

Purchase Requisition # R57628

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

REVISED
March 24, 2010
P.O. 75047
PERSONNEL SERVICES

AGREEMENT BETWEEN
MT. DIABLO UNIFIED SCHOOL DISTRICT
AND INDEPENDENT CONTRACTOR

MAR 24 2010

MDUSD

THIS AGREEMENT is made this 17 day of December, by and between the Mt. Diablo Unified School District (hereinafter "District") and HYATT HOTELS & RESORTS (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:

\$ 35,000.00 total fee for Services

355 - 3936 - 10 - 5800
BUDGET CODE

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

- a. \$ _____ per hour,
- b. \$ _____ per day, or
- c. \$ 35,000.00 per engagement.

REVISED AMOUNT
March 24, 2010

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 12/17/09. 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:

DISTRICT

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

CONTRACTOR

Name:	<u>HYATT HOTEL & RESORTS</u>
Address:	<u>FIVE EMBARCADERO CENTER</u> <u>SAN FRANCISCO, CA 94111-US</u>
Phone:	<u>(415) 788-1234</u>
Fax:	<u>(415) 291-6569</u>
Tax ID #:	<u>94-1649123</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

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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: *Cheryl LeBeouf* 12-17-09
 Budget Administrator Date
 Title: Cheryl LeBeouf, Principal

By: *[Signature]* 1/21/10
 Date
 Title: Catering Manager

Authorized by: _____
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.

 Administrator's Signature Date

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

Budget Code 355 3936 49 5800

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

CONTRACT AMOUNT: MINIMUM \$7,890, NOT TO EXCEED ~~\$24,500~~.

SEE ATTACHED CONTRACT.

35,000.00

Junior/Senior prom.
Mt. Diablo High School

Services of Contractor arranged by


Signature

Scott Ananos/Leadership/Mt. Diablo High School

Department / School



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/27/2010

Page 1 of 1

PRODUCER Willis of Illinois, Inc. 26 Century Blvd. P. O. Box 305191 Nashville, TN 37230-5191 877-945-7378		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
		INSURERS AFFORDING COVERAGE	NAIC#
INSURED Hyatt Corporation dba Hyatt Regency San Francisco 71 S. Wacker Drive, 14th Floor Chicago, IL 60606		INSURER A: National Union Fire Insurance Co. of Pitts	19445-001
		INSURER B:	
		INSURER C:	
		INSURER D:	
		INSURER E:	

COVERAGES

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	GL6506461	11/1/2009	11/1/2010	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ Included GENERAL AGGREGATE \$ 35,000,000 PRODUCTS - COMP/OP AGG \$ Included
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
	EXCESS / UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under SPECIAL PROVISIONS below				WC STATUTORY LIMITS OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
THIS VOIDS AND REPLACES PREVIOUSLY ISSUED CERTIFICATE DATED: 2/19/2010 WITH ID: 13828913
 Mt. Diablo Unified School District, the District, its officers, officials, agents, employees and volunteers are additional insureds but only with respect to the negligence of Hyatt Corporation d/b/a Hyatt Regency San Francisco relative to the Prom to be held on May 8, 2010.

CERTIFICATE HOLDER Mt. Diablo Unified School District Mount Diablo High School 1936 Carlotta Dr. Concord, CA 94519	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL BY MAIL <input checked="" type="checkbox"/> MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT OF THIS CERTIFICATE WHICH IS SUBJECT TO THE TERMS AND CONDITIONS OF THE POLICY WHICH IS SUBJECT TO THE TERMS AND CONDITIONS OF THE POLICY AUTHORIZED REPRESENTATIVE <i>Taren J. Chambers</i>
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HYATT REGENCY SAN FRANCISCO
FIVE EMBARCADERO CENTER

SAN FRANCISCO, CA 94111- US

Telephone: (415) 788-1234
Fax: (415) 291-6569

April 1, 2010

2ND REVISION
CATERING CONTRACT

GROUP NAME: MOUNT DIABLO HIGH SCHOOL
FUNCTION NAME: PROM
CONTACT NAME: ASHLEY BULATAO/SCOTT ANANOS
ADDRESS: 1936 CARLOTTA DRIVE
CONCORD, CA 94519
PHONE NUMBER: (925) 759-4718
FAX NUMBER:
EMAIL ADDRESS: achantel28@yahoo.com; ananoss@mdusd.k12.ca.us

