SUPPLEMENTAL EMPLOYEE RETIREMENT PLAN SERVICE AGREEMENT

This Service Agreement ("Agreement") is entered into by and between **Keenan & Associates** ("Keenan") and **San Leandro Unified School District** ("Client") as of the Effective Date set forth in Section 1 below. Keenan and Client are also referred to as the Party or the Parties.

RECITALS

WHEREAS, Client, pursuant to section 53060 of the California Government Code, desires to engage a consultant to perform certain services relating to the design, implementation and administrations of a Supplemental Employee Retirement Plan to be implemented by the Client for its eligible employees as of July 01, 2012 ("Plan").

WHEREAS, Keenan is in the business of providing consulting services to assist public employers such as Client, with the design, implementation and administration of such Plans; and

WHEREAS, Client desires to engage Keenan, and Keenan desires to provide its services to Client, subject to the terms and conditions as set forth herein.

THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, and in consideration of the mutual promises and covenants set forth below, the Parties agree as follows:

1. **TERM OF AGREEMENT**

   This Agreement shall be effective as of **July 01, 2012**, and shall continue in effect until either: (i) all benefits due under the Plan have been paid or (ii) the Agreement is terminated pursuant to Section 12 below.

2. **KEENAN'S SERVICES**

   A. Throughout the term of this Agreement, Keenan shall perform the services ("Services") enumerated in Exhibit A, attached to and incorporated into this Agreement.

   B. Keenan shall not provide any legal, tax, or accounting service, advice, or opinion, and the Services shall not be interpreted as representing any such service, advice or opinion.

   C. Keenan shall provide services in an advisory capacity only, and shall exercise no discretion as to the implementation or administration of the Plan or as to the investment of Plan assets. Keenan and its employees are **NOT** fiduciaries of the Plan, nor shall Keenan or any of its employees act as the Plan Administrator.

   D. Keenan is empowered to act on behalf of Client in connection with the Plan only as expressly stated in this Agreement. Client shall at all times retain full and final authority and responsibility for the Plan and its establishment, implementation and operation.

E. Keenan shall timely provide to Plan participants Form1099-R or similar forms required by the Internal Revenue Service ("Forms"). Preparation of the Forms is the responsibility of the annuity provider. Keenan's sole responsibility with respect to the Forms shall be to deliver them to Plan participants once they have been received.

3. **CLIENT'S DUTIES**

A. Client shall have the sole responsibility to fund the Plan.

B. Prior to their distribution to Plan participants, Client shall approve the materials provided by Keenan, including all distribution forms, beneficiary designation forms, notices, elections, and legally mandated reports to Plan participants.

C. Client shall obtain the signatures of participants and spouses as required on such consents, benefit distribution forms, and beneficiary designation forms as may be required.

D. Client shall make all discretionary decisions relating to the Plan, including the interpretation of Plan documents, determinations regarding claims for Plan benefits, and the investment of plan assets. The Client hereby acknowledges that it is the designated fiduciary with respect to the Plan.

E Client shall engage its own legal, accounting and other professional service providers to review the Plan, Plan documents and related materials to insure their applicability to and appropriateness for the Client.

F. Client may elect to fund the Plan through the purchase of an annuity or annuities. Client acknowledges that Keenan has arranged for the purchase of a Group Future Premium Immediate Annuity policy through **United of Omaha** ("Carrier") to fund the Plan. Keenan makes no representation or warranty regarding this or any annuity product or the performance of Carrier, or any other annuity carrier. If Client elects to purchase an annuity through Carrier, it shall enter into a separate agreement with Carrier for the purchase of the annuity, and such agreement shall govern the rights of Client with respect to Carrier and the annuity or annuities purchased.

