

Purchase Requisition # R79975

**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 30 day of May, 2014, by and between the Mt. Diablo Unified School District (hereinafter "District") and Solution Tree, Inc. (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:

\$ 27,701.00 total fee for Services 000 - 3065 - 10 - 5800  
BUDGET CODE

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

- a. \$ \_\_\_\_\_ 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 5/30/14. 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,

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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>Solution Tree, Inc.</u>
1936 Carlotta Drive	Address: <u>555 N. Morton Street</u>
Concord, CA 94519-1397	<u>Bloomington, Indiana 47404</u>
Attn: Superintendent	Phone: <u>800-733-6783x263</u>
	Fax: <u>866-308-3135</u>
	Tax ID #: <u>35-2026417</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 <sup>and the Solution Tree host contract</sup> 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

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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] 6/17/14  
Budget Administrator Date

By: [Signature] 6/9/14  
Date

Title: Assistant Director, SASS

Title: Director of Professional Development

Authorized by: [Signature] 6/16/14  
Assistant or Associate Superintendent Date

Approved: \_\_\_\_\_  
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] 6/16/14  
Administrator's Signature Date

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

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EXHIBIT A

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

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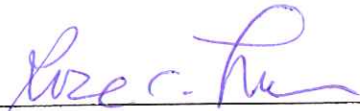
Please see attached workshop specifications.

Solution Tree, Inc. will provide 2 professional development days, August 11, 2014 and August 12, 2014 to MDUSD teachers on creating assessments aligned with the Common Core State Standards.

Participants will explore the requirements of a balanced assessment system reflective of next generation demands. They will understand formative and summative pathways with Common Core expectations. Participants will also determine alignment for the design, delivery and data analysis for Common Core assessments. And finally, they will be able to design and lead balanced assessment systems that increase rigor and relevance. Participants will be able to apply concepts to leadership decisions, as well as create the conditions for this important paradigm shift.

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Services of Contractor arranged by

  
\_\_\_\_\_  
Signature

Student Achievement and School Support  
\_\_\_\_\_  
Department / School



**Solution Tree Purchasing Agreement**

Effective May 30, 2014, Solution Tree, Inc. ("Solution Tree") located at 555 N. Morton St., Bloomington, IN 47404, and Mt. Diablo Unified School District ("Customer") located at 1936 Carlotta Drive Concord, CA 94519 agree as follows:

1. **Products:** Customer shall purchase the following Professional Development Services & Resources ("Products"). Additional terms for specific Products are described in Exhibits A & B attached hereto. Any additional Products may be added to this Agreement by a written Addendum signed by both parties.

*Exhibit A: Professional Development Services*

Quantity	Item	Amount	Total
2	Professional Development Day(s) – Sarah Schuhl	\$13,000.00	\$13,000.00
2	Professional Development Day(s) – Kim Bailey	\$13,000.00	\$13,000.00
<b>PROFESSIONAL DEVELOPMENT TOTAL</b>			<b>\$26,000.00</b>

*Exhibit B: Resources*

Quantity	Item	Amount	Total
100	<i>Common Formative Assessment: A Toolkit for Professional Learning Communities at Work</i>	\$24.95	\$2,495.00
	<i>Book Discount (40% off)</i>		<del>\$(998.00)</del>
	Shipping and Handling	\$204.00	\$204.00
<b>RESOURCE TOTAL</b>			<b>\$1,701.00</b>

**CONTRACT TOTAL** **\$27,701.00**

2. **Invoicing and Purchase Orders:** Customer will provide Solution Tree with a purchase order no later than July 10, 2014 for the full amount due under this Agreement. Solution Tree will invoice Customer based on the following schedule:
- 3.

*Invoice Schedule*

Description	Payment	Expected Invoice Date
Payment 1	\$27,701.00	August 11, 2014

All payment terms are net 30 days from the actual date of invoice. All late payments are subject to a Finance Charge of 1.5% monthly. Please make purchase order(s) out to: Solution Tree, 555 North Morton Street, Bloomington IN 47404.

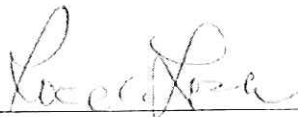
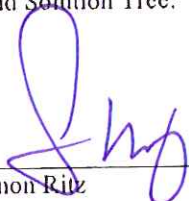


**Who will receive and pay the invoices?**

Contact: Rose Lock  
Title: Asst. Superintendent, Student Achievement & Student Support  
Address: 1936 Carlotta Drive  
City, State: Concord, CA 94519-1397  
Phone: 925-682-8000 x4015  
E-mail: lockr2@mdusd.org  
Fax: 925-680-2505

- Intellectual Property:** Customer acknowledges that Solution Tree or Solution Tree's subcontractors own the copyrights to all tangible or electronic presentation materials, handouts, and/or program books used in conjunction with the services performed under this Agreement, and that no materials will be developed specifically for Customer. Solution Tree shall retain all copyrights owned prior to entering this Agreement, and Customer may not reproduce any materials not designated reproducible without the express written permission of Solution Tree.
- Entire Agreement:** This Agreement contains the entire understanding and supersedes all prior understandings between the parties relating to the subject matter herein.
- Offer Valid:** The offer set forth in this Agreement shall be open through May 30, 2014.

This Agreement is acknowledged and accepted by Customer and Solution Tree:

 _____ Rose Lock Assistant Superintendent Mt. Diablo Unified School District	<u>5/29/14</u> Date	 _____ Shannon Ritz Director of Professional Development Solution Tree, Inc.	<u>6/5/14</u> Date
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Please fax or email this agreement to: **Katie Gentry-Funk**  
Fax: 812-961-4696  
Email: [salesupport@solution-tree.com](mailto:salesupport@solution-tree.com)



Solution Tree

**EXHIBIT A: PROFESSIONAL DEVELOPMENT SERVICES**

**Description of Services**

Solution Tree agrees to provide a speaker, Sarah Schuhl & Kim Bailey ("Associates"), to disseminate information on the topic of Assessment on 8/11/2014 and 8/12/2014.

