

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

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

THIS AGREEMENT is made this 15th day of September, 2016, by and between the Mt. Diablo Unified School District (hereinafter "District") and The Regents of the University of California on behalf of its Lawrence Hall of Science (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 and transportation 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 total fee for Services 513,3803 36 5800
BUDGET CODE

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

- a. \$ _____ per hour,
- b. \$6,000 per day, or
- c. \$ _____ per engager

Elem. Science
18,000.00 TOTAL PO

Check one:

- Partial Payments: Contractor shall be compensated on a basis or as agreed to for all hours worked pursuant to this Agreement.
- Payment in Full: Contractor shall be compensated for all services. District Administrator will verify invoice indicating that all services were performed.

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

3. Term and Termination. This Agreement will terminate upon the completion of the Services on 10, 2016. This Agreement will terminate 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

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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.

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. To the extent Education Code §45125.1 is applicable, 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. The parties agree to the indemnification provision set forth in Exhibit B, attached hereto and made a part hereof.~~

8. Insurance. The parties agree to the insurance provisions set forth in Exhibit B, attached hereto and made a part hereof.

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. The parties agree to the copyright and trademark provisions set forth in Exhibit B, attached hereto and made a part hereof.~~

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: The Regents of the University of California On behalf of its Lawrence Hall of Science
1936 Carlotta Drive	Address: Attn: Deputy Director
Concord, CA 94519-1397	Centennial Drive at Grizzly Peak, MC 5200
Attn: Superintendent	Berkeley, CA 94720-5200
	Phone: (510) 642-2829
	Fax: (510) 642-1055
	Tax ID #: 94-6002123

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.

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- 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 as awarded by a court of competent jurisdiction, 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

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

By: [Signature] 9-26-16
Budget Administrator Date

By: [Signature] _____
Susan Gregory Date
Deputy Director

Title: Executive Director

Title: Lawrence Hall of Science

JMA

Authorized by: [Signature] 9-26-16
Assistant or Associate Superintendent Date

Approved: [Signature] 9-26-16
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] 9-26-16
Administrator's Signature Date

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

[Signature] 9-26-16
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>

**EXHIBIT A-1
Scope of Work**

Title: NGSS for Elementary Teachers

Dates: October 10, 2016; February 13, 2017 and March 6, 2017

Professional Learning Description

Contractor will provide three full days of Next Generation Science Standards (NGSS) professional learning for District elementary teachers. These sessions will build upon the knowledge of the spring NGSS awareness sessions. There will be three grade bands and each grade band will receive a three-hour training. The goals for each session: build an understanding of NGSS crosscutting concepts; review key components of NGSS, and; experience a NGSS lesson using the Full Option Science System (FOSS), Lawrence Hall of Science, Curriculum.

Outline of Schedule:

Oct. 10, AM Approximately 35 teachers served by 3 presenters at 3 different classroom locations
LHS presenter 1: TK, Kinder and first grade teachers
LHS presenter 2: Second and third grade teachers
LHS presenter 3: Fourth and fifth grade teachers

Oct. 10 PM Approximately 35 teachers served by 3 presenters at 3 different classroom locations
LHS presenter 1: Kinder and first grade teachers
LHS presenter 2: Second and third grade teachers
LHS presenter 3: Fourth and fifth grade teachers

Feb. 13, AM Approximately 35 teachers served by 3 presenters at 3 different classroom locations
LHS presenter 1: Kinder and first grade teachers
LHS presenter 2: Second and third grade teachers
LHS presenter 3: Fourth and fifth grade teachers

Feb. 13 PM 7 Approximately 35 teachers served by 3 presenters at 3 different classroom locations
LHS presenter 1: Kinder and first grade teachers
LHS presenter 2: Second and third grade teachers
LHS presenter 3: Fourth and fifth grade teachers

March 6 AM Approximately 35 teachers served by 3 presenters at 3 different classroom locations
LHS presenter 1: Kinder and first grade teachers
LHS presenter 2: Second and third grade teachers
LHS presenter 3: Fourth and fifth grade teachers

March 6 PM 7 Approximately 35 teachers served by 3 presenters at 3 different classroom locations
LHS presenter 1: Kinder and first grade teachers
LHS presenter 2: Second and third grade teachers
LHS presenter 3: Fourth and fifth grade teachers

EXHIBIT B

Any other provision to the contrary notwithstanding, the following provisions shall govern the Agreement between the Regents of the University of California on behalf of its Lawrence Hall of Science ("University") and Mt. Diablo Unified School District (DISTRICT)] dated September 15, 2016.

1. Indemnification. University and DISTRICT shall each indemnify, defend and hold harmless the other party, its officers, employees and agents from and against all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement suffered by the indemnified party but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the indemnifying party, its officers, agents, or employees.

2. Insurance. Each party at its sole cost and expense, shall insure its activities in connection with this Agreement and obtain, keep in force, and maintain insurance or self insurance as follows:

- i. Commercial Form General Liability Insurance with minimum limits as follows:
 - a. Each Occurrence \$1,000,000
 - b. Products/Completed Operations Aggregate ~~\$1,000,000~~ 2,000,000
 - c. Personal and Advertising Injury \$1,000,000
 - d. General Aggregate \$2,000,000

If the above insurance is written on a claims-made form, it shall continue for three (3) years following termination of this Agreement. The insurance shall have a retroactive date of placement prior to or coinciding with the effective date of this Agreement.

ii. Workers' Compensation as required under California State law.

iii. Such other insurance in such amounts which from time to time may be reasonably required by the mutual consent of the parties against other insurable risks relating to performance.

The coverages required under this Section (i, ii, and iii) shall not limit the liability of the ~~insurer~~ insured.

The coverages provided by either party referred to under (i) and (ii) of this Section shall include the other party as an additional insured. Such a provision shall apply only in proportion to and to the extent of the negligent acts or omissions of the insurer, its officers, employees, and agents. Each party, upon the execution of this Agreement, shall furnish the other party with certificates of insurance evidencing compliance with all requirements. Certificates shall further provide for thirty (30) days (10 days for non-payment of premium) advance written notice to the other party of any material modification, change, or cancellation of the above insurance coverages.

3. Copyright. The ownership of any preexisting inventions or copyright in works employed in the performance of this Agreement shall remain unchanged; provided, however, that each party hereby licenses to the other party the right to use such copyrighted work or invention only to the extent necessary to perform this Agreement. Contractor shall own the copyright of any materials produced in the performance of this Agreement.

4. Trademark/University Name. The University's name and trademarks are protected by California law and may not be used except to indicate identification or location without prior written approval of the University of California.