

Requisition No.: \_\_\_\_\_

Purchase Order No.: \_\_\_\_\_

**WASHINGTON UNIFIED SCHOOL DISTRICT**

**INDEPENDENT CONTRACTOR AGREEMENT FOR SPECIAL SERVICES  
(Non-Direct Service)**

THIS INDEPENDENT CONTRACTOR AGREEMENT is made and entered into on \_\_\_\_\_, 20\_\_\_\_ (“Agreement”), by and between **Washington Unified School District** (“District”) and \_\_\_\_\_ “Consultant”). Consultant and District may be referred to herein individually as a “Party” or collectively as the “Parties.”

1. **Services.** The District is authorized by Gov. Code § 53060 to contract with any persons for the furnishing of special services and advice in financial, economic, accounting, engineering, legal or administrative matters, if those persons are specially trained and experienced and competent to perform the special services required. The Consultant shall furnish to the District the following services (“Services” or “Work”). The District may issue a Purchase Order(s) to Consultant specifically indicating the scope of Services or Work to be performed by Consultant as needed. The Consultant warrants that it is specially trained, licensed and experienced and competent to perform the Services.  **As indicated in Exhibit “A” and/or**  **as follows:**

2. **Price & Payment.** The Consultant shall furnish the Services to the District for the following compensation (“Agreement Price”):

- Consultant is providing services for a total flat fee of: \$ \_\_\_\_\_ **or**
- Consultant will provide a maximum number of hours of service at a rate of \$ \_\_\_\_\_ per hour for a total not to exceed \$ \_\_\_\_\_; **or**
- Other: \_\_\_\_\_

Payment for the Services shall be made in accordance with the Terms and Conditions incorporated herein and any Purchase Order(s) issued by District for the Services. District must approve Consultant’s form of invoice, which must be sufficiently detailed (e.g., name of school or department provided with Services, Purchase Order number, period of Services, number of hours of Services, brief description of Services provided). Payments made in excess of one thousand five hundred dollars (\$1,500) to California non-residents, including corporations, limited liability companies, and partnerships, that do not have a permanent place of business in this state, are subject to seven percent (7%) state income tax withholding (Cal. Rev. & Tax Code § 1862). Tax exempt organizations, under either California or federal law, are exempt from the withholding.

3. **Agreement Time.** The Services shall commence on \_\_\_\_\_, 20\_\_\_\_, and shall be completed by \_\_\_\_\_, 20\_\_\_\_ (“Agreement Time”).

4. **Notice.** Any notice under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered (effective upon receipt) or sent by overnight delivery service (effective the next business day following the deposit thereof with the overnight delivery service), addressed as follows:

| <u>CONSULTANT</u> | <u>DISTRICT</u>                    |
|-------------------|------------------------------------|
| _____             | Washington Unified School District |
| _____             | _____                              |
| _____             | _____                              |
| Attn: _____       | Attn: _____                        |
| Fax: _____        | Fax: _____                         |
| E-mail: _____     | E-mail: _____                      |

5. **Submittal of Documents.** The Consultant shall not commence the Services under this Agreement until the Consultant has submitted the following documents as indicated below (check all that are required):

|  |   |  |                                     |                                   |
|--|---|--|-------------------------------------|-----------------------------------|
| <input checked="" type="checkbox"/> Signed Agreement | <input type="checkbox"/> Insurance Certificates & | <input checked="" type="checkbox"/> W-9 Form | <input type="checkbox"/> Employment | <input type="checkbox"/> 590 Form |
|--|---|--|-------------------------------------|-----------------------------------|

|  |              |                     |  |
|--|--------------|---------------------|--|
|  | Endorsements | Determination Guide |  |
|--|--------------|---------------------|--|

6. **Fingerprinting / Criminal Background / Megan’s Law (Sex Offenders).** I have verified and will continue to verify that the employees of Consultant that will be on any school site and the employees of any sub consultants and/or subcontractors that will be on any school site are **not** listed on California’s “Megan’s Law” Website (<http://www.meganslaw.ca.gov/>). In addition, one of the following two boxes **must** be checked:

The fingerprinting and criminal background investigation requirements of Education Code section 45125.1 apply to Consultant’s services under this Agreement and Consultant certifies its compliance with these provisions as follows:  
*“Consultant certifies that the Consultant has complied with the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 with respect to all Consultant’s employees, subcontractors, agents, and subcontractors’ employees or agents (“Employees”) regardless of whether those Employees are paid or unpaid, concurrently employed by the District, or acting as independent contractors of the Consultant, who may have contact with District pupils in the course of providing services pursuant to the Agreement, and the California Department of Justice has determined that none of those Employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. A complete and accurate list of all Employees who may come in contact with District pupils during the course and scope of the Agreement is attached hereto.”*

**[TO BE COMPLETED BY AUTHORIZED DISTRICT EMPLOYEE ONLY.]** Consultant’s employees will have only limited contact, if any, with District pupils and the District will take appropriate steps to protect the safety of any pupils that may come in contact with Consultant’s employees so that the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 shall not apply to Consultant for the services under this Agreement. As an authorized District official, I am familiar with the facts herein certified, and am authorized to execute this certificate on behalf of the District. (Ed. Code, § 45125.1 (c).)

