

AGREEMENT FOR CONSULTANT SERVICES

By and Between

THE ALVORD UNIFIED SCHOOL DISTRICT

And

ECS IMAGING

Dated and Effective as of: July 1, 2021

AGREEMENT FOR CONSULTANT SERVICES

This Agreement for Consultant Services ("Agreement") is made effective as of July 1, 2021 ("Effective Date") by and between the Alvord Unified School District ("District") and ECS Imaging ("Consultant"). The District and the Consultant may be referred to herein individually as a "Party" and collectively as the "Parties."

PART 1: CONSULTANT SERVICES

Section 1.1 Scope of Consultant Services. The services to be performed by the Consultant pursuant to this Agreement and associated requirements ("Consultant Services") are described in detail in Exhibit "A" attached to this Agreement. The Consultant Services includes any and all labor, work, materials, supplies, equipment, and other things as may be necessary and/or appropriate for the Consultant to fully and satisfactorily complete the Consultant Services. Exhibit A also describes the location(s) at which the Consultant shall perform the Consultant Services (each a "Services Location").

Section 1.2 Time for Completion. Time is of the essence with respect to this Agreement and the performance by the Consultant of each of its obligations pursuant to this Agreement. The Consultant must fully and satisfactorily perform the Consultant Services as and when specified in Exhibit A hereto. The Parties may agree in writing to an extension of time for completion by the Consultant of the Consultant Services. In the event the Parties modify the Consultant Services in accordance with this Agreement, the Parties shall concurrently agree as to any changes in the timing for performance of the Consultant Services.

Section 1.3 Changes in Consultant Services. The District may at any time request any reasonable increase, decrease, or other change in the Consultant Services. In response to any such request, the Consultant must provide to the District a written proposal that describes in reasonable detail: (i) the change; (ii) the impact of the change on the time required for performance of the Consultant's obligations pursuant to this Agreement; and (iii) the impact of the change on the cost to the District for the performance of the Consultant's obligations pursuant to this Agreement. No proposal shall be deemed effective, and no compensation payable to the Consultant pursuant thereto, unless and until the proposal is approved by the Board of Education of the District ("District Board").

Section 1.4 Applicability of, and Compliance with, COVID-19 Orders.

Subsection 1.4.1 Acknowledgement of Applicability. The Consultant acknowledges that: (i) Consultant Services are being undertaken at a time when a public health emergency exists with respect to the virus that causes COVID-19, and it is presently uncertain when this public health emergency will end; (ii) state and local governmental public health and other officials ("Public Officials") have issued mandatory guidance and orders establishing safety and other requirements relating to COVID-19 ("COVID-19 Orders") that may be applicable to the Consultant Services; and (iv) the possibility exists that, while this Agreement is in effect, Public Officials may modify and/or issue additional COVID-19 Orders applicable to the Consultant Services. Without limiting the foregoing, Public Officials may include, among others, city and/or county public health officials, and state and/or federal Occupational Safety and Health Administration officials.

Subsection 1.4.2 Required Compliance. The Consultant acknowledges and agrees that: (i) the Consultant shall be solely responsible for full and satisfactory compliance with all applicable COVID-19 Orders, with respect to any and all employees, workers, and others who are performing any of the Consultant Services, including, without limitation, the employees of any authorized subconsultants

performing any of the Consultant Services; (ii) the Consultant shall comply (and shall cause its subcontractors, if any, to comply) with any and all other COVID-19-related policies and directives applicable to the Consultant Services and/or the Services Location(s), as implemented by the District or any other authorized person or entity; and (iii) the compensation specified in the Agreement shall be deemed to include adequate compensation for such compliance with any and all such COVID-19 Orders, policies, and directives.

Section 1.5 COVID-19 Interruptions and Delays.

Subsection 1.5.1 Nonperformance Excused. Notwithstanding anything to the contrary, whether in the Agreement or otherwise, neither Party shall be responsible or liable if it is delayed in performing, or fails to perform, any one or more of its obligations pursuant to the Agreement, nor shall any such delay or failure constitute an event of default, if and to the extent such delay or failure was caused by an event, occurrence, incident, or situation that: (i) reasonably is beyond the control of the nonperforming Party; (ii) was not caused in whole or in part by any negligence or willful misconduct of the nonperforming Party or any of its officers, employees, contractors, or subcontractors; and (iii) is a consequence of the need to comply with any COVID-19 Order that takes effect and/or is implemented during the period this Agreement is in effect (each a "Force Majeure Event"). Without limiting the foregoing, the consequences of a Force Majeure Event may include, among others: (i) mandated diversion of resources away from the District and/or the Consultant Services; (ii) mandated cessation of some or all of the Consultant Services; and (iii) mandated social distancing and/or other requirements beyond those in effect as of the Effective Date.

Subsection 1.5.2 Required Procedures. In each case that a Party cannot fully and/or timely perform as a result of a Force Majeure Event as defined above: (i) the nonperforming Party must promptly give to the other Party written notice that describes in reasonable detail the particulars of such Force Majeure Event; (ii) the suspension of performance shall be of no greater scope and of no longer duration than is reasonably required to accommodate the Force Majeure Event; (iii) the nonperforming Party shall proceed with reasonable diligence to remedy its inability to perform and shall provide reasonable periodic progress reports to the other Party describing actions taken, if any, to mitigate the effects of the Force Majeure Event; and (iv) the nonperforming Party shall resume its performance as soon as reasonably possible, and shall give written notice, to the other Party, of its intent and the date it will resume performance.

