GILROY UNIFIED SCHOOL DISTRICT
AGREEMENT FOR EDUCATIONAL SERVICES

The following is an Agreement by and between GILROY UNIFIED SCHOOL DISTRICT ("District") and MCARTHUR & LEVIN, LLP("Consultant").

RECITALS

A. The District requires certain services described below; and

B. The Consultant represents that it is qualified and available to provide such services.

AGREEMENT

NOW THEREFORE, pursuant to the following terms and conditions the District and Consultant hereby agree as follows:

A. TERM. The term of this Agreement (the "Term") shall commence on JULY 1, 2019 and end on JUNE 30, 2020 unless the work is completed or the Agreement is terminated sooner.

B. SERVICES. Consultant has submitted a Proposal dated JULY 1, 2019 (the "Proposal"), which is accepted by District and incorporated herein by this reference to the extent not inconsistent with the terms and conditions of this Agreement. As needed and requested by the District, Consultant shall perform in a competent and professional manner satisfactory to the District, the services described in **Exhibit A**, attached hereto and incorporated herein by reference (collectively, the "Services").

C. COMPENSATION. In exchange for the satisfactory performance of the Services, District will pay Consultant not to exceed $200,000. Payment will be made for services completed to the satisfaction of the District, at the rates specified on **Exhibit A**, upon receipt of an itemized billing by consultant. No final payments shall be authorized until all reports have been rendered to and approved by the district. All invoices for services must be submitted to District within thirty (30) calendar days after services are performed. Subject to and upon approval of District, payment of invoices shall be made within sixty (60) days after Consultant submits invoices and any other requested documentation. For purposes of this Agreement, "payment" shall mean the act of depositing checks in the United States Postal Service mail for delivery to the Consultant.

D. DISTRICT OWNERSHIP. All data and information provided for and/or used by consultant shall be the property of and returned to the District at the completion of this contract. All reports or other documents generated will constitute "works made for hire" by or for the District and the District will be the "author" of all such reports under applicable copyright laws.

E. INDEPENDENT CONTRACTOR STATUS. It is understood that Consultant is an independent contractor, is responsible for accomplishing the results required herein, and District shall not be liable to Consultant for any payments, benefits, loss, costs, expenses, or injury or damages to Consultant's person or property, except District's liability to Consultant for his compensation for services performed herein. Consultant shall not be entitled to receive any benefits normally provided to District's employees, including health insurance benefits, paid vacation, or any other employee benefits. District shall not be responsible for withholding income or other taxes form payments made to Consultant. Consultant shall be solely responsible for filing all returns and paying any income, social security or other tax levied upon or determined with respect to the payments made to Consultant pursuant to this Agreement. A 1099 tax form will be provided to Consultant for services rendered at the end of each calendar year.

Consultant states and affirms that it is acting as a free agent and independent consultant, maintains a place of business at the address indicated in the signature page, and that this Agreement is not exclusive.

Consultant may enter any other contracts as Consultant sees fit providing that such contract does not interfere with any services that Consultant is currently providing the District or that might be deemed to be a conflict of interest with the best interests of the District.

F. COMPLIANCE WITH LAWS. Consultant shall comply with all federal, state and local laws and ordinances governing the operation of this Agreement. Without limiting the generality of the foregoing, Consultant shall comply with any applicable fingerprinting and TB clearance requirements of the California Education Code and shall provide certifications satisfactory to the District, in substantially the form attached hereto as **Exhibit B**.

G. CONFIDENTIALITY. The confidentiality provisions of this Agreement will survive and remain in full force and effect beyond the termination or expiration of this Agreement. Consultant agrees to hold confidential information obtained from the District, including any student or personnel information, whether obtained through observations, documentation or otherwise, in strict confidence and shall not without prior permission of the District disclose to anyone any such confidential information. Consultant shall not at any time or in any manner, either directly or indirectly, use any confidential District information for Consultant's own benefit. Consultant will protect such information and treat it as strictly confidential. A violation of this paragraph shall be a material violation of this Agreement.

If Consultant discloses (or threatens to disclose) information in violation of this Agreement, the District shall be entitled to an injunction to restrain Consultant from disclosing, in whole or in part, such information, of from providing any services to any party to whom such information has been disclosed or may be disclosed. The District shall not be prohibited by this provision from pursuing other remedies, including a claim for loss and damages.