G. Client acknowledges that Keenan has disclosed that:

(i) Keenan receives commissions paid on the purchase of any annuity product purchased by the Client to fund the Plan. The amount of the commission shall be as stated on Exhibit B, Schedule of Fees, attached to and made a part of this Agreement;

(ii) The sale of such annuity products is in the ordinary course of Keenan's business as insurance agents, brokers and/or pension consultants;

(iii) The total amount of said commissions for the purchase of the annuity used to fund the Plan, together with any other fees and consideration that may be received by Keenan from Client for the provision of the Services, does not exceed "reasonable compensation" within the meaning of sections 4975(d)(2) and

4975(d)(10) of the Internal Revenue Code of 1986, as amended (the "Code");

(iv) Keenan is not: (1) a trustee of the Plan; (2) an Administrator within the meaning of section 414(g) of the Code; (3) a fiduciary authorized in writing to manage, acquire or dispose of the assets of the Plan on a discretionary basis; or (4) an employer of those employees covered by the Plan.

H. Client shall engage Keenan exclusively for the establishment, design, implementation and administration of the Plan described on Page 1 of this Agreement, and hereby appoints Keenan as its exclusive Broker of Record for any insurance product purchased for the Plan. The exclusivity provided under this paragraph does not extend to any other retirement plan or benefit that is currently sponsored by the Client or that may be sponsored by the Client in the future.

4. **IRS DETERMINATION**

Keenan has requested and received a favorable determination letter from the Internal Revenue Service ("IRS") for a Supplemental Employee Retirement Plan. Client shall have the option to accept the determination received by Keenan or request their own favorable determination letter. If it elects the latter, Client shall be required to submit its Plan to the IRS, and shall pay all fees associated with the filing. There may be an additional charge by Keenan for additional services required to facilitate the individual Plan filing with the IRS. If Client selects this option, Keenan will provide an estimate of its fees prior rendering any additional services.

5. **CONSIDERATION**

A. For services rendered under this Agreement, Keenan shall receive payment as set forth in Exhibit B, which is attached hereto. The fees listed on Exhibit B shall be paid by the Client and are separate from, and in addition to, the commissions paid by the annuity carrier. Any fees due to Keenan shall be payable within thirty (30) days from the date of Keenan's invoice.

B. As the Broker of Record for the Client's Plan. Keenan shall comply with all applicable state and/or federal laws and regulations regarding disclosure of compensation. Keenan embraces industry efforts for transparency and believes it is important that its clients have access to information that may be relevant to their choice of insurance products, including the cost of such insurance and services, and, the compensation that it may receive, either directly or indirectly, in connection with the products or services selected by its clients.

6. **INDEMNIFICATION**

If either party breaches this Agreement, then the breaching party shall defend, indemnify and hold harmless the non-breaching party, its officers, agents and employees against all claims, losses, demands, actions, liabilities, and costs (including, without limitation, reasonable attorneys' fees and expenses) arising from such breach. In addition, if Keenan (i) becomes the subject of a subpoena or is otherwise compelled to testify or (ii) becomes the subject of a claim, demand, action or liability brought or asserted by one of Client's employees, Plan participants, Plan beneficiaries, or Plan vendors ("Third-Party Demand")

relating to the Services and such Third-Party Demand is not a direct result of Keenan's negligence or willful misconduct, then Client shall defend, indemnify and hold Keenan harmless from all losses, payments, and expenses incurred by Keenan in resolving such Third-Party Demand.

7. **ASSIGNMENT**

Neither party shall assign this Agreement or any part hereof without the express written consent of the other Party.

8. **INDEPENDENT CONTRACTOR**

The relationship of Keenan and Client shall be that of an independent contractor and Keenan shall at all times remain responsible for its own operational and personnel expenses. Under no circumstance shall any employee of one party look to the other party for any payment or the provision of any benefit, including without exception, workers' compensation coverage. Except as may be expressly set forth in or contemplated by this Agreement, neither party shall have the right to act on behalf of the other, or to bind the other to any contract or other obligation.

9. **INSURANCE**

Keenan shall procure and maintain during the term of this Agreement the following insurance coverages, and shall provide certificates of insurance to Client upon Client's request.

(i) Workers' Compensation: Coverage in conformance with the laws of the State of California and applicable federal laws;

(ii) General Liability: Coverage (including motor vehicle operation) with a One Million Dollar ($1,000,000) limit of liability for each occurrence and a Two Million Dollar ($2,000,000) aggregate limit of liability; and

(iii) Errors and Omissions: Coverage with a One Million Dollar ($1,000,000) limit of liability for each occurrence and a Two Million Dollar ($2,000,000) aggregate limit of liability.

