

AGREEMENT FOR CONSULTING SERVICES

THIS AGREEMENT FOR CONSULTING SERVICES ("Agreement") is made and entered into this _____ day of _____, 2022 ("Effective Date"), by and between Alvord Unified School District at 9 KPC Parkway, Corona, CA 92879, hereinafter called "Client", and Cooperative Strategies, LLC at 2855 Michelle Drive, Suite 230, Irvine, CA 92606, hereinafter "Consultant" and each, a "Party" or together, the "Parties". The Parties, in consideration of the mutual promises and conditions herein contained agree as follows:

ARTICLE I. SERVICES TO BE PERFORMED BY CONSULTANT

Section 1.1 Services, Statement of Work. Client hereby retains Consultant to perform the services ("Services") set forth in the Statement of Work (the "SOW") attached as Exhibit A to this Agreement, which is hereby incorporated by reference. In the event of a conflict between this Agreement and the SOW, the SOW shall prevail for the purposes of such SOW only.

Section 1.2 No Agency. The relationship of the Parties is that of independent contractors. Nothing herein will be deemed to create an employment, agency, joint venture, or partnership relationship between the Parties or any of their agents or employees. Neither Party will have the power to enter into any contracts or to incur any liabilities on behalf of the other.

ARTICLE II. OWNERSHIP; USE

Section 2.1 Consultant Materials. Consultant owns any and all work product created in the performance of this Agreement, including all intellectual property rights therein, including, but not limited to: (a) computer software (including financial models, compilations of formulas and spreadsheet models), inventions, designs, programs, improvements, techniques, ideas, concepts, trade secrets and know-how, proprietary models, processes and methods, and (b) reports, drawings, templates, specifications, computer files, field data, notes, other documents and instruments and other works of authorship and developments conceived, created, discovered, invented, or reduced to practice ("Consultant Materials").

Section 2.2 Client's Rights and Obligations. This Agreement only entitles Client to a right to use the hard copy or electronic reports portion of the Consultant Materials (each a "Report"). Client shall not reuse Reports for any unlawful purpose. Client shall, to the fullest extent permitted by law, indemnify and hold harmless Consultant, its shareholders, officers, directors, members, managers, employees, and subcontractors ("Consultant Indemnified Parties") against any damages, losses, liabilities, and costs and expenses, including reasonable attorneys' fees and costs, arising from or allegedly arising from the unauthorized use of the Consultant Materials or Reports by or through Client.

Section 2.3 Rights. Consultant reserves all rights in Consultant Materials, including the Reports. Consultant may use Consultant Materials for any purpose during the term of this Agreement or thereafter. Client agrees that Consultant has spent and will spend substantial time and effort in collecting and compiling data and information (including Client Data, as defined below) (the "Data Compilations") in order to produce the Report(s). Data Compilations may be used by Consultant for its own purposes, including, without limitation, sale, or distribution to third parties, provided that Consultant will not sell or distribute Client's Confidential Information that may be contained in Data Compilations unless such information is used on an aggregated, anonymous basis.

ARTICLE III. COMPENSATION

Section 3.1 Fees. Client shall pay Consultant a professional fee according to the fee schedule attached as Exhibit B hereto (the "Fee Schedule") for the Services rendered hereunder. Consultant may adjust its rates in the event of an amendment of the SOW.

Section 3.2 Reimbursement. Client agrees that it shall reimburse Consultant for Consultant's out-of-pocket expenses incurred in performance of the Consulting Services. Expenses of Consultant in the performance of any Consulting Services that will be reimbursed by Client are the following:

- (a) Transportation costs, including mileage for the use of personal automobiles at the prevailing IRS standard rate, rental vehicles, travel, lodging and regularly scheduled commercial airline ticket costs; and
- (b) Third-party photographic reproduction and data purchases.
- (c) Photocopies, facsimile, postage, overnight deliveries.

Section 3.3 Invoices. Consultant shall deliver to Client an invoice for Services performed and reimbursable expenses incurred in the prior month. Client shall pay all invoices within forty-five (45) days of the date of each invoice. A monthly charge of 1.2% may be imposed on past due accounts. Payment shall not be subject to any discounts or set-offs.

ARTICLE IV. OTHER AGREEMENTS OF CONSULTANT

Section 4.1 Performance. Consultant shall perform the Services in accordance with the SOW and generally accepted industry standards.

Section 4.2 Necessary tools. Consultant shall supply all tools and instrumentalities required to perform the Services under the Agreement.

Section 4.3 Workers' Compensation. Consultant shall maintain workers' compensation insurance for Consultant's employees and agents performing Services as required by law. Consultant shall comply with all federal, state, and local laws and ordinances as it relates to the work to be performed under this Agreement.