H. INDEMNIFICATION; INSURANCE.

Each party ("Indemnifying Party") agrees to indemnify and hold the other ("Indemnified Party") and its board members or directors, as applicable, and its officers, employees and agents, harmless with respect to any and all claims, losses, damages, liabilities, judgments, expenses and costs, including reasonable attorney's fees, arising out of this Agreement or the Services and incurred by the Indemnified Party to the extent proximately caused by any action or omission of the Indemnifying Party. The parties agree to promptly notify each other upon receipt of any claim or legal action arising out of activities conducted pursuant to this Agreement. The rights and responsibilities established in this paragraph shall survive indefinitely the expiration or termination of this Agreement.

To the fullest extent allowed by law, Consultant shall, at its expense, hold harmless, indemnify and defend District and its Board members, officers, agents, representatives and employees ("indemnified parties") from any and all claims, demands, losses, liabilities, claims, suits and actions ("claims") of any kind, nature and description, including but not limited to personal injury, death, property damage and consultants and/or attorney fees and costs, directly or indirectly, arising or resulting from the performance of this Contract or any action or inaction done, permitted or suffered by Consultant in connection with this Contract, unless the claims are caused by the sole negligence or willful misconduct of District. The District has the right to accept or reject any legal representation that Consultant proposes to defend the indemnified parties. This provision shall survive the termination of this Agreement.]]

Prior to performance of any Services, Consultant shall provide evidence that it has obtained, and will maintain during the Term of the Agreement, the types and amounts of insurance required by District, as specified in **Exhibit A**.

I. TERMINATION. This Agreement may be terminated upon thirty days prior written notice sent to the addresses of the other parties specified on the signature page of this Agreement.

J. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the parties hereto with respect to its subject matter and supersedes any and all prior agreements, discussions, or

understandings, whether written, oral or implied, with respect to the subject matter of this Agreement. This Agreement may not be modified or amended without the prior written consent of each party.

K. ASSIGNMENT OR SUBLETTING. This Agreement shall not be assigned or sublet to any other person or persons except with district's written consent.

L. ATTORNEYS FEES. In the event of any claim, dispute, or legal proceeding arising out of or relating to this Agreement, the party prevailing in such dispute shall be entitled to recover, and the other party shall pay, all reasonable fees and expenses incurred in connection therewith.

M. NOTICE. Unless otherwise specified in this Agreement or agreed to in writing by the Parties, notices and any other information required or contemplated under this Agreement may be given by first-class U.S. mail, express delivery service, or facsimile transmission at the addresses indicated on the signature page.

N. GOVERNING LAW; VENUE. This Contract shall be construed and interpreted pursuant to the laws of the State of California, without regard to any conflict of laws principles. Jurisdiction and venue shall be in the superior courts of Santa Clara County, wherein this Contract shall be deemed to have been executed and Services, Work and products furnished. Any attempt to remove venue to another jurisdiction, unless mutually agreed in writing, shall constitute a material breach of this Contract.

O. WAIVER. Waiver of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by either party of any breach or default shall not constitute a waiver of any other provision or of any subsequent breach or violation of any provision of this Agreement. Acceptance by District of any Services shall not constitute a waiver of any of the provisions of this Agreement or of any indemnification or insurance obligation of Consultant.

O. AUTHORITY TO EXECUTE. The person executing this Agreement on behalf of Consultant represents and warrants that he/she/they has/have the authority to so execute this Agreement and to bind Consultant to the performance of its obligations hereunder. Furthermore, Consultant represents that it is legally authorized to provide the Services within the State of California.

IN WITNESS WHEREOF, the parties hereto have subscribed their names to this Agreement on the dates set forth below.

