SERVICES AGREEMENT
Between
THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
And
MOUNT DIABLO UNIFIED SCHOOL DISTRICT

This Services Agreement ("**Agreement**"), effective as of the date of the parties' final signature below ("**Effective Date**"), is by and between The Regents of the University of California, a California public corporation ("**University**"), on behalf of its History Department's UC Berkeley History-Social Science Project at its Berkeley campus, and Mount Diablo Unified School District ("**MDUSD**"), a California public school district having a principal place of business at 1936 Carlotta Drive, Concord, California 94519. "**Party**" hereinafter refers to each Party individually, or collectively as "**Parties**."

BACKGROUND

A. University has the experience and capabilities necessary to perform the services contemplated by this Agreement and the performance of such services is consistent with its educational, research, and public service activities ("**University Mission**"); and

B. MDUSD would like University to provide the services as set forth in this Agreement.

In consideration of the mutual covenants, terms and conditions in this Agreement, the Parties agree to the following:

AGREEMENT

1. Scope of Work

University will perform the services ("**Services**") and, if applicable, provide the deliverables ("**Deliverables**") set forth in the attached Exhibit A, incorporated by reference and made a part of this Agreement.

2. Fees

The fees or rates for the Services to be rendered by University are set forth in Exhibit A. MDUSD will pay University within 30 days from the date of University's invoices. Past due payments will accrue a 1% service charge per month. University will submit all invoices to MDUSD's representative listed in Section **15 (Notice)**. All payments from MDUSD to University will be made by check payable to "The Regents of the University of California" to an address specified in the invoice or by wire transfer to an account specified in the invoice.

3. Term and Termination

3.1 This Agreement commences on the Effective Date and will expire one year from the Effective Date or on June 30, 2025, whichever is later ("**Term**"), unless earlier terminated in accordance with the terms of this Agreement.

3.2 This Agreement may be terminated, by either Party in the event the other Party is in breach of any material term of this Agreement and has failed to cure such breach within 30 days after notice thereof. MDUSD's failure to pay any undisputed payment when due under this Agreement will constitute a material breach of this Agreement for the purposes of this provision.

3.3 University may terminate this Agreement with or without cause upon 30 days' written notice to MDUSD. In addition, University reserves the right to terminate this Agreement if University is no longer reasonably able to perform the Services or any other obligations under this Agreement.

3.4 In the event University terminates this Agreement pursuant to Section 3.3, MDUSD will pay University for all Services rendered, expenses incurred and non-cancellable obligations as of the date the notice of termination was sent. University will refund to MDUSD any prepaid amounts (a) not earned by University prior to the date of such termination, (b) not applicable to expenses incurred by University prior to the date of such termination and/or (c) not applicable to non-cancellable obligations of University made prior to the date of such termination. In the case of termination by University pursuant to Section 3.3, University's liability will be limited to the amount of any such refund.

3.5 All provisions which, by their nature, extend beyond the Term will survive termination of this Agreement, including but not limited to, Sections **4 (Copyright), 5 (University Name, Trademarks and Logos), 6 (Disclaimer of Warranty), 7 (Limitations of Liability), 8 (Indemnification), 9 (Insurance), 10 (Confidentiality), 12 (Materials Provided by MDUSD), and 13 (Data Security and Privacy).**

4. Copyright

As between University and MDUSD, University owns all right(s), title, and interest in and to materials and information, including but not limited to course materials, images, text, data, illustrations, photos, audio, video, codes, logos, marketing plans, digital text, research, technical information, know-how, trade secrets, processes, algorithms, code, software, the derivatives thereof, and the selection, coordination and arrangement of such materials that is or was conceived, created, or developed prior to, or independent of the Services and Deliverables defined in Section 1 (collectively **"University Intellectual Property"**) whether they are protected by copyrights, trademarks, service marks, patents, or other proprietary rights, either owned by University or licensed to University by other parties who own such intellectual property. This is not a work made-for-hire agreement under U.S. copyright law, and any and all intellectual property rights to any materials or information created in the performance of this Agreement, including the Deliverables (**"Works"**) shall vest with University. To the extent that University is not the owner of such Works, MDUSD hereby irrevocably assigns to University all right, title, and interest (including copyright rights) to and in such Works. University grants to MDUSD a non-transferable, non-sublicensable, royalty-free, non-exclusive license to use the Works solely for internal business purposes. MDUSD will not use the Works for any other purpose without the prior written consent of University.