10. **FORCE MAJEURE**

Neither party shall be liable or deemed to be in default for any delay or failure in performance under this Agreement resulting, directly or indirectly, from acts of God, civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, power outages, failure of computer systems, machinery or supplies, vandalism, strikes, or other work interruptions, or any similar or other cause that is beyond the reasonable control of either party. Each party shall make a good faith effort to perform under this Agreement in the event of any such circumstances, and shall resume full performance of its contractual duties once the cause of the delay has abated.

11. **CONFIDENTIALITY**

A. As a result of their relationship under this Agreement each party may gain access to confidential information concerning the other. For purposes of this Agreement, the

term "Confidential Information" includes, without limitation, i) any information or data about a party's business operations, clients, employees, marketing plans, method of operation, trade secrets, and financial performance; ii) information about any individual participating in the Programs, such as name, address, social security number, compensation, and medical history, and iii) any other information about a party that is not available to the general public. Neither party shall, without the written consent of the other, release, disclose, or disseminate the other party's Confidential Information except as is necessary for the performance of the Services or as required by law.

B. In the event that either party becomes the subject of a request under the California Public Records Act, subpoena or court order compelling the disclosure of the other party's Confidential information, that party shall immediately notify the other so that the party whose Confidential Information is being sought can take such action as may be necessary to prevent or limit the release of its Confidential Information.

C. Neither party shall be deemed to be in breach of this Section 11 if it has notified the other before it releases the Confidential Information pursuant to a Public Records Act request, subpoena or court order, and the party whose Confidential Information was requested fails to provide, before the deadline for disclosure, a copy of court order quashing the subpoena or otherwise limiting the original demand for the Confidential Information.

12. **TERMINATION**

A. Either Party may terminate this Agreement at any time prior to Client's acceptance of the annuity quote for the annuity or annuities that are purchased to fund the benefits provided by the Plan.

B. After the Client's acceptance of the annuity quote for the annuity or annuities that are purchased to fund the benefits provided by the Plan, Client may terminate this Agreement and select another administrator for the Plan by giving thirty (30) days written notice to Keenan following the occurrence of any of the following events:

(i) The dissolution or insolvency of Keenan;

(ii) The filing of a bankruptcy petition by or against Keenan (if the petition is not dismissed within sixty (60) days in the case of an involuntary bankruptcy petition);

(iii) The refusal or inability of Keenan to perform its duties under this Agreement; or

(iv) If the Client has not enrolled the required minimum number of participants by **May 11, 2012**.

C. This Agreement shall automatically terminate in the event that Client terminates the Plan.

D. In the event of such termination, all finished or unfinished documents and materials which Keenan has produced under the terms of this Agreement shall be delivered to the Client as soon as practicable under the circumstances then prevailing. The thirty (30) day period shall commence on the date the notice is postmarked by the United States Post Office.

E. If Keenan performs its enrollment duties in enrolling the Plan, which includes Group Orientation Meetings, Individual Counseling Meetings, Group Counseling Meetings, follow-up telephone calls, production of enrollment materials, transportation of Retirement Counselors to the Client or general communications to Eligible Employees and this Agreement is terminated prior to Plan implementation, Keenan shall be entitled to compensation as follows:

(i) $50.00 per hour for all time spent on Services through the date of termination. This shall include, without limitation, time spent traveling, preparing, commuting, being available to meet, meeting and conferring (including by telephone or teleconference) with Client and/or its eligible employees and staff.

(ii) Reimbursement for hotel, airfare, and meals expenditures incurred in the course of providing the Services through the date of termination.

(iii) There will be no charge for the preparation of Keenan's proposal or marketing materials.

13. **NOTICE**

All notices hereunder shall be in writing and shall be sent to the parties at the addresses as set forth below, or to such other individual or address as a party may later designate. Notices shall be sent via personal delivery, courier service, United States mail (postage pre-paid, return receipt requested), express mail service, or fax. Notice shall be effective when delivered, or if refused, when delivery is attempted. Notices delivered during non-working hours shall be deemed to be effective as of the next business day.