Subsection 1.5.3 Extension of Time. In the event a Party is unable to fully or timely perform its obligations in accordance with this Agreement, as a result of a Force Majeure Event as defined above, then: (i) except as the District and the Consultant may agree in writing, the Agreement shall continue in full force and effect unless terminated in accordance with its provisions; and (ii) as an exclusive remedy and subject to compliance with the other provisions in this Section 2, the time for performance of those obligations by the nonperforming Party (and any related obligations of the other Party) shall be extended by a reasonable number of days, but in no event by more than the number of days the Force Majeure Event precluded performance by the nonperforming Party of its obligations.

Section 1.6 Subconsultants. The Consultant may subcontract the performance of portions of the Consultant Services only upon, in each case, written consent of the District provided in advance of the Consultant entering into such subcontract. The District, in its sole discretion, may deny, delay and/or condition its approval of the use of any or all proposed subcontractors and/or subconsultants.

Section 1.7 Consultant Compensation. The District shall pay to the Consultant, in exchange for satisfactory performance by the Consultant of the Consultant Services required pursuant to this

Agreement, such compensation as is specified in Exhibit "B" to this Agreement ("Consultant Fee"). The Consultant Fee shall be deemed and construed for all purposes to be all-inclusive compensation for performance of the Consultant Services. Because the Consultant Fee constitutes all-inclusive compensation, the Consultant shall not be entitled to reimbursement of any expenses that it incurs in connection with performance of the Consultant Services, except as provided in Section 1.8 herein.

Section 1.8 Reimbursement of Expenses. The Consultant shall not be entitled to reimbursement of any expenses that it incurs in connection with performance of the Consultant Services other than as provided in this Section. Any reimbursement pursuant to this Section shall be in addition to the compensation specified in Section 1.7 of this Agreement, and shall be for the reasonable, actual costs incurred by the Consultant, without any markup. A condition precedent to reimbursement of expenses is that the Consultant must obtain the District's written approval of each such expense prior to the expense being incurred by the Consultant, and the District shall not unreasonably deny, delay or condition any such approval. Without limiting the foregoing, in no event shall the District be required to reimburse the Consultant for any of the following: (i) home-office overhead or personnel costs; (ii) supplies, materials, equipment, and other items required for performance of the Consultant Services; (iii) postage or cost of private delivery services less than \$25 for any one delivery; (iv) salary, benefits, travel, lodging and/or meal expenses of any person; (v) expenses of overtime work requiring higher than regular rates; or (vi) costs of any additional insurance coverages or limits in excess of those normally carried by the Consultant or any of its subcontractors or subconsultants that provide professional services in connection with this Agreement.

Section 1.9 Consultant Invoices. On or about the fifth day of each month following a month in which the Consultant performed any Consultant Services, the Consultant shall provide an invoice to the District seeking payment for the portion of the Consultant Fee earned and, subject to Section 1.8 herein, for reimbursement of expenses incurred during the preceding one-month period. The Consultant must in each invoice specifically describe the basis or bases for the amounts requested and shall submit with the invoice such documentation as reasonably, specifically, and adequately evidences and supports the amounts specified in the invoice. If an invoice requests payment for Consultant Services provided on a time-and-materials or other hourly-rate basis, the documentation to be submitted by the Consultant in support of the invoice must also include an itemization of the amount of time spent by each person performing the Consultant Services and the work accomplished by such person during such time. The District shall pay the undisputed portion of each such invoice within thirty days after receipt of the invoice. However, within ten days after receipt of any invoice from the Consultant, the District may request in writing that the Consultant provide additional information relating to some or all of the amounts specified in the invoice, and, in such event: (i) the Consultant shall provide such information to the District within five days following receipt of the District's request; and (ii) if the Consultant does not provide such information within such five-day period, the date by which the District must pay such amounts to the Consultant shall be extended for each day or portion of day in excess of the applicable five-day period, until such time as the Consultant provides the requested additional information to the District.

PART 2: ADMINISTRATION OF AGREEMENT AND CONSULTANT SERVICES

Section 2.1 District Representatives. The representatives of the District who are authorized to receive notice and/or to administer this Agreement on behalf of the District (each a "District Representative") are identified in Exhibit "C" attached to this Agreement. The Superintendent or chief business official of the District may change any District Representative, at any time, without need for reason, and without need to amend this Agreement.

Section 2.2 Consultant Representatives. The representative of the Consultant who is authorized to make any and all decisions regarding the performance of the Consultant Services and to otherwise represent the Consultant for all purposes of this Agreement is identified in Exhibit C hereto ("Consultant Representative"). The Consultant Representative shall be the Consultant's sole contact person for purposes of any and all communications with District Representatives in connection with this Agreement. At all times prior to full completion of the Consultant Services, the Consultant Representative must be reasonably available to the District Representatives, by telephone, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, and at such other times as the Consultant and the District may agree.

