

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 15 day of February, 2019, by and between the Mt. Diablo Unified School District (hereinafter "District") and _____ Accountemps (hereinafter "Contractor").

District hereby engages Contractor to render 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 and transportation 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 only with the written approval of the District.

~~(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.~~ *See Exhibit A.*

2. Compensation. District agrees to compensate Contractor for the performance of the services on the following basis:

Not to exceed \$ 89,800.00 for Services 512 - 5032 - 53 - 5800 \$ 89,800.00

The basis of the fee for Services shall be as follow _____ - _____ - _____ - _____ \$ _____

- a. \$ 155.50 per hour, *\$86/hr* _____ - _____ - _____ - _____ \$ _____
- b. \$ _____ per day, or *\$69.50/hr.* _____ - _____ - _____ - _____ \$ _____
- c. \$ _____ per engagement. _____ - _____ - _____ - _____ \$ _____

BUDGET CODE(S)

Check One:

- Partial Payments: Contractor shall invoice District on a monthly basis or as agreed to for all hours worked pursuant to this Agreement.
- Partial Payments: District shall make a payment per schedule detailed in Exhibit A. District Administrator will verify invoice indicating that all required services have been performed by each timeline.
- 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 February 20, 2019. 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.

5. Fingerprinting and Criminal Records Check of Contractor's Employees. Contractor shall comply with the provisions of California 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. To the extent Education Code §45125.1 is applicable, 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. Contractor shall provide the certification document attached hereto as Exhibit B prior to commencing work under this Agreement.
6. Rules and Regulations. All rules, policies, and regulations of the Mt. Diablo Unified School District 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 hold harmless, defend and indemnify District and its officers, elected and appointed officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with Contractor's performance of work hereunder or its failure to comply with any of its obligations contained in this agreement, except such loss or damage which was caused by the sole negligence or willful misconduct of the District.
8. Insurance. Contractor shall procure and maintain for the duration of the agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the District.

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. **EXCEPTION:** Contracts of less than \$5,000 need only provide general liability insurance of \$1,000,000 per occurrence.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with a limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.
4. **Professional Liability/Errors & Omissions Liability,** if applicable: \$1,000,000 per occurrence.

If the contractor maintains higher limits than the minimums shown above, the District requires and shall be entitled to coverage for the higher limits maintained by the contractor.

Purchase Requisition # _____

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The District, its officers, officials, employees, and volunteers are to be named as additional insured by endorsement to the Commercial General Liability policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations.

Primary Coverage

For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the District, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the District, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the District.

INSURANCE REQUIREMENTS

No waiver will be granted to eliminate the insurance requirements outlined in this contract. However, in special circumstances, certain insurance requirements may be modified or waived. The following items in Insurance section 8 are hereby waived or modified as follows:

Limits: _____

Other: _____

The initials of the Superintendent, or his/her Designee, and the General Counsel, are **required** to waive or modify any Insurance requirements in this Agreement:

Superintendent or
his/her Designee

General Counsel

- 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: Accountemps, A Robert Half Company
Attn: Tawnia Kershen
Address: 3000 Oak Park road, Suite 625
Walnut Creek, CA 94596
Phone: (800)803-8367
Fax: _____
Tax ID #: 94-1648752

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 next business day following delivery thereof to

Purchase Requisition # _____

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 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 as awarded by a court of competent jurisdiction, 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

Accountemps, A Robert Half Company

Name of Company/Organization or Independent Contractor/Consultant

By: Nance Juner 3/15/19
Signature of Principal/Budget Administrator Date

By: _____
Signature of Contractor/Consultant Date

Title: Nance Juner, Director of Fiscal Services
Print Name and Title

Title: _____
Print Name and Title

Authorized and Approved by:

Superintendent or his/her Designee Date

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

Originator's Signature Date
Nance Juner, Director of Fiscal Services
Print Name of Originator and Title

Fiscal Services
Site/Department Originating this Contract

Billing Address if reimbursed by outside agency—i.e. ASB, PTA, PFC

Distribution
original: Fiscal Services for payment
copy: Contractor
copy: Originator/Budget Administrator

EXHIBIT A

LIST OF SERVICES, INCLUDING DATE(S), TO BE PERFORMED BY CONTRACTOR

**IF PARTIAL PAYMENTS ARE TO BE MADE TO CONTRACTOR ON A SCHEDULE
AS INDICATED ON PAGE 1, PLEASE LIST PAYMENT SCHEDULE HERE**

****ADDENDUM - Performance of Services/Standard Terms**

Agency's General Conditions of Engagement are hereby incorporated by reference. (See attached). In the event of any conflict or discrepancy between any provision of the Agreement and the General Conditions of Engagement, the General Conditions of Engagement shall govern.

List of Services

Accountemps will provide a candidate to work in our Fiscal Services Department as a Temporary Payroll Manager for approximately 4 months, starting February 20, 2019, until a permanent candidate can be hired. The bill rate, invoiced weekly by Accountemps will be \$86.00 per hour which includes applicable payroll taxes and withholding amounts. Total cost not to exceed \$62,000.

Accountemps will provide a candidate to work in our Fiscal Services Department as a Senior Clerk for approximately 2 months, starting February 20, 2019, during the reorganization of the Accounting Department until a permanent candidate can be hired. The bill rate, invoiced weekly by Accountemps will be \$69.50 per hour which includes applicable payroll taxes and withholding amounts. Total cost not to exceed \$27,800.

