

PROFESSIONAL SERVICES AGREEMENT BETWEEN SARATOGA UNION SCHOOL DISTRICT AND Colin Albert

This Professional Services Agreement ("Agreement") is made as of April 17, 2019 between the Saratoga Union School District ("District") and Colin Albert ("Consultant") (together, "Parties").

1. **Scope of Professional Services.** The Consultant shall furnish to the District at Redwood Middle School, the services as described in Attachment "A" attached hereto and incorporated herein by this reference ("Services" or "Work") - Proposal dated April 18, 2019
2. **Term.** Consultant shall commence providing services under this Agreement upon execution of the Agreement by both parties, and will diligently perform such services as required. The term for services and schedule to provide services shall be in accordance with the schedule included in the Consultant's Proposal, Attachment "A;"
3. **Submittal of Documents.** The Consultant shall not commence the Work under this Contract until the Consultant has submitted and the District has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below;
 - ☒ Signed Agreement
 - ☐ Workers' Compensation Certificate, if necessary
 - ☒ Criminal Background Investigation Certification
 - ☒ Tuberculosis (TB) Risk Assessment
 - ☒ W-9 Form (If not on file at SUSD)
4. **Compensation.** District compensation to the Consultant shall be as set forth in Attachment "A" as the proposed fee for services, but in no event shall total fees, costs, and expenses exceed Two Thousand Two Hundred Eighty-Eight Dollars and Seventy-Five Cents (\$2288.75), without the express approval of the Board.
5. **Expenses.** District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing services for District, other than as proved in Attachment "A."
6. **Independent Contractor.** Consultant, in the performance of this Agreement, shall be and act as an independent contractor. Consultant understands and agrees that he/she and all of his/her employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Consultant shall assume full responsibility for payment of all federal, state and local taxes or contributions,

including unemployment insurance, social security and income taxes with respect to Consultant's employees.

7. **Materials.** Consultant shall furnish, at his/her own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement.
8. **Standard of Care.** Consultant's services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of his/her profession for services to California school districts.
9. **Audit.** Consultant shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Consultant transacted under this Agreement. Consultant shall retain these books, records, and systems of account during the Term of this Agreement and for three (3) years thereafter. Consultant shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's normal business hours, unless Consultant otherwise consents.

10. Termination.

10.1. **Without Cause by District.** District may, at any time, with or without reason, terminate this Agreement with thirty (30) days written notice, and compensate Consultant only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Consultant. Notice shall be deemed given when received by the Consultant or no later than three days after the day of mailing, whichever is sooner. In the event that District terminates this Agreement pursuant to this section, District shall compensate Consultant for work completed to date as a pro-rata amount of the full fees, costs, and expenses.

10.2. **Without Cause by Consultant.** Consultant may, upon thirty (30) days' notice, with or without reason, terminate this Agreement. Upon this termination, District shall only be obligated to compensate Consultant for services satisfactorily rendered to the date of termination. Written notice by Consultant shall be sufficient to stop further performance of services to District. Consultant acknowledges that this thirty (30) day notice period is acceptable so that the District can attempt to procure the Services from another source.

10.3 **With Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:

10.2.1. material violation of this Agreement by the Consultant; or

10.2.2. any act by Consultant exposing the District to liability to others for personal injury or property damage; or

10.2.3. Consultant is adjudged a bankrupt, Consultant makes a general assignment for the benefit of creditors or a receiver is appointed on account of Consultant's insolvency.

Written notice by District shall contain the reasons for such intention to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure the required services from another Consultant. If the expense, fees, and costs to the District exceeds the cost of providing the service pursuant to this Agreement, the Consultant shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

10.4 Upon termination, Consultant shall provide the District with all documents produced maintained or collected by Consultant pursuant to this Agreement, whether or not such documents are final or draft documents.

11. **Indemnification.** To the furthest extent permitted by California law, Consultant shall, at its sole expense, defend, indemnify, and hold harmless the District, the State of California, and their agents, representatives, officers, consultants, employees, trustees, and volunteers (the "indemnified parties") from any and all demands, losses, liabilities, claims, suits, and actions (the "claims") of any kind, nature, and description, including, but not limited to, personal injury, death, property damage, and consultants and/or attorney's fees and costs, directly or indirectly arising out of, connected with, or resulting from the performance of the Agreement or from any activity, work, or thing done, permitted, or suffered by the Consultant under or in conjunction with this Agreement, unless the claims are caused wholly by the sole negligence or willful misconduct of the indemnified parties. The District shall have the right to accept or reject any legal representation that Consultant proposes to defend the indemnified parties.

