to the District and its officers, officials, agents, employees and volunteers shall be primary insurance to the full limits of liability of the policy, and that if the District, its officers, officials, agents, employees and volunteers have other insurance against a loss covered by such a policy, such other insurance shall be excess insurance only.
9. Ownership of Designs and Plans. Contractor agrees that all designs, plans, reports, specifications, drawings, schematics, prototypes, models, inventions and all other information and items made during the course of this Agreement and arising from the Services shall be owned by and assigned to District as its sole and exclusive property.
10. Notice. Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by telegram, overnight delivery service, or facsimile transmission, addressed as follows:

<u>DISTRICT</u>	<u>CONTRACTOR</u>
Mt. Diablo Unified School District	Name: <u>Cherri Duffy</u>
1936 Carlotta Drive	Address: <u>2341 Union St #1</u>
Concord, CA 94519-1397	<u>San Francisco, CA 94123</u>
Attn: Superintendent	Phone: <u>(626) 399-2276</u>
	Fax: <u>n/a</u>
	Tax ID #: <u>572-49-0287</u>

Any notice personally given or sent by telegram or facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

11. Entire Agreement of Parties. This Agreement constitutes the entire agreement between the parties and supersedes all prior discussions, negotiations and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both parties.
12. California Law. This Agreement shall be governed by and the rights, duties and obligations of the parties shall be determined and enforced in accordance with the laws of the State of California. The parties further agree

Purchase Requisition # RG0901 / PO # 77000

that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in Contra Costa County, California.

- 13. **Attorneys' Fees.** If either party files any action or brings any proceedings against the other arising out of this Agreement, the prevailing party shall be entitled to recover, in addition to its costs of suit and damages, reasonable attorneys' fees to be fixed by the court. The "prevailing party" shall be the party who is entitled to recover its costs of suit, whether or not suit proceeds to final judgment. No sum for attorneys' fees shall be counted in calculating the amount of a judgment for purposes of determining whether a party is entitled to its costs or attorneys' fees.
- 14. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

MT. DIABLO UNIFIED SCHOOL DISTRICT

CONTRACTOR:

By: [Signature] 5/25/2010  
Budget Administrator Date

By: [Signature] 5/19/10  
Date

Title: ADR/NPS Administrator

Title: Behavioral Consultant/Mental Health Services

Authorized by: Mildred D. Brune, ESD 6/11/2010  
Assistant or Associate Superintendent Date

Approved: Gail Isserman 6-30-10  
Assistant Superintendent of Personnel Date

**TO BE COMPLETED BY DISTRICT BUDGET ADMINISTRATOR**

It is my determination that this contractor is not required to comply with Ed. Code §45125.1 regarding the submission of fingerprints to the Department of Justice.

OR

This contractor is subject to the requirements of Ed. Code §45125.1 and will not begin services until I have received evidence that the Department of Justice has completed its criminal background investigation.

[Signature] 5/25/2010  
Administrator's Signature Date

approved @ 6/22/10  
BL Mtg, OK

Prior to commencement of service, sign and forward completed original contract to Fiscal Services.

[Signature] 5/25/2010  
Originator's Signature

Billing Address if reimbursed by outside agency—i.e. ASB, PTA, PFC  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

<i>Distribution</i>	
<i>original:</i>	<i>Fiscal Services for payment</i>
<i>copy:</i>	<i>Contractor</i>
<i>copy:</i>	<i>Originator/Budget Administrator</i>

Purchase Requisition # R60901 / PO # 77000  
**EXHIBIT A**

**LIST OF SERVICES TO BE PERFORMED BY CONTRACTOR**

---

Cherri Duffy will provide MDUSD students with behavioral consultation and mental health services at several sites.


Consultation: 10 hrs per week  
# of Students receiving consultations: 4

CEP (Mental Health Services): 10 hrs per week  
CEP # of Students Serviced: 15

Service Period: ESY and 2010/11 School Year  
Rate: 100.00 per hr  
Contract Not to Exceed: 92,000.00

---

Services of Contractor arranged by

 5/25/2010  
\_\_\_\_\_  
Signature

Special Education/Dent Center  
\_\_\_\_\_  
Department / School



Purchase Requisition # R 60865 / PO # 76966

**ORIGINAL**

**MT. DIABLO UNIFIED SCHOOL DISTRICT**

1936 Carlotta Drive  
Concord, CA 94519

PERSONNEL SERVICES

JUL 27 2010

RECEIVED

JUL 07 2010

**AGREEMENT BETWEEN  
MT. DIABLO UNIFIED SCHOOL DISTRICT  
AND INDEPENDENT CONTRACTOR**

MDUSD

FISCAL ANALYST  
PUPIL SERVICES/SPECIAL EDUCATION

THIS AGREEMENT is made this 15 day of June, 2010, by and between the Mt. Diablo Unified School District (hereinafter "District") and Gabi Elfenbein (hereinafter "Contractor").

District hereby engages Contractor to render described services under the terms and conditions of this Agreement.

1. Performance of Services

- (a) Contractor agrees to perform the services described on Exhibit "A" (hereinafter "Services") on page 4 of this Agreement as an independent contractor. Contractor will determine the means, manner, method, and details of performing the Services. Contractor shall be responsible for providing the materials, tools, transportation, and workspace necessary for the performance of the services. Contractor may, at Contractor's own expense, use non-District employees to perform the Services under this Agreement. Subcontractors may be used with the written approval of the District only.
- (b) Contractor represents that Contractor has the qualifications and ability to perform the Services in a professional manner, without the advice, control, or supervision of the District. Contractor shall be solely responsible for the professional performance of the services, and shall receive no assistance, direction, or control from District. Contractor shall have sole discretion and control of Contractor's services and the manner in which they are performed.

2. Compensation. District agrees to compensate Contractor for the performance of the Services on the following basis:

\$ 99,600.00 total fee for Services

010 - 1664 - 11 - 5800  
BUDGET CODE

The basis of the fee for Services shall be as follows:

- a. \$ 100.00 per hour,
- b. \$ \_\_\_\_\_ per day, or
- c. \$ \_\_\_\_\_ per engagement.

Check one:

- Partial Payments: Contractor shall invoice District on a monthly basis or as agreed to for all hours worked pursuant to this Agreement.
- Payment in Full: Contractor shall invoice District on completion of services. District Administrator will verify invoice indicating that all required services have been performed.

Contractor shall be responsible for all expenses incurred in association with the performance of the Services.

3. Term and Termination. This Agreement will become effective on 6/15/2010. This Agreement will terminate upon the completion of the Services or when terminated as set forth below.

Either party may terminate this Agreement at any time by giving thirty (30) days written notice to the other party. Should either party default in the performance of this Agreement or materially breach any of its provisions, the non-breaching party may terminate this Agreement by giving written notice to the breaching party. Termination shall be effective immediately on receipt of said notice.

4. Relationship of the Parties. Contractor enters into this Agreement as, and shall continue to be, an independent contractor. Under no circumstances shall Contractor be considered an employee of District within the meaning of any federal, state, or local law or regulation including, but not limited to, laws or regulations governing unemployment insurance, old age benefits, workers' compensation, industrial illness or accident coverage, taxes, or labor and employment in general. Under no circumstances shall Contractor look to District as his/her employer, or as a partner, agent, or principal. Contractor shall not be entitled to any benefits accorded to District's employees, including, without limitation, workers' compensation, disability insurance,

Purchase Requisition # R60865 / PO # 76966

vacation, or sick pay. Contractor shall be responsible for providing, at Contractor's expense, and in the Contractor's name, disability, workers' compensation or other insurance, as well as licenses and permits usual or necessary for conducting the Services hereunder.

Contractor shall pay, when and as due, any and all local, state and federal income or other taxes incurred as a result of Contractor's compensation hereunder, including estimated taxes, and shall provide District with proof of said payments upon demand. Contractor hereby indemnifies District for any claims, losses, costs, fees, liabilities, damages, or injuries suffered by District arising out of Contractor's breach of this Section.