If the notice relates to a legal matter or dispute, a copy shall be sent to:

Keenan and Associates
2355 Crenshaw Blvd., Ste. 200
Torrance, CA 90501
Attn: Legal Department

14 **APPLICABLE LAW**

This Agreement shall be governed by, and interpreted in accordance with, the laws of the State of California.

15. **ENTIRE AGREEMENT**

This Agreement, its recitals and all attached exhibits constitute the entire understanding of the Parties related to the subject matter of the Agreement, and supersedes all prior and collateral statements, presentations, communications, reports, agreements or understandings, if any, related to such matter(s).

16. **SEVERABILITY**

Any provision determined by a court of competent jurisdiction to be partially or wholly invalid or unenforceable shall be severed from this Agreement and replaced by a valid and enforceable provision that most closely expresses the intention of the invalid or unenforceable provision. The severance of any such provision shall not affect the validity of the remaining provisions of this Agreement.

17. **MODIFICATION AND AMENDMENT**

No modifications or amendments to any provision hereof shall be binding unless in writing and signed by authorized representatives from both Parties.

18. **DISPUTE RESOLUTION**

A. Disputes arising out of or relating to this Agreement shall first be resolved by good faith negotiations between representatives of the parties with decision-making authority. If either party determines that the dispute cannot be resolved through informal negotiation then the dispute shall be submitted to non-binding mediation. The site of the mediation and the selection of a mediator shall be determined by mutual agreement of the parties. If the dispute is not resolved through mediation within sixty (60) days following the first notification of a request to mediate, then either party shall have the right to require the matter to be resolved by final and binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, or such other arbitration procedures as may be agreed to in writing by the Parties. Negotiation, mediation, and arbitration shall be the exclusive means of dispute resolution between Client and Keenan and their respective members, agents, employees and officers.

B. Arbitration shall be before a single arbitrator in the County of Alameda, California. The Arbitrator shall apply the Federal Arbitration Act and California substantive law, and shall accompany the award with a reasoned opinion. The arbitrator shall have no authority to award punitive or other damages not measured by the prevailing party's actual damages. The prevailing party shall be entitled to an award of reasonable attorneys' fees. A judgment of any court having jurisdiction may be entered upon the award.

C. Either party may apply to the arbitrator seeking injunctive relief until the arbitration award is rendered or the controversy is otherwise resolved. Either party also may, without waiving any remedy under this Agreement, seek from any court having jurisdiction any interim or provisional relief that is necessary to protect the rights or property of that party, pending the establishment of the arbitral tribunal (or pending the arbitral tribunal's determination of the merits of the controversy).

19. **LIMITATION OF LIABILITY**

Notwithstanding anything to the contrary in this Agreement, in no event shall either party be liable for any punitive damages, fines, penalties, taxes or any indirect, incidental, or special damages incurred by the other party, its officers, employees, agents, contractors or consultants whether or not foreseeable and whether or not based in contract or tort claims or otherwise, arising out of or in connection with this Agreement even if advised of the possibility of such damage. Keenan's liability under this Agreement shall further be limited to, and shall not exceed, the limits of coverage outlined in Section 9.

20. **ATTORNEYS' FEES**

In the event of any dispute relating to this Agreement, the prevailing Party shall be entitled to attorneys' fees and costs, including but not limited to those incurred in resolving the dispute.

21. **WAIVER**

No waiver of any provision of this Agreement shall constitute a waiver of any other provision, nor shall such waiver constitute a continuing waiver. No waiver shall be valid unless the same is in writing and signed by both Parties hereto.

22. **ADDITIONAL DOCUMENTS AND ACTS**

Each Party shall, at the request of the other, execute, acknowledge, sign and deliver whatever additional instrument, and do such other acts, as may be reasonably requested, necessary or convenient to carry out the intent and purposes of this Agreement.

23. **GENDER/PARAGRAPH HEADINGS/CONSTRUCTION**

As used in this Agreement, the masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others whenever the context so indicates. Paragraph headings contained in this Agreement are for convenience only and shall not be considered for any purpose in construing this Agreement. This Agreement shall be construed without regard to the Party or Parties responsible for the preparation of the same and shall be deemed to have been prepared jointly by the Parties hereto. Any ambiguity or uncertainty existing herein shall not be interpreted against either Party, but according to the application of other rules of contract interpretation, if any ambiguity or uncertainty is deemed to exist.

24. **AUTHORITY OF OFFICERS OR OTHER APPOINTEES TO EXECUTE ON BEHALF OF ENTITY**

Each of the individuals executing this Agreement below on behalf of a corporate party or other type of entity represents and warrants that (s)he is authorized to do so on behalf of such entity, that the entity has approved this Agreement and that all other authorizations or approvals of this Agreement, if any, have been obtained.

25. **COUNTERPARTS**

This Agreement may be executed in counterparts and by fax signatures and each shall be deemed to be an original. Each person signing this Agreement on behalf of a Party represents and warrants that he or she has the necessary authority to bind such Party and that this Agreement is binding on and enforceable against such Party.

San Leandro Unified School District			Keenan & Associates	
Signature:			Signature:	
By:	John Thompson		By:	David Seres
Title:	Senior Director II, Human Resources		Title:	Chief Financial Officer
Address:	14735 Juniper Street		Address:	2355 Crenshaw Blvd., Ste. 200
	San Leandro, CA 94579			Torrance, CA 90501
Telephone:	510 667-3500		Telephone:	310 212-0363
Fax:	510 297-6153		Fax:	310 533-1329
Attention:	John Thompson		Attention:	Dan Keenan

EXHIBIT A

SERVICES:

(a) Consult with the Client to design the Plan.

(b) Conduct group meetings with the employees chosen by the Client to communicate the terms of the Plan.

(c) Meet individually with eligible employees to further explain the terms of the Plan.

(d) Calculate monthly benefits for participants.

(e) Calculate the total annual premium payment for the Client to fund the Plan.

(f) Prepare enrollment materials for eligible employees.

(g) Prepare a plan document for review, approval and signature by the Client. Keenan will charge an additional minimum fee in the amount of $750.00 for preparing documents and assisting the Client with taking all steps necessary to keep the Plan in compliance with the IRS code.

(h) Prepare a summary plan description ("SPD") for Plan participants.

(i) The Client understands that under IRS Announcement 2001-77, it is permitted to rely on the favorable advisory letter issued by the Internal Revenue Service to Keenan & Associates for its GUST-amended specimen Supplemental Employee Retirement Plan and is not required to apply for its own favorable determination letter for the Plan.

(j) Prepare annual premium statements and billings.

(k) Process annuity applications.

(l) Arrange for a custodian for the Plan.

(m) Provide distribution forms.

(n) Provide beneficiary designation forms.

(o) Process changes of information applicable to participants when the same is submitted to Keenan (such as change in address, change in beneficiary).

(p) Verify a retiree's monthly income when so requested by authorized banks and other institutions.

(q) Process necessary documentation for payment to the beneficiary or beneficiaries of a deceased participant.

(r) Respond to questions and concerns of participants and the Client about the Plan and its benefits.

(s) Provide general consulting as requested by the Client from time to time. This includes any item not enumerated in the prior subsections in this Exhibit A. The parties acknowledge that Keenan has advised the Client that there may be an additional charge for any future Plan amendments requested by the Client or required by changes in the Internal Revenue Code. Keenan will provide an estimated fee schedule at the time any future Plan amendments may become necessary.

(t) Prepare amendments to the Plan and other documentation as necessary to terminate the Plan upon the election of the Client to terminate it. The Client hereby acknowledges that Keenan has advised the Client that there may be an additional charge for termination services on the following basis: IRS charges at time of termination and legal counsel's rate at the time of termination. No additional charges or fees may be accessed except those specifically enumerated in this Agreement.

EXHIBIT B

SCHEDULE OF FEES

Document Preparation Fee (Paid to Keenan – One Time Fee)	**PAID**
Commission amount is based on a percentage of total premium for the annuity or annuities used to fund the Plan	6.0%*

* The costs of the annuity or annuities funded by the Client's Plan includes a commission on premiums payable to Keenan for their services as outlined in the Service Agreement.

Commission shall be paid by the Carrier and Client shall not be responsible to make any commission payment to Keenan. Commission payments shall be made to Keenan on an interim basis as premium is collected by the Carrier.