

Purchase Requisition # R63981

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 1 day of April, by and between the Mt. Diablo Unified School District (hereinafter "District") and _____ (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:

\$ 27,500 total fee for Services

174 - 3825 - 10 - 5800 (\$24,961.63)
BUDGET CODE

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

174 - 3082 - 10 - 5800 (\$2,538.37)

- 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 7/1/11. 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:

DISTRICT

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

CONTRACTOR

Name: Kevin Clark Consulting and Training
Address: 772 Omaha Ave, Suite C
Clovis, CA 93619

Phone: (559) 299-5855
Fax: (559) 299-7735
Tax ID #: 95-4663756

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

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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: Susan Valdez 4/1/11
Budget Administrator Date

By: _____ Date

Title: Principal

Title: _____

Authorized by: _____
Assistant or Associate Superintendent Date

Approved: _____
Assistant Superintendent of Personnel Date

TO BE COMPLETED BY DISTRICT BUDGET ADMINISTRATOR	
<input type="checkbox"/> 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	
<input type="checkbox"/> 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.	
_____ Administrator's Signature	_____ Date

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

Susan Valdez
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>

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EXHIBIT A

LIST OF SERVICES TO BE PERFORMED BY CONTRACTOR

See attached

Services of Contractor arranged by

Susan Valdez
Signature

Rio Vista Elementary
Department / School

KEVIN CLARK

clark consulting and training

RIO VISTA ELEMENTARY SCHOOL

Contract for Consulting Services

High Intensity English Language Summer Academy 2011

Submitted: March 15, 2011

BACKGROUND

Rio Vista Elementary enrolls a substantial number of students for whom their knowledge and ability to apply English grammar skills is limited. The school population includes 235 students identified as English learners. As part of a comprehensive effort to improve students' English language proficiency, the site principal and teachers plan to implement an intensive summer language development program for about 200 students. The entry criteria is a most recent benchmark score below proficient. Eight teachers would participate in this summer program. This contract describes in more detail the summer 2011 program, including the scope of consulting services to be provided related to its design, implementation and evaluation.

CONTRACT PROPOSAL

It is proposed that the school retain the services of Clark Consulting and Training, Inc. to provide the specialized services described herein for supporting the design and implementation of the site's 2011 *High Intensity English Language Summer Academy*.

DURATION OF CONTRACT

The duration of this contract is from May 1, 2011 to Oct. 1, 2011.

PROGRAM DESCRIPTION

A. Purpose

The purpose of the four-week *High Intensity English Language Summer Academy* is to create an exciting learning opportunity for students and teachers that substantially accelerates students' English language and literacy development through the creation of a dynamic learning environment that combines innovative foreign language teaching methods,

high-energy teachers, collaboration with experts in the field and strong site-level support.

B. Goals

1. To accelerate the English language learning and literacy development of the following students in grades kindergarten through fifth: English learners, reclassified students, and other students qualifying for Title I;
2. To develop and support a cadre of seven classroom teachers and one lead teacher to stretch their English language teaching knowledge and skills in ways that bridge to the school's regular-year instructional programs;
3. To build site capacity for providing ELD instruction through the use of prescriptive daily lesson plans that link discrete English grammar skills to 10 high-intensity foreign language-teaching methodologies.

CONSULTANT SERVICES, MATERIALS AND RELATED COSTS

1. Professional Development
 - a. Two days teacher pre-service (July 14-15)
 - b. Four 60-minute weekly professional development sessions, including a final wrap-up session (Wednesdays)
2. Expert Consultants
 - a. One full-time and on-site expert consultant to provide daily:
 - i. lesson demonstrations
 - ii. in-class coaching
 - iii. professional development sessions
 - iv. mentoring to site "lead" teacher
 - b. One senior project management consultant
3. Daily Lesson Plans
 - a. explicit lesson plans for all English language levels served
 - b. detailed methods binder
 - c. Copy of *The Painless, Plan-less Grammar Guide* for each teacher
4. Student Assessment and Reporting
 - a. administration of pre- and post- student assessments
 - b. transcribe, score and analyze student assessment results
 - c. present information to teaching staff
 - d. provision of weekly student language quizzes and grading
5. Teacher Assessment and Reporting

- a. pre-post teacher assessment
 - b. scoring, tabulation and analysis of data
6. Program Evaluation Report
- a. written report featuring student and teacher data sources
 - b. quantitative and qualitative data analyses
 - c. preparation of written report, including strengths and recommendations
 - d. board report
7. Related Activities
- a. regular progress meetings with site leader
 - b. delivery of all products for district review and comment

COST BASIS

The cost for the above-referenced services and staff is \$27,500.00, which includes all of the consulting services described above, consultant travel, related expenses and overhead. Billing is to be in two equal payments: at the midpoint of the contract period and upon the final day of the student program. All services are guaranteed to meet the quality standards of the district.