5. Fingerprinting and Criminal Records Check of Contractor's Employees. Contractor shall comply with the provisions of Education Code §45125.1 regarding the submission of fingerprints to the California Department of Justice and the completion of criminal background investigations of the contractor and/or its employees. Contractor shall not permit any employee to have any contact with District pupils until such time as Contractor has verified in writing to the governing board of the District that such employee has not been convicted of a felony, as defined in Education Code §45125.1.
6. Rules and Regulations. All results and regulations of the Board of Education and all federal, state, and local laws, ordinances and regulations are to be observed strictly by Contractor pursuant to this Agreement.
7. Indemnification. Contractor shall and does hereby indemnify, defend, and hold harmless District, and District's officers, employees, agents and representatives from and against any and all claims, demands, losses, costs, expenses, obligations, liabilities and damages, including, without limitation, interest, penalties, and reasonable attorneys fees and costs, that District may incur or suffer and that arise, result from, or are related to any breach or failure of Contractor to perform any of the representations, warranties, and agreements contained in this Agreement.
8. Insurance. Insurance shall be endorsed to include the District, its officers, officials, agents, employees and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of the Contractor. Such insurance shall contain a provision that the insurance afforded thereby to the District and its officers, officials, agents, employees and volunteers shall be primary insurance to the full limits of liability of the policy, and that if the District, its officers, officials, agents, employees and volunteers have other insurance against a loss covered by such a policy, such other insurance shall be excess insurance only.
9. Ownership of Designs and Plans. Contractor agrees that all designs, plans, reports, specifications, drawings, schematics, prototypes, models, inventions and all other information and items made during the course of this Agreement and arising from the Services shall be owned by and assigned to District as its sole and exclusive property.
10. Notice. Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by telegram, overnight delivery service, or facsimile transmission, addressed as follows:

DISTRICT

Mt. Diablo Unified School District  
1936 Carlotta Drive  
Concord, CA 94519-1397  
Attn: Superintendent

CONTRACTOR

Name:	<u>Gabi Effenbein</u>
Address:	<u><del>3415 Sylvan Avenue</del> 200 Baltic Circle #214</u> <u><del>Oakland, CA 94602</del> Redwood City 94065</u>
Phone:	<u>(510) 703-2674</u>
Fax:	<u><del>(510) 330-5454</del> (650) 832 1537</u>
Tax ID #:	<u>568-77-4128</u>

Any notice personally given or sent by telegram or facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

11. Entire Agreement of Parties. This Agreement constitutes the entire agreement between the parties and supersedes all prior discussions, negotiations and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both parties.
12. California Law. This Agreement shall be governed by and the rights, duties and obligations of the parties shall be determined and enforced in accordance with the laws of the State of California. The parties further agree

Purchase Requisition # R60865 / PO # 76966

that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in Contra Costa County, California.

- 13. **Attorneys' Fees.** If either party files any action or brings any proceedings against the other arising out of this Agreement, the prevailing party shall be entitled to recover, in addition to its costs of suit and damages, reasonable attorneys' fees to be fixed by the court. The "prevailing party" shall be the party who is entitled to recover its costs of suit, whether or not suit proceeds to final judgment. No sum for attorneys' fees shall be counted in calculating the amount of a judgment for purposes of determining whether a party is entitled to its costs or attorneys' fees.
- 14. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

MT. DIABLO UNIFIED SCHOOL DISTRICT

CONTRACTOR:

By: [Signature] 7/27/2010  
Budget Administrator Date

By: [Signature] 6/30/10  
Date

Title: ADR/NPS Administrator

Title: Behaviorist

Authorized by: Mildred D. Browne EdO 6/24/2010  
Assistant or Associate Superintendent Date

Approved: [Signature] 7/30/10  
Assistant Superintendent of Personnel Date

**TO BE COMPLETED BY DISTRICT BUDGET ADMINISTRATOR**

It is my determination that this contractor is not required to comply with Ed. Code §45125.1 regarding the submission of fingerprints to the Department of Justice.

OR

This contractor is subject to the requirements of Ed. Code §45125.1 and will not begin services until I have received evidence that the Department of Justice has completed its criminal background investigation.

[Signature] 7/27/2010  
Administrator's Signature Date

OK

**Prior to commencement of service, sign and forward completed original contract to Fiscal Services.**

[Signature]  
Originator's Signature

Billing Address if reimbursed by outside agency—i.e. ASB, PTA, PFC

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Distribution  
original: Fiscal Services for payment  
copy: Contractor  
copy: Originator/Budget Administrator

Purchase Requisition # R60865 / PO # 76966  
EXHIBIT A

**LIST OF SERVICES TO BE PERFORMED BY CONTRACTOR**

---

General Description: Contractor will provide behavioral support for Mt. Diablo Unified School District Special Education students district-wide. Contract will also provide consultation to SH teachers and provided work at the CEP Program at Sun Terrace.

Rate of Service: \$100.00 per hour

Not to Exceed Amount: \$99,600.00

000.1050.11.5800 = 9,600.00

010.1664.11.5800 = 15,400.00

010.1664.11.5100 = 74,600.00

Service Period: ESY 2010 and 2010/11 School Year

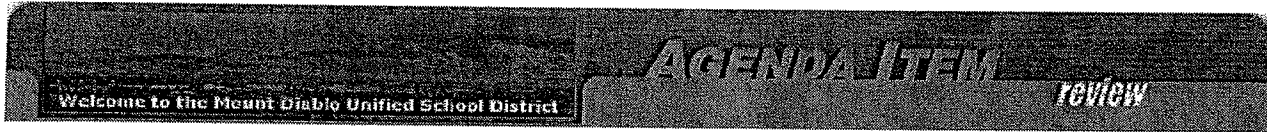
---

Services of Contractor arranged by

  
\_\_\_\_\_  
Signature

Special Education / Dent Center

\_\_\_\_\_  
Department / School



**Meeting Date:** Tuesday, June 22, 2010 - 7:30 PM

**Category:** Consent Agenda

**Type:** Action

**Subject:** 9.13 (Item 13) Approve contracts/purchase orders between Mt. Diablo Unified School District (MDUSD) and Independent Service Contractors (Contractors) for the 2010-2011 school year.

:

**Policy:**

**Enclosure:**

- Gabi Elfenbein-ISC 2010-11.pdf
- Benjamin Fliehmann-ISC 2010-11.pdf
- Cynthia Peterson-ISC 2010-11.pdf

- File Attachment:**
- Deiredre Ryan-Booth-ISC 2010-11.pdf
  - ISC Certificates of Ins 1011.pdf
  - Cherri Duffy-ISC 2010-11.pdf
  - Cynthia Peterson Cert. of Ins.pdf

The Contractors listed below are used by the Special Education Department to provide services to students as mandated by their Individualized Education Plans (IEP).

Cherri Duffy, Gabi Elfenbein and Deirdre Ryan-Booth will provide district-wide behavioral services. Cynthia Peterson will provide district-wide psychological evaluation/assessments. Benjamin Fliehmann will provide district-wide tutoring/instruction.

**Summary:** Students are served under the terms and conditions of the Independent Service Contract Agreement. Below lists the Independent Service Contracts, the contract amounts and the program code associated with the contract.

- Cherri Duffy - \$99,600
- Gabi Elfenbein - \$99,600
- Benjamin Fliehmann - \$35,000
- Cynthia Peterson - \$60,500
- Deiredre Ryan-Booth - \$99,200

**Funding:** General Purpose/Special Education. Program Codes: 1050 and 1664.

**Fiscal Impact:** The fiscal impact is \$28,400 (1050) and \$365,500 (1664) and is included in the 2010-2011 budget.

**Recommendation:** Approve contracts/purchase orders as presented.

**Recommended By:**

**Signed By:**

*Signature*

Mildred Browne - Assistant Superintendent

**Signed By:**

*Signature*

Greg Rolen, Esq. - General Counsel

**Approvals:**

**Signed By:**

*Signature*

Bryan Richards - Director of Fiscal Services

**Signed By:**

*Signature*

Steven Lawrence - Superintendent

**MT. DIABLO UNIFIED SCHOOL DISTRICT**

1936 Carlotta Drive  
Concord, CA 94519

PERSONNEL SERVICES ORIGINAL

JUL 27 2010

**AGREEMENT BETWEEN  
MT. DIABLO UNIFIED SCHOOL DISTRICT  
AND INDEPENDENT CONTRACTOR**

MDUSD RECEIVED

JUL 20 2010

FISCAL ANALYST

THIS AGREEMENT is made this 15th day of June, 2010, by and between the District (hereinafter "District") and Benjamin Flichmann (hereinafter "Contractor").

District hereby engages Contractor to render described services under the terms and conditions of this Agreement.

1. Performance of Services

- (a) Contractor agrees to perform the services described on Exhibit "A" (hereinafter "Services") on page 4 of this Agreement as an independent contractor. Contractor will determine the means, manner, method, and details of performing the Services. Contractor shall be responsible for providing the materials, tools, transportation, and workspace necessary for the performance of the services. Contractor may, at Contractor's own expense, use non-District employees to perform the services under this Agreement. Subcontractors may be used with the written approval of the District only.
- (b) Contractor represents that Contractor has the qualifications and ability to perform the Services in a professional manner, without the advice, control, or supervision of the District. Contractor shall be solely responsible for the professional performance of the services, and shall receive no assistance, direction, or control from District. Contractor shall have sole discretion and control of Contractor's services and the manner in which they are performed.