5. University Name, Trademarks and Logos

MDUSD will not use the name of the University of California (**"UC"**), any abbreviation thereof, any name of which "University of California" is a part, or any trademarks or logos of University (**"University Marks"**), in any commercial context (including, without

limitation, on products, in media (including websites), and in advertisements), or in cases when such use may imply an endorsement or sponsorship of MDUSD, its products or services. All such uses of University's name and trademarks must receive prior written consent from The Regents of the University of California through the Office of Business Contracts and Brand Protection, who can be reached at BCBP@berkeley.edu. At all times, MDUSD agrees to comply with California Education Code Section 92000.

University Marks are and will remain exclusively the property of University. MDUSD will not, either directly or indirectly, obtain or attempt to obtain during the Term hereof or at any time thereafter, any right, title or interest in or to University Marks, and MDUSD hereby expressly waives any right which it may have in University Marks. MDUSD recognizes University's exclusive ownership of University Marks.

6. Disclaimer of Warranty

Except as expressly set forth otherwise in this Agreement, University makes no warranties, either express or implied, as to the Services, the Deliverables, or the results provided under this Agreement, including, but not limited to, warranties of merchantability, fitness for a particular purpose, and non-infringement. MDUSD acknowledges that the Services, the Deliverables, and the results are provided on an "as is" basis and without warranties of any kind. MDUSD further acknowledges that it uses such Services, Deliverables, and results at its own risk. University will bear no responsibility for the success or failure of the Services, Deliverables, or results.

7. Limitations of Liability

Neither Party shall be liable for any indirect, consequential, incidental, special, punitive, or exemplary damages of any kind arising out of or in any way related to this agreement, whether in warranty, tort, contract, or otherwise, including, without limitation, loss of profits or loss of good will, whether or not the other Party has been advised of the possibility of such damages and whether or not such damages were foreseeable.

8. Indemnification

Each Party will defend, indemnify, and hold the other Party, its officers, employees, and agents harmless from and against any and all liability, loss, expense, including reasonable attorneys' fees, or claims for injury or damages arising out of the performance of this Agreement (collectively, "Claim") but only in proportion to and to the extent such Claims are caused by or result from the negligent or intentional acts or omissions of the indemnifying Party, its officers, agents, or employees. The Party seeking indemnification agrees to provide the other Party with prompt notice of any such Claim and to permit the indemnifying Party to defend any Claim or action, and to cooperate fully in such defense. The indemnifying Party will not settle or consent to the entry of any judgment in any Claim without the consent of the other Party, and such consent will not be unreasonably withheld, conditioned, or delayed.

9. Insurance

9.1 The Parties will keep in full force and effect during the Term, at each Party's own cost, expense, insurance or in the case of University, self-insurance with coverages as follows ("**Insurance**"):

A. Commercial Form General Liability Insurance with minimum limits as follows:

i. Each Occurrence	$1,000,000
ii. Products/Completed Operations Aggregate	$2,000,000
iii. Personal and Advertising Injury	$1,000,000
iv. General Aggregate	$2,000,000

B. Workers Compensation as required by applicable law.

C. If a representative of MDUSD will be driving on campus, Business Automobile Insurance with insurance coverage amount of $1,000,000 per occurrence will be required.

9.2 If the Insurance is written on a claims-made form, it will continue for three (3) years following termination of this Agreement.

9.3 Upon execution of this Agreement, each Party will furnish the other Party with a Certificate of Insurance (**"Certificate of Insurance"**) evidencing compliance with the insurance provisions of this Agreement. MDUSD's Certificate of Insurance will be delivered to University's representative specified in the Section **15 (Notice)**. Each Party is required to give thirty (30) days' advance written notice to such other Party of any modification, change, or cancellation with respect to the Insurance

