

AUG 21 2020

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

**SUPERINTENDENT
MDUSD**

**AGREEMENT BETWEEN
MT. DIABLO UNIFIED SCHOOL DISTRICT
AND INDEPENDENT CONTRACTOR**

THIS AGREEMENT is made this 8 day of August, by and between the Mt. Diablo Unified School District (hereinafter "District") and Robert Half International Inc/ doing business through its division Accountemps located at 3000 Oak Road Suite 625 Walnut Creek, CA 94597 (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 5 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.
- (c) Assigned Individual will present a time sheet or an electronic time record to District for verification and approval at the end of each week. Contractor will bill District weekly for the total hours worked; Contractor's invoices are due upon receipt, including applicable sales and service taxes all of which are payable by District. If applicable, overtime will be billed at 1.50 times the normal billing rate. Federal law defines overtime as hours in excess of 40 hours per week, state laws vary. If state law requires double time pay, the double time hours will be billed at 2.00 times the normal billing rate.
- (d) Contractor may increase its rates to reflect increases in its cost of employing its workers due to governmental or regulatory changes (e.g., costs associated with higher minimum wages for workers or increases in taxes, benefits or other costs that may result from any applicable government authority or action). Contractor will provide written or verbal notice to District of the increase in its rates. Any increase in Contractor rates will be prospective, starting as of the effective date Contractor specifies in the notice.

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

Not to exceed \$ 10,000.00 for Services.

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

a. \$ See Exhibit A per hour, b. \$ _____ per day, or c. \$ _____ per engagement.

<u>01</u>	<u>- 0000</u>	<u>- 0000</u>	<u>- 7200</u>	<u>- 50320</u>	<u>- 000</u>	<u>- 512</u>	<u>- 012</u>	<u>- 5800</u>	<u>\$ 10,000</u>
_____	_____	_____	_____	_____	_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	_____	_____	_____	_____	_____	\$ _____

BUDGET CODE(S)

Notwithstanding anything to the contrary in this Agreement, Contractor may at any time, in its sole discretion, discontinue performance of the services once the Not-to-Exceed Amount has been attained (even if Contractor continued to provide services after the Not-to-Exceed Amount was reached).

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.

In the event District wishes to convert any of Contractor's Assigned Individual s, District agrees to pay a conversion fee in accordance with this Section. The conversion fee will equal 35% of the Assigned Individual 's aggregate annual compensation, including bonuses. District agrees to pay a conversion fee if Contractor's Assigned Individual is hired by an affiliate or other related business entity as a result of District's subsequent referral of the Assigned Individual . The conversion fee is payable if District hires the Assigned Individual , regardless of the job classification, on either a full-time, temporary (including temporary assignments through another agency) or consulting basis within twelve months after the last day of the assignment. The same calculation will be used if District converts Contractor's Assigned Individual on a part-time basis using the full-time equivalent salary; however, the conversion fee will not be less than \$1,000.

3. Term and Termination. This Agreement will become effective on 8/6/2020 . 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. Upon termination of this Agreement, District will compensate Contractor only for services satisfactorily rendered to the date of termination.

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. Notwithstanding the foregoing, fingerprint screening will not be conducted. Notwithstanding the foregoing, Contractor will schedule and send each assigned individual to District's third-party vendor for the fingerprint screening to be conducted pursuant to District's ORI number and requirements. District represents and warrants that any fingerprint screening will be requested, conducted and used by District in accordance with applicable law. Contractor shall not be required to take possession of any completed fingerprint cards nor be liable for any third-party claims resulting from District's third-party vendor's processing or reporting of such fingerprint screening, including, but not limited to, those claims arising from any errors in District's third-party vendor's reported screening results. Upon District's receipt of the fingerprint screening results from District's third-party vendor, District will notify Contractor of the assigned individual's eligibility for placement.

District represents and warrants that the Assigned Individual (i) will not have unsupervised contact with (a) minors or (b) adults with reduced mental capacity; and (ii) will be escorted by a District representative while working (a) near minors or (b) near adults with reduced mental capacity.

Contractor will conduct the following checks on the Assigned Individual : (A) To the extent permitted by applicable law, Contractor will have a third party vendor perform a seven-year criminal background investigation for (i) all state felony convictions and pending felony charges; and (ii) state misdemeanor convictions and pending misdemeanor charges involving crimes of dishonesty or violence, in each case, in each county where the Assigned Individual has resided or worked within the U.S. in the last seven years as stated on his or her application with Contractor; (B) Contractor will have a third party vendor conduct a 10-panel urine drug screen on the Assigned Individual ; (C) Contractor will have a third party vendor (i) perform a seven-year criminal background investigation by having the third party vendor perform a search of its private database of U.S. national criminal records searching for all felony convictions and misdemeanor convictions for crimes of dishonesty or violence, and (ii) search the third party vendor's private database to confirm that the Assigned Individual 's name is not included on select debarment lists or in select sex offender databases. District understands and agrees that the third party vendor's database (i) is maintained by the third party vendor and not a governmental entity, (ii) is an incomplete aggregation of criminal records, debarment lists and sex offender databases and (iii) will not reveal or identify all criminal convictions or debarment or sex offender listings. If District requests a copy of the results of the foregoing checks ("Report"), District agrees to keep the Report strictly confidential and to use the Report in accordance with applicable laws and solely for employment purposes.

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. Notwithstanding anything to the contrary in this Agreement, Contractor shall not be liable for, or have any duty of indemnification with respect to any acts or omissions of 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 (with aggregate limit no less than **\$4,000,000**). **EXCEPTION:** Contracts of less than \$7,500 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. **Other Coverages When Applicable:**

- a. **Professional Liability/Errors & Omissions Liability:** \$1,000,000/occurrence, \$2,000,000/aggregate.
- b. **Sexual Abuse and Molestation Coverage:**
- c. **Cyber Insurance:**
- d. **Other:**

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.