GILROY UNIFIED SCHOOL DISTRICT	**MCARTHUR & LEVIN, LLP**
By: _____	By: _____
Name: Alvaro Meza	Name: Eliza D. McArthur
Title: Assistant Superintendent	Title: Partner
Date: _____	Date: May 22, 2019

Address for Notice:

7810 Arroyo Circle	_____
Gilroy, California 95020	_____
Attn: Alvaro Meza	Attn:
Phone: 669-205-4000	Phone: _____
Email: alvaro.meza@gilroyunified.org	Email: _____

Information Concerning Consultant:

State of incorporation or formation: _____ License #: _____

Type of Business Entity: TIN _____

- [___] Corporation
- [___] Individual
- [___] Partnership
- [___] Limited Liability Company
- [___] Sole Proprietorship
- [___] Limited Partnership
- [___] Other: _____

Employer Identification Number and/or Social Security Number
NOTE: The Code of Federal Regulations, Sections 6041 and 6209, require non-corporate recipients of $600.00 or more to furnish their taxpayer identification number ("EID" or "TIN"). The regulations also provide that a penalty may be imposed for failure to furnish the EID or TIN. To comply with these regulations, the District requires your EID, TIN or SSN, whichever is applicable.

FOR DISTRICT OFFICE USE

Funding Code: _____

Funding Program: _____

Form approved by District Legal Counsel 7/26/13

EXHIBIT A
TO AGREEMENT FOR EDUCATIONAL SERVICES WITH
MCARTHUR & LEVIN, LLP, dated JULY 1, 2019

SERVICES

I. Consultant will perform the following Services under the Captioned Agreement:

- **LEGAL SERVICES**

II. As part of the Services, Consultant will prepare and deliver the following tangible work products to the District:

- **LEGAL SERVICES**

III. During performance of the Services, Consultant will keep the District appraised of the status of performance by delivering the following status reports under the indicated schedule:

☐ None. ☐ See below. ☐ See attached list.

STATUS REPORT FOR ACTIVITY:	DUE DATE
A.	
B.	
C.	

IV. The following rates of pay shall apply in the performance of the Services under this Agreement:

- **PARTNER ATTORNEYS- $225/HOUR**
- **ASSOCIATE ATTORNEYS-$200/HOUR**
- **PARALEGALS-$145/HOUR**

V. Consultant will utilize the following personnel to accomplish the Services:

☐ None. ☒ See attached list. – "Description of Services"

VI. Consultant will utilize the following subcontractors to accomplish the Services (check one):

☒ None. ☐ See attached list.

VII. INSURANCE REQUIREMENTS.

A. Before commencing performance under this Agreement, and at all other times this Agreement is effective, Consultant will procure and maintain the following types of insurance with coverage limits complying, at a minimum, with the limits set forth below:

Type of Insurance	Limits (combined single)
Commercial general liability	$1,000,000
Professional liability	$1,000,000
Business automobile liability	$1,000,000
Workers compensation	Statutory requirement

B. Commercial general liability insurance will meet or exceed the requirements of ISO-CGL Form No. CG 12 10 11 97. The amount of insurance set forth above will be a combined single limit per occurrence for bodily injury, personal injury, and property damage for the policy coverage. Liability

policies will be endorsed to name District, its officials, and employees as "additional insureds" under said insurance coverage and to state that such insurance will be deemed "primary" such that any other insurance that may be carried by District will be excess thereto. Such insurance will be on an "occurrence" basis, except professional liability will be on a "claims made" basis, and will not be cancelable or subject to reduction except upon a thirty day prior written notice to District.

C. Automobile coverage will be written on ISO Business Auto Coverage Form CA 00 01 10 01, including symbol 1 (Any Auto).

D. Consultant will furnish to District duly authenticated Certificates of Insurance and Endorsements evidencing maintenance of the insurance required under this Agreement and such other evidence of insurance as may be reasonably required by District from time to time. Insurance must be placed with insurers with a current A.M. Best Company Rating equivalent to at least a Rating of "A:VII." Originals of the duly authenticated Certificates of Insurance and Endorsements will be included with this Agreement as **Exhibit C**.

VIII. AMENDMENT TO SERVICES. The Scope of Services, including services, work product, and personnel, are subject to change by mutual Agreement. In the absence of mutual Agreement regarding the need to change any aspects of performance, Consultant shall comply with the Scope of Services as indicated above.

IX. ADDITIONAL TERMS AND CONDITIONS. The following terms and conditions have been negotiated by the Parties and, to the extent of any conflict between the following provisions and the terms of the Agreement to which this **Exhibit A** is attached, the following provisions control.

☒ None. ☐ See below.

