

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 1ST day of August, 2020, by and between the Mt. Diablo Unified School District (hereinafter "District") and Tamara Helfer, DBA Sequoia Science Education (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.

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

Not to exceed \$ 65,909.00 for Services.
 The basis of the fee for Services shall be as follows:
 a. \$ _____ per hour, b. \$ _____ per day, or c. \$ 50,964.00 per engagement.

<u>01</u>	<u>9010</u>	<u>1110</u>	<u>1000</u>	<u>36240</u>	<u>000</u>	<u>504</u>	<u>004</u>	<u>5800</u>	\$ <u>10,000.00</u>
<u>01</u>	<u>6387</u>	<u>3800</u>	<u>2100</u>	<u>37960</u>	<u>000</u>	<u>500</u>	<u>022</u>	<u>5800</u>	\$ <u>15,909.00</u>
<u>01</u>	<u>4127</u>	<u>0000</u>	<u>2100</u>	<u>31480</u>	<u>000</u>	<u>513</u>	<u>019</u>	<u>5800</u>	\$ <u>25,000.00</u>

01 9010 1110 1000 BUDGET CODE(S)
36240 000 504 004 5800 15,000.00

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 September 1, 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.

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.
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 (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.

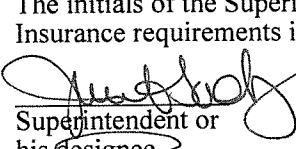
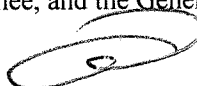
Primary Coverage

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: _____	Waive Professional Liability/Errors and Omissions and reduce Auto Insurance from 1M to \$250,000

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,

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: Tamara Helfer
Attn: _____
Address: 421 Le Jean Way
Walnut Creek, CA 94597
Phone: 925-930-7336 (H) 925-818-3131 (C)
Fax: _____
Email: tthelfer@gmail.com
Tax ID #: 068-54-2561

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.
- 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.

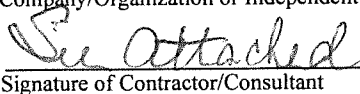
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

MT. DIABLO UNIFIED SCHOOL DISTRICT

Tamara Helfer, DBA Sequoia Science Education

Name of Company/Organization or Independent Contractor/Consultant

By: 
Signature of Principal/Budget Administrator Date

By: 
Signature of Contractor/Consultant Date

Title: Jennifer Sachs, Chief, Educational Services
Print Name and Title

Title: Tamara Helfer, Contractor
Print Name and Title

Purchase Requisition # R120570

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

Bus. Name: Tamara Helfer
Attn: _____
Address: 421 Le Jean Way
Walnut Creek, CA 94597
Phone: 925-930-7336 (H) 925-818-3131 (C)
Fax: _____
Email: tthelfer@gmail.com
Tax ID #: 068-54-2561

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.

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MT. DIABLO UNIFIED SCHOOL DISTRICT

By: _____
Signature of Principal/Budget Administrator Date
Title: Jennifer Sachs, Chief, Educational Services
Print Name and Title

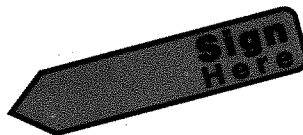
Tamara Helfer, DBA Sequoia Science Education
Name of Company/Organization or Independent Contractor/Consultant

By: Tam Helfer
Signature of Contractor/Consultant Date

Title: Tamara Helfer, Contractor
Print Name and Title

Sign Here
10 Sept. 2020

Purchase Requisition # _____

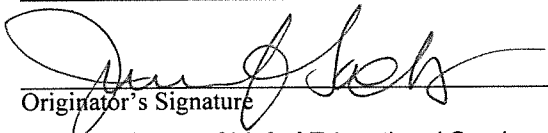


Authorized and Approved by:



Superintendent/Designee Date

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

 _____
Originator's Signature Date

Educational Services
Site/Department Originating this Contract

Jennifer Sachs, Chief of Educational 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

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 provide Project Direction and Development for the MDUSD Garden Education program and will provide professional development and curriculum services to MDUSD. Contractor will act as Project Director for the USDA Implementation Plan Farm to School Grant, "Growing Healthy Kids in Mt. Diablo Unified School District: Experiential Farm to School Education and Training for Mt. Diablo Students and Staff". Contractor will offer project direction for the Sage Garden Project school grants to MDUSD schools including El Monte, Fair Oaks, Gregory Gardens, Rio Vista, Sun Terrace, and Wren Avenue.