Day	Date	Function	Time	Set Up	# of guests	Room Rental
Saturday	5/8/2010	OFFICE	5:00 PM - 12:00 AM	OTHER	15	WAIVED
Saturday	5/8/2010	REGISTRATION	5:00 PM - 12:00 AM	REGISTRATION	300	WAIVED
Saturday	5/8/2010	SET UP	5:00 PM - 6:00 PM	BANQUET ROUNDS OF 10	300	WAIVED
Saturday	5/8/2010	PROM	6:00 PM - 12:00 AM	RECEPTION	300	WAIVED

MOUNT DIABLO HIGH SCHOOL ("Group") and HYATT REGENCY SAN FRANCISCO ("Hotel") agree as follows:

DEFINITE BOOKING

Once you sign and return this agreement, along with the required deposit of **\$5,175.00**, your reservation will be confirmed and considered a definite booking. **This signed contract and deposit are due on Monday, 4/5/2010.**

MINIMUM REVENUE COMMITMENT

Based on the approximate number of guests set forth above, a minimum of **\$20,700.00** in combined banquet food, beverage and meeting room rental will be spent at your function. This minimum does not include guestroom charges, service charges, any applicable taxes, labor charges, audiovisual, or any other miscellaneous charges incurred. Should your final count drop below the approximate number of guests listed above, we will be happy to advise you on additional alternatives in food and beverage which will bring you back up to the agreed upon minimum revenue figures for your function.

The Hyatt Regency San Francisco is pleased to offer the following:

- 20% discount on AV equipment ordered from AVT Event Technologies
- Double Gold Passport points

CANCELLATION POLICY

Either the Hotel or Group may cancel this contract without cause at any time prior to the event by paying to the other party liquidated damages (agreed not to constitute a penalty) based on the following scale:

<i>Less than six(6) months to one(1) month from arrival date (60% of estimate revenue)</i>	<i>\$12,420.00</i>
<i>Less than one(1) month up to arrival date (75% of estimate revenue)</i>	<i>\$15,525.00</i>

Cancellations made under this provision shall be made by the canceling party to the non-canceling party by written notice and payment of the liquidated damages due at that time.

FORCE MAJEURE

The parties' performance under this Agreement is subject to acts of God, war, government regulation, terrorism, disaster, strikes, civil disorder, curtailment of transportation facilities, restriction on food, beverage or other supplies or any other emergency of a comparable nature beyond the parties' control, making it impossible, illegal or which materially affects a party's ability to perform its obligations under this Agreement. In order to terminate this agreement under this provision, the terminating party must provide written notice to the other party within five (5) days of the occurrence of any of these events. In the event of termination by the Hotel under this section, the Hotel shall refund all deposits and/or prepayments made by the Group within five (5) days of the notice of termination.

GUARANTEE COUNTS

In arranging for private functions, the final attendance must be received by the Catering Office no later than 11:00 a.m. three (3) working days prior to the commencement of the function. This number will be considered a guarantee, not subject to reduction, and charges will be made accordingly. Please provide the guarantees on the following days*:

Day of Function:	Guarantee due on the preceding:
Saturday, Sunday, or Monday	Wednesday
Tuesday	Thursday
Wednesday	Friday
Thursday	Monday
Friday	Tuesday

*National Holidays are not considered working days and should be taken into consideration when submitting guarantees.

The Hotel will be prepared to serve 3% more than the guaranteed number of attendees and cannot be responsible for service to more than 3 % over the guarantee for groups of up to 1,000 persons. For groups more than 1,000 persons, a maximum of 30 person overset will apply. If the guarantee is raised within the 72 hours, the 3% over set will not apply, and the guarantee then becomes the set.

TAXES

All federal and local taxes / charges which may be imposed or be applicable to this agreement and to the service rendered by the Hotel are in addition to the prices herein agreed upon, and the Group agrees to pay them.

FOOD AND BEVERAGE

No food and beverage of any kind may be brought into the Hotel by the Group or any of the Group's guests or invitees.

There is an additional \$100.00 service charge for meal service to groups under 25 in attendance for breakfast, lunch, dinner and receptions.

PAYMENT

Payment shall be made 72 hours advance of the function in the form of cash or certified check.