District Representative’s Name & Initials:  **INITIAL HERE:** \_\_\_\_\_

7. **Tuberculosis (TB) Screening.** Check one of the following boxes:

The District has a statement of TB Clearance on file for each person.

**Waiver of TB Screening.** Consultant is not required to provide evidence of TB Clearance because Consultant will not work directly with students on more than an occasional basis.

**INITIAL HERE:** \_\_\_\_\_ (Consultant initials)

**INITIAL HERE:** \_\_\_\_\_ (District Representative initials)

8. **Insurance:** Consultant shall have and maintain insurance in force during the term of this Agreement with minimum limits identified below. Consultant shall provide to the District certificate(s) of insurance and endorsements satisfactory to the District. The policy(ies) shall not be amended or modified and the coverage amounts shall not be reduced without thirty (30) days written notice to the District prior to modification. Except for worker’s compensation insurance, the District shall be named as an additional insured on all policies. Consultant’s policy(ies) shall be primary; any insurance carried by the District shall only be secondary and supplemental. Consultant shall not allow any subcontractor, employee, or agent to commence Work on this Agreement or any subcontract until the insurance required of Consultant, subcontractor, or agent has been obtained.

| <i>Insurance <b>NOT</b> required of Consultant if corresponding box initialed by District representative</i>                |  |   |
|---|--|---|
| <b>Commercial General Liability</b>   | \$1,000,000 per occurrence;<br>\$2,000,000 aggregate | ↓ |
| <b>Abuse and Molestation</b>  | \$1,000,000 per occurrence<br>\$2,000,000 aggregate  |   |
| <b>Automobile Liability, Any Auto, combined single limit</b>  | \$1,000,000 per occurrence;<br>\$2,000,000 aggregate |   |
| <b>Workers Compensation</b>   | Statutory limits pursuant to State law               |   |
| <b>Professional Liability (E&amp;O), if Consultant is providing professional services or advice (on a claims-made form)</b> | \$1,000,000  |   |

9. **Terms & Conditions.** The Consultant has read and agrees to comply with the Terms & Conditions attached hereto.

**INITIAL HERE:** \_\_\_\_\_ (Consultant initials)

**ACCEPTED AND AGREED** on the date indicated below. By signing this Agreement, each Party certifies, under penalty of perjury, that all the information provided in the Agreement is true, complete, and correct and that the person executing this Agreement has full power and authority to enter into the Agreement:

**CONSULTANT**

\_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**CONSULTANT 2 (If Necessary)**

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**DISTRICT**

**Washington Unified School District**

Dated: \_\_\_\_\_, 20\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**DISTRICT**

**Site/Department Administrator**

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Site/Department: \_\_\_\_\_

**Information regarding Consultant:**

Indicate type of entity or if individual:

- Individual
- Sole Proprietorship
- Partnership
- Limited Partnership
- Corporation, State \_\_\_\_\_
- Limited Liability Company
- Other: \_\_\_\_\_

Employer Identification and/or Social Security Number: \_\_\_\_\_

**NOTE: United States Code, title 26, sections 6041 and 6109 require non-corporate recipients of \$600 or more to furnish their taxpayer identification number to the payer. The United States Code also provides that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these rules, the District requires your federal tax identification number or Social Security number, whichever is applicable.**

## TERMS & CONDITIONS TO INDEPENDENT CONTRACTOR AGREEMENT FOR SPECIAL SERVICES

1. **Expenses.** District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing the Work.

2. **Materials.** Consultant shall furnish, at his/her own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement.

3. **Independent Contractor.** Consultant, in the performance of this Agreement, shall be and act as an independent contractor. Consultant understands and agrees that he/she and all of his/her employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Consultant shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Consultant's employees.

4. **Standard of Care.**

4.1. Consultant represents that Consultant has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District. Consultant's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California school districts. Consultant's Services will be performed with due care and in accordance with applicable law, code, rule, regulation, and/or ordinance.

4.2. Consultant hereby represents that it possesses the necessary professional capabilities, qualifications, licenses, skilled personnel, experience, expertise, and financial resources, and it has available and will provide the necessary equipment, materials, tools, and facilities to perform the Services in an efficient, professional, and timely manner in accordance with the terms and conditions of the Agreement.