Section 4.4 Liability Insurance. Consultant shall, at its sole cost and expense, carry and maintain throughout the term of this Agreement professional liability insurance covering errors and omissions, with limits of not less than \$1,000,000 per occurrence or \$2,000,000 aggregate. Evidence of such insurance shall be provided to Client as soon as reasonably practicable following Client's written request.

ARTICLE V. OTHER AGREEMENTS OF CLIENT

Section 5.1 Client's Assistance. Client shall provide all information, data and documents as specified in the SOW, or reasonably requested by Consultant. Client shall also satisfy any assumptions, perform any SOW obligations, and comply with all applicable laws and regulations.

Section 5.2 Client Responsibility.

(a) Client acknowledges Consultant will be using various data, reports, studies, computer printouts and other information, documents, and representations as to facts, the source of which may be Client ("Client Data"), and data from public agencies or third-parties ("Other Data"). Client agrees that Consultant is entitled to use and rely upon such Client Data in performing Services, and that Consultant shall not be obligated to verify the accuracy of the Client Data or Other Data or be responsible for its impact of on its work products (including without limitation the Reports).

(b) Client represents and warrants to Consultant that Client has the right to deliver the Client Data to Consultant and neither the Client Data, nor its use shall (i) infringe any intellectual property rights of any third party, (ii) violate any laws or privacy rights of any third party, or (iii) violate any third parties' privacy policies, and Client shall use commercially reasonable efforts to ensure that Client Data does not contain any viruses or other damaging or disabling code.

Section 5.3 Non-Solicitation. Client shall not solicit for employment or hire Consultant's employees during the term and for one year following the termination of this Agreement; provided, however, that this shall not prohibit Client from generalized solicitation or advertising, including the use of an independent agency or search firm whose efforts are not specifically directed at such employees. Such employees shall not include any individual (a) whose employment with Consultant has terminated for any reason, or (b) whose employment or solicitation has been agreed upon in writing by Consultant.

ARTICLE VI. TERM; TERMINATION

Section 6.1 Term. This Agreement shall become effective on the Effective Date and will continue in effect until the earlier of (a) completion of performance under the SOW, or (b) termination as provided herein.

Section 6.2 Convenience. Either party may terminate this Agreement (and the SOW) for convenience upon thirty (30) prior written days' notice to the other party.

Section 6.3 Breach. Either party may terminate this Agreement with written notice to the other party in the event of a material breach which is not cured within ten (10) days. Without limiting the foregoing, if Client fails to make payments when due, Consultant may suspend Services upon notice. Consultant shall have no liability to Client for any costs or damages arising as a result of such suspension. Upon payment in full by Client (if Consultant has not terminated the Agreement), Consultant shall resume Services and the SOW shall be adjusted for the suspension period plus reasonable time and expense for the Consultant to resume performance.

Section 6.4 Fees. Upon expiration or termination of this Agreement, Client shall pay all of Consultant's fees, expenses, and other costs payable by Client pursuant to Article III, which have accrued through the date of expiration or termination.

Section 6.5 Mutual Indemnification. Each Party shall defend, indemnify and hold the other Party harmless from and against all obligations, losses, liabilities, damages, claims, attachments, executions, demands, actions and/or proceedings (collectively, "Claims") and all costs and expenses in connection therewith, including reasonable attorneys' fees and expenses, arising out of or connected with this Agreement when such Claims arise from, relate to, or in any way result from (i) breach of any representation or warranty in this Agreement, (ii) breach of any applicable law or (iii) gross negligence or willful misconduct. Client's obligations under this subsection shall be reduced to the extent that they arise out of Consultant's gross negligence or willful misconduct.

Section 6.6 Survival. Sections 1.2, 5.2, 5.3, 6.4, 6.5, 6.6, and Articles II, III, VII, and VIII shall survive the expiration or termination of this Agreement.

ARTICLE VII. CONFIDENTIALITY

Section 7.1 Definition. "Confidential Information" means all information that is disclosed by a party to the other party and that: (a) is designated as confidential, regardless of the form in which it is disclosed; or (b) relates to a party's markets, customers, patents, trade secrets, inventions, procedures, methods, designs, strategies, distributors, or business in general. It shall not include any item which: (i) the receiving party can prove was in its possession prior to disclosure thereof by the disclosing party whether prior to or during the term of this Agreement; (ii) is or becomes generally available to the public other than as a result of any action or omission by the receiving party; (iii) is rightfully disclosed to the receiving party by a third party without the imposition on the third party of any confidentiality obligation or restrictions on use; or (iv) is independently developed by the receiving party without reference to the disclosing party's Confidential Information, as evidenced by the receiving party's written records. The Consultant Materials are Consultant's Confidential Information (subject to the rights set forth in Section 2.2).