SERVICE CHARGE

A 21% Service Charge and applicable taxes shall be added to all food and beverage.

INDEMNIFICATION AND HOLD HARMLESS

Hotel agrees to defend, indemnify and hold harmless Group from and against all claims, actions, causes of action, or liabilities, including reasonable attorneys' fees, arising out of or resulting from any act undertaken or committed by Hotel pursuant to the performance of its obligations under this Agreement. Hotel also agrees to defend, indemnify and hold harmless Group from any liability resulting from any claim, action or cause of action, which may be asserted by third parties arising out of Hotel's performance pursuant to this Agreement, except for those actions or liabilities which are due to the misconduct or negligence of the Group.

Group agrees to defend, indemnify, and hold harmless Hotel from and against all claims, actions, causes of action, or liabilities, including reasonable attorneys' fees, arising out of or resulting from any act undertaken or committed by Group or any contractors hired or engaged by the Group in connection with performance of Group's obligations under this Agreement. Group also agrees to defend, indemnify, and hold harmless Hotel from any liability resulting from any claim, action or cause of action, which may be asserted by third parties arising out of the performance of Group's obligations pursuant to this Agreement, except those actions which are due to the misconduct or negligence of Hotel.

INSURANCE

Group and Hotel are required to insure their obligations set forth in the section entitled "Indemnification and Hold Harmless" above, and to provide evidence of such insurance upon request. For any activity introduced onto the premises by an outside contractor hired by Group, Group will be fully responsible for the actions of such outside contractor. Upon request, Group will provide a certificate of insurance covering the actions of such outside contractor, naming the Hotel and Hyatt Corporation as additional insureds with regard to the activities of such outside contractor.

PERMITS/LICENSES

In the event that the Group's function requires a permit or license from any governing body, local, state or federal, the Group is solely responsible for obtaining such license or permit at Group's expense.

EVENT ROOM

The Hotel reserves the right to assign another room for the Customer's functions in the event the room originally designated for such function shall be unavailable or inappropriate, in the Hotel's sole opinion.

CHANGES; NOTICE

Any changes to these terms must be made in writing and signed by both parties to be effective. Any modifications, additions or corrective lining out made on this Agreement will not be binding unless such modifications have been signed or initialed by both parties. Any notice hereunder shall be given to the individuals listed on the first page of this Agreement at the addresses set forth herein. Notice must be given through certified or registered mail, return receipt requested, overnight delivery, with a signature signifying receipt, or by facsimile in order to be effective under this agreement and shall be deemed delivered upon receipt.

DAMAGES

Neither party shall be liable to the other for any special, indirect, incidental, consequential, punitive or exemplary damages, including, but not limited to, lost profits, even if such party has knowledge of the possibility of such damages.

SHIPPING & RECEIVING

You may ship your boxes to the Hyatt Regency San Francisco, 5 Embarcadero Center, San Francisco, CA 94111. Please ensure that your name and the date of your function are included on the shipping label. The cost for handling boxes is \$15.00 each way (or \$100.00 per pallet), payable by credit card. Should you require that your boxes be repackaged before shipping out, the charge is an additional \$5.00 per box.

AGREEMENT

This Agreement, along with the attached Hotel's Information Sheet, which is incorporated herein by reference, are all of the terms agreed to by the parties. The agreement shall be considered accepted once both parties have signed below. It is our understanding that you are empowered by your organization to make these arrangements. A signature delivered by facsimile or electronic means will be considered binding for both parties. All prior agreements, verbal or written, are no longer effective once this Agreement is signed by the parties.

PRIVACY POLICY

Hotel complies with the Global Privacy Policy for Guests which is available at <http://privacy.hyatt.com> (the "Privacy Policy"). Group shall make the guests of Group who stay at the Hotel ("Group's Guests") aware of the Privacy Policy. Group affirms to the Hotel that Group is entitled to disclose the personal information of the Group's Guests to the Hotel, and to receive personal information of the Group's Guests from the Hotel, as is necessary in connection with the Group Guest's stay at the Hotel.

Date: _____

Signature: _____

NICOLE S NEWMAN
(HYATT REGENCY SAN
FRANCISCO)

Date: _____

Signature: _____

Printed: SCOTT ANANOS
(MOUNT DIABLO HIGH SCHOOL)