Section 2.3 Consultant is an Independent Contractor. The Consultant is, for any and all purposes of or related to this Agreement, an independent contractor. In no circumstances shall the Consultant or any of its officers, employees, or agents, in connection with this Agreement, be deemed or construed to be an officer, employee or agent of the District. The Consultant must at all times conduct its activities in a manner consistent with its status as an independent contractor, and, except as provided in this Agreement, the Consultant shall have the right to determine the methods, means and mechanisms by which it shall perform the Consultant Services. The Consultant shall not suffer or permit any third party (whether person or entity) to continue in any apparent belief that the Consultant or any of its officers, employees, or agents is an officer, employee or agent of the District. The Consultant shall be responsible for ensuring compliance with all labor and employment laws applicable to its employees, including, without limitation, laws relating to workers' compensation, working hours, employment records, wages, and, if applicable, payment of prevailing wages. The compensation payable to Consultant hereunder shall not be increased as a result of any costs incurred by Consultant that are attributable to such compliance.

Section 2.4 IRS Form W-9. Prior to commencing any of the Consultant Services, the Consultant must complete, sign, and provide to the District a current IRS Form W-9. The foregoing obligation shall be a condition precedent to any payment by the District to the Consultant pursuant to this Agreement, and the failure by the Consultant to provide the completed and signed IRS Form W-9 shall constitute a breach by the Consultant of its obligations pursuant to this Agreement.

Section 2.5 Consultant Capability. The Consultant represents and warrants that: (i) it has any and all licenses, certifications, and approvals as are required by law to permit the Consultant to enter into this Agreement and perform the Consultant Services; (ii) any and all persons who will perform any of the Consultant Services shall be licensed, as required by law, to practice in their respective professions; (iii) any and all persons who will perform any of the Consultant Services shall have the qualifications, technical skills and experience required to perform the Consultant Services in an efficient, timely, and satisfactory manner; and (iv) the Consultant has sufficient financial, personnel, and other resources to adequately and timely perform the Consultant Services as required pursuant to this Agreement.

Section 2.6 Student Safety. If so Exhibit A hereto specifies that it is required, the Consultant shall require and ensure compliance, by all of its employees, volunteers, and other representatives who will be present on or at any District property in connection with this Agreement, with the background-check requirements of Education Code Section 45125.1, regardless of whether such requirements otherwise would apply to the Consultant Services. In that regard, the Consultant, at its sole cost and expense, must: (i) comply with all California Department of Justice guidelines and requirements applicable to fingerprinting of, and background checks regarding, such employees, volunteers, and other representatives of the Consultant; and (ii) complete, execute and, prior to performing any Consultant

Services at any Services Location, deliver to the District the "Certification Regarding Employee Background Checks" form attached as Exhibit "D" to this Agreement.

Section 2.7 Tuberculosis Assessment and Examination. If so Exhibit A hereto specifies that it is required, the Consultant, prior to commencing the Consultant Services and at its sole cost and expense, shall: (i) confer with the District regarding whether any of the persons performing any Consultant Services will have frequent or prolonged contact with District students, as contemplated by Education Code Section 49406; (ii) cause any and all such persons to comply, if applicable, with the assessment and examination procedures required pursuant to Section 49406; and (iii) certify to the District, using the form attached as Exhibit "E" to this Agreement, that each such person is free of tuberculosis risk factors or, if risk factors are present, is free of infectious tuberculosis.

Section 2.8 Compliance with Laws and District Requirements. The Consultant must perform the Consultant Services in compliance with any and all applicable federal, California and local laws, regulations, ordinances and other governmental requirements. The Consultant shall be responsible for ensuring that each of the Consultant's employees and other representatives who enter in and upon any of the District's property fully comply with: (i) all District rules, policies or other requirements applicable to presence on District property (including, but not limited to, policies prohibiting the use of drugs, alcohol, and tobacco); and (ii) reasonable directives from District Representatives.

Section 2.9 Consultant Records.

Subsection 2.9.1 General Requirements. The Consultant must prepare and maintain, in accordance with generally accepted accounting principles, all financial and other records related to this Agreement and to the Consultant Services as necessary, appropriate or required by law ("Consultant Records"). The Consultant Records shall include any and all incident reports (whether internal or external to the Consultant), claims, demands, court filings, pictures, witness statements, invoices, and other records of whatever nature that reasonably or arguably relate to injuries, accidents, assault, abuse, molestation and other situations, events, or incidents that potentially could result in any liability for personal injury, property damage, criminal violations, or other matters ("Incident Records"). The Consultant shall maintain: (i) all Consultant Records, generally, for a period of three years following final payment pursuant to this Agreement; and (ii) any and all Incident Records for a period of four years following the date (or last date) the last Incident occurred.

Subsection 2.9.2 Review, Copy, and Audit Rights. Pursuant to Government Code Section 8546.7, the California State Auditor has the right, for a period of three years following final payment, to review, audit and/or copy records of the contracting parties with respect to each contract providing for expenditure of public funds in excess of \$10,000. Pursuant to this Agreement, the District and other governmental entities with competent jurisdiction shall have the rights: (i) to review, copy, and/or audit some or all of the Consultant Records, at any time during the three-year period following final payment to the Consultant in accordance with this Agreement; and (ii) to review, copy, and/or audit some or all of the Incident Records, at any time during the four-year period following the date (or last date) the last Incident occurred.

Subsection 2.9.3 Access to Records. The Consultant must make the Consultant Records (including, without limitation, Incident Records) available for review and/or copying at all reasonable times during whichever of the three-year or four-year periods specified in Subsection 2.9.2 is applicable. Notwithstanding the foregoing or anything in Subsection 2.9.2 herein, if the California State Auditor, the District, or any other governmental entity commences, but does not complete, an audit within the applicable three-year or four-year period described in Subsection 2.9.2, the Consultant must

retain and make available the Consultant Records (including, as applicable, Incident Records) until such time as the audit has been completed and all applicable appeal periods have expired without appeal (or, if applicable, without additional appeal).

