

**CONTRACT NAME: AGREEMENT BETWEEN QUEST
TECHNOLOGY MANAGEMENT AND DAVIS JOINT UNIFIED
SCHOOL DISTRICT**

BRIEF DESCRIPTION OF CONTRACT: This service agreement includes the labor required to migrate District servers over to Quest per the agreement approved at the April 23, 2015 Board meeting.

The cost for these services is not to exceed \$20,000 and will be complete prior to July 1, 2015.



Statement of Engagement

Data Center Migration

Presented to:

Davis Joint Unified School District

Submitted:

April 16, 2015

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INTRODUCTION

Quest is pleased to provide Professional Services, as outlined in this **Statement of Engagement** (“SOE”) dated April 16, 2015, to be executed for Davis Joint Unified School District (“DJUSD”). Content of this SOE is based on Quest’s current understanding of DJUSD’s business objectives and requirements.

1 DESCRIPTION OF SERVICES

DJUSD has engaged Quest to assist with the second phase of their migration to the Quest Data Center (BRC) in McClellan, California. The migration will require an additional virtual host and a dedicated SAN to be added to the current IaaS (Infrastructure as a Service) platform. Once the new host and SAN have been added and configured, Quest will migrate the current virtual servers running at the BRC to the new SAN. The next step will be to migrate virtual Servers from DJUSD to Quest BRC and cut them over to production.

2 PROJECT SCOPE

IaaS Installation

- Quest Managed Services will install an additional host and a dedicated SAN into the existing DJUSD IaaS platform per hardware defined in addendum 2.0.
- Configure LUNS on SAN and present 20 TB usable storage to DJUSD

Migration to dedicated storage

- Move virtual servers from current storage to new dedicated storage
- Disconnect DJUSD IaaS from Quest storage

Migration to BRC

- DJUSD will define which servers need to be migrated to the BRC.
- Quest will migrate the servers
- It is the DJUSD’s responsibility to decide when to cutover to servers at BRC after the migration has been completed.

Documentation

- Deliver detailed documentation of DJUSD IaaS
 - Include network topology
 - Include network diagram
 - Document VMware environment
 - Document SAN configuration

Items NOT included within this Statement of Engagement:

- **Troubleshooting or remediation of issues outside DJUSD IaaS**
- **Hardware, software or licensing**
- **Detailed physical cabling map**
- **Remediation of hardware/software OEM deficiencies**
- **Helpdesk support with monitoring and troubleshooting processes post migration cutover.**
- **Security policy and or review**
- **DR planning**

3 DJUSD's RESPONSIBILITIES:

- Access to systems and staff necessary to the project.
- Access to any existing documentation that may contribute to the success of the project.

4 ASSUMPTIONS

- Individuals within DJUSD will be available to Quest technology team for historical information pertaining to current environment.
- Individuals within DJUSD will be available to Quest to provide any input necessary to best understand the current environment as well as strategic and/or future business needs of DJUSD.

5 ESTIMATED COST

The costs identified in this SOE are based on an hourly rate for Consulting Services. Quest will discuss (and require authorization) before exceeding approved funding levels. Consulting hours will be billed against and will not exceed the purchase order ("PO") unless agreed on by Quest and DJUSD. This SOE is based on dispatch Monday – Friday, 8:00 am – 5:00 pm schedule, and any deviations from this agreed

upon schedule will be discussed and agreed on by both parties prior to initiation. Rates may be increased for services outside of this schedule.

Resource Description	Hourly Rate
NETWORK ENGINEER	\$175
VMWARE ENGINEER	\$175
STORAGE ENGINEER	\$175
WINDOWS ENGINEER	\$150
PROJECT MANAGER	\$125

6 INDEMNIFICATION

- 6.1 Except for the active negligence or willful misconduct of DJUSD, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, Quest undertakes and agrees to defend, indemnify and hold harmless DJUSD and any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including but not limited to, attorneys' fees and cost of litigation, damage or liability of any nature whatsoever, for death or injury to any person including Quest employees and agents, or damage or destruction of any real or tangible personal property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, error or omissions or willful misconduct incident to the performance of this Agreement by Quest or its Subcontractor of any tier.
- 6.2 In addition, Quest undertakes and agrees to defend, indemnify and hold harmless DJUSD and any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest from and against all third party suits and causes of action, claims, losses, demands, expenses, including but not limited to, attorney's fees and costs of litigation, damage or liability of any nature whatsoever, that Quest has breached its obligations to DJUSD as described in this SOE. Confidential information only with respect to the disclosure of such End User's information and to the extent such disclosure is the result of actions predominantly attributable to (as agreed to by the parties, said agreement not to be unreasonably withheld) Quest or its

Subcontractor of any tier. The provisions of the paragraph survive expiration or termination of this Contract.

