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Purchase Requisition # R72578

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

RECEIVED

FEB 21 2013

AGREEMENT BETWEEN  
MT. DIABLO UNIFIED SCHOOL DISTRICT  
AND INDEPENDENT CONTRACTOR

Budget & Fiscal Services

5 Ass 18 D

THIS AGREEMENT is made this 7 day of February, by and between the Mt. Diablo Unified School District (hereinafter "District") and MusicTrio.com (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:

\$ 22,877 total fee for Services

222 - 0713 - 10 - 5800  
BUDGET CODE

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

- a. \$ \_\_\_\_\_ per hour,
- b. \$ \_\_\_\_\_ per day, or
- c. \$ 22,877 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 2/7/2013. 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	Name: <u>MusicTrip.com/Bric Spidell</u>
1936 Carlotta Drive	Address: <u>106 Via Buena Ventura</u>
Concord, CA 94519-1397	<u>Redondo Beach, CA 90277</u>
Attn: Superintendent	Phone: <u>800.747.2075</u>
	Fax: <u>310.375.5505</u>
	Tax ID #: <u>26-1101179</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 # R72578

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: Patti Bannister 2/8/13  
Budget Administrator Date

By: Eric Sp... 2/12/13  
Date

Title: Patti Bannister, Principal

Title: owner / MusicTrip.com

Authorized by: [Signature] 2/21/13  
Assistant or Associate Superintendent Date

Approved: [Signature] 2/20/13  
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.

P. Bannister 2/8/13  
Administrator's Signature Date

OK

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

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 # R72578

**EXHIBIT A**

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

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Band Trip Event Planner for Band Trip to Disneyland

Dates: April 11-14, 2013

Services include, chartered transportation, hotel, admission to Disneyland, per attached invoices

PREPAY - MUST BE PAID ON DATES BELOW:

#1427 - \$ 9,150.00 - payment due 2/28/2013

#1428 - \$13,727.00 - payment due 3/11/2013

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Services of Contractor arranged by

Berta Shatswell  
Signature

DIABLO VIEW MIDDLE SCHOOL/MUSIC DEPT.

Department / School



February 4, 2013

Eric Thompson, Band Director  
Diablo View Middle School  
300 Diablo View Lane  
Clayton, CA 94517

Dear Eric:

This letter, when signed by both parties, will constitute a contract between MUSICTRIP.COM and the Diablo View Middle School Band.

MUSICTRIP.COM agrees to provide the following services on the dates of 4/11, 4/12, 4/13, 4/14, 2013 at a cost of \$385.00 per student (price based on 53 students travelling) and \$150 per chaperone (price based on 8 chaperones travelling). One complimentary trip for the band director (single occupancy).

**SERVICES:**

- Round-trip luxury bus and all ground transportation (one 56-passenger coach)
- Not everyone can ride on the bus - only 56 passengers
- Two night's hotel (Thu 4/11 & Fri 4/12 Embassy Suites, Santa Ana, CA)
- Students room six per suite, Chaperones room two per suite.
- Two American breakfast buffets at the hotel (all you can eat)
- 2-day park hopper admission to Disneyland and Disney's California
- Two concert performances and one Soundtrack Recording Session at Disneyland
- Disney Performing Arts T-Shirt for each student
- MusicTrip.com will provide a truck for band instrument storage/transportation at Disneyland on Saturday 4/13/13

A non-refundable 1<sup>st</sup> deposit of \$150.00 per person is due by February 22, 2013. Final payment is due by March 11, 2013 and is non-refundable.

It is understood that students are fully responsible for their own behavior and no responsibility for the group is attributed to MUSICTRIP.COM who acts solely as an agent in arranging the tour.

Please make checks payable to MUSICTRIP.COM

Agreed to on this date: 2-7-13

Agreed to on this date: 2/04/13

Eric Thompson, Band Director

Eric Spidell, MUSICTRIP.COM

Patti Bannister, DVMS Principal 2/19/13

Rose Lock, MDUSD Asst. Superintendent 3/5/13

TELEPHONE 800 747-2078 • FAX 310 378-8808  
108 VIA BUENA VENTURA • REDONDO BEACH, CA 90277

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FEB 21 2013

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Budget & Fiscal Services

MEMO

681 001  
5955 1012

February 19, 2013

TO: Liz Acevedo  
Fiscal, Dent Center

FROM: Berta Shatswell  
Ext. 5801, [shatswellb@mdusd.org](mailto:shatswellb@mdusd.org)

RE: ~~RUSH!! Independent Contract - MusicTrip.com~~

Attached please find the following from the MusicTrip.com for our upcoming band trip to Disneyland.

- Independent Contract - Prepaid
- Invoices:
  - Deposit payment due 2/28/13
  - Final payment due 3/11/13
- The W-9
- Certificate of Liability Insurance

Please have Rose Lock approve both the Independent Contract and the MusicTrip.com Contact (page 5) and return a signed copy to me, as soon as possible, because I need to send a signed copy back to them for their records. (If you could scan and email that would be preferable to save time).

Also, as shown above, the first payment is due 2/28/13. I have abated the funds to cover this amount. Please find a copy of the Abatement attached.

As always, thank you for your assistance in the matter.

  
Berta

2/21  
Denise -  
Liz in  
Fiscal's  
waiting for  
Theresa Bay

**Request for Taxpayer  
 Identification Number and Certification**

Give Form to the requester. Do not send to the IRS.

Name (as shown on your income tax return)  
**Eric F Spidell**

Business name/disregarded entity name, if different from above  
**Music Trip, Com**

Check appropriate box for federal tax classification:  
 Individual/sole proprietor     C Corporation     S Corporation     Partnership     Trust/estate  
 Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶     Exempt payee  
 Other (see instructions) ▶

Address (number, street, and apt. or suite no.)  
**106 Via Buena Ventura**

City, state, and ZIP code  
**Redondo Beach, CA 90277**

Requestor's name and address (optional)

List account number(s) here (optional)

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note, if the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number  
 [ ] - [ ] - [ ]

Employer identification number  
**26-1101179**

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions:** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign this certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here    Signature of U.S. person ▶ **Eric F Spidell**    Date ▶ **2/04/13**

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Purpose of Form**

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note, if a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.