Section 2.10 Ownership and Use of Documents. Any and all working documents, original or reproducible transparencies, presentations, computations and other documents, in whatever format or storage medium, obtained or prepared by the Consultant pursuant to this Agreement (collectively, "Service Documents") are and shall remain the property of the District. Except for purposes of this Agreement, and except for copies to be retained as part of the Consultant Records, the Consultant shall not permit reproductions to be made of any of the Service Documents without the advance written approval of the District.

PART 3: CONSULTANT INSURANCE

Section 3.1 Required Insurance. Prior to commencing any of the Consultant Services, the Consultant must procure at its sole cost and expense, and, during all periods as required by this Agreement, must maintain in effect, the insurance policies required pursuant to this Part 3. Such insurance policies include the following:

- (i) **General Liability Insurance.** A policy of commercial general liability insurance, written on an "occurrence" basis, providing coverage with a combined single limit of not less than \$1,000,000 for all activities conducted by Consultant pursuant to this Agreement ("General Liability Policy"). The General Liability Policy must include, without limitation, coverage for the contractual liability assumed by the Consultant pursuant to this Agreement.
- (ii) **Vehicle Liability Insurance.** A policy of business vehicle liability insurance, written on an "occurrence" basis, with a combined single limit of not less than \$500,000 per accident for bodily injury and property damage ("Vehicle Liability Policy"). The Vehicle Liability Policy must include coverage for owned, hired, and non-owned automobiles.
- (iii) **Workers' Compensation Insurance.** Workers' compensation insurance as required by California law. Notwithstanding the insurer rating standards set forth in this Agreement, coverage provided by the California State Compensation Insurance Fund shall be deemed, with respect to the workers' compensation insurance, to satisfy such insurer rating standards.
- (iv) **Professional Liability Insurance.** If Exhibit A hereto specifies that it is required, professional liability insurance with coverage in an amount of not less than \$1,000,000 ("Professional Liability Policy"), which the District acknowledges shall be written on a "claims made" basis.
- (v) **N/A-Abuse-Molestation Liability Insurance.** If Exhibit A hereto specifies that it is required, abuse-molestation liability insurance ("Abuse Policy") that: (i) is separate from the General Liability Policy, any Professional Liability Policy, and other insurance policies that the Consultant may have in effect; (ii) is written on an "occurrence" basis; (iii) has coverage limits of not less than \$2,000,000 per occurrence and \$5,000,000 aggregate; (iv) provides coverage for direct and vicarious liability associated with sexual misconduct and other physical abuse, and for verbal, emotional, mental and other non-physical abuse; (v) covers acts and omissions by, among others, the Consultant's officers, employees, instructors, aides, assistants, volunteers, and other representatives; (vi) covers, if the District has authorized the use of any subcontractors in accordance with Section 1.6 herein, acts and omissions by each subcontractor's officers, employees, instructors, aides, assistants, volunteers, and other representatives; (vii) provides

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coverage for the District prior to any determination that an accused abuser is guilty; and (viii) provides for payment of defense costs outside the Abuse Policy's coverage limits. The Consultant shall comply with any and all risk management controls reasonably required by the insurer that issues the Abuse Policy.

Section 3.2 Duration of Insurance. Except with respect to the Professional Liability Policy if required, the Consultant must maintain the insurance required pursuant to this Agreement in effect at least until the date that is one year following final payment to the Consultant pursuant to this Agreement.

Section 3.3 Professional Liability Insurance. With respect to the Professional Liability Policy if required: (i) the effective date of the coverage must be shown and must be prior to the Effective Date; (ii) the coverage must be maintained, and evidence of coverage must be provided, for at least two years following final completion and acceptance of the Consultant Services; (iii) if coverage is cancelled or renewed, and not replaced with another claims-made policy form with a retroactive coverage date that is prior to or the same as the date the original policy took effect, the Consultant must purchase extended-period coverage (tail) that provides coverage until a minimum of two years following final completion and acceptance of the Consultant Services; and (iv) a copy of any and all claims reporting requirements, for original and replacement policies, must be submitted to the District for review.

Section 3.4 Insurer Rating Standards. Except as the District may otherwise agree in writing, the Consultant's insurance policies required pursuant to this Agreement must be issued by one or more insurers licensed to do business in California and having an A.M. Best Company rating of not less than "A-" (i.e., A minus) and a financial size category of "VII."

Section 3.5 Additional Insureds. Each policy of insurance that the Consultant is required to have in effect pursuant to this Agreement, except for the workers' compensation insurance and, if required, the Professional Liability Policy, shall name (or be endorsed to name) the District, the District Board and each individual member thereof, and the District's other officers, employees and agents, as additional insureds, to the extent of the Consultant's acts and omissions (whether constituting negligence or not) in connection with this Agreement. The additional insured endorsements must be ISO form CG 2010 11/85 or equivalent approved in advance by the District. For purposes of this Section, and without otherwise limiting the District's discretion to determine an equivalent to form CG 2010 11/85, a combination of ISO forms CG 2010 10/01 and CG 2037 10/01 shall be deemed an acceptable equivalent to ISO form CG 2010 11/85.