2. Compensation. District agrees to compensate Contractor for the performance of the Services on the following basis:

\$ 35,000.00 total fee for Services

010 - 1664 - 11 - 5800  
BUDGET CODE

The basis of the fee for Services shall be as follows:

- a. \$ 65.00 per hour,
- b. \$ \_\_\_\_\_ per day, or
- c. \$ \_\_\_\_\_ per engagement.

Check one:

- Partial Payments: Contractor shall invoice District on a monthly basis or as agreed to for all hours worked pursuant to this Agreement.
- Payment in Full: Contractor shall invoice District on completion of services. District Administrator will verify invoice indicating that all required services have been performed.

Contractor shall be responsible for all expenses incurred in association with the performance of the Services.

3. Term and Termination. This Agreement will become effective on 6/15/2010. This Agreement will terminate upon the completion of the Services or when terminated as set forth below.

Either party may terminate this Agreement at any time by giving thirty (30) days written notice to the other party. Should either party default in the performance of this Agreement or materially breach any of its provisions, the non-breaching party may terminate this Agreement by giving written notice to the breaching party. Termination shall be effective immediately on receipt of said notice.

4. Relationship of the Parties. Contractor enters into this Agreement as, and shall continue to be, an independent contractor. Under no circumstances shall Contractor be considered an employee of District within the meaning of any federal, state, or local law or regulation including, but not limited to, laws or regulations governing unemployment insurance, old age benefits, workers' compensation, industrial illness or accident coverage, taxes, or labor and employment in general. Under no circumstances shall Contractor look to District as his/her employer, or as a partner, agent, or principal. Contractor shall not be entitled to any benefits accorded to District's employees, including, without limitation, workers' compensation, disability insurance,

Purchase Requisition # \_\_\_\_\_

vacation, or sick pay. Contractor shall be responsible for providing, at Contractor's expense, and in the Contractor's name, disability, workers' compensation or other insurance, as well as licenses and permits usual or necessary for conducting the Services hereunder.

Contractor shall pay, when and as due, any and all local, state and federal income or other taxes incurred as a result of Contractor's compensation hereunder, including estimated taxes, and shall provide District with proof of said payments upon demand. Contractor hereby indemnifies District for any claims, losses, costs, fees, liabilities, damages, or injuries suffered by District arising out of Contractor's breach of this Section.

- 5. Fingerprinting and Criminal Records Check of Contractor's Employees. Contractor shall comply with the provisions of Education Code §45125.1 regarding the submission of fingerprints to the California Department of Justice and the completion of criminal background investigations of the contractor and/or its employees. Contractor shall not permit any employee to have any contact with District pupils until such time as Contractor has verified in writing to the governing board of the District that such employee has not been convicted of a felony, as defined in Education Code §45125.1.
- 6. Rules and Regulations. All results and regulations of the Board of Education and all federal, state, and local laws, ordinances and regulations are to be observed strictly by Contractor pursuant to this Agreement.
- 7. Indemnification. Contractor shall and does hereby indemnify, defend, and hold harmless District, and District's officers, employees, agents and representatives from and against any and all claims, demands, losses, costs, expenses, obligations, liabilities and damages, including, without limitation, interest, penalties, and reasonable attorneys fees and costs, that District may incur or suffer and that arise, result from, or are related to any breach or failure of Contractor to perform any of the representations, warranties, and agreements contained in this Agreement.
- 8. Insurance. Insurance shall be endorsed to include the District, its officers, officials, agents, employees and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of the Contractor. Such insurance shall contain a provision that the insurance afforded thereby to the District and its officers, officials, agents, employees and volunteers shall be primary insurance to the full limits of liability of the policy, and that if the District, its officers, officials, agents, employees and volunteers have other insurance against a loss covered by such a policy, such other insurance shall be excess insurance only.
- 9. Ownership of Designs and Plans. Contractor agrees that all designs, plans, reports, specifications, drawings, schematics, prototypes, models, inventions and all other information and items made during the course of this Agreement and arising from the Services shall be owned by and assigned to District as its sole and exclusive property.
- 10. Notice. Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by telegram, overnight delivery service, or facsimile transmission, addressed as follows:

<u>DISTRICT</u>	<u>CONTRACTOR</u>
Mt. Diablo Unified School District	Name: <u>Benjamin Flichmann</u>
1936 Carlotta Drive	Address: <u>33 Quail Court, Suite 105</u>
Concord, CA 94519-1397	<u>Walnut Creek, CA 94596</u>
Attn: Superintendent	Phone: <u>(925) 944-9932</u>
	Fax: <u>(925) 288-1285</u>
	Tax ID #: <u>571-53-0247</u>

Any notice personally given or sent by telegram or facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

- 11. Entire Agreement of Parties. This Agreement constitutes the entire agreement between the parties and supersedes all prior discussions, negotiations and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both parties.
- 12. California Law. This Agreement shall be governed by and the rights, duties and obligations of the parties shall be determined and enforced in accordance with the laws of the State of California. The parties further agree

Purchase Requisition # \_\_\_\_\_

that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in Contra Costa County, California.

13. Attorneys' Fees. If either party files any action or brings any proceedings against the other arising out of this Agreement, the prevailing party shall be entitled to recover, in addition to its costs of suit and damages, reasonable attorneys' fees to be fixed by the court. The "prevailing party" shall be the party who is entitled to recover its costs of suit, whether or not suit proceeds to final judgment. No sum for attorneys' fees shall be counted in calculating the amount of a judgment for purposes of determining whether a party is entitled to its costs or attorneys' fees.

14. Waiver. The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

MT. DIABLO UNIFIED SCHOOL DISTRICT

CONTRACTOR:

By: [Signature] 7/27/2010  
Budget Administrator Date

By: Benjamin Fiehn 7-20  
-10 Date

Title: ADR/NPS Administrator

Title: Director

Authorized by: Michael D. Browne E.D. 6/29/2010  
Assistant or Associate Superintendent Date

Approved: [Signature] 7/30/10  
Assistant Superintendent of Personnel Date

**TO BE COMPLETED BY DISTRICT BUDGET ADMINISTRATOR**

It is my determination that this contractor is not required to comply with Ed. Code §45125.1 regarding the submission of fingerprints to the Department of Justice.

OR

This contractor is subject to the requirements of Ed. Code §45125.1 and will not begin services until I have received evidence that the Department of Justice has completed its criminal background investigation.

[Signature] 7/27/2010  
Administrator's Signature Date

OK

Prior to commencement of service, sign and forward completed original contract to Fiscal Services.

[Signature]  
Originator's Signature

Billing Address if reimbursed by outside agency—i.e. ASB, PTA, PFC

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Distribution  
original: Fiscal Services for payment  
copy: Contractor  
copy: Originator/Budget Administrator



Purchase Requisition # \_\_\_\_\_  
EXHIBIT A

**LIST OF SERVICES TO BE PERFORMED BY CONTRACTOR**

---

General Description: Contractor will provide tutoring services in reading for Mt. Diablo Special Education students district-wide.

Rate of Service: ~~\$55.00~~ <sup>\$70.00</sup> per hour and an initial assessment fee of \$300.00 ~~77~~

Not to Exceed Amount: \$35,000.00

010.1664.11.5800 = 25,000.00

010.1664.11.5100 = 10,000.00

Service Period: ESY 2010 and 2010/11 School Year

---

Services of Contractor arranged by



Signature

Special Education / Dent Center

Department / School

**MT. DIABLO UNIFIED SCHOOL DISTRICT**  
1936 Carlotta Drive  
Concord, CA 94519

**ORIGINAL**

SUBMITTED TO FISCAL SERVICES  
SEP 28 2010

**AGREEMENT BETWEEN  
MT. DIABLO UNIFIED SCHOOL DISTRICT  
AND INDEPENDENT CONTRACTOR**

RECEIVED

JUL 02 2010

FISCAL ANALYST  
PUPIL SERVICES/SPECIAL EDUCATION

THIS AGREEMENT is made this 15th day of June, 2010, by and between the Mt. Diablo Unified School District (hereinafter "District") and Linda Haymes-Elliott (hereinafter "Contractor").

District hereby engages Contractor to render described services under the terms and conditions of this Agreement.

