

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 16 day of May, 2018, by and between the Mt. Diablo Unified School District (hereinafter "District") and California Translation International (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.

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

Not to exceed \$ <u>200,000.00</u> for Services	<u>517</u> - <u>5045</u> - <u>38</u> - <u>5100</u>	\$ <u>200,000.00</u>
The basis of the fee for Services shall be as follow	_____ - _____ - _____ - _____	\$ _____
a. \$ _____ per hour,	_____ - _____ - _____ - _____	\$ _____
b. \$ _____ per day, or		
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 July 1, 2018. 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 ____ 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: Waive worker's compensation, vendor uses independent contractors.

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

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: California Translation International
Attn: Maria Van Gemenen Mercado
Address: 145 Brandywine Way
Walnut Creek, CA 94598
Phone: 925-947-3520
Fax: 925-947-3527
Tax ID #: _____

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

California Translation International

Name of Company/Organization or Independent Contractor/Consultant

By: *F. Smith* 5/30/18
Signature of Principal/Budget Administrator Date

By: *Maria Mercado* 5/29/2018
Signature of Contractor/Consultant Date

Title: Felicia Stuckey-Smith, Director Student Services
Print Name and Title

Title: Maria Van Gemeren Mercado
Print Name and Title

Authorized and Approved by:

John Eagan 5/31/18
Superintendent or Designee Date

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

F. Smith 5/30/18
Originator's Signature Date
Felicia Stuckey-Smith, Director Student Services
Print Name of Originator and Title

Student 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**

For the 2018-2019 school year, contractor will provide interpreting services for various dates and for various school sites throughout the district for parent-teacher conferences.

Contractor will also provide translation services for SARB, PBT, and expulsion hearings for student services. Contractor will also provide translation services for district correspondence, parent engagement workshops, manuals, brochures and community meetings.

Contractor will invoice MDUSD on a monthly basis and will charge:

\$54.00/hour - Spanish

\$70.00/hour - Cantonese, Mandarin, Vietnamese, Hindi, Punjabi, Urdu, Farsi, Dari, Pashto, European and Russian Languages

\$90.00/hour - Tagalog

\$80.00/hour - Slavic, Japanese and Korean Languages

\$100.00/hour - ASL (American Sign Language)

MDUSD agrees to give 24 hour cancellation notice or will be held liable for the 1 hour minimum charge.

Contract is not subject to Ed Code 45125.1 regarding the submission of fingerprints to the Department of Justice because interpreters will at no time be alone with students. Contractor/interpreter will provide services under the direct supervision of a certificated employee of MDUSD at all times.

The contract will be in effect July 1, 2018 - June 30, 2019 and will not exceed \$200,000.00

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:	California Translation International	
Services to be performed under the Agreement:	Written and Oral Translations	
Schools/Locations where services will be performed:	District-wide	
Total amount to be paid by the District under this Agreement:	\$ 200,000.00	
Term of Agreement:	July 1, 2018 - June 30, 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 Designee's Signature

Maria Van Gemeren Mercado 5/29/18
Print Name Date
Independent Contractor/Consultant

Jonathan Eagan, Assistant Superintendent - Middle Schools 5/31/18
Print Name Date
Superintendent or Designee's Signature

SECTION II ADDITIONAL INSURED ENDORSEMENT

Policy No.: 97-B5-B655-4

Named Insured:
MERCADO, MARIA
DBA CALIFORNIA TRANSLATION
INTERNATIONAL
PO BOX 30796
WALNUT CREEK CA 94598-9796



Additional Insured (include address):

MT DIABLO UNIFIED SCHOOL
DISTRICT
ATTN CONTRACTORS
1936 CARLOTTA DR
CONCORD CA 94519-1358

WHO IS AN INSURED, under SECTION II DESIGNATION OF INSURED, is amended to include as an insured the Additional Insured shown above, but only to the extent that liability is imposed on that Additional Insured solely because of **your work** performed for that Additional Insured shown above.

Any insurance provided to the Additional Insured shall only apply with respect to a claim made or suit brought for damages for which you are provided coverage.

The Primary Insurance coverage below applies only when there is an "X" in the box.

- Primary Insurance.** The insurance provided to the Additional Insured shown above shall be primary insurance. Any insurance carried by the Additional Insured shall be noncontributory with respect to coverage provided to you.

All other provisions of the policy apply.

Request for Taxpayer Identification Number and Certification

**Give Form to the
 requester. Do not
 send to the IRS.**

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
Maria van Gemeren - Medcado dba

2 Business name/disregarded entity name, if different from above
California Translation International

3 Check appropriate box for federal tax classification; check only **one** of the following seven boxes:
 Individual/sole proprietor or single-member LLC
 C Corporation
 S Corporation
 Partnership
 Trust/estate
 Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____
Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.
 Other (see instructions) ▶ _____

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):
 Exempt payee code (if any) _____
 Exemption from FATCA reporting code (if any) _____
(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.)
145 Brandywine Way,

6 City, state, and ZIP code
Walnut Creek, CA 94598

7 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 generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. 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 3.

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number										
5	2	9	-	6	6	-	7	3	7	9

or

Employer identification number									
6	8	-	0	2	1	4	5	4	6

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. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

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 3.

Sign Here Signature of U.S. person ▶  Date ▶ 5/25/2018

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at www.irs.gov/fw9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.

By signing the filled-out form, you:

- 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. 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, and
- Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.