Project Description:

- * Coordinate the MDUSD Garden Education programs at Bancroft, El Monte, Fair Oaks, Gregory Gardens, Mt. Diablo Elem., Pleasant Hill Elem., Sequoia Elem., Sun Terrace, Rio Vista, and Wren Avenue Schools. Assist other schools as appropriate in beginning and developing Garden Education, Cooking & Nutrition Education, and Science activities. Act as point of contact for all stakeholders for all routine program matters and refer up the chain as appropriate.
- * Work with garden educators and all stakeholders to maximize Distance Learning experiences and to maintain and improve gardens and outdoor spaces at schools as healthy learning environments for students, teachers and school communities.
- * Oversee garden educators for all of the above named schools and oversee GE scope & sequence development and curriculum development.
- * Improve collaboration with MDUSD NGSS specialists and lead teachers. Provide ongoing professional development to garden educators on NGSS.
- * Improve communication with and training of teachers in NGSS through written and in person professional development.
- * Continue collaboration with Food & Nutrition Services, ASP CARES program, and other partners to provide quality educational experiences and common education/messaging from classroom to cafeteria to after-school program to families at home.
- * Continue developing a CTE component for the program.
- * Continue collaboration/interaction with other entities that are also currently going garden education including cooking/nutrition education and NGSS development including the MDUSD CARES ASP, Life Lab and others.
- * Undertake and coordinate reports, surveys, and other tasks as they arrive.

Tamara Helfer Contract List of Services continued:

- Continue seeking grants and donations to support the Garden Education program development. Where appropriate, continue working with the MDUSD Education Foundation to seek and manage grants.
- Oversee Garden Education Scope & Sequence development and lesson development; ensure curriculum is consistent with NGSS, Common Core, and/or other MDUSD Curricular and wellness goals.

Please note:

The following shall supersede the language in Clause 9: As part of this agreement, MDUSD has nonexclusive license to use all curriculum and training materials developed for this program by the contractor in perpetuity for nonprofit, educational purposes within MDUSD. MDUSD may make, at District expense, as many copies of units or parts thereof as needed for normal classroom, training and administrative use within MDUSD.

Contractor shall retain the exclusive copyright of all curriculum developed by contractor and shall retain the right to sell identical or similar curriculum to other parties. No portion of the curriculum may be sold by or otherwise provide profit to MDUSD. In addition, MDUSD may not give, donate, or share this curriculum with any person or organization outside MDUSD without approval by contractor.

Travel/meeting/registration fees and other documented expenses may be submitted for reimbursement.

EXHIBIT "B"
Contractor REQUIRED to Complete
FINGERPRINTING AND CRIMINAL BACKGROUND CHECK
CERTIFICATION

Name of Contractor:		Tamara Helfer
Services to be performed under the Agreement:		Garden Education Program
School(s) and Specific Location(s) where services will be performed:		El Monte, Fair Oaks, Gregory Gardens, Rio Vista, Sun Terrace and Wren Avenue, Bancroft, Mt. Diablo, Pleasant Hill, and Sequoia El and Riverview MS.
Term of Agreement:		September 1, 2020 through June 30, 2021
<i>Check the applicable box(es) and fill in any blanks.</i>		
1	<input checked="" type="checkbox"/>	The Contractor hereby certifies that it has completed the criminal background check requirements of Education Code (EC) section 45125.1 and that none of its employees that may come into contact with District students have been convicted of a violent felony listed in Penal Code section 667.5(c) or a serious felony listed in Penal Code section 1192.7(c). The following employees have successfully completed fingerprinting and criminal check clearance in accordance to law: (attach and sign additional pages, as needed)
2	<input type="checkbox"/>	The Contractor hereby certifies that its employees/subcontractors will have NO CONTACT with pupils. (No school-site services will be provided.)
3	<input type="checkbox"/>	The Contractor hereby certifies it qualifies for a waiver of the Department of Justice (DOJ) fingerprint and criminal background investigation for the following reason: Contractor and its employees/subcontractors will have LIMITED CONTACT with pupils. (Attach and sign additional page(s) with information about length of time on school grounds, proximity of work area to pupil areas; whether Contractor/its employees will be working by themselves or with others, whether Contractor will be under continued monitoring/surveillance by a District employee (provide name and title of District employee) and any other factors that substantiate limited contact.) [EC 45125.1 (c)]

Certification by Contractor

"I certify under penalty of perjury 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."

Tamara Helfer
 Authorized Contractor Signature

Tamara Helfer

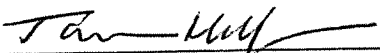
Print Name Date

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 Authorized Contractor Signature

Tamara Helfer 10 Sept. 2020
 Print Name Date