9.4 The insurance requirements set forth in this Section will not limit a Party's liability.

10. Confidentiality

Pursuant to the performance of this Agreement, the Parties do not anticipate exchanging or disclosing any **"Confidential Information,"** defined as non-public information that a Party considers confidential or proprietary. However, if there will be any disclosure of Confidential Information, the information needs to be marked "Confidential" or "Proprietary at the time of disclosure," and if a Party discloses Confidential Information orally, the disclosing Party will indicate its confidentiality at the time of disclosure and will confirm such in writing within ten (10) days of the disclosure. Unless otherwise required by law (including a subpoena or California Public Records Act request) or court order or as otherwise authorized in writing by the other Party prior to the disclosure, each Party will not disclose the other Party's Confidential Information to any third party, and each Party will only use the other Party's Confidential Information to the extent necessary to perform this Agreement. Confidential Information will not include information that: (i) was legally in its possession or known to the receiving Party without any obligation of confidentiality prior to receiving it from the disclosing Party; (ii) is, or subsequently becomes legally and publicly available without breach of this Agreement by the receiving Party; (iii) is legally obtained by the receiving Party from a third party without any obligation or confidentiality; (iv) is independently developed by or for the receiving Party without use of the Confidential Information as demonstrated by competent evidence; or (v) is disclosed under the California Public Records Act or legal process. The receiving Party's confidentiality and use obligations will extend for a period of one (1) year from the date of receipt of the disclosing Party's Confidential Information.

11. Export Control and Biohazardous Materials

MDUSD WILL NOT provide to University any materials and/or information that are export-controlled under the International Traffic in Arms Regulations (22 CFR 120-130), the United States Munitions List (22 CFR 121.1), or Export Administration Regulations (15 CFR 730-

774) 500 or 600 series; controlled on a military strategic goods list; Select Agent(s) under 42 CFR Part 73, et seq.; or subject to regulations governing access to such Export Materials (**"Export Materials"**). If MDUSD desires to provide any Export Materials to University, MDUSD must provide written notification that identifies such Export Materials, including their export classification to University contact in Section 15 (Notice) and receive confirmation and approval from University, prior to disclosure.

12. Materials Provided by MDUSD

In the event University is producing Deliverables or providing Services that require MDUSD to furnish or supply University with parts, goods, data, specifications, components, programs, practices, methods, Export Materials (if approved by University pursuant to Section 11 above), or other property under this Agreement (collectively, **"MDUSD Materials"**), such MDUSD Materials shall be identified in Exhibit A, and provided by MDUSD in a timely and secure manner so as to allow University to perform the Services. MDUSD warrants that MDUSD Materials will: (1) conform to the requirements of this Agreement, including all descriptions, specifications, and attachments made a part hereof, and (2) will not infringe any third-party rights. University's acceptance of MDUSD Materials will not relieve MDUSD from its obligations under this warranty.

If MDUSD is providing any materials to University in the performance of this Agreement, MDUSD will indemnify, defend, and hold harmless University, its officers, agents, and employees against all losses, damages, liabilities, costs, and expenses (including but not limited to attorneys' fees) resulting from any judgment or proceeding in which it is determined, or any settlement agreement arising out of the allegation, that MDUSD Materials or University's use of MDUSD Materials constitutes an infringement of any patent, copyright, trademark, trade name, trade secret, or other proprietary or contractual right of any third party. University retains the right to participate in the defense against any such suit or action, and MDUSD will not settle any such suit or action without University's consent.

13. Data Security and Privacy

13.1. Definition of Data Protection Law. For the purpose of this Agreement, **"Data Protection Law"** means applicable laws relating to privacy and data protection, including in the case of University, the Family Educational Rights and Privacy Act (**"FERPA"**), and other applicable U.S. federal and California state laws on privacy and data protection; and in the case of MDUSD, MDUSD's applicable national and local laws on privacy and data protection. In the event MDUSD collects data subject to international privacy laws, such as the General Data Protection Regulation (GDPR) and/or the Personal Information Protection Law (PIPL), if applicable, MDUSD agrees to comply with all applicable privacy requirements of such laws, including, but not limited to, notice, consent, access and data protection requirements. In the event any Protected Information is revealed, shared, or exchanged between the Parties, each Party agrees to comply with its obligations under all applicable Data Protection Law, and as required under this Agreement. To the extent that any laws or regulations of the home country or region of a Party has extra-territorial application such as to impose legal obligations on the other Party or its conduct outside such home country or region, the other Party upon request will provide reasonable assistance to such other Party in satisfying such obligation as necessary to implement this Agreement. Such reasonable assistance shall not include legal advice or opinion.