1. Performance of Services

- (a) Contractor agrees to perform the services described on Exhibit "A" (hereinafter "Services") on page 4 of this Agreement as an independent contractor. Contractor will determine the means, manner, method, and details of performing the Services. Contractor shall be responsible for providing the materials, tools, transportation, and workspace necessary for the performance of the services. Contractor may, at Contractor's own expense, use non-District employees to perform the Services under this Agreement. Subcontractors may be used with the written approval of the District only.
- (b) Contractor represents that Contractor has the qualifications and ability to perform the Services in a professional manner, without the advice, control, or supervision of the District. Contractor shall be solely responsible for the professional performance of the services, and shall receive no assistance, direction, or control from District. Contractor shall have sole discretion and control of Contractor's services and the manner in which they are performed.

2. Compensation. District agrees to compensate Contractor for the performance of the Services on the following basis:

\$ 24,000.00 total fee for Services

010 - 1664 - 11 - 5800  
BUDGET CODE

The basis of the fee for Services shall be as follows:

- a. \$ 130.00 per hour,
- b. \$ \_\_\_\_\_ per day, or
- c. \$ \_\_\_\_\_ per engagement.

Check one:

- Partial Payments: Contractor shall invoice District on a monthly basis or as agreed to for all hours worked pursuant to this Agreement.
- Payment in Full: Contractor shall invoice District on completion of services. District Administrator will verify invoice indicating that all required services have been performed.

Contractor shall be responsible for all expenses incurred in association with the performance of the Services.

3. Term and Termination. This Agreement will become effective on 6/15/2010. This Agreement will terminate upon the completion of the Services or when terminated as set forth below.

Either party may terminate this Agreement at any time by giving thirty (30) days written notice to the other party. Should either party default in the performance of this Agreement or materially breach any of its provisions, the non-breaching party may terminate this Agreement by giving written notice to the breaching party. Termination shall be effective immediately on receipt of said notice.

4. Relationship of the Parties. Contractor enters into this Agreement as, and shall continue to be, an independent contractor. Under no circumstances shall Contractor be considered an employee of District within the meaning of any federal, state, or local law or regulation including, but not limited to, laws or regulations governing unemployment insurance, old age benefits, workers' compensation, industrial illness or accident coverage, taxes, or labor and employment in general. Under no circumstances shall Contractor look to District as his/her employer, or as a partner, agent, or principal. Contractor shall not be entitled to any benefits accorded to District's employees, including, without limitation, workers' compensation, disability insurance,

Purchase Requisition # \_\_\_\_\_

vacation, or sick pay. Contractor shall be responsible for providing, at Contractor's expense, and in the Contractor's name, disability, workers' compensation or other insurance, as well as licenses and permits usual or necessary for conducting the Services hereunder.

Contractor shall pay, when and as due, any and all local, state and federal income or other taxes incurred as a result of Contractor's compensation hereunder, including estimated taxes, and shall provide District with proof of said payments upon demand. Contractor hereby indemnifies District for any claims, losses, costs, fees, liabilities, damages, or injuries suffered by District arising out of Contractor's breach of this Section.

- 5. Fingerprinting and Criminal Records Check of Contractor's Employees. Contractor shall comply with the provisions of Education Code §45125.1 regarding the submission of fingerprints to the California Department of Justice and the completion of criminal background investigations of the contractor and/or its employees. Contractor shall not permit any employee to have any contact with District pupils until such time as Contractor has verified in writing to the governing board of the District that such employee has not been convicted of a felony, as defined in Education Code §45125.1.
- 6. Rules and Regulations. All results and regulations of the Board of Education and all federal, state, and local laws, ordinances and regulations are to be observed strictly by Contractor pursuant to this Agreement.
- 7. Indemnification. Contractor shall and does hereby indemnify, defend, and hold harmless District, and District's officers, employees, agents and representatives from and against any and all claims, demands, losses, costs, expenses, obligations, liabilities and damages, including, without limitation, interest, penalties, and reasonable attorneys fees and costs, that District may incur or suffer and that arise, result from, or are related to any breach or failure of Contractor to perform any of the representations, warranties, and agreements contained in this Agreement.
- 8. Insurance. Insurance shall be endorsed to include the District, its officers, officials, agents, employees and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of the Contractor. Such insurance shall contain a provision that the insurance afforded thereby to the District and its officers, officials, agents, employees and volunteers shall be primary insurance to the full limits of liability of the policy, and that if the District, its officers, officials, agents, employees and volunteers have other insurance against a loss covered by such a policy, such other insurance shall be excess insurance only.
- 9. Ownership of Designs and Plans. Contractor agrees that all designs, plans, reports, specifications, drawings, schematics, prototypes, models, inventions and all other information and items made during the course of this Agreement and arising from the Services shall be owned by and assigned to District as its sole and exclusive property.
- 10. Notice. Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by telegram, overnight delivery service, or facsimile transmission, addressed as follows:

<u>DISTRICT</u>	<u>CONTRACTOR</u>
Mt. Diablo Unified School District	Name: <u>Linda Haymes-Elliott</u>
1936 Carlotta Drive	Address: <u>6827 Ridgewood Drive</u>
Concord, CA 94519-1397	<u>Oakland, CA 94611</u>
Attn: Superintendent	
	Phone: <u>(510) 427-2345</u>
	Fax: _____
	Tax ID #: _____

Any notice personally given or sent by telegram or facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

- 11. Entire Agreement of Parties. This Agreement constitutes the entire agreement between the parties and supersedes all prior discussions, negotiations and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both parties.
- 12. California Law. This Agreement shall be governed by and the rights, duties and obligations of the parties shall be determined and enforced in accordance with the laws of the State of California. The parties further agree

Purchase Requisition # \_\_\_\_\_

that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in Contra Costa County, California.

- 13. **Attorneys' Fees.** If either party files any action or brings any proceedings against the other arising out of this Agreement, the prevailing party shall be entitled to recover, in addition to its costs of suit and damages, reasonable attorneys' fees to be fixed by the court. The "prevailing party" shall be the party who is entitled to recover its costs of suit, whether or not suit proceeds to final judgment. No sum for attorneys' fees shall be counted in calculating the amount of a judgment for purposes of determining whether a party is entitled to its costs or attorneys' fees.
- 14. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

MT. DIABLO UNIFIED SCHOOL DISTRICT

CONTRACTOR:

By: [Signature] 7/27/2010  
Budget Administrator Date

By: [Signature]  
Date

Title: Behaviorist Administrator

Title: Behavior Analyst 7/11/10

Authorized by: Mildred D. Brown ELD 6/24/2010  
Assistant or Associate Superintendent Date

Approved: [Signature] 9/13/10  
Assistant Superintendent of Personnel Date

**TO BE COMPLETED BY DISTRICT BUDGET ADMINISTRATOR**

It is my determination that this contractor is not required to comply with Ed. Code §45125.1 regarding the submission of fingerprints to the Department of Justice.

OR

This contractor is subject to the requirements of Ed. Code §45125.1 and will not begin services until I have received evidence that the Department of Justice has completed its criminal background investigation.

[Signature] 7/27/2010  
Administrator's Signature Date

OK

**Prior to commencement of service, sign and forward completed original contract to Fiscal Services.**

[Signature]  
Originator's Signature

Billing Address if reimbursed by outside agency—i.e. ASB, PTA, PFC

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

<i>Distribution</i>	
<i>original:</i>	<i>Fiscal Services for payment</i>
<i>copy:</i>	<i>Contractor</i>
<i>copy:</i>	<i>Originator/Budget Administrator</i>

**LIST OF SERVICES TO BE PERFORMED BY CONTRACTOR**

---

General Description: Contractor will provide behavioral support for Mt. Diablo Special Education students district-wide.

Rate of Service: \$ 130.00 per hour

Not to Exceed Amount: \$24,000.00

010.1664.11.5800 = \$24,000.00

Service Period: ESY 2010 and 2010/11 School Year

---

Services of Contractor arranged by



\_\_\_\_\_  
Signature

Special Education / Dent Center

\_\_\_\_\_  
Department / School

**MT. DIABLO UNIFIED SCHOOL DISTRICT**

1936 Carlotta Drive  
Concord, CA 94519

**ORIGINAL  
RECEIVED**

PERSONNEL SERVICES

NOV 01 2010

SUBMITTED TO FISCAL SERVICES

NOV 19 2010

MDUSD

**AGREEMENT BETWEEN  
MT. DIABLO UNIFIED SCHOOL DISTRICT  
AND INDEPENDENT CONTRACTOR**

OCT 20 2010

FISCAL ANALYST  
PUPIL SERVICES/SPECIAL EDUCATION

THIS AGREEMENT is made this 15th day of June, 2010, by and between the Mt. Diablo Unified School District (hereinafter "District") and Caroline B. Johnson, Ph.D (hereinafter "Contractor").

District hereby engages Contractor to render described services under the terms and conditions of this Agreement.