INDEPENDENT CONTRACTOR STATUS

In rendering the described services, it is mutually understood and agreed that the contractor (Clark Consulting and Training, Inc.) shall, at all times, be acting and performing as an independent contractor and not as an employee of the School District, School Site, or any County Office of Education. All personnel employed by the contractor to assist in the performance of this agreement shall be deemed to be the employees of the contractor.

CONTRACT ALTERATIONS

It is mutually understood and agreed that no alternations or variations of the terms of this agreement shall be valid unless made in writing and signed by the parties hereto and that no oral understanding or agreements not incorporated herein and no alterations or variations of the terms hereof, unless made in writing between the parties hereto shall be binding on either party hereto. The agreement is not assignable by the contractor either in whole or in part.

TERMINATION

The parties agree that either may terminate the contract with 30 days written notice. In the event the contract is terminated by either party after initiation of the services, the contracting agency will pay the contractor for all services rendered to the date of termination.

OWNERSHIP OF MATERIALS

It is agreed that the school, upon performance of all services by the consultant, and payment for services by the district, retains all rights, ownership and use of any and all materials developed pursuant to this contract.



School/District Representative

Date of Signature 6/3/11

Clark Consulting and Training,
Inc. (EIN #95-4663756)

Date of Signature _____



CLARCON-03

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
5/19/2011

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 Wells Fargo Insurance Services USA, Inc. CA DOI Lic. #0D08408 (916) 231-1741 11017 Cobblerock Drive, Suite 100 Rancho Cordova, CA 95670-6049	CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS:														
INSURED Clark Consulting & Training Inc. 772 Omaha Avenue Clovis, CA 93619	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: left;">NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: Hartford Casualty Insurance Company</td> <td>29424</td> </tr> <tr> <td>INSURER B: Continental Casualty Company</td> <td>20443</td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Hartford Casualty Insurance Company	29424	INSURER B: Continental Casualty Company	20443	INSURER C:		INSURER D:		INSURER E:		INSURER F:	
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COVERAGES **CERTIFICATE NUMBER: 2763054** **REVISION NUMBER: See below**

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 WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY	X	57SBAUZ5052	03/31/2011	03/31/2012	EACH OCCURRENCE \$ 2,000,000
	<input checked="checked" type="checkbox"/> COMMERCIAL GENERAL LIABILITY					DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="checked" type="checkbox"/> OCCUR					MED EXP (Any one person) \$ 10,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="checked" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC					PERSONAL & ADV INJURY \$ 2,000,000
						GENERAL AGGREGATE \$ 4,000,000
						PRODUCTS - COMP/OP AGG \$ 4,000,000
AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
<input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS		<input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				BODILY INJURY (Per person) \$
						BODILY INJURY (Per accident) \$
						PROPERTY DAMAGE (Per accident) \$
						AGGREGATE \$
UMBRELLA LIAB EXCESS LIAB						EACH OCCURRENCE \$
<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE						AGGREGATE \$
<input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						WC STATUTORY LIMITS <input type="checkbox"/> OTHER <input type="checkbox"/>
WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						E.L. EACH ACCIDENT \$
ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N N/A If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$
						E.L. DISEASE - POLICY LIMIT \$
B	Professional Liability		425382899	05/19/2011	05/19/2012	1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 Certificate Holder included as an additional insured

CERTIFICATE HOLDER Mt. Diablo Unified School District 1936 Carlotta Drive Concord, CA 94519	CANCELLATION 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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Form **W-9**
(Rev. November 2005)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

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

Print or type
See specific instructions on page 2.

Name (as shown on your income tax return)
Clark Consulting and Training, Inc.

Business name, if different from above

Check appropriate box: Individual Sole proprietor Corporation Partnership Other Exempt from backup withholding

Address (number, street, and apt. or suite no.)
772 Omaha Ave. Ste. C

City, state, and ZIP code
Louis CA 93619

List account number(s) here (optional)

Requester's name and address (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 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 2. 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 2.

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
| | + | | | | |

or

Employer identification number
9514663756

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. person (including a U.S. resident alien).

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 the Certification, but you must provide your correct TIN. (See the instructions on page 4.)

Sign Here Signature of U.S. person [Signature] Date 3/17/11

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.

U.S. person. 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.

In 3 above, 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.

For federal tax purposes, you are considered a person if you are:

- An individual who is a citizen or resident of the United States,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, or
- Any estate (other than a foreign estate) or trust. See Regulations sections 301.7701-6(a) and 7(a) for additional information.

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.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,