EXHIBIT B
TO AGREEMENT FOR EDUCATIONAL SERVICES WITH
MCARTHUR & LEVIN, LLP, dated JULY 1, 2019

CERTIFICATIONS

☐ None.

☑ See Attached, the following (check all applicable):

- ☑ Fingerprinting/Criminal Background Certification.
- ☑ Tuberculosis Clearance.
- ☐ Other; _____.

FINGERPRINTING/CRIMINAL BACKGROUND CERTIFICATION

(NOTE: This Certification is required in connection with all agreement for services and public work contracts that might allow persons other than District staff to come into contact with District students)

The undersigned does hereby certify to the governing board of the District that I am a duly authorized representative of the Consultant under the Agreement for Services ("Agreement") to which this Certification is attached. I further certify as follows:

I am familiar with the facts herein certified, and am authorized and qualified to execute this certificate on behalf of Consultant. Consultant has taken at least one of the following actions with respect to the construction Project that is the subject of the Contract (check all that apply):

____ The Consultant has complied with the fingerprinting requirements of Education Code section 45125.1 with respect to all Consultant's employees and all of its sub-consultants' employees who may have contact with District pupils in the course of providing services pursuant to the Contract, and the California Department of Justice has determined that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. A complete and accurate list of Consultant's employees and of all of its sub-consultants' employees who may come in contact with District pupils during the course and scope of the Contract is attached hereto; and/or

____ Pursuant to Education Code section 45125.2, Consultant has installed or will install, prior to commencement of Work, a physical barrier at the Work Site, that will limit contact between Consultant's employees and District pupils at all times; and/or

____ Pursuant to Education Code section 45125.2, Consultant certifies that all employees will be under the continual supervision of, and monitored by, an employee of the Consultant who the California Department of Justice has ascertained has not been convicted of a violent or serious felony. The name and title of the employee who will be supervising Consultant's employees and its sub-consultants' employees is

Name: _____

Title: _____

____ The Work on the Contract is at an unoccupied school site and no employee and/or sub-consultant or supplier of Contract shall come in contact with the District pupils.

Consultant's responsibility for background clearance extends to all of its employees, sub-consultants, and employees of sub-consultants coming into contact with District pupils regardless of whether they are designated as employees or acting as independent contractors of the Consultant.

Date: May 22, 2019

Legal Name of Consultant: McArthur & Levin, LLP

Signature: [signature]

By (Name of signatory): Erika S. McArthur

Its (Title): Partner

Agreement #A 1920-12

TUBERCULOSIS CLEARANCE

(NOTE: This Certification is required in connection with all agreement for services and public work contracts that might allow persons other than District staff to come into contact with District students)

The undersigned does hereby certify to the Board of the District as follows:

1. I am a representative of the Consultant currently entering into this Agreement with the District and I am familiar with the facts herein certified, and am authorized and qualified to execute this certificate on behalf of Consultant. Consultant's responsibility for tuberculosis clearance extends to all of its employees, sub-consultants, and employees of sub-consultants coming into contact with District pupils regardless of whether they are designated as employees or acting as independent contractors of the Consultant.

2. The following item applies to the Services that are the subject of the Agreement:

   ☐ The Consultant ensures that each person providing any portion of the Services has submitted to an examination by a physician or surgeon, within 60 days of Board approval of the contract, or if previous contractor to the District, within the last four years, and each such person is free of active tuberculosis.

   - If there is however a positive result, chest x-ray verification is required.
   - Upon the District's request, a complete and accurate list of Consultant's employees and of all of its sub-consultant's employees, who may come in contact with District pupils in connection with the Agreement, will be furnished and the date of each person's examination will be included.

   ☑ The Services under the Agreement are to be provided at an unoccupied school site only and/or will not be done on any District property and no employee and/or subcontractor or supplier of any tier of Agreement shall come in contact with District pupils.

By signing below on behalf of Consultant, I certify that I am an authorized signatory and that the information provided herein is true and accurate. I further certify that during the Term of this Agreement, if I learn of additional information which differs from the responses provided above, or if I engage an additional employee/agent/volunteer/subcontractor or representative to provide Work or Services under the Agreement, I shall forward this additional information to the District immediately.

Date: May 02, 2019

Legal Name of Consultant: McArthur & Levin, LLP

Signature:

By (Name of signatory): Eliza J. McArthur

Its (Title): Partner