1. Performance of Services

- (a) Contractor agrees to perform the services described on Exhibit "A" (hereinafter "Services") on page 4 of this Agreement as an independent contractor. Contractor will determine the means, manner, method, and details of performing the Services. Contractor shall be responsible for providing the materials, tools, transportation, and workspace necessary for the performance of the services. Contractor may, at Contractor's own expense, use non-District employees to perform the Services under this Agreement. Subcontractors may be used with the written approval of the District only.
- (b) Contractor represents that Contractor has the qualifications and ability to perform the Services in a professional manner, without the advice, control, or supervision of the District. Contractor shall be solely responsible for the professional performance of the services, and shall receive no assistance, direction, or control from District. Contractor shall have sole discretion and control of Contractor's services and the manner in which they are performed.

2. Compensation. District agrees to compensate Contractor for the performance of the Services on the following basis:

\$ 20,000.00 total fee for Services

010 - 1664 - 11 - 5800  
BUDGET CODE

The basis of the fee for Services shall be as follows:

- a. \$ 220.00 per hour,
- b. \$ \_\_\_\_\_ per day, or
- c. \$ \_\_\_\_\_ per engagement.

RECEIVED

OCT 20 2010

FISCAL ANALYST  
PUPIL SERVICES/SPECIAL EDUCATION

Check one:

- Partial Payments: Contractor shall invoice District on a monthly basis or as agreed to for all hours worked pursuant to this Agreement.
- Payment in Full: Contractor shall invoice District on completion of services. District Administrator will verify invoice indicating that all required services have been performed.

Contractor shall be responsible for all expenses incurred in association with the performance of the Services.

3. Term and Termination. This Agreement will become effective on 6/15/2010. This Agreement will terminate upon the completion of the Services or when terminated as set forth below.

Either party may terminate this Agreement at any time by giving thirty (30) days written notice to the other party. Should either party default in the performance of this Agreement or materially breach any of its provisions, the non-breaching party may terminate this Agreement by giving written notice to the breaching party. Termination shall be effective immediately on receipt of said notice.

4. Relationship of the Parties. Contractor enters into this Agreement as, and shall continue to be, an independent contractor. Under no circumstances shall Contractor be considered an employee of District within the meaning of any federal, state, or local law or regulation including, but not limited to, laws or regulations governing unemployment insurance, old age benefits, workers' compensation, industrial illness or accident coverage, taxes, or labor and employment in general. Under no circumstances shall Contractor look to District as his/her employer, or as a partner, agent, or principal. Contractor shall not be entitled to any benefits accorded to District's employees, including, without limitation, workers' compensation, disability insurance,

Purchase Requisition # \_\_\_\_\_

vacation, or sick pay. Contractor shall be responsible for providing, at Contractor's expense, and in the Contractor's name, disability, workers' compensation or other insurance, as well as licenses and permits usual or necessary for conducting the Services hereunder.

Contractor shall pay, when and as due, any and all local, state and federal income or other taxes incurred as a result of Contractor's compensation hereunder, including estimated taxes, and shall provide District with proof of said payments upon demand. Contractor hereby indemnifies District for any claims, losses, costs, fees, liabilities, damages, or injuries suffered by District arising out of Contractor's breach of this Section.

- 5. Fingerprinting and Criminal Records Check of Contractor's Employees. Contractor shall comply with the provisions of Education Code §45125.1 regarding the submission of fingerprints to the California Department of Justice and the completion of criminal background investigations of the contractor and/or its employees. Contractor shall not permit any employee to have any contact with District pupils until such time as Contractor has verified in writing to the governing board of the District that such employee has not been convicted of a felony, as defined in Education Code §45125.1.
- 6. Rules and Regulations. All results and regulations of the Board of Education and all federal, state, and local laws, ordinances and regulations are to be observed strictly by Contractor pursuant to this Agreement.
- 7. Indemnification. Contractor shall and does hereby indemnify, defend, and hold harmless District, and District's officers, employees, agents and representatives from and against any and all claims, demands, losses, costs, expenses, obligations, liabilities and damages, including, without limitation, interest, penalties, and reasonable attorneys fees and costs, that District may incur or suffer and that arise, result from, or are related to any breach or failure of Contractor to perform any of the representations, warranties, and agreements contained in this Agreement.
- 8. Insurance. Insurance shall be endorsed to include the District, its officers, officials, agents, employees and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of the Contractor. Such insurance shall contain a provision that the insurance afforded thereby to the District and its officers, officials, agents, employees and volunteers shall be primary insurance to the full limits of liability of the policy, and that if the District, its officers, officials, agents, employees and volunteers have other insurance against a loss covered by such a policy, such other insurance shall be excess insurance only.
- 9. Ownership of Designs and Plans. Contractor agrees that all designs, plans, reports, specifications, drawings, schematics, prototypes, models, inventions and all other information and items made during the course of this Agreement and arising from the Services shall be owned by and assigned to District as its sole and exclusive property.
- 10. Notice. Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by telegram, overnight delivery service, or facsimile transmission, addressed as follows:

DISTRICT

Mt. Diablo Unified School District  
1936 Carlotta Drive  
Concord, CA 94519-1397  
Attn: Superintendent

CONTRACTOR

Name:	Caroline B. Johnson, Ph.D
Address:	Pediatric Neuropsychology Group
	2372 Ellsworth Street
	Berkeley, CA 94704
Phone:	510-843-2005 ext. 2
Fax:	510-843-2012
Tax ID #:	047445098

Any notice personally given or sent by telegram or facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

- 11. Entire Agreement of Parties. This Agreement constitutes the entire agreement between the parties and supersedes all prior discussions, negotiations and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both parties.
- 12. California Law. This Agreement shall be governed by and the rights, duties and obligations of the parties shall be determined and enforced in accordance with the laws of the State of California. The parties further agree

Purchase Requisition # \_\_\_\_\_

that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in Contra Costa County, California.

13. **Attorneys' Fees.** If either party files any action or brings any proceedings against the other arising out of this Agreement, the prevailing party shall be entitled to recover, in addition to its costs of suit and damages, reasonable attorneys' fees to be fixed by the court. The "prevailing party" shall be the party who is entitled to recover its costs of suit, whether or not suit proceeds to final judgment. No sum for attorneys' fees shall be counted in calculating the amount of a judgment for purposes of determining whether a party is entitled to its costs or attorneys' fees.

14. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

MT. DIABLO UNIFIED SCHOOL DISTRICT

CONTRACTOR:

By: [Signature] 10/26/2010  
Budget Administrator Date

By: Caroline B. Johnson, PhD 10/15/10  
Date

Title: Behaviorist Administrator

Title: Pediatric Neuropsychologist

Authorized by: Mildred D. Brown EdD 10-29-2010  
Assistant or Associate Superintendent Date

Approved: [Signature] 11/2/10  
Assistant Superintendent of Personnel Date

**TO BE COMPLETED BY DISTRICT BUDGET ADMINISTRATOR**

It is my determination that this contractor is not required to comply with Ed. Code §45125.1 regarding the submission of fingerprints to the Department of Justice.

OR

This contractor is subject to the requirements of Ed. Code §45125.1 and will not begin services until I have received evidence that the Department of Justice has completed its criminal background investigation.

[Signature] 10/26/2010  
Administrator's Signature Date

OK

Prior to commencement of service, sign and forward completed original contract to Fiscal Services.

[Signature] 10/26/2010  
Originator's Signature

Billing Address if reimbursed by outside agency—i.e. ASB, PTA, PFC

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Distribution  
original: Fiscal Services for payment  
copy: Contractor  
copy: Originator/Budget Administrator



**EXHIBIT A**

**LIST OF SERVICES TO BE PERFORMED BY CONTRACTOR**

---

General Description: Contractor will provide neuropsychology assessment and consultation for Mt. Diablo Special Education students district-wide.

Rate of Service: \$220.00 per hour, approximately \$5,000.00 per student

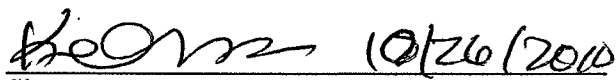
Not to Exceed Amount: \$20,000.00

010.1664.11.5800 = \$20,000.00

Service Period: ESY 2010 and 2010/11 School Year

---

Services of Contractor arranged by

 10/26/2010  
Signature

Special Education / Dent Center

\_\_\_\_\_  
Department / School

**MT. DIABLO UNIFIED SCHOOL DISTRICT**

1936 Carlotta Drive  
Concord, CA 94519

**ORIGINAL**

**RECEIVED**

JUL 16 2010

FISCAL ANALYST

PUPIL SERVICES/SPECIAL EDUCATION

SUBMITTED TO FISCAL SERVICES  
JAN 10 2011

**AGREEMENT BETWEEN  
MT. DIABLO UNIFIED SCHOOL DISTRICT  
AND INDEPENDENT CONTRACTOR**

THIS AGREEMENT is made this 15th day of June, 2010, by and between the Mt. Diablo Unified School District (hereinafter "District") and Dr. Michael Alex Peterson (hereinafter "Contractor").