Section 7.2 Obligation. Each party, as a receiving party, shall (a) hold all Confidential Information in confidence and not disclose same to anyone except its employees who have a need to know and who are bound by the confidentiality and nondisclosure restrictions herein; (b) use the other party's Confidential Information only as necessary for its performance hereunder; and (c) hold and protect Confidential Information

with the same degree of care it uses with its own information of like importance, but in no event less than a reasonable standard of care.

Section 7.3 Compelled Disclosure. If either receiving party is required by law to disclose any Confidential Information, the receiving party shall provide the disclosing party with prompt oral and written notice, so that the latter may seek a protective order or other appropriate remedy. In the event that such a protective order or other remedy is not promptly obtained, the receiving party shall furnish only that portion of the Confidential Information which is legally required and shall exercise its best efforts to obtain a protective order or other reliable assurance that confidential treatment shall be accorded to the disclosing party's Confidential Information.

Section 7.4 Injunctive Relief. Each party agrees that remedies at law are inadequate to protect against its breach or threatened breach of this Article VII. Accordingly, each party agrees that the other party may obtain injunctive relief against it in the event of any such breach or threat thereof, in addition to any other legal or equitable remedies that may be available.

ARTICLE VIII. **GENERAL PROVISIONS**

Section 8.1 Notice. Any notices to be given hereunder may be effected either by personal delivery in writing, by mail or by electronic mail (reader receipt requested). Mailed notices shall be addressed to the parties at the addresses appearing in the introductory paragraph of this Agreement, or at the following email addresses (Consultant: dlopez@coopstrategies.com; Client: _____), but each party may change the address by written notice in accordance with this Section 8.1. Notices delivered personally or by electronic mail (reader receipt requested) will be deemed communicated as of actual receipt. Mailed notices will be deemed communicated as of two (2) days after mailing.

Section 8.2 Assignment. Neither party may assign this Agreement, in whole or in part without the express written consent of the other party, with the exception of an assignment carried out as part of a merger, restructuring or reorganization, or as a sale or transfer of all or substantially all of a party's equity or assets. Any such attempted assignment or delegation shall be void. This Agreement shall inure to the benefit of and shall be binding upon the Parties' successors and permitted assigns.

Section 8.3 Not Public Official. Neither this Agreement, nor any duties or obligations under this Agreement, nor the intentions or expectations of Client will cause Consultant to be a "public official" as that term, or a similar term, is used under applicable law. The Parties agree that Consultant is not a "public official" or "participating in governmental decision" as those terms, or similar terms, are used under applicable law, and that no actions and opinions necessary for the performance under this Agreement will cause Consultant to be a "public official" or "participating in a governmental decision" as those terms, or similar terms, are used under applicable law.

Section 8.4 Entire Agreement. This Agreement and Exhibits A and B supersede any and all agreements, either oral or written, between the Parties with respect to Services.

Any reference to any statute herein shall be construed as including all statutory provisions consolidating, amending, or replacing such statute.

Section 8.5 Amendment. This Agreement and any exhibit hereto may not be modified except as expressly provided herein or in writing by the parties and signed by authorized representatives of both Parties.

Section 8.6 Severability. If any provision in 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 without being impaired or invalidated in any way.

Section 8.7 Dispute Resolution.

(a) Except as set forth in Section 7.4, the Parties agree to first try in good faith to settle any dispute hereunder by mediation pursuant to the Mediation Rules of the American Arbitration Association (AAA). If the dispute is not settled by mediation, the dispute may be resolved by final and binding arbitration under subsection (b).

(b) Except as set forth in Section 7.4, upon written, served request, the dispute shall be submitted to binding arbitration in accordance with the commercial rules and regulations of the AAA and the provisions of applicable law. The arbitration shall take place in a location mutually agreed to by the parties. Consultant shall select the arbitrator. If Consultant and Client do not agree on such arbitrator, however, Client shall select a second arbitrator. The first and second arbitrator shall then select a third arbitrator who shall conduct the arbitration. The parties may select arbitrators from JAMS, ADR, ARC or any independent arbitrator/neutral for dispute resolution. No arbitration shall include by way of consolidation or joinder any parties or entities not a Party to this Agreement without the express written consent of Parties and any party or entity sought to be joined with an express reference to this provision. Any party or entity joined in the arbitration, after mutual consent, shall be bound by this provision. The decree or judgment of an award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The prevailing party shall be entitled, in addition to any other rights and remedies, to reimbursement for its expenses, including court costs and reasonable attorneys' fees. The non-prevailing party shall be liable, to the extent allowable under law, for all arbitrator fees and expenses and all arbitration costs.

Section 8.8 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of California, excluding choice of law rules.

Section 8.9 Third Parties. Nothing contained in this Agreement shall create a contractual relationship with cause of action in favor of a third party against either Party.