- 6.3 Furthermore, except for the active negligence or willful misconduct of DJUSD or any of its Boards, Agents, Employees, Assigns and Successors in Interest from and against any third party suits and causes of action, claims, losses, demands and expenses, including but not limited to, attorney's fees and cost of litigation damage or liability of any nature whatsoever, for lost DJUSD Data, provided however Quest or its Subcontractor of any tier, may NOT be held liable under these sections 6.1, 6.2 and 6.3 for more than \$10,000.00 or as defined in the Limitation of Liability section (paragraph *Limitation of Amount of Liability*), whichever is less.

7 PAYMENT TERMS

- Payment terms Net 30.
- DJUSD will be invoiced twice per month on hours used.
- Minimum 4 hours for on-site work.
- Quest will not exceed the initial PO amount without DJUSD approval.
- Taxes – DJUSD shall be liable for and shall pay any state or local tax, fee, charge, or surcharge payable for services that are subject to such imposition.

8 PERSONNEL

DJUSD will be notified, in writing, of any changes to the local personnel assigned to this engagement. If a Quest-assigned consultant is unable to perform due to illness, resignation, or other factors beyond Quest's control, Quest will make every reasonable effort to provide suitable substitute personnel. Any substitute personnel will meet all requirements and must be approved by DJUSD.

9 RESPONSIBILITIES OF PARTIES

Quest agrees to:

- I. Designate a person to whom all project communications may be addressed and who has the authority to act on behalf of all Quest services. This person will review the SOE and associated documents with DJUSD, thereby ensuring the clear understanding of responsibilities for both parties.
2. Identify a Project Coordinator for the overall project and provide project management for all activities associated with the project.
3. Comply with all applicable DJUSD policies and procedures, including, but not limited to, DJUSD's Project Management Office guidelines.
4. Return all DJUSD property, including security badges, prior to termination of the Agreement.
5. Insofar as permitted by law, Quest shall assume the defense and hold harmless Davis Joint Unified School District and/or any of its officers, agents or employees from any liability, damages, costs, or expenses of any kind whatsoever, including attorneys' fees, which may arise by reason of any harm to person(s) or property received or suffered by reason of the sole fault or negligence of Quest, their officers, agents or employees, arising out of their performance under the terms of this agreement.

DJUSD agrees to:

1. Designate a person to whom all Quest communications may be addressed and who has the authority to act on behalf of all DJUSD services. This person will review the SOE and associated documents with Quest, thereby ensuring the clear understanding of responsibilities for both parties.
2. Provide information regarding the business structure of DJUSD, as required, so Quest can provide services and fulfill its responsibilities under this SOE. DJUSD further agrees to schedule the availability of appropriate personnel for interviews as required by Quest.
3. Provide timely review and approval of Quest information and documentation in order for Quest to perform its obligations under this SOE.
4. Insofar as permitted by law, Davis Joint Unified School District ("DJUSD") shall assume the defense and hold harmless Quest and/or any of their officers, agents or employees from any liability, damages, costs, or expenses of any kind whatsoever, including attorneys' fees, which may arise by

reason of the sole fault or negligence of DJUSD, its officers, agents or employees, arising out of its performance under the terms of this agreement.