District hereby engages Contractor to render described services under the terms and conditions of this Agreement.

1. Performance of Services

- (a) Contractor agrees to perform the services described on Exhibit "A" (hereinafter "Services") on page 4 of this Agreement as an independent contractor. Contractor will determine the means, manner, method, and details of performing the Services. Contractor shall be responsible for providing the materials, tools, transportation, and workspace necessary for the performance of the services. Contractor may, at Contractor's own expense, use non-District employees to perform the Services under this Agreement. Subcontractors may be used with the written approval of the District only.
- (b) Contractor represents that Contractor has the qualifications and ability to perform the Services in a professional manner, without the advice, control, or supervision of the District. Contractor shall be solely responsible for the professional performance of the services, and shall receive no assistance, direction, or control from District. Contractor shall have sole discretion and control of Contractor's services and the manner in which they are performed.

2. Compensation. District agrees to compensate Contractor for the performance of the Services on the following basis:

\$ 18,000.00 total fee for Services

010 - 1664 - 11 - 5800  
BUDGET CODE

The basis of the fee for Services shall be as follows:

- a. \$ 160.00 per hour,
- b. \$ \_\_\_\_\_ per day, or
- c. \$ 3,800.00 per engagement.

Check one:

- Partial Payments: Contractor shall invoice District on a monthly basis or as agreed to for all hours worked pursuant to this Agreement.
- Payment in Full: Contractor shall invoice District on completion of services. District Administrator will verify invoice indicating that all required services have been performed.

Contractor shall be responsible for all expenses incurred in association with the performance of the Services.

3. Term and Termination. This Agreement will become effective on 6/15/2010. This Agreement will terminate upon the completion of the Services or when terminated as set forth below.

Either party may terminate this Agreement at any time by giving thirty (30) days written notice to the other party. Should either party default in the performance of this Agreement or materially breach any of its provisions, the non-breaching party may terminate this Agreement by giving written notice to the breaching party. Termination shall be effective immediately on receipt of said notice.

4. Relationship of the Parties. Contractor enters into this Agreement as, and shall continue to be, an independent contractor. Under no circumstances shall Contractor be considered an employee of District within the meaning of any federal, state, or local law or regulation including, but not limited to, laws or regulations governing unemployment insurance, old age benefits, workers' compensation, industrial illness or accident coverage, taxes, or labor and employment in general. Under no circumstances shall Contractor look to District as his/her employer, or as a partner, agent, or principal. Contractor shall not be entitled to any benefits accorded to District's employees, including, without limitation, workers' compensation, disability insurance,

**Purchase Requisition #**

vacation, or sick pay. Contractor shall be responsible for providing, at Contractor's expense, and in the Contractor's name, disability, workers' compensation or other insurance, as well as licenses and permits usual or necessary for conducting the Services hereunder.

Contractor shall pay, when and as due, any and all local, state and federal income or other taxes incurred as a result of Contractor's compensation hereunder, including estimated taxes, and shall provide District with proof of said payments upon demand. Contractor hereby indemnifies District for any claims, losses, costs, fees, liabilities, damages, or injuries suffered by District arising out of Contractor's breach of this Section.

5. **Fingerprinting and Criminal Records Check of Contractor's Employees.** Contractor shall comply with the provisions of Education Code §45125.1 regarding the submission of fingerprints to the California Department of Justice and the completion of criminal background investigations of the contractor and/or its employees. Contractor shall not permit any employee to have any contact with District pupils until such time as Contractor has verified in writing to the governing board of the District that such employee has not been convicted of a felony, as defined in Education Code §45125.1.
6. **Rules and Regulations.** All results and regulations of the Board of Education and all federal, state, and local laws, ordinances and regulations are to be observed strictly by Contractor pursuant to this Agreement.
7. **Indemnification.** Contractor shall and does hereby indemnify, defend, and hold harmless District, and District's officers, employees, agents and representatives from and against any and all claims, demands, losses, costs, expenses, obligations, liabilities and damages, including, without limitation, interest, penalties, and reasonable attorneys fees and costs, that District may incur or suffer and that arise, result from, or are related to any breach or failure of Contractor to perform any of the representations, warranties, and agreements contained in this Agreement.
8. **Insurance.** Insurance shall be endorsed to include the District, its officers, officials, agents, employees and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of the Contractor. Such insurance shall contain a provision that the insurance afforded thereby to the District and its officers, officials, agents, employees and volunteers shall be primary insurance to the full limits of liability of the policy, and that if the District, its officers, officials, agents, employees and volunteers have other insurance against a loss covered by such a policy, such other insurance shall be excess insurance only.
9. **Ownership of Designs and Plans.** Contractor agrees that all designs, plans, reports, specifications, drawings, schematics, prototypes, models, inventions and all other information and items made during the course of this Agreement and arising from the Services shall be owned by and assigned to District as its sole and exclusive property.
10. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by telegram, overnight delivery service, or facsimile transmission, addressed as follows:

**DISTRICT**

Mt. Diablo Unified School District  
 1936 Carlotta Drive  
 Concord, CA 94519-1397  
 Attn: Superintendent

**CONTRACTOR**

Name: Dr. Michael Alex Peterson  
 Address: 5435 College Avenue Suite 100-1  
Oakland, CA 94618  
 Phone: 510-531-0500  
 Fax: 510-594-2552  
 Tax ID #: \_\_\_\_\_

Any notice personally given or sent by telegram or facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

11. **Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the parties and supersedes all prior discussions, negotiations and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both parties.
12. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the parties shall be determined and enforced in accordance with the laws of the State of California. The parties further agree

Purchase Requisition # \_\_\_\_\_  
that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in Contra Costa County, California.

- 13. **Attorneys' Fees.** If either party files any action or brings any proceedings against the other arising out of this Agreement, the prevailing party shall be entitled to recover, in addition to its costs of suit and damages, reasonable attorneys' fees to be fixed by the court. The "prevailing party" shall be the party who is entitled to recover its costs of suit, whether or not suit proceeds to final judgment. No sum for attorneys' fees shall be counted in calculating the amount of a judgment for purposes of determining whether a party is entitled to its costs or attorneys' fees.
- 14. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

MT. DIABLO UNIFIED SCHOOL DISTRICT

CONTRACTOR:

By: [Signature] 7/27/2010  
Budget Administrator Date

By: [Signature] 7/19/2010  
Date

Title: \_\_\_\_\_ Behaviorist Administrator

Title: PEDIATRIC NEUROPSYCHOLOGIST

Authorized by: Mildred D. Brown ELD 6/28/2010  
Assistant or Associate Superintendent Date

Approved: [Signature] 9/13/10  
Assistant Superintendent of Personnel Date

**TO BE COMPLETED BY DISTRICT BUDGET ADMINISTRATOR**

It is my determination that this contractor is not required to comply with Ed. Code §45125.1 regarding the submission of fingerprints to the Department of Justice.

OR

This contractor is subject to the requirements of Ed. Code §45125.1 and will not begin services until I have received evidence that the Department of Justice has completed its criminal background investigation.

[Signature] 7/27/2010  
Administrator's Signature Date

OK

Prior to commencement of service, sign and forward completed original contract to Fiscal Services.

[Signature] 7/27/2010  
Originator's Signature

Billing Address if reimbursed by outside agency—i.e. ASB, PTA, PFC

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

<b>Distribution</b>	
original:	Fiscal Services for payment
copy:	Contractor
copy:	Originator/Budget Administrator

**LIST OF SERVICES TO BE PERFORMED BY CONTRACTOR**

---

General Description: Contractor will provide behavioral support for Mt. Diablo Special Education students district-wide.

Rate of Service:

Cost of Complete Assessment: \$3,800.00 per student  
Add'l Cost to Attend IEP Meetings: \$160.00 per hour

Not to Exceed Amount: \$18,000.00

010.1664.11.5800 = \$18,000.00

Service Period: ESY 2010 and 2010/11 School Year

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Services of Contractor arranged by



\_\_\_\_\_  
Signature

Special Education / Dent Center

\_\_\_\_\_  
Department / School

SUBMITTED TO FISCAL SERVICES  
AUG 24 2010

**MT. DIABLO UNIFIED SCHOOL DISTRICT**

1936 Carlotta Drive  
Concord, CA 94519

PERSONNEL SERVICES RECEIVED

JUL 27 2010 JUL 02 2010

**AGREEMENT BETWEEN  
MT. DIABLO UNIFIED SCHOOL DISTRICT  
AND INDEPENDENT CONTRACTOR**

FISCAL ANALYST  
PUPIL SERVICES/SPECIAL EDUCATION

THIS AGREEMENT is made this 15th day of June, 2010, by and between the Mt. Diablo Unified School District (hereinafter "District") and Cynthia Peterson (hereinafter "Contractor").