13.2. Protected Information. The Parties do not anticipate providing or exchanging any personally identifiable information or data identifiable to an individual ("**Protected Information**") in the performance of this Agreement. In the event that any Protected Information is revealed, shared, or exchanged, MDUSD agrees to protect the privacy and security of Protected Information. MDUSD shall implement, maintain and use internationally recognized commercial data security standards regarding administrative, technical and physical security measures that meet or exceed these requirements, including information access and computer system security measures, to preserve the confidentiality, integrity and availability of the Protected Information. MDUSD shall not access, use or disclose Protected Information other than for the sole purpose granted by University as necessary to carry out the Services, or as required by applicable U.S. law, or as otherwise authorized in writing by University. MDUSD shall inform University of any confirmed or suspected unauthorized access or disclosure of Protected Information immediately upon discovery, both orally and in writing, and fully cooperate with University in investigating and remedying the effects of such breach.

13.3. Non-Disclosure. Neither Party shall use or disclose Protected Information for any purposes except as contemplated by this Agreement or as required by applicable U.S. law (such as pursuant to a subpoena or, for University, the California Public Records Act), or as otherwise authorized in writing by the other Party. In the event of expiration or termination of this Agreement, the requirements of this Section shall continue to apply to any Protected Information which continues to be stored, processed, or used by either Party following termination of this Agreement.

14. Miscellaneous

14.1 Governing Law and Venue. This Agreement will be governed by and interpreted according to the laws of the State of California, without regard to its conflict of laws provisions. Parties agree and consent to the exclusive jurisdiction and venue of the courts of the State of California of competent jurisdiction for all purposes regarding this Agreement and further agrees and consents that venue of any action brought will be exclusively situated in the County of Alameda, California.

14.2 Relationship of the Parties. The relationship of the Parties under this Agreement is that of independent contractors. Nothing in this Agreement will create, or be construed to be, a joint venture, association, partnership, franchise or other form of business relationship. At no time will the employees, agents or assigns of one Party be considered the employees of the other Party for any purpose, including but not limited to workers' compensation purposes.

14.3 Force Majeure. Neither Party shall be deemed to be in default of or to have breached any provision of this Agreement (other than payment obligations) due to a delay, failure in performance or interruption of service, if such performance or service are impossible to execute, illegal or commercially impracticable, because of the following "force majeure" occurrences: acts of God, acts of civil or military authorities, civil disturbances, wars, strikes or other labor disputes, transportation contingencies, freight embargoes, acts or orders of any government or agency or official thereof, earthquakes, fires, floods, unusually severe weather, epidemics, pandemics, quarantine restrictions and other catastrophes, or any other similar occurrences beyond such party's reasonable control. In every case, the delay or failure in performance or interruption of service must be without the fault or negligence of the Party claiming excusable delay and the Party

claiming excusable delay must promptly notify the other Party of such delay. Performance time under this Agreement shall be considered extended for a period of time equivalent to the time lost because of the force majeure occurrence; provided, however, that if any such delay continues for a period of more than thirty (30) days, University shall have the option of terminating this Agreement upon written notice to MDUSD.

14.4 Assignment. Neither Party may assign this Agreement without the written consent of the other Party. In case such consent is given, the assignee will be subject to all of the terms of the Agreement.

14.5 Modification. This Agreement may only be amended in a writing, signed by the authorized representatives of the Parties.

14.6 Severability. If a provision of the Agreement becomes, or is determined to be, illegal, invalid, unenforceable or void by a court of competent jurisdiction, that will not affect the legality, validity or enforceability of any other provision of the Agreement or of any portion of the invalidated provision that remains legal, valid, or enforceable.

14.7 Integration. This Agreement, including any exhibits and addenda, constitutes the entire understanding and agreement between the Parties as to all matters contained herein, and supersedes all prior agreements, representations and understandings of the Parties. The Parties may utilize their standard forms of purchase orders, invoices, quotations and other such forms in administering this Agreement, but any of the terms and conditions printed or otherwise appearing on such forms will not be applicable and will be void.

14.8 Waiver. No waiver of any provision of this Agreement will be effective unless made in writing and signed by the waiving Party. The failure of any Party to require the performance of any term or obligation of this Agreement, or the waiver by any Party of any breach of this Agreement, will not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.