Section 3.6 Waiver of Subrogation. With respect to the District and other parties to be named additional insureds pursuant to Section 3.5 herein, the Consultant hereby waives, on behalf of its insurers, any and all rights to subrogation that any such insurer may acquire by virtue of the payment of any loss. Each of the General Liability Policy and the Vehicle Liability Policy must be endorsed with a cross-liability endorsement and a waiver of the insurer's rights of subrogation against the District and such other parties. The policy of workers' compensation insurance must be endorsed with a waiver of the insurer's rights of subrogation against the District and such other parties.

Section 3.7 Consultant Insurance is Primary. To the extent permitted by law, insurance policies required by this Agreement to be maintained by the Consultant shall be primary and non-contributing with respect to any insurance or self-insurance programs covering the District, the District Board or individual members thereof, or the District's other officers, employees or agents. The General

Liability Policy and the Vehicle Liability Policy must be endorsed to provide that they are so primary and non-contributory.

Section 3.8 Evidence of Coverage. Concurrent with execution and delivery of this Agreement, the Consultant must provide to the District such duly-authorized and executed certificates of insurance evidencing that the insurance policies to be maintained by the Consultant pursuant to this Agreement are in effect (each a "Certificate of Insurance"), together with a copy of each endorsement to such insurance as is required pursuant to this Agreement. The delivery of such Certificates of Insurance and endorsements shall be a condition precedent to the Consultant commencing any of the Consultant Services pursuant to this Agreement. The Certificates of Insurance shall identify those who are to be named as additional insureds in accordance with this Agreement. The Consultant must provide updated Certificates of Insurance to the District for each renewal of an insurance policy that the Consultant is required to maintain pursuant to this Agreement.

PART 4: INDEMNIFICATION

Section 4.1 General Requirement. The Consultant shall indemnify and hold harmless the District against and from any and all claims, demands, actions, judgments, damages, losses, costs and expenses (including, without limitation, attorneys' fees and expenses) and other liabilities to the extent arising from any negligence, recklessness and/or willful misconduct of the Consultant or any of its officers, employees or agents (collectively, but not including the Consultant, the "Consultant Agents") in connection with their activities in connection with this Agreement. The scope of the Consultant's obligations pursuant to this Section shall include, without limitation, the injury or death of any person or the damage to any property in connection with performance of Consultant Services by the Consultant or any of the Consultant Agents.

Section 4.2 Defense of District. The Consultant shall defend the District with respect to any claim, demand, or action that by allegation or implication is within the scope of the Consultant's indemnification obligation pursuant to Section 4.1 of this Agreement. Any defense of the District conducted pursuant to this Agreement must be conducted by qualified and appropriately experienced legal counsel reasonably acceptable to the District, but selected and retained by the Consultant, at no cost to the District.

Section 4.3 Limitation on Consultant Obligations. The Consultant shall not be obligated pursuant to Sections 4.1 and 4.2 of this Agreement to the extent any claim, demand, action, judgment, damage, loss, cost or expense, or other liability results from the sole negligence, active negligence, or willful misconduct of the District or any of its officers or employees. In each such event, the Parties shall be responsible and liable on a comparative basis.

Section 4.4 Payment of Costs. The Consultant shall reimburse to the District, or upon request of the District shall directly pay, any and all costs, expenses, penalties, judgments, settlements, and other amounts paid or owed by the District that are payable by the Consultant pursuant to the indemnity provisions of this Agreement. The Consultant must pay each such amount not later than when the amount is due or within thirty days of receipt of an applicable written invoice from the District. Any late payments by the Consultant shall accrue interest at the maximum legal rate.

Section 4.5 Insurance Not a Limitation. The obligations of the Consultant pursuant to this Part 4 shall not be deemed or construed to be: (i) conditioned upon or in any other manner limited by the existence of any insurance coverage maintained by any person or entity; or (ii) conditioned upon the receipt by any person or entity of, or limited to the amount of, any insurance proceeds.

Section 4.6 Survival of Obligations. With respect to any and all acts, omissions or incidents occurring prior to termination of this Agreement, the Consultant's obligations pursuant to this Part 4 shall survive termination of this Agreement, regardless of whether the Consultant has then completed any or all of the Consultant Services.

Section 4.7 Scope of Indemnification Obligation. For purposes of each and every obligation of the Consultant set forth in this Agreement to indemnify, defend and/or hold harmless the District, the reference to the District shall be deemed and construed to be a reference to the District, the District Board and each member thereof, and the District's other officers, employees and agents, and each of them.

PART 5: DISPUTE RESOLUTION

Section 5.1 Notice and Opportunity to Cure. If either Party ("Alleging Party") alleges that the other Party ("Defaulting Party") has breached any of its obligations pursuant to this Agreement, the Alleging Party may provide written notice thereof to the Defaulting Party, specifying in reasonable detail the nature and extent of the alleged default ("Notice of Default"). If the Defaulting Party has not cured the alleged default within fourteen days after receipt of the Notice of Default, then the Alleging Party in its discretion may initiate the dispute resolution process described in Section 5.2 herein.