District hereby engages Contractor to render described services under the terms and conditions of this Agreement.

1. Performance of Services

- (a) Contractor agrees to perform the services described on Exhibit "A" (hereinafter "Services") on page 4 of this Agreement as an independent contractor. Contractor will determine the means, manner, method, and details of performing the Services. Contractor shall be responsible for providing the materials, tools, transportation, and workspace necessary for the performance of the services. Contractor may, at Contractor's own expense, use non-District employees to perform the Services under this Agreement. Subcontractors may be used with the written approval of the District only.
- (b) Contractor represents that Contractor has the qualifications and ability to perform the Services in a professional manner, without the advice, control, or supervision of the District. Contractor shall be solely responsible for the professional performance of the services, and shall receive no assistance, direction, or control from District. Contractor shall have sole discretion and control of Contractor's services and the manner in which they are performed.

2. Compensation. District agrees to compensate Contractor for the performance of the Services on the following basis:

\$ 60,500.00 total fee for Services 010 - 1664 - 11 - 5800  
BUDGET CODE

The basis of the fee for Services shall be as follows:

- a. \$ 220.00 per hour,
- b. \$ \_\_\_\_\_ per day, or
- c. \$ \_\_\_\_\_ per engagement.

Check one:

- Partial Payments: Contractor shall invoice District on a monthly basis or as agreed to for all hours worked pursuant to this Agreement.
- Payment in Full: Contractor shall invoice District on completion of services. District Administrator will verify invoice indicating that all required services have been performed.

Contractor shall be responsible for all expenses incurred in association with the performance of the Services.

3. Term and Termination. This Agreement will become effective on 6/15/2010. This Agreement will terminate upon the completion of the Services or when terminated as set forth below.

Either party may terminate this Agreement at any time by giving thirty (30) days written notice to the other party. Should either party default in the performance of this Agreement or materially breach any of its provisions, the non-breaching party may terminate this Agreement by giving written notice to the breaching party. Termination shall be effective immediately on receipt of said notice.

4. Relationship of the Parties. Contractor enters into this Agreement as, and shall continue to be, an independent contractor. Under no circumstances shall Contractor be considered an employee of District within the meaning of any federal, state, or local law or regulation including, but not limited to, laws or regulations governing unemployment insurance, old age benefits, workers' compensation, industrial illness or accident coverage, taxes, or labor and employment in general. Under no circumstances shall Contractor look to District as his/her employer, or as a partner, agent, or principal. Contractor shall not be entitled to any benefits accorded to District's employees, including, without limitation, workers' compensation, disability insurance,

Purchase Requisition #

vacation, or sick pay. Contractor shall be responsible for providing, at Contractor's expense, and in the Contractor's name, disability, workers' compensation or other insurance, as well as licenses and permits usual or necessary for conducting the Services hereunder.

Contractor shall pay, when and as due, any and all local, state and federal income or other taxes incurred as a result of Contractor's compensation hereunder, including estimated taxes, and shall provide District with proof of said payments upon demand. Contractor hereby indemnifies District for any claims, losses, costs, fees, liabilities, damages, or injuries suffered by District arising out of Contractor's breach of this Section.

- 5. Fingerprinting and Criminal Records Check of Contractor's Employees. Contractor shall comply with the provisions of Education Code §45125.1 regarding the submission of fingerprints to the California Department of Justice and the completion of criminal background investigations of the contractor and/or its employees. Contractor shall not permit any employee to have any contact with District pupils until such time as Contractor has verified in writing to the governing board of the District that such employee has not been convicted of a felony, as defined in Education Code §45125.1.
- 6. Rules and Regulations. All results and regulations of the Board of Education and all federal, state, and local laws, ordinances and regulations are to be observed strictly by Contractor pursuant to this Agreement.
- 7. Indemnification. Contractor shall and does hereby indemnify, defend, and hold harmless District, and District's officers, employees, agents and representatives from and against any and all claims, demands, losses, costs, expenses, obligations, liabilities and damages, including, without limitation, interest, penalties, and reasonable attorneys fees and costs, that District may incur or suffer and that arise, result from, or are related to any breach or failure of Contractor to perform any of the representations, warranties, and agreements contained in this Agreement.
- 8. Insurance. Insurance shall be endorsed to include the District, its officers, officials, agents, employees and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of the Contractor. Such insurance shall contain a provision that the insurance afforded thereby to the District and its officers, officials, agents, employees and volunteers shall be primary insurance to the full limits of liability of the policy, and that if the District, its officers, officials, agents, employees and volunteers have other insurance against a loss covered by such a policy, such other insurance shall be excess insurance only.
- 9. Ownership of Designs and Plans. Contractor agrees that all designs, plans, reports, specifications, drawings, schematics, prototypes, models, inventions and all other information and items made during the course of this Agreement and arising from the Services shall be owned by and assigned to District as its sole and exclusive property.
- 10. Notice. Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by telegram, overnight delivery service, or facsimile transmission, addressed as follows:

DISTRICT

Mt. Diablo Unified School District  
1936 Carlotta Drive  
Concord, CA 94519-1397  
Attn: Superintendent

CONTRACTOR

Name:	<u>Cynthia Peterson, Ph. D.</u>
Address:	<u>2372 Ellsworth Street, Suite F</u>
	<u>Berkeley, CA 94704</u>
Phone:	<u>(510) 843-2005 x3</u>
Fax:	<u>(510) 843-2005</u>
Tax ID #:	<u>81-0566852</u>

Any notice personally given or sent by telegram or facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

- 11. Entire Agreement of Parties. This Agreement constitutes the entire agreement between the parties and supersedes all prior discussions, negotiations and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both parties.
- 12. California Law. This Agreement shall be governed by and the rights, duties and obligations of the parties shall be determined and enforced in accordance with the laws of the State of California. The parties further agree

Purchase Requisition # \_\_\_\_\_

that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in Contra Costa County, California.

- 13. Attorneys' Fees. If either party files any action or brings any proceedings against the other arising out of this Agreement, the prevailing party shall be entitled to recover, in addition to its costs of suit and damages, reasonable attorneys' fees to be fixed by the court. The "prevailing party" shall be the party who is entitled to recover its costs of suit, whether or not suit proceeds to final judgment. No sum for attorneys' fees shall be counted in calculating the amount of a judgment for purposes of determining whether a party is entitled to its costs or attorneys' fees.
- 14. Waiver. The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

MT. DIABLO UNIFIED SCHOOL DISTRICT

CONTRACTOR:

By: [Signature] 7/27/2010  
 Budget Administrator Date

By: [Signature] 6/29/10  
 Date

Title: ADR/NPS Administrator

Title: Pediatric Neuropsychologist

Authorized by: Mildred D. Brown EDD 6/27/2010  
 Assistant or Associate Superintendent Date

Approved: [Signature] 7/30/10  
 Assistant Superintendent of Personnel Date

**TO BE COMPLETED BY DISTRICT BUDGET ADMINISTRATOR**

It is my determination that this contractor is not required to comply with Ed. Code §45125.1 regarding the submission of fingerprints to the Department of Justice.

OR

This contractor is subject to the requirements of Ed. Code §45125.1 and will not begin services until I have received evidence that the Department of Justice has completed its criminal background investigation.

[Signature] 7/27/2010  
 Administrator's Signature Date

OK

**Prior to commencement of service, sign and forward completed original contract to Fiscal Services.**

[Signature]  
 Originator's Signature

Billing Address if reimbursed by outside agency—i.e. ASB, PTA, PFC

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Distribution**  
 original: Fiscal Services for payment  
 copy: Contractor  
 copy: Originator/Budget Administrator



Purchase Requisition # \_\_\_\_\_

**EXHIBIT A**

**LIST OF SERVICES TO BE PERFORMED BY CONTRACTOR**

---

**General Description:** Contractor will provide neuropsychological assessment for Mt. Diablo Unified School District students, as well as, attend Individual Education Plan (IEP) meetings when asked by the District.