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 (note, a waiver for one type of insurance does not constitute waiver for all):

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 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. **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.
- 11. **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,

Purchase Requisition # _____

Authorized and Approved by:



Superintendent/Designee

8/24/20

Date

Prior to commencement of service, sign and forward completed original contract packet to Purchasing.



Originator's Signature

8-11-2020

Date

Fiscal Services

Site/Department Originating this Contract

Mika Arbelbide, Director of Fiscal Services

Print Name of Originator and Title

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

Distribution original: Purchasing with Purchase Order copy: Contractor copy: Accounts Payable/Fiscal copy: Originator/Budget Administrator

registered or certified mail, postage prepaid, return receipt required, or sent by telegram, overnight delivery service, or facsimile transmission, addressed as follows:

DISTRICT

CONTRACTOR

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

Bus. Name: Robert Half International Inc. DBT Accountemps Div.
Attn: Abe Klatt
Address: 3000 Oak Park Road, Suite 625
Walnut Creek, CA 94596
Phone: (800)803-8367
Fax: (925)930-6654
Email Abe.Klatt@roberthalf.com
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 the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

- 12. 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. This Agreement is only applicable to, and the only Robert Half International Inc. branch and division obligated under this Agreement are, the Accountemps divisions of the Walnut Creek, CA branch office.
- 13. 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.
- 14. 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.
- 15. 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.
- 16. Equal Employment Opportunity. It is the policy of the District that, in connection with all work performed under District agreements, there shall be no discrimination against any employee or applicant for employment because of race, color, religious creed, national origin, ancestry, marital status, sex, sexual orientation, age, disability or medical condition and therefore the Contractor agrees to comply with applicable federal and state laws. In addition, the Contractor agrees to require like compliance by all subcontractors employed on the work.
- 17. District agrees to hold in confidence the identity of any Contractor Assigned Individual and the Assigned Individual's resume, social security number and other legally protected personal information, and District agrees to implement and maintain reasonable security procedures and practices to protect such information from unauthorized access, use, modification or disclosure.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

MT. DIABLO UNIFIED SCHOOL DISTRICT

Robert Half International Inc
Name of Company/Organization or Independent Contractor/Consultant

By:  8-11-2020
Signature of Principal/Budget Administrator Date

By: Abe Klatt 8/11/2020
Signature of Contractor/Consultant Date

Title: Mika Arbelbide, Director of Fiscal Services
Print Name and Title

Title: Abe Klatt
Print Name and Title

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 (NOTE THAT ALL PAYMENTS ARE GENERATED FROM AN INVOICE).

Contractor will bill District weekly for the total hours worked; Contractor's invoices are due upon receipt, including applicable sales and service taxes all of which are payable by District.

Rate Card

<u>Data entry Accounting</u>	<u>up to 31.95</u>
<u>Accounting Clerk</u>	<u>up to 36.52</u>
<u>Sr. Accounting Clerk (can Journal)</u>	<u>up to 41.75</u>
<u>Staff Accountant</u>	<u>up to 58.50</u>
<u>Sr. Accountant</u>	<u>up to 75.75</u>
<u>Accounting Supervisor</u>	<u>up to 93.95</u>

All other positions not stated in the Rate Card above will be negotiated on a case by case.

District shall supervise Assigned Individual s providing services to District. District shall not permit or require Assigned Individual s (i) to perform services outside of the scope of his or her assignment; (ii) to sign contracts or statements (including SEC documents); (iii) to make any management decisions; (iv) to make any final decisions regarding system design, software development or the acquisition of hardware or software; (v) to sign, endorse, wire, transport or otherwise convey cash, securities, checks, or any negotiable instruments or valuables; (vi) to perform services remotely (e.g., on premises other than District 's or District 's customer's premises); or to use computers, or other electronic devices, software or network equipment owned or licensed by Assigned Individual ; (vii) to operate machinery (other than office machines) or automotive equipment. Since Contractor is not a professional accounting firm, District agrees that it will not permit or require Assigned Individual (a) to render an opinion on behalf of Contractor or on District 's behalf regarding financial statements; (b) to sign the name of Contractor on any document; or (c) to sign their own names on financial statements or tax returns.

It is understood that District has full responsibility for: (i) providing safe working conditions as required by law, including compliance with all public health and occupational safety regulations and guidelines applicable to District 's business, and (ii) ensuring that safety plans exist for, and safety related training is provided to, Assigned Individual s working on District's premises.

In the event District requests that Contractor permit its Assigned Individuals to provide services to District remotely (i.e., from a location other than District 's offices) using District's or Contractor 's laptop and/or other computer or telecommunications equipment (the "Equipment"). District acknowledges and agrees that Contractor shall have no control over (i) the logical or physical performance, reliability or security of the Equipment or related devices, network accessibility and availability, software and e-mail accounts (collectively, "Computer Systems") used by the Assigned Individual, or (ii) the security or integrity of, nor be responsible for backing up, the data and other information stored therein or transmitted thereby. District shall not permit Assigned Individual to (i) use Contractor equipment while on the premises of District or District 's customer, or (ii) save or store any District files or other District data on Contractor 's Equipment nor on any software, services or tools provided by Contractor (including, but not limited to, any virtual desktop infrastructure or Microsoft Office 365 solution). District agrees that Contractor shall not be liable for any loss, damage, expense, harm, business interruption or inconvenience resulting from the use of such Computer Systems