Section 5.2 Informal Attempts at Dispute Resolution. If a dispute between the Parties arises out of or relates to this Agreement ("Dispute"), the Parties shall attempt as provided in this Section to resolve the Dispute as quickly and as amicably as possible, including, without limitation, any Disputes as to the meaning of any provision of this Agreement, the validity of any determination or calculation required pursuant to this Agreement, or the rights or obligations of the Parties pursuant to this Agreement. If the Dispute does not relate to an alleged default or is not of such nature that a Party may give a Notice of Default, then the Party alleging the Dispute shall give to the other Party a written notice of the Dispute ("Notice of Dispute"). Within a reasonable time, not in excess of seven calendar days, after receipt of either a Notice of Default or a Notice of Dispute, the Parties shall commence attempts to informally resolve the Dispute as required pursuant to this Section. Such attempts shall include good-faith, reasonable and diligent efforts by both Parties to communicate and, if possible, to reconcile or compromise their respective positions. The participation by a Party in such attempts to informally resolve a Dispute shall be a condition precedent to such Party exercising any available remedy in response to the Dispute. If, after diligently making the attempts required pursuant to this Section for at least twenty calendar days, the Parties cannot resolve a Dispute, either Party may give written notice to the other Party that the attempts have been unavailing and, therefore, have been terminated effective upon receipt of that notice by the other Party.

Section 5.3 Exercise of Available Remedies. If attempts to resolve a Dispute pursuant to Section 5.2 herein are terminated without the Dispute having been resolved to the satisfaction of either Party, the Party may initiate any legal or equitable action or other proceeding in response to the Dispute that is available pursuant to this Agreement and applicable law. If a Party fails to respond to, or participate in good faith in, any requests or requirements for resolution of the Dispute pursuant to Section 5.2 herein, the other Party, in its discretion and without needing to further comply with Section 5.2 herein, may initiate any legal or equitable action or other proceeding in response to the Dispute that is available pursuant to this Agreement and applicable law. However, nothing in this Agreement shall be deemed or construed to alter or obviate the claims presentation and other requirements of the Government Claims Act set forth in Government Code Section 900 *et seq.*

Section 5.4 Performance During Disputes. At all times while any Dispute is pending, each Party shall continue to fully perform its obligations pursuant to this Agreement. Notwithstanding the foregoing, a Party shall not be responsible for continued performance of its obligations pursuant to this Agreement to the extent a default or alleged default by the other Party makes such performance impossible, impractical, or unreasonable.

Section 5.5 Remedies Not Limited. In connection with any Dispute, and except as expressly provided in this Agreement, each Party may exercise any or all rights and remedies available pursuant to this Agreement and applicable law. No such available remedy shall be deemed or construed to be exclusive, and a Party may exercise any available remedy individually or in combination with any other available remedies.

PART 6: TERMINATION

Section 6.1 Termination Due to Expiration or Completion. Unless earlier terminated in accordance with this Part 6, this Agreement shall terminate upon: (i) expiration of the period determined pursuant to Section 1.2 for completion by the Consultant of the Consultant Services or, if the Consultant has not then completed all of the Consultant Services, upon such later date as agreed in writing by the Parties; or (ii) upon completion of all Consultant Services required to be performed by the Consultant and final payment by the District to the Consultant as required by this Agreement.

Section 6.2 District Termination Without Need for Cause. The District may terminate this Agreement, with respect to some or all of the Consultant Services, and without need for cause, by providing written notice of termination to the Consultant. Such termination shall be effective on the date that is ten days following receipt of the notice of termination by the Consultant, or as of such earlier date as may be specified in the notice of termination.

Section 6.3 District Termination for Cause. Subject to Sections 5.1 and 5.2 herein, the District may give the Consultant written notice of the District's intent to terminate this Agreement for cause if the District reasonably determines that the Consultant has failed to perform some or all of the Consultant Services in a satisfactory and timely manner or if the Consultant otherwise has breached any of its obligations pursuant to this Agreement. Notwithstanding the foregoing or anything else to the contrary, the District may terminate this Agreement without compliance with Sections 5.1 and 5.2 herein if the District reasonably determines that the any officer, employee, volunteer, or agent of the Consultant has endangered the health, safety or welfare of any District student(s) and/or personnel, or that the continued presence of Consultant personnel at any Services Location(s) will endanger the health, safety or welfare of any District student(s) or personnel. A termination pursuant to this Section shall be effective immediately upon receipt by the Consultant of the notice of termination or as of such later date as the notice may specify.

Section 6.4 Consultant Termination for Cause. Subject to Sections 5.1 and 5.2 herein, the Consultant may give the District written notice of the Consultant's intent to terminate this Agreement for cause if the Consultant reasonably determines that the District has breached any of its material obligations pursuant to this Agreement. A termination pursuant to this Section shall be effective immediately upon receipt by the District of the notice of termination or as of such later date as the notice may specify.

Section 6.5 Compensation to Consultant Upon Termination. Subject to all other provisions of this Agreement, in the event of any termination, in whole or in part, of this Agreement pursuant to Section 6.2 or 6.4 of this Agreement, then, with respect to the terminated portion of the Consultant

Services, the District shall compensate the Consultant, consistent with Exhibit B hereto, for the Consultant Services that the Consultant satisfactorily performed prior to termination. Nothing in the foregoing shall be deemed or construed to constitute a waiver or release of any damages that a Party incurs as a result of a breach by the other Party of its obligations pursuant to this Agreement, and a Party shall be entitled to offset any and all such damages from amounts otherwise payable to the other Party pursuant to this Agreement.