Section 8.10 DISCLAIMER OF CONSEQUENTIAL DAMAGES. EXCEPT FOR DAMAGES ARISING FROM BREACH OF SECTION 2.2 or ARTICLE VII, NEITHER PARTY, NOR THEIR RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, CONTRACTORS OR SUBCONTRACTORS, WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, TREBLE, PUNITIVE OR SPECIAL DAMAGES (INCLUDING DAMAGES FOR LOST PROFITS, LOST BUSINESS OPPORTUNITY, LOSS OF USE, LOSS OF INCOME, LOSS OF REPUTATION, PERSONAL INJURY OR THE LIKE) RESULTING FROM OR RELATING TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, LIABILITY ARISING OUT OF CONTRACT,

TORT, NEGLIGENCE, AND STRICT LIABILITY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Section 8.11 Force Majeure. Neither party will be liable for failure to perform (except for payments owing) due to circumstances or causes beyond its reasonable control, including, but not limited to, acts of God, war, acts of terrorism, embargoes, acts of civil or military authorities, fire, flood, accident, strikes, inability to secure transportation, facilities, fuel, energy, labor, or materials. In the event of force majeure, time for delivery or other performance will be extended for a period equal to the duration of the delay.

Section 8.12 Limitation of Liability. The parties intend that the Services shall not subject Consultant Indemnified Parties to personal legal exposure. Therefore, notwithstanding anything to the contrary, Client agrees that Client’s sole and exclusive remedy, and any claim, demand or suit shall be directed and/or asserted only against Consultant and not against Consultant Indemnified Parties. Consultant’s total liability for any cause of action, including contract, tort and otherwise, shall not exceed the sum paid to Consultant under this Agreement. The limitations of liability and exclusion of certain damages shall apply regardless of the effectiveness of any of the remedies provided for under this Agreement. Any action against Consultant must be brought within twelve (12) months after the cause of action arises.

Section 8.13 DISCLAIMER. EXCEPT AS MAY BE SPECIFIED IN THIS AGREEMENT, CONSULTANT EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS AND IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON- INFRINGEMENT AND WARRANTIES ARISING UNDER COURSE OF DEALING OR TRADE USAGE. CONSULTANT CANNOT GUARANTEE RESULTS AND CLIENT UNDERSTANDS AND ACKNOWLEDGES THAT USE OF CONSULTANT MATERIALS AND IMPLEMENTATION THEREOF WITHIN CLIENT’S ORGANIZATION IS AT CLIENT’S OWN DISCRETION AND RISK.

IN WITNESS WHEREOF, this Agreement has been executed on the Effective Date.

CONSULTANT:

CLIENT:

Cooperative Strategies, LLC

Alvord Unified School District

By: 

Scott Newell
Chief Executive Officer

By: _____

Date: April 28, 2022

Date: _____

EXHIBIT A

STATEMENT OF WORK

ALVORD UNIFIED SCHOOL DISTRICT SCHOOL FEE JUSTIFICATION STUDIES

Cooperative Strategies, LLC shall prepare Residential and Commercial/Industrial Development School Fee Justification Studies ("Studies") for Alvord Unified School District ("Client" or "School District"). The Studies will justify statutory school fees ("School Fees") for the School District and will also identify the full school facilities impacts to be mitigated by these types of development within the School District. The specific activities and tasks to be performed under this Statement of Work include the following:

Developer School Fee Justification Studies

ACTIVITY I. BACKGROUND RESEARCH

Task 1 **Data Collection**

CS will collect the following data to be used in the create of the study:

- Current school year student data
- Current parcel data
- Existing capacity study from district and / or SAB Form 50-02
- Future planned residential units
- US Census Data
 - Employment Data
 - Commercial / Industrial Data
 - Household Occupancy Data
 - Travel to time to employer

Task 2 **Student Generation Factors**

This task involves calculating student generation factors ("SGF") by housing category (i.e., single family detached and multi-family attached) and school level. SGFs will be calculated by comparing student enrollment of the School District to residential data provided from the County Office of the Assessor ("Assessor").

ACTIVITY II. DETERMINE SCHOOL FACILITY NEEDS

Task 3 **Determine School Facility Needs**

CS will prepare the following analyses:

- Existing Capacity vs. Current Enrollment
- Student Generated from Residential Development

- Future School Facility needs by grade level based on estimated future unit development

ACTIVITY III. SCHOOL FACILITIES IMPACT PER CATEGORY

Task 4 School Facility Costs

This task involves reviewing and analyzing documents of the School District to estimate the cost of constructing or expanding the school facilities identified in Task 3.

Task 5 School Facilities Impact Analysis for Residential and Commercial / Industrial Development

This task involves estