PROFESSIONAL DEMOGRAPHICS CONSULTING SERVICES

San Leandro Unified School District
835 E. 14th Street, Suite 200.
San Leandro, CA 94577
Phone: 510-667-3500

and

Davis Demographics & Planning, Inc.
11850 Pierce Street #200, Riverside, CA 92505
TEL: (951)270-5211 FAX: (951)270-5212

This Agreement is made by and between Davis Demographics & Planning, Inc., a California Corporation, (hereinafter referred to as "DDP") and the San Leandro Unified School District (hereinafter referred to as "DISTRICT") with reference to the following.

The DISTRICT has requested professional services in demographic analysis, enrollment forecasting, facilities planning, committee and public meeting support, geographic information system (GIS) data development, GIS software, training, or other services as requested.

Therefore, it is agreed between the parties hereto, as follows:

SECTION ONE - SERVICES OF DDP

DDP shall perform consulting services and/or provide licenses to software products as outlined in Appendix A of this Agreement. Any additional work not specifically listed under Appendix A and requested by the DISTRICT will be performed at an agreed upon fee through an additional project authorization and shall be governed by the terms of this Agreement.

This Agreement will not take effect and DDP will have no obligation to provide services, until the DISTRICT returns a signed copy of this Agreement and furnishes payment of the initial Retainer Fee set forth in Section Six below.

SECTION TWO - PERIOD OF PERFORMANCE

Performance of consulting services outlined in Appendix A shall be on an annual basis commencing upon the later date this Agreement is signed by both parties through June 30, 2021 and consulting services shall continue through June 30th of each subsequent year of a multiple year Agreement.

SECTION THREE - OBLIGATIONS OF THE DISTRICT

A) DISTRICT agrees that its employees will cooperate with DDP in the performance of services under this Agreement and will be available for consultation with DDP at reasonable times.

B) DISTRICT shall provide, at no cost to DDP, DISTRICT data which are requested DDP and required for providing the services of this Agreement.

C) DISTRICT shall aid DDP in obtaining data from other public offices or agencies, local business firms, and private citizens whenever such data is necessary for the completion of the work outlined in this Agreement.

SECTION FOUR - LIMITATIONS

A) DDP understands that time is of the essence in completing the work outlined in this Agreement. However, DISTRICT understands that DDP may be dependent upon the timely delivery of data from the DISTRICT as well as third parties and that all tasks may not be completed in the allotted time as may be specified in this Agreement but will make all reasonable efforts to complete all tasks.

B) DISTRICT understands that the work performed by DDP is based upon the best information available to DDP at the time of rendering services. DISTRICT also understands that DDP makes no guarantees for these services and DISTRICT hereby agrees.

C) DISTRICT understands that the mapping databases and associated information licensed from third parties in the performance of this Agreement are detailed and complex products. DDP will make all reasonable efforts to bring these databases and products into compliance for accuracy standards within the industry, however DDP makes no warranties for these third-party data products and DISTRICT hereby agrees.

SECTION FIVE - GENERAL PROVISIONS

This Agreement is a contract for services including the licensing of any optional software. Software licensed as part of this Agreement is/are subject to the software license terms outlined in the Appendices of this Agreement.

All report formats and software application programs remain the property of DDP. The DISTRICT may make as many duplicates of any hardcopy maps and reports as may be deemed necessary for its business use. Unless clearly stated in this Agreement, due to various data licensing and copyright agreements, the DISTRICT does not receive automatic access or use of any internal data or GIS map data, other than the DISTRICT's own student record data provided to DDP. If data is made available and transferred to the DISTRICT, it is expressly understood that such data developed by DDP, and/or licensed from, an outside data provider is for DISTRICT internal use only, and may not be reproduced, distributed, or released by the DISTRICT to any third parties without the written consent of DDP and the data provider.

DDP is acting as, and shall be considered, an independent contractor, and will be responsible for determining the sequence, method, details, and manner in which it performs those services required under the terms of this Agreement. Nothing herein contained shall be construed as creating a relationship of employer and employee, or principal and agent, between DISTRICT and DDP or any of DDP's agents or employees. DDP assumes exclusively the responsibility for the acts of its employees or agents as they relate to the services to be provided during the course and scope of their employment. DDP, its agents and employees, shall not be entitled to any rights and/or privileges of DISTRICT's employees and shall not be considered in any manner to be DISTRICT's employees.

SECTION SIX - COMPENSATION

Twenty-five percent (25%) of the consulting contract amount is due as a Retainer Fee upon execution of this Agreement and will be invoiced by DDP and is payable before substantial work will commence. This fee is non-refundable indicating a commitment by DDP staff to be available to complete any work outlined or requested as part of the Agreement. Initial hours and expenses incurred will be applied to this Retainer Fee amount. Once the Retainer Fee has been reached, compensation to DDP shall be made at an hourly rate of $170.00 with a maximum fee for tasks to be completed as outlined in Appendix A.

DDP shall invoice DISTRICT monthly at which time such invoices shall be due and payable. DDP reserves the right to charge interest at the rate of 10 percent per annum, on the unpaid balance, compounded annually (to the extent permitted by the law) on any sums not paid within 90 days of the initial billing date.

Professional services tasks outlined in Appendix A and their associated fees are for estimate purposes only within the total scope of the Agreement—task fees are not individual maximum fees—DDP retains the right to shift fees between the tasks in order to complete the overall scope of work outlined in the Agreement.

If this Agreement is for multiple years, each additional year will be handled in the same manner as the first year, with the Retainer Fee of 25% of each year's contract amount invoiced and due on July 1st.

Any additional services not specifically outlined in this Agreement shall be invoiced at the hourly fee noted above. Any meetings not specifically outlined in this Agreement shall be invoiced at the hourly fee (inclusive of travel time to and from any meeting) plus any airfare and $275 per diem travel expenses (for overnight trips or any trips requiring air travel).

SECTION SEVEN - TERMINATION

It is understood and agreed that the DISTRICT may terminate this Agreement for the DISTRICT's convenience and without cause by giving DDP written notice at least thirty (30) days before the effective date of such termination. Upon termination, DDP shall:

1) Stop work under the Agreement on the date and to the extent specified in the Notice of Termination.

2) Transfer to the DISTRICT (to the extent allowed under Section Five of this Agreement) and deliver, in the manner, at the times and to the extent directed by the DISTRICT, the work in process on the effective date of the Notice of Termination.

3) Require Payment

   The amount due DDP upon receipt of termination notice shall be payment for all work completed including:

   a) The Retainer Fee (representing commitment of resources/personnel and lost opportunity for profit);

   b) payment at the hourly rate specified in this Agreement for all time spent over the Retainer Fee towards the performance of this Agreement up until the receipt of notice of termination;

   c) payment for all expenses incurred by DDP in the performance of this Agreement, including, but not limited to, mapping and other purchased or licensed data;

   d) in the case of a multiple year Agreement, additional Retainer Fees of 25% of the annual consulting contract amount for each year of the Agreement <u>not completed</u> shall be due, as an early termination convenience to compensate for commitment of staff, multiple year discount offered, and lost profit opportunity.

SECTION EIGHT – RENEWAL

If agreed to in writing by both parties no less than 30 days prior to the expiration of this Agreement, the Agreement may be renewed for the same period of performance (number of years as originally agreed to), for the same consulting services scope and fee as outlined in Appendix A, and under all of the same terms and conditions. Software licenses are subject to separate renewal as outlined in the software license agreements.

SECTION NINE – NONHIRE OF DDP PERSONNEL

It is hereby mutually agreed that the DISTRICT will not solicit for hire any current or former employee(s) of DDP's staff without the written permission of the President of Davis Demographics for a period of two years after completion of the services outlined in this Agreement, or any ongoing Agreements for services for additional work, whichever is later. In the event the foregoing provision is breached, liquidated damages equal to twenty-four (24) months of the employee's compensation plus any legal expenses associated with the enforcement of this provision shall be paid by the DISTRICT to DDP.

SECTION TEN - CONFIDENTIALITY

All communication and information obtained by DDP from the DISTRICT relating to this Agreement and all information developed by DDP under this Agreement are confidential. Should there be a need for DDP to maintain on its server(s) and/or other data storage media, personnel and/or student information protected by the Family Educational Rights and Privacy Act Regulations 34 CFR Part 99 (FERPA), DDP will take appropriate measures to ensure the security of said information and maintain its confidentiality according to applicable regulations. In addition, DDP acknowledges and agrees that, during its Agreement with the DISTRICT, DDP will receive or have access to personal information. Personal information means information provided to DDP or to which access was provided to DDP by or at the direction of the DISTRICT in the course of DDP's performance under this Agreement that (a) identifies or can be used to identify an individual, including without limitation, names, addresses, or other unique identifiers or (b) can be used to authenticate an individual, including, without limitation identification numbers or other sensitive information. DDP shall comply with this Agreement in its collection, receipt, transmission, storage, disposal, use and disclosure of personal information under its control or in its possession and shall remain liable to the DISTRICT and to any other person whose personal information is under its control or in its possession. In recognition of the foregoing, DDP agrees and covenants that it shall: (a) keep and maintain all personal information in strict confidence using such degree of care as is appropriate to avoid unauthorized access use or disclosure, including but limited to security or data breach, malware intrusion or any other unauthorized access to such personal information; (b) shall not use, sell, rent, transfer or otherwise disclose or make available personal information for the benefit of anyone other than the DISTRICT; (c) at a minimum, DDP shall have in place safeguards for the protection of personal information which shall include limiting access to the DISTRICT information, securing business facilities, data centers, servers, back-up systems and computing equipment with information storage capability, as well as implementing network, database and platform security on computing equipment that are either owned by, used by or in the care or control of DDP.