4.3. Consultant shall be responsible for the professional quality, technical accuracy, completeness, and coordination of the Services, and Consultant understands that the District relies upon such professional quality, accuracy, completeness, and coordination by Consultant in performing the Services.

4.4. Consultant shall ensure that any individual performing work under the Agreement requiring a California license shall possess the appropriate license required by the State of California. All personnel shall have sufficient skill and experience to perform the work assigned to them.

5. **Originality of Services.** Consultant agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and

video productions prepared for, written for, or submitted to the District and/or used in connection with this Agreement, shall be wholly original to Consultant and shall not be copied in whole or in part from any other source, except that submitted to Consultant by District as a basis for such services.

6. **Copyright/Trademark/Patent.** Consultant understands and agrees that all matters produced under this Agreement, excluding any materials or intellectual property supplied by Consultant as part of the performance of the Services, shall become the property of District and cannot be used without District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District. Consultant consents to use of Consultant's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.

7. **Termination.**

7.1. **Without Cause by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Consultant only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Consultant. Notice shall be deemed given when received by the Consultant or no later than three days after the day of mailing, whichever is sooner.

7.2. **Without Cause by Consultant.** Consultant may, upon sixty (60) days' notice, with or without reason, terminate this Agreement. Upon this termination, District shall only be obligated to compensate Consultant for services satisfactorily rendered to the date of termination. Written notice by Consultant shall be sufficient to stop further performance of services to District. Consultant acknowledges that this sixty (60) day notice period is acceptable so that the District can attempt to procure the Services from another source.

7.3. **With Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:

7.3.1. Material violation of this Agreement by the Consultant; or

7.3.2. Any act by Consultant exposing the District to liability to others for personal injury or property damage; or

7.3.3. Consultant is adjudged a bankrupt or makes a general assignment for the benefit of creditors or a receiver is appointed on account of Consultant's insolvency.

7.4. Written notice by District shall contain the reasons for such intention to terminate and, unless within three (3) calendar days after that notice the condition or violation shall cease or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure the required Services from another Consultant. If the expense, fees, and/or costs to the

District exceeds the cost of providing the Services pursuant to this Agreement, the Consultant shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

7.5. Upon termination, Consultant shall provide the District with all documents produced maintained or collected by Consultant pursuant to this Agreement, whether or not such documents are final or draft documents.

8. **Indemnification.** To the furthest extent permitted by California law, Consultant shall defend, indemnify, and hold free and harmless the District, its agents, representatives, officers, consultants, employees, trustees, and volunteers ("the indemnified parties") from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, including without limitation the payment of all consequential damages ("Claim"), arising out of, pertaining to or relating to, in whole or in part, the negligence, recklessness, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants, or agents directly or indirectly arising out of, connected with, or resulting from the performance of the Services or from any activity, work, or thing done, permitted, or suffered by the Consultant in conjunction with this Agreement, unless the claims are caused wholly by the sole negligence or willful misconduct of the indemnified parties. The District shall have the right to accept or reject any legal representation that Consultant proposes to defend the indemnified parties.

9. **Assignment.** The obligations of the Consultant pursuant to this Agreement shall not be assigned by the Consultant.

10. **Compliance with Laws.** Consultant shall observe and comply with all rules and regulations of the governing board of the District and all federal, state, and local laws, ordinances and regulations. Consultant shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Services as indicated or specified. If Consultant observes that any of the Services required by this Agreement is at variance with any such laws, ordinance, rules or regulations, Consultant shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Services shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Consultant's receipt of a written termination notice from the District. If Consultant performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Consultant shall bear all costs arising therefrom.

11. **Permits/Licenses.** Consultant and all Consultant's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this agreement.

12. **Safety and Security.** Consultant is responsible for maintaining safety in the performance of this Agreement. Consultant shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.

13. **Employment with Public Agency.** Consultant, if an employee of another public agency, agrees that Consultant will not receive salary or remuneration, other than vacation pay, as an employee

of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.

14. **Anti-Discrimination.** It is the policy of the District that in connection with all work performed under Agreements there be no discrimination against any employee engaged in the work because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status and therefore the Consultant agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735. In addition, the Consultant agrees to require like compliance by all its subcontractor(s).

15. **Workers' Compensation.** Consultant shall comply with the provisions of Labor Code § 3700, et seq., that require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code. Consultant shall either being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State or by securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure.