<b>Please provide the contact information for this Professional Development work:</b>	
Contact:	<u>Ann Tirrell</u>
Title:	<u>Program Specialist/Educational Technology</u>
Address:	<u>1936 Carlotta Drive</u>
City, State:	<u>Concord, CA 94519-1397</u>
Phone:	<u>925-682-8000 x4043</u>
Mobile:	<u>707-477-7416</u>
E-mail:	<u>tirrella@mdusd.org</u>

**Additional Terms**

- 1. Reproducibles:** Customer is responsible for the reproduction of all handouts and other print materials related to the services, and Customer will notify the Associate directly of any deadlines for reproduction.
- 2. Venue and Audio/Video Equipment:** Customer will provide a venue, audio/video equipment and technical support for the sessions.
- 3. Recording of Presentation:** All audio, video, and digital recording of the workshop is prohibited.
- 4. Termination:** If Customer terminates this Agreement within 90 days of the workshop for any reason but Force Majeure, Customer shall reimburse Solution Tree for any reasonable business expenses incurred in anticipation of performance of this Agreement that exceed the amount of the deposit.
- 5. Force Majeure:** If events beyond the parties' control, such as acts of God, disaster, war, curtailment or interruption of transportation facilities, acts of terrorism, State Department or other governmental or international agency travel advisory, civil disturbance, interruption or cessation of electrical power, strikes, disease, epidemic, or any other cause beyond the parties' control which makes it impossible for to perform under this Agreement, then Solution Tree agrees to offer services at a later date, provided such can be rescheduled with Customer. Solution Tree shall have an affirmative duty to notify Customer immediately of any circumstance or event that will prevent Solution Tree from performing under this Agreement.



**EXHIBIT B: RESOURCES**

1. **Shipping:** Solution Tree will ship all resources after an invoice has been generated.
2. **Returns and Refunds:** If Customer is not completely satisfied with any Solution Tree resource excluding online courses, Customer may return it (in undamaged and saleable condition) within 30 days of the invoice date for a full refund or credit, less shipping and handling. Solution Tree will not accept return after 30 days.

Customer must request all refunds in writing. Customer must obtain a return authorization number from Solution Tree prior to any return. Solution Tree will deny returns without an authorization number and will return them at the Customer's expense. Solution Tree will issue a refund for the resource only, based upon the condition of the resource when received. Customer will not be issued a refund if they have an unpaid balance. Solution Tree reserves the right to refuse any shipment. Solution Tree will not be responsible for resources lost or damaged in transit. Solution Tree is not responsible for and will not refund international customs fees.

**Shipping Information for Resource Delivery**

Shipping Contact:	<u>Rose Lock</u>
Shipping Address:	<u>1936 Carlotta Drive</u>
City, State, Zip:	<u>Concord, CA 94519-1397</u>
Phone:	<u>925-682-8000 x4015</u>
Delivery Date:	<u>By August 6, 2014</u>
Delivery Times:	<u>Business Hours</u>

- Choose one:
- Do you have a Delivery Dock?
  - Do you have double doors (for pallet)?
  - Do you require inside delivery?





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/1/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Hylant Group Inc-Indianapolis 301 Pennsylvania Parkway, #201 Indianapolis IN 46280	CONTACT NAME: Mariane Uban	FAX (A/C, No): 317-817-5151	
	PHONE (A/C, No, Ext): 317-817-5136	E-MAIL ADDRESS: marianne.uban@hylant.com	
INSURED SOLUT-6 Solution Tree Inc, Marzano Research Laboratory LLC Triple Nickel Press LLC, Solution Tree Education Canada Inc, Caley Avenue LLC 555 North Morton Street Bloomington IN 47404	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: Chubb Indemnity Insurance Co.		12777
	INSURER B: Travelers Cas & Surety of Amer		31194
	INSURER C: Federal Insurance Company		20281
	INSURER D:		
INSURER E:			
INSURER F:			

## COVERAGES

CERTIFICATE NUMBER: 1289925375

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR VWD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
C	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	Y	35905835	10/1/2013	10/1/2014	EACH OCCURRENCE	\$1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC					DAMAGE TO RENTED PREMISES (Ea occurrence)	\$1,000,000
						MED EXP (Any one person)	\$10,000
						PERSONAL & ADV INJURY	\$1,000,000
						GENERAL AGGREGATE	\$2,000,000
						PRODUCTS - COMP/OP AGG	\$INCL GENL AGG
							\$
C	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		73557217	10/1/2013	10/1/2014	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000
						BODILY INJURY (Per person)	\$
						BODILY INJURY (Per accident)	\$
						PROPERTY DAMAGE (Per accident)	\$
							\$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE		79849616	10/1/2013	10/1/2014	EACH OCCURRENCE	\$4,000,000
	DED RETENTION \$					AGGREGATE	\$
							\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/>	71722150	10/1/2013	10/1/2014	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER	
		N/A				E.L. EACH ACCIDENT	\$500,000
						E.L. DISEASE - EA EMPLOYEE	\$500,000
						E.L. DISEASE - POLICY LIMIT	\$500,000
B	Misc. Professional Liability		105696639	10/1/2013	10/1/2014	Each Claim	\$1,000,000
						All Claims	\$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Mt. Diablo Unified School District is named as an Additional Insured with respect to General Liability as required by written contract.

## CERTIFICATE HOLDER

## CANCELLATION

Mt. Diablo Unified School District  
1936 Carlotta Drive  
Concord CA 94519

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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