10 POINTS OF CONTACT

Quest Primary Contact:

Andy Samms – Account Manager

Email: Andrew_Samms@questsys.com

Phone: (916) 338-7070

Quest Secondary Contact:

Dave Montano – Technical Consultant

Email: Dave_Montano@questsys.com

Phone: (916) 609-8092

11 CONFIDENTIALITY

Quest agrees that Quest and its agents and personnel may have access to confidential and proprietary information and materials belonging to or disclosed by DJUSD, whether disclosed electronically, orally, in writing, or by display which is not generally disclosed to or known by public, concerning or pertaining to the business of DJUSD, including, without limitation, trade secrets, data, reports, methods, techniques, procedures, processes, methodologies, forecast, plans, employee information and DJUSD information, and that such information is commercially valuable to DJUSD or is otherwise confidential and proprietary to DJUSD (“Confidential Information”). Quest agrees that nothing in this SOE grants to it any license, right, title or interest in or to the Confidential Information, except as expressly set forth herein. DJUSD reserves all rights to its Confidential Information not expressly granted in this SOE. Quest agrees to use Confidential Information solely for the purposes of this SOE and pursuant to the terms of this SOE and for no other purpose whatsoever. Quest agrees to hold such information in the strictest confidence. Quest shall use reasonable efforts to protect the confidentiality of Confidential Information but in no event any less care than Quest takes to protect its own Confidential Information, and will cause others to protect such information no less than to the extent set forth herein. Quest agrees to provide DJUSD with such further assurances as reasonably requested by DJUSD from time to time.

12 NON-SOLICITATION

- 12.1 Quest.** During the Term and for a period of one (1) year thereafter, Quest agrees not to hire, solicit, nor attempt to solicit the services of any employee or subcontractor of DJUSD without the prior written consent of DJUSD. Violation of this provision shall entitle DJUSD to assert liquidated damages against Quest equal to one (1) year of billable engineering time or \$50,000.00, whichever is greater.
- 12.2 DJUSD.** During the Term and for a period of one (1) year thereafter, DJUSD agrees not to hire, solicit, nor attempt to solicit the services of any employee or subcontractor of Quest without the prior written consent of Quest. Violation of this provision shall entitle Quest to assert liquidated damages against DJUSD equal to one (1) year of billable engineering time or \$50,000.00, whichever is greater.

13 INDEPENDENT CONTRACTOR STATUS

Parties agree that Quest is an independent contractor providing professional services and not an employee, agent, joint venture or partner of DJUSD. Nothing in this SOE, nor in a course of dealing or by way of any aspect of this commercial relationship, shall be interpreted or construed as creating the relationship of employer and employee, principal and agent, joint ventures or partners between Quest and DJUSD and/or its personnel. Neither Party shall have any right, power, authority, expressed or implied, to bind the other.

14 LIMITATION OF LIABILITY

- 14.1 Limitation on indirect Liability.** Neither party will be liable under this agreement for lost revenues or indirect, special, incidental, consequential, exemplary, or punitive damages, even if the party knew or should have known that such damages were possible and even if direct damages do not satisfy a remedy.
- 14.2 Limitation on amount of Liability.** Neither party may be held liable under this agreement for more than the amount paid by DJUSD during the six (6) months under this agreement prior to the event giving rise to liability.

14.3 Exceptions to Limitations. These limitations of liability do not apply to breaches of confidentiality obligations, violations of party's Intellectual Property Rights by the other party, or indemnification obligations.

15 GOVERNING LAW

This SOE and the rights and obligations of the Parties hereunder shall be construed in accordance with and governed by the laws of the State of California, without giving effect to the conflict of laws principles thereof. Any legal proceeding by a Party to enforce any provision of this SOE or arising out of this SOE must be brought against a Party in a California Superior Court or the United States Court for the Eastern District of California, as applicable, and each of the Parties consents to the jurisdiction of such courts and waives any objection to the venue laid therein.

16 ACCEPTANCE

The pricing contained in this proposal shall remain valid for 30 days from the date of delivery. Prior to beginning work, Quest requires this Statement of Engagement to be signed by an authorized representative of DJUSD and a PO issued to cover the costs as outlined. **Upon signature, please email signed document to: Dave_Montano@questsys.com.**

Signature below denotes agreement to and approval by authorized representatives for the execution of this proposal:

DJUSD:

Signature: _____

Name: Bruce E. Colby

Title: Assoc. Supt. Bus. Svcs.

Date: April 27, 2015

Contract/PO#: _____

QUEST:

Signature: _____

Name: _____

Title: _____

Date: _____