Section 6.6 Consultant to Provide Copies of Service Documents. Upon termination of this Agreement, and regardless of the basis or reason for termination, the Consultant must, not later than seven days following the effective date of the termination, provide to the District copies of all Service Documents relating to the terminated portion of the Consultant Services. Satisfaction of the Consultant's obligations pursuant to this Section shall be a condition precedent to the District's obligation to pay any compensation, reimbursement, or other amounts, or to pay additional amounts, to the Consultant pursuant to Section 6.5 or any other provision of this Agreement. The failure by the Consultant to comply with the requirements of this Section, when applicable, shall constitute a material breach by the Consultant of its obligations pursuant to this Agreement.

Section 6.7 Survival of Obligations. The Parties' respective rights and obligations pursuant to this Part 6 shall survive termination of this Agreement.

PART 7: GIVING OF NOTICE

Section 7.1 General Requirements. Any and all notices required or permitted to be given pursuant to this Agreement (each a "Notice") must be in writing and must be sent via: (i) personal delivery (with name and signature of recipient obtained on delivery receipt); (ii) registered or certified U.S. mail (postage pre-paid and return receipt requested); (iii) FedEx, UPS or other reliable, private delivery service (with name and signature of recipient obtained on electronic or other delivery receipt); or (iv) electronic mail (i.e., email) transmission (with original of the Notice deposited into the U.S. mail, first-class postage prepaid, within twelve hours after transmission). Notices given to the District must be addressed and delivered to both of the District Representatives as specified in Exhibit C hereto, and Notices given to the Consultant must be addressed and delivered to the Consultant Representative as specified in Exhibit C hereto. A Party may give notice of each change in its address, person to whom attention should be directed, or email address by giving Notice in accordance with this Part 7.

Section 7.2 Additional Requirements for Giving Notice by Email. As an additional condition to sending a Notice by email, the reference (or "re") line must indicate that it is a "Notice Pursuant to Agreement for Consultant Services." Because email addresses are subject to change more frequently than physical addresses, if a Notice is to be sent by email, unless the sender has actual knowledge of the then-current correct email address of each intended recipient, the sender must call and verify the then-current email address of each intended recipient prior to sending the Notice, or must use some other method of delivering the Notice.

Section 7.3 Effect of Receipt. A Notice shall be deemed given or served only upon actual receipt by the addressee. In the case of email, "actual receipt" shall mean delivery to the recipient's email in-box. However, if any Notice (including, without limitation, any Notice sent by email) is delivered after 4:00 p.m. on any business day, or is delivered on any day that is not a business day, the Notice shall be deemed to have been given or served as of 9:00 a.m. on the next subsequent business day.

Section 7.4 Applicability of Notice Requirements. The requirements of this Part 7 shall not be deemed or construed to apply to: (i) communications between the Parties necessary for day-to-day administration of this Agreement or performance of the Consultant Services; or (ii) service of process in accordance with any applicable law or court rule.

PART 8: INTERPRETATION OF AGREEMENT

Section 8.1 Fair and Reasonable Interpretations. Each Party hereby acknowledges and agrees that, prior to execution and delivery of this Agreement, such Party has received, or had unqualified opportunities to receive, independent legal advice from its legal counsel with respect to the advisability of entering into this Agreement and the meaning of the provisions herein. Therefore, the provisions of this Agreement shall be construed based on their fair and reasonable meaning, and not for or against any Party based on whether such Party or its legal counsel was primarily responsible for drafting this Agreement or any particular provision herein.

Section 8.2 Headings and Captions. The headings and captions set forth in this Agreement are for the convenience of the reader only and shall not be deemed or construed to establish, define or limit the meaning of any Part, Section, or other provision herein.

Section 8.3 Exhibits. Each Exhibit referenced herein and attached hereto is hereby incorporated as an effective and operative provision of this Agreement. In the event of any conflict between any provision in the main body of this Agreement and any provision in the Exhibits, the provision in the main body of this Agreement shall govern.

Section 8.4 Meaning of "Days." Except as expressly provided in this Agreement in any particular case, each reference in this Agreement to a specific number of days shall be construed to mean consecutive calendar days, not business days. For purposes of this Agreement, the term "business day" means any day that is not: (i) a Saturday or Sunday; (ii) an official federal or State of California holiday; or (iii) with respect to the District's administrative staff, a furlough day mandated by any agency, department, or board of the State of California or by the District Board.

Section 8.5 Entire Agreement. This Agreement constitutes the entire understanding and agreement between the Parties pertaining to the performance of the Consultant Services by the Consultant, and any and all prior and contemporaneous agreements, representations and understandings of the Parties relating to such subject matter, whether oral or written, are hereby superseded and replaced.

Section 8.6 Modifications of Agreement. This Agreement may be modified only by means of duly-approved written instrument executed and delivered by both Parties.

Section 8.7 Waiver. A waiver by a Party of any provision of this Agreement shall be binding only if the waiver is set forth in writing and has been duly approved and signed by the waiving Party. Unless so specified in the written waiver, a waiver by a Party of any provision of this Agreement shall not constitute a waiver of any other provision(s) herein, similar or not, and shall not be construed as a continuing waiver. Except as waived in accordance with this Section, neither the failure by a Party at any time to require performance of any requirement of this Agreement, nor any forbearance or indulgence of the Party in regard to such requirement, shall in any manner affect the Party's right at a later time to enforce the same or any other provision of this Agreement.