EXHIBIT B

Contractor REQUIRED to Complete

CRIMINAL BACKGROUND CHECK CERTIFICATION

Mt. Diablo Unified School District Consultant/Independent Contractor Agreement - Criminal Background Check

Name of Independent Consultant/Contractor:		Accountemps, A Robert Half Company
Services to be performed under the Agreement:		Temporary Payroll Manager and Senior Clerk
Schools/Locations where services will be performed:		Dent Center, Administrative Building Fiscal Services Department
Total amount to be paid by the District under this Agreement:		\$ 89,800.00
Term of Agreement:		through May 31, 2019
<i>Check the applicable box(es) and fill in any blanks.</i>		
1	<input checked="" type="checkbox"/>	I certify that none of my employees, nor myself, will have more than limited contact (as defined by the District) with District students during the term of the Agreement. Therefore, we have not been fingerprinted.
2A		If this box is checked, then Box 2B also applies and must be checked to indicate these employees have been fingerprinted. The following employees will have more than limited contact (as defined by the District) with District students during the term of the Agreement (attach and sign additional pages, as needed):
2B		I certify that the employees noted in 2A above have been fingerprinted under procedures established by the California Department of Justice, and the results of those fingerprints reveal that none of these employees have been arrested or convicted of a serious or violent felony, as defined by the California Penal Code.

Certification by Contractor/Consultant

"I certify that the information provided herein is true and accurate. I further acknowledge that during the term of my Agreement with the District, if I learn of additional information which differs from the responses provided above, I promise to forward this additional information to the District immediately."

Independent Contractor/Consultant Signature

Superintendent or his/her Designee's Signature

Print Name
Independent Contractor/Consultant

Date

Print Name
Superintendent or his/her Designee

Date

GENERAL CONDITIONS OF ENGAGEMENT - SALARIED PROFESSIONALS

Thank you for your confidence in *Accountemps Salaried Professional Service*. Our professional is assigned to you under the following General Conditions of Engagement and the enclosed Terms of Payment.

Scope of Engagement	<p>Supervision of our professional's work is your responsibility. Our professional is only authorized to perform work within the scope of the engagement. You shall not permit our professional to perform services remotely (e.g., on premises other than your or your customer's premises), or using computers or other electronic devices, software or network equipment owned or licensed by our professional.</p> <p>Since <i>Accountemps Salaried Professional Service</i> is not a professional accounting firm, it is expressly understood that our professionals are not authorized to render an opinion on behalf of <i>Accountemps Salaried Professional Service</i> or on your behalf on financial statements, nor are our professionals authorized to sign the name of <i>Accountemps Salaried Professional Service</i> on any document or to sign their own names on financial statements or tax returns.</p>
Client's Responsibility	<p>It is understood that you are responsible for implementing and maintaining usual, customary and appropriate internal accounting procedures and controls, internal controls and other appropriate procedures and controls (including information technology, proprietary information, creative designs and trade secret safeguards) for your company and we shall not be responsible for any losses, liabilities or claims arising from the lack of such controls or procedures. Please notify us immediately if you require <i>Accountemps Salaried Professional Service</i> to perform background checks or other placement screenings of our professional. We will conduct such checks or screenings only if they are described in a signed, written amendment to these General Conditions of Engagement.</p> <p>Under no circumstances will you permit our professional to sign, endorse, wire, transport or otherwise convey cash, securities, checks, or any negotiable instruments or valuables. It is understood that you have full responsibility for providing safe working conditions, as required by law, including ensuring that safety plans exist for and safety related training is provided to our professional working on your premises. Under no circumstances will you permit our professional to have contact with minors or with adults with reduced mental capacity. If this engagement is for work to be performed under a government contract or subcontract, you will notify us immediately (1) of any obligations in the government contract or subcontract relating to wages, and (2) if we are legally required to initiate E-Verify verification procedures for our professional assigned to you.</p> <p>It is understood that we will not authorize our professional to operate machinery (other than office machines) or automotive equipment. It is agreed that you accept full responsibility for, and that we do not maintain insurance to cover any injury, damage, or loss that may result from your failure to comply with the foregoing.</p> <p>It is understood that you are responsible for reporting any claim to us in writing during or within ninety (90) days after the engagement. Under no circumstance will <i>Accountemps Salaried Professional Service</i> be responsible for any claim related to the engagement, including but not limited to work performed by our professional, unless you have reported such claim in writing to us within ninety (90) days after termination of the engagement.</p>
Confidentiality	<p>Our professional will agree to execute any confidentiality agreement you may require. You are responsible for obtaining our professional's signature.</p> <p>You agree to hold in confidence the social security number and other legally protected personal information of our professional and to implement and maintain reasonable security procedures and practices to protect such information from unauthorized access, use, modification or disclosure.</p>
Limitation on Liability	<p>We make no express or implied warranty, including, but not limited to, any warranty of quality, performance, merchantability or fitness for any purpose with respect to any services performed or any goods provided, including, but not limited to, financial or accounting services performed, or software developed, for you. Under no circumstances are we liable for any special, incidental, exemplary, indirect damages, lost profits or consequential damages (including, but not limited to, lost business, revenue, goodwill, or anticipated savings), even if informed of the possibility. Our liability, if any, will (in the aggregate for all claims, causes of action or damages) be limited to any actual direct damages up to an amount equal to the fees actually paid by you to us for the services that are the subject of the claim, regardless of the basis on which you are entitled to claim damages from us (including, but not limited to, fundamental breach, negligence, misrepresentation, or other contract or tort claim).</p>
Insurance	<p>In addition to workers' compensation insurance, we also maintain commercial liability insurance.</p>
No Contrary Agreements	<p>These General Conditions of Engagement contain the complete and final agreement on the topics they address, and they supersede any prior agreements or understandings on these topics. Our professionals do not have authority either to verbally modify these General Conditions of Engagement or to assume additional responsibilities other than those set forth in these General Conditions of Engagement.</p>

Job Order: 00470-0010854943

Date: 02-20-2019

PAYROLL

FEB 25 2019

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