14.9 Counterparts. This Agreement may be executed in two or more counterparts, which may be transmitted via facsimile or electronically, each of which will be deemed an original and all of which together will constitute one instrument.

14.10 Headings. Article and Section headings used in this Agreement are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

14.11 No Third-Party Rights. Except as expressly provided in this Agreement, this Agreement is intended solely for the benefit of the Parties and is not intended to confer any benefits upon, or create any rights in favor of, any person other than the Parties.

15. Notice

All notices under this Agreement must be in writing, and must be mailed or emailed or delivered by hand or recognized overnight delivery service to the Party to whom such notice is being given. Any such notice will be considered to have been given upon receipt or refusal of delivery. Additionally, notices by email will be considered legal notice only: (i) if such communications include the following text in the subject field: FORMAL LEGAL NOTICE; and

(ii) upon written acknowledgement by the recipient, such acknowledgement not to include automatically generated responses.

University's representative for all purposes will be:

Name: Devin Hess
Address: 2123 Dwinelle Hall, Berkeley, CA 94720
Phone: (510) 774-5457
Email: dhess@berkeley.edu

MDUSD's representative for all purposes will be:

Name: Susan Hartwig, TK-12 Curriculum Specialist
Address: 1936 Carlotta Drive, Concord, California 94519
Phone: (925) 682-8000 ext. 4044
Email: hartwigs@mdusd.org

16. Representation on Authority of Parties/Signatories

Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute this Agreement. Each Party represents and warrants to the other that the execution of the Agreement and the performance of such Party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such Party and enforceable in accordance with its terms.

[signature page follows]

IN WITNESS WHEREOF, the duly authorized Parties have executed this Agreement as of the Effective Date.

MOUNT DIABLO UNIFIED SCHOOL DISTRICT

Signature: *Samce*

Name: *Samantha Allen*

Title: *Chief of Educational Services*

Date: *6/20/24*

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

Signature: *Caitlin Conway*
Digitally signed by Caitlin Conway
Date: 2024.06.25 07:49:19 -07'00'

Name: Caitlin Conway

Title: Senior Associate, Brand Protection & Business Projects

Date: 6/25/24

Approved as Form

J Kim 7/15/24

EXHIBIT A   **UC Berkeley History-Social Science Project
and Mt. Diablo Unified School District
Programming for Fall 2024**

MDUSD Contact:	Susan Hartwig, TK-12 Curriculum Specialist
	hartwigs@mdusd.org (925) 682-8000 ext. 4044
	1936 Carlotta Drive, Concord, California 94519
UCBHSSP Contact:	Ricky Aguirre, Academic Coordinator
	raguirre@berkeley.ed (650) 720-0137

May 2024 BCMS# 21174

The UCB History-Social Science Project is pleased to offer the following scope of work to provide professional development for social science instruction in the Mt. Diablo Unified School District during the Fall of 2024. The primary goal of this in-person professional development workshop series is to support participating educators with the development of Ethnic Studies Courses aligned with the California History-Social Science Framework, California Ethics Studies Model Curriculum and MDUSD goals and context for instruction. Over the course of four half-day sessions UCBHSSP workshop facilitators will present a framework for designing Ethnic Studies course content and support educators with developing units and lessons that align with the concepts of pedagogies of the field.

PD Goals:
Over the course of four half-day sessions MDUSD educators will receive support in the following ways:
- Session 1 - Design units, instructional practices, and pedagogies that center civic engagement.
- Session 2 - Design units, instructional practices, and pedagogies that center around community engagement.
- Session 3 - Design units, instructional practices, and pedagogies that integrate civic engagement into the curriculum.
- Session 4 - Design units, instructional practices, and pedagogies enter hope, healing, joy and transformation.
- Session 5 - Design units, instructional practices, and pedagogies that center productive conversations about difficult topics.

Description	Count	Cost
Ethnic Studies Concepts and Pedagogies Integration • Lead Facilitator, Half Day (Dates TBD) Five half-day sessions = $2500/session x 5 sessions	5	$12,500
Subtotal		$12,500
Administrative Costs @ 10%		$1,250
Total		$13,750

*Please review our guidelines for establishing agreements
with the UC Berkeley History-Social Science Project.*