Section 8.8 Governing Law and Venue. This Agreement shall be governed by and interpreted in accordance with the California law, notwithstanding any conflict-of-law, choice-of-law or other provision in the laws of California or any other jurisdiction. Any action, arbitration, or other proceeding arising from this Agreement shall be initiated and conducted only in the County of Riverside, California.

Section 8.9 Severability. If a court of competent jurisdiction determines, for any reason, that any provision or requirement of this Agreement is invalid or unenforceable, then, regardless of the reason for such determination, it shall not be deemed or construed to invalidate or render unenforceable any other provision or requirement of this Agreement. In such event, the remaining provisions and requirements shall be interpreted, to the extent permitted by law, in a manner that is consistent with the intent and purpose underlying the invalid or unenforceable provision or requirement.

Section 8.10 Successors and Assigns. The Consultant may not assign this Agreement without the express written consent of the District, and any attempt to do so shall be null and void. Subject to the foregoing, this Agreement shall inure to the benefit of, and be binding on, the Parties' authorized successors and assigns.

Section 8.11 No Third-Party Beneficiaries. The Parties have entered into this Agreement solely for their own purposes, and this Agreement shall not be deemed or construed to: (i) benefit any third party; (ii) create any right for any third party; or (iii) except as provided by law, provide a basis for any claim, demand, action or other proceeding by any third party.

Section 8.12 Agreement is Public Record. Notwithstanding anything in any proposal or any discussions or writings relating hereto: (i) nothing in this Agreement shall be deemed or construed to constitute confidential information; and (ii) this Agreement is a public record which the District may disclose in accordance with California law or otherwise.

PART 9: EXECUTION OF AGREEMENT

Section 9.1 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, taken together, shall constitute one and the same instrument. Signature pages may be detached from counterpart originals and combined to physically form one or more copies of this Agreement having original signatures of both Parties.

Section 9.2 Due Authority. Each person who has signed this Agreement on behalf of a Party shall be deemed and construed to thereby represent and warrant that he or she has been duly authorized by that Party to sign, and thereby bind such Party to, this Agreement.

IN WITNESS WHEREOF, the duly authorized representatives of the Parties have executed this Agreement as evidenced by their signatures below.

Alvord Unified School District

ECS Imaging

By: _____

By: Debbi Bodewin

Print Name: Sherri Kemp Ed.D.

Print Name: Debbi Bodewin

Print Title: Assistant Superintendent

Print Title: Executive V.P.

Date Signed: _____

Date Signed: 5-13-21

Approved by District Board on:

EXHIBIT "A"
DESCRIPTION OF SERVICES AND REQUIREMENTS FOR CONSULTANT

Consultant Services

Warranty and maintenance contract: Fujitsu 7160

- ECS Gold priority Support consists of 10 hours of online or on-site support time, unlimited phone support, and a four hour response time for most services offered by ECS including Laserfische tech support, installations, configurations of workflow and forms, and integration services beginning on 7/1/2021 and expiring on 6/30/2022.
- Support hours are 7:30a.m.-5:00p.m. Monday-Friday. Additional online or site-support will be billed at your currently hourly support rate. Minimum on-site time is calculated at 2 hours.

Services Location(s)

9 KPC Parkway, Corona CA 92879

Timing of Services

The term of this contract is 7/1/2021-6/30/2022

Student and Staff Health and Safety

The Consultant need not comply with the requirements of Section 2.6 of the main body of this Agreement relating to student safety.

The Consultant need not comply with the requirements of Section 2.7 of the main body of this Agreement relating to tuberculosis assessment and examination.

Professional Liability Insurance

The Consultant shall not be required to have the Professional Liability Policy in effect pursuant to Part 3 of the main body of this Agreement.

Abuse-Molestation Liability Insurance

The Consultant shall not be required to have the Abuse-Molestation Liability Policy in effect pursuant to Part 3 of the main body of this Agreement.

EXHIBIT "B"
CONSULTANT COMPENSATION

In exchange for full and satisfactory completion of the Consultant Services, the District shall compensate the Consultant as provided below in this Exhibit B. Such compensation shall be deemed and construed to be all-inclusive, full and final compensation to the Consultant for the Consultant Services provided, and shall include any and all overhead, profit and other amounts potentially payable to the Consultant for the Consultant Services. Subject to the foregoing, the District shall pay to the Consultant *a fixed fee in the total amount of four thousand, four hundred, twenty-two dollars. (\$4,422).*

EXHIBIT "C"
AUTHORIZED REPRESENTATIVES

Consultant Representative

The Consultant Representative for all purposes of this Agreement, including, without limitation Part 7 of the main body of this Agreement (i.e., Notices), is identified below, along with his or her contact information.

ECS Imaging
Attn: Debbi Bodewin
5905 Brockton Ave, Ste C
Riverside, CA 92506

District Representatives

The District Representatives, for purposes of Part 7 of the main body of this Agreement (i.e., Notices), and their respective contact information are identified below. A copy of each Notice given to the District must be sent to both of the District Representatives as follows:

Alvord Unified School District
Attn: Sherri Kemp
9 KPC Parkway
Corona, CA 92879
Email: sherri.kemp@alvordschools.org

The District Representatives, for purposes of administration of this Agreement and the Consultant Services, are as follows:

Name and Title (Primary):	Sandy Fielding, Director II -Student Services, is the District's primary contact person with respect to administration of this Agreement.
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