**Rate of Service:** \$220.00 per hour

**Not to Exceed Amount:** \$60,500

010.1664.11.5800 = 25,000.00

010.1664.11.5100 = 35,500.00

**Service Period:** ESY 2010 and 2010/11 School Year

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Services of Contractor arranged by



Signature

Special Education / Dent Center

Department / School

Purchase Requisition # R00809 / PO # 76974

**MT. DIABLO UNIFIED SCHOOL DISTRICT**

1936 Carlotta Drive  
Concord, CA 94519

PERSONNEL SERVICES

JUL 27 2010

**AGREEMENT BETWEEN  
MT. DIABLO UNIFIED SCHOOL DISTRICT  
AND INDEPENDENT CONTRACTOR**

**MDUSD**

THIS AGREEMENT is made this 15th day of June, 2010, by and between the Mt. Diablo Unified School District (hereinafter "District") and Deiredre Ryan ~~Booth~~ (hereinafter "Contractor").

District hereby engages Contractor to render described services under the terms and conditions of this Agreement.

**1. Performance of Services**

- (a) Contractor agrees to perform the services described on Exhibit "A" (hereinafter "Services") on page 4 of this Agreement as an independent contractor. Contractor will determine the means, manner, method, and details of performing the Services. Contractor shall be responsible for providing the materials, tools, transportation, and workspace necessary for the performance of the services. Contractor may, at Contractor's own expense, use non-District employees to perform the Services under this Agreement. Subcontractors may be used with the written approval of the District only.
- (b) Contractor represents that Contractor has the qualifications and ability to perform the Services in a professional manner, without the advice, control, or supervision of the District. Contractor shall be solely responsible for the professional performance of the services, and shall receive no assistance, direction, or control from District. Contractor shall have sole discretion and control of Contractor's services and the manner in which they are performed.

**2. Compensation.** District agrees to compensate Contractor for the performance of the Services on the following basis:

\$ 99,200.00 total fee for Services

010 - 1664 - 11 - 5800  
**BUDGET CODE**

The basis of the fee for Services shall be as follows:

- a. \$ 100.00 per hour,
- b. \$ \_\_\_\_\_ per day, or
- c. \$ \_\_\_\_\_ per engagement.

**Check one:**

- Partial Payments:** Contractor shall invoice District on a monthly basis or as agreed to for all hours worked pursuant to this Agreement.
- Payment in Full:** Contractor shall invoice District on completion of services. District Administrator will verify invoice indicating that all required services have been performed.

Contractor shall be responsible for all expenses incurred in association with the performance of the Services.

**3. Term and Termination.** This Agreement will become effective on 6/15/2010. This Agreement will terminate upon the completion of the Services or when terminated as set forth below.

Either party may terminate this Agreement at any time by giving thirty (30) days written notice to the other party. Should either party default in the performance of this Agreement or materially breach any of its provisions, the non-breaching party may terminate this Agreement by giving written notice to the breaching party. Termination shall be effective immediately on receipt of said notice.

**4. Relationship of the Parties.** Contractor enters into this Agreement as, and shall continue to be, an independent contractor. Under no circumstances shall Contractor be considered an employee of District within the meaning of any federal, state, or local law or regulation including, but not limited to, laws or regulations governing unemployment insurance, old age benefits, workers' compensation, industrial illness or accident coverage, taxes, or labor and employment in general. Under no circumstances shall Contractor look to District as his/her employer, or as a partner, agent, or principal. Contractor shall not be entitled to any benefits accorded to District's employees, including, without limitation, workers' compensation, disability insurance,

Purchase Requisition # R 60869 / PO # 76974

vacation, or sick pay. Contractor shall be responsible for providing, at Contractor's expense, and in the Contractor's name, disability, workers' compensation or other insurance, as well as licenses and permits usual or necessary for conducting the Services hereunder.


Contractor shall pay, when and as due, any and all local, state and federal income or other taxes incurred as a result of Contractor's compensation hereunder, including estimated taxes, and shall provide District with proof of said payments upon demand. Contractor hereby indemnifies District for any claims, losses, costs, fees, liabilities, damages, or injuries suffered by District arising out of Contractor's breach of this Section.

5. Fingerprinting and Criminal Records Check of Contractor's Employees. Contractor shall comply with the provisions of Education Code §45125.1 regarding the submission of fingerprints to the California Department of Justice and the completion of criminal background investigations of the contractor and/or its employees. Contractor shall not permit any employee to have any contact with District pupils until such time as Contractor has verified in writing to the governing board of the District that such employee has not been convicted of a felony, as defined in Education Code §45125.1.
6. Rules and Regulations. All results and regulations of the Board of Education and all federal, state, and local laws, ordinances and regulations are to be observed strictly by Contractor pursuant to this Agreement.
7. Indemnification. Contractor shall and does hereby indemnify, defend, and hold harmless District, and District's officers, employees, agents and representatives from and against any and all claims, demands, losses, costs, expenses, obligations, liabilities and damages, including, without limitation, interest, penalties, and reasonable attorneys fees and costs, that District may incur or suffer and that arise, result from, or are related to any breach or failure of Contractor to perform any of the representations, warranties, and agreements contained in this Agreement.
8. Insurance. Insurance shall be endorsed to include the District, its officers, officials, agents, employees and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of the Contractor. Such insurance shall contain a provision that the insurance afforded thereby to the District and its officers, officials, agents, employees and volunteers shall be primary insurance to the full limits of liability of the policy, and that if the District, its officers, officials, agents, employees and volunteers have other insurance against a loss covered by such a policy, such other insurance shall be excess insurance only.
9. Ownership of Designs and Plans. Contractor agrees that all designs, plans, reports, specifications, drawings, schematics, prototypes, models, inventions and all other information and items made during the course of this Agreement and arising from the Services shall be owned by and assigned to District as its sole and exclusive property.
10. Notice. Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by telegram, overnight delivery service, or facsimile transmission, addressed as follows:

DISTRICT

Mt. Diablo Unified School District  
1936 Carlotta Drive  
Concord, CA 94519-1397  
Attn: Superintendent

CONTRACTOR

Name: Deiredre Ryan ~~Booth~~   
Address: 205 2nd Avenue, #4  
San Francisco, CA 94118  
Phone: (415) 298-4425  
Fax: (415) 221-2067  
Tax ID #: \_\_\_\_\_

Any notice personally given or sent by telegram or facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

11. Entire Agreement of Parties. This Agreement constitutes the entire agreement between the parties and supersedes all prior discussions, negotiations and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both parties.
12. California Law. This Agreement shall be governed by and the rights, duties and obligations of the parties shall be determined and enforced in accordance with the laws of the State of California. The parties further agree

Purchase Requisition # R60869 / PO # 76974

that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in Contra Costa County, California.

- 13. **Attorneys' Fees.** If either party files any action or brings any proceedings against the other arising out of this Agreement, the prevailing party shall be entitled to recover, in addition to its costs of suit and damages, reasonable attorneys' fees to be fixed by the court. The "prevailing party" shall be the party who is entitled to recover its costs of suit, whether or not suit proceeds to final judgment. No sum for attorneys' fees shall be counted in calculating the amount of a judgment for purposes of determining whether a party is entitled to its costs or attorneys' fees.
- 14. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

MT. DIABLO UNIFIED SCHOOL DISTRICT

CONTRACTOR:

By: [Signature] 7/27/2010  
Budget Administrator Date

[Signature] 6/7/2010  
Date

Title: Behaviorist Administrator

Title: \_\_\_\_\_

Authorized by: Mildred D. Browne EdD 6/24/2010  
Assistant or Associate Superintendent Date

Approved: [Signature] 7/30/10  
Assistant Superintendent of Personnel Date

**TO BE COMPLETED BY DISTRICT BUDGET ADMINISTRATOR**

It is my determination that this contractor is not required to comply with Ed. Code §45125.1 regarding the submission of fingerprints to the Department of Justice.

OR

This contractor is subject to the requirements of Ed. Code §45125.1 and will not begin services until I have received evidence that the Department of Justice has completed its criminal background investigation.

[Signature] 7/27/2010  
Administrator's Signature Date

OK

Prior to commencement of service, sign and forward completed original contract to Fiscal Services.

[Signature] 7/27/2010  
Originator's Signature

Billing Address if reimbursed by outside agency—i.e. ASB, PTA, PFC

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Distribution
original: Fiscal Services for payment
copy: Contractor
copy: Originator/Budget Administrator

**LIST OF SERVICES TO BE PERFORMED BY CONTRACTOR**

---

General Description: Contractor will provide behavioral support for Mt. Diablo Unified School District Special Education students district-wide. .

Rate of Service: \$100.00 per hour

Not to Exceed Amount: \$99,200.00

000.1050.11.5800 = 9,200.00

010.1664.11.5800 = 15,800.00

010.1664.11.5100 = 74,200

Service Period: ESY 2010 and 2010/11 School Year

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Services of Contractor arranged by



Signature

Special Education / Dent Center

Department / School