17. **District's Right to Audit.** District retains the right to review and audit, and the reasonable right of access to Consultant's and any subcontractor's premises to review and audit, the Consultant's compliance with the provisions of this Agreement ("District's Audit Right"). The District's Audit Right includes the right to inspect, photocopy, and to retain copies, outside of the Consultant's premises, of any and all Work-related records, documents and other information with appropriate safeguards, if such retention is deemed necessary by the District in its sole discretion. The District's Audit Right shall also include the right to interview current or former employees and subcontractors of Consultant with respect to matters or issues under audit. The information obtained pursuant to this section shall be disclosable to third parties as required by applicable law.

17.1. Consultant shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Consultant transacted under this Agreement. Consultant shall retain these books, records, and systems of account during the Term of this Agreement and for three (3) years thereafter.

17.2. Consultant shall, without limitation, permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's normal business hours, unless Consultant otherwise consents.

17.3. Consultant shall include audit provisions in any and all of its subcontracts, and shall ensure that provision is binding upon all subcontractors.

17.4. Consultant shall comply with these provisions within fifteen (15) days of the District's written request to review and audit any or all of Consultant's Work-related documents, records

and information. The District's Audit Right and Consultant's compliance with the same, shall be at no additional cost to the District.

17.5. In the event the District's Audit Right, or an audit by the State Auditor, evidences payments to Consultant not in accordance with the provisions of this Agreement, Consultant shall immediately pay District the amount of said payments not in compliance in addition to all costs reasonably incurred by District in conducting an audit hereunder.

17.6. Consultant acknowledges and agrees that the District's Audit Right, pursuant to the foregoing provisions, shall apply to, and may be utilized by the District for the production of, any records or documents subject to disclosure under the California Public Records Act, Government Code § 6250 et seq. ("CPRA"), unless otherwise exempt, and which may include, but are not limited to, records or documents in the District's constructive possession but under Consultant's control regardless if created, sent, received, stored, or maintained in a personal account or device of Consultant or its employees, as prescribed by applicable law. In the event the District exercises District's Audit Right in response to or as part of a request under the CPRA, Consultant agrees to provide District with an affidavit, if and as needed or requested by District, within five (5) days of District's request therefor, that certifies Consultant's search for and production of responsive records subject to disclosure pursuant to the CPRA, if any.

18. **District's Evaluation of Consultant and Consultant's Employees and/or Subcontractors.** The District may evaluate the Consultant in any manner which is permissible under the law. The District's evaluation may include, without limitation: requesting that District employee(s) evaluate the Consultant and the Consultant's employees and subcontractors and each of their performance and announced and unannounced observance of Consultant, Consultant's employee(s), and/or subcontractor(s).

19. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.

20. **Disputes.** In the event of a dispute between the parties as to performance of Work, Agreement interpretation, or payment, the Parties shall attempt to resolve the dispute by negotiation and/or mediation, if agreed to by the Parties. Pending resolution of the dispute, Consultant shall neither rescind the Agreement nor stop Work.

21. **Confidentiality.** The Consultant and all Consultant's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.

22. **Integration/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.

23. **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 the California county in which the District's administration offices are located.

24. **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.

25. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.

26. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

27. **Drug-Free/Smoke Free Policy.** No drugs, alcohol, and/or smoking are allowed at any time in any buildings and/or grounds on District property. No students, staff, visitors, contractors, or subcontractors are to smoke or use drugs or alcohol on District sites.

28. **Conflict of Interest.** Consultant shall abide by and be subject to all applicable District policies, regulations, statutes or other laws regarding conflict of interest. Consultant shall not hire any officer or employee of District to perform any service by this Agreement. Consultant affirms to the best of his/her/its knowledge, there exists no actual or potential conflict of interest between Consultant's family, business or financial interest and the services provided under this Agreement, and in the event of change in either private interest or services under this Agreement, any question regarding possible conflict of interest which may arise as a result of such change will be brought to District's attention in writing. Through its execution of this Agreement, Consultant acknowledges that it is familiar with the provisions of Section 1090 *et seq.* and Section 87100 *et seq.* of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provisions. In the event Consultant receives any information subsequent to execution of this Agreement, which might constitute a violation of said provisions, Consultant agrees it shall notify District of this information.

29. **Agreement Contingent on Governing Board Approval.** The District shall not be bound by the terms of this Agreement until it has been formally approved or ratified by the District's Governing Board, and no payment shall be owed or made to Consultant absent formal approval.

**EXHIBIT "A"**

**Scope of Work or Services**

If not otherwise set forth in the Agreement, the scope of Work or Services shall be as indicated in this Exhibit "A"; the Parties acknowledge and agree that the scope of Work or Services shall not consist of, incorporate, or include any terms and conditions of Consultant's proposal for this Agreement. The scope of Services to be performed by Consultant may be authorized or directed by the District on an individual basis pursuant to a Purchase Order issued to Consultant pursuant to this Agreement.