SECTION ELEVEN - INDEMNIFICATION

Indemnification for Professional Liability Claims:

For liability arising out of professional services, DDP shall indemnify the DISTRICT, its officers and employees against liability for damages for which they may be liable to the extent such damages are actually caused by the negligent acts, errors or omissions of DDP, or any of its employees or subconsultant's (if applicable) negligent acts or omissions under this Agreement.

Indemnification for All Other Claims:

DDP shall hold harmless, defend and indemnify, for damages arising out of bodily injury, death and property damage, the DISTRICT, and the DISTRICT's officers and employees against all claims, demands, actions and suits (including reasonable post tender attorney's fees and costs) brought against any of them arising from DDP's work and or any of its subconsultant's work under this Agreement other than professional services.

As used herein, DDP's obligation to defend any indemnified party shall mean the obligation to reimburse the party pursuant to this provision for any costs and fees determined by the court to have been reasonably, necessarily and actually incurred by the DISTRICT in the defense of those claims specifically founded upon DDP's, its employees, or its consultants' negligence, but only after a final determination of liability.

SECTION TWELVE - DISPUTE

In the event of dispute, the parties agree to first attempt all reasonable efforts to resolve any disputes through good faith negotiation and/or mediation. If a reasonable settlement cannot be made, dispute determination shall be made in a court of competent jurisdiction in the United States county location where the project is located.

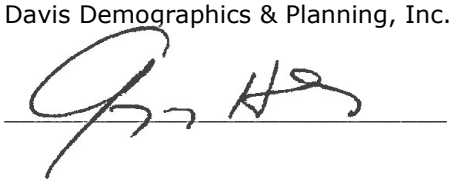
SECTION THIRTEEN – ENTIRE AGREEMENT

This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings, or agreements, either oral or written prior to the execution of this Agreement.

This Agreement may be modified by subsequent agreement of the parties only by an instrument in writing signed by both parties.

THE PARTIES HAVE READ AND UNDERSTOOD THE FOREGOING TERMS AND AGREE TO EXECUTE THIS AGREEMENT BY THE SIGNATURES OF THEIR DULY AUTHORIZED REPRESENTAIVES BELOW.

Davis Demographics & Planning, Inc.



Gregory H. Davis

President

February 25, 2021

Fed Employer #: 33-0759263

San Leandro USD

_____
Signature

_____
Print Name

Title_____

Date_____

Billing Contact:

_____
Name

_____
Email

_____
Address

_____
City/State/Zip

Appendix A

CONSULTING SERVICES

STUDENT FORECASTS – Tasks Performed and Deliverables:

- Create computer GIS basemaps from various sources including county data.
- Verify GIS data for existing school zones, small planning areas, and school locations.
- Geocode student data (district-supplied Fall 2017 to 2020)
- Research and analysis of other relevant demographic statistics for use in preparing student forecast variables (i.e., historical birth data, migration trends, etc.)
- Extensive research of new residential housing; number, type, and phasing schedule
- Preparation of 10-year resident enrollment forecasts by grade level for each planning area, attendance zone and district-wide. Separate short-term special education forecast.
- Comprehensive report (ten hardcopies and Adobe PDF file) including:
    - Relevant district background, past enrollment trends and demographic profile
    - Data sources and use with appropriate tables and charts.
    - Detailed forecast methodology discussion
    - Enrollment projection results
    - Open enrollment reports illustrating impact of resident vs. attending enrollment.
    - Appropriate maps illustrating existing planning areas and attendance zones, with thematic maps showing areas of growth, student density and socio-economic characteristics.
    - Detail information for each zone and Davis insight of area.
- Integrate GIS Data with AERIES including Address Data update for software.
- Provide Online Web map and Client Portal Experience
- (1) onsite visit for development research
- (1) virtual presentation to the School Board at the conclusion of the demographic study

Additional Onsite Meetings:

- Meetings with District Staff Additional in person meetings (including preparation and est. travel time/costs) x $2,500

☐_____ (Year One) **$20,750**

Check the box and initial above for FIRST YEAR CONSULTING SERVICES AGREEMENT
Demographic Study – Student Forecasts

☐_____ (Annually Starting Year Two) **$16,000**

Check the box and initial above for SUBSEQUENT YEARS CONSULTING SERVICES AGREEMENT
Demographic Study –Annual Updates Student Forecasts up to Five Years