12. **Assignment.** The obligations of the Consultant pursuant to this Agreement shall not be assigned by the Consultant.

13. **Compliance with Laws.** Consultant shall observe and comply with all rules and regulations of the governing board of the District and all federal, state, and local laws, ordinances and regulations. Consultant shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Work as indicated or specified. If Consultant observes that any of the Work required by this Contract is at variance with any such laws, ordinance, rules or regulations, Consultant shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Work shall be made and this Contract shall be appropriately amended in writing, or this Contract shall be terminated effective upon Consultant's receipt of a written termination notice from the District. If Consultant performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Consultant shall bear all costs arising therefrom.

14. **Permits/Licenses.** Consultant and all Consultant's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this agreement.

15. **Safety and Security:** Consultant is responsible for maintaining safety in the performance of this Agreement. Consultant shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.

16. **Anti-Discrimination.** It is the policy of the District that in connection with all work performed under contracts there be no discrimination against any employee engaged in the work because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age and therefore the Consultant agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735.
17. **Fingerprinting of Employees.** It is not contemplated at the time of execution of this Agreement that Consultant or its employees will have contact with students during the provision of services under this Agreement. If at a future time, Consultant will have contact with any pupils, Consultant shall comply with the provisions of Education Code section 45125.1 regarding the submission of employee fingerprints to the California Department of Justice and the completion of criminal background investigations of its employees. The Consultant shall not permit any employee to have any contact with District pupils until such time as the Consultant has verified in writing to the governing board of the District that the employee has not been convicted of a felony, as defined in Education Code section 45122.1. The Consultant's responsibility shall extend to all employees, subcontractors, agents, and employees or agents of subcontractors regardless of whether those individuals are paid or unpaid, concurrently employed by the District, or acting as independent contractors of the Consultant. Verification of compliance with this section and the Criminal Background Investigation Certification that may be required with this Agreement, shall be provided in writing to the District prior to each individual's commencement of employment or performing any portion of the Services and prior to permitting contact with any student.
18. **District's Evaluation of Consultant and Consultant's Employees and/or Subcontractors.**
The District may evaluate the Consultant in any manner which is permissible under the law. The District's evaluation may include, without limitation:
- 18.1. Requesting that District employee(s) evaluate the Consultant and the Consultant's employees and subcontractors and each of their performance.
- 18.2. Announced and unannounced observance of Consultant, Consultant's employee(s), and/or subcontractor(s).
19. **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.
20. **Confidentiality.** The Consultant and all Consultant's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.

21. **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 overnight delivery service, or facsimile transmission, addressed as follows:

District

**Saratoga Union School District
20460 Forrest Hills Dr.
Saratoga, CA 95070**

Consultant

Colin Albert

Any notice personally given or sent by facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next 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.

24. **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 Santa Clara County, California.
25. **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.
26. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
27. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date
Indicated below:

Date: _____

By: _____

Print Name: _____

Date: _____

By: _____

Print Name: _____

Information regarding Consultant:

Consultant: Colin Albert

Employer Identification and/or Social Security Number _____-_____-_____

n/a

License No.: _____

Address: _____

Telephone: () _____

Facsimile: () _____

E-mail: _____

NOTE: Title 26, Code of Federal Regulations, sections 6041 and 6209, require non-corporate recipients of \$600.00 or more to furnish their taxpayer identification number to the payer. The regulations also provide that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these regulations, the District requires your federal tax identification number or Social Security number, whichever is applicable.

Type of Business Entity:



_____ Individual

_____ Sole Proprietorship

_____ Partnership

_____ Limited Partnership

_____ Corporation

State: _____

_____ Limited Liability Company

_____ Other: _____

**ATTACHMENT “A”
SCOPE OF SERVICES**

Mr. Colin Albert will provide coaching services in chess at Redwood Middle School. The purpose of the chess club is to coach and develop chess skills among middle school students.

The chess club will offer 7 sessions from 3:30 p.m. - 4:30 p.m. on the following dates in 2019: 04/18, 04/25, 05/03, 05/09, 05/16, 05/23, 05/30

Rate:

Payment is based on the number of students participating along with the amount of donation from parents for the Chess Club Program up to \$140 per student minus the cost of the certificated teacher overseeing the program (\$411.25)

$\$135 \text{ (max donation per student)} \times 20 \text{ (max number of students)} = \2700

$\$2700 \text{ (max donation)} - \$411.25 \text{ (max cost of certificated teacher)} = \2288.75

Actual payment will be in the sum of the donations by student participants minus the teacher adviser stipend of \$411.25

Payment to Mr. Colin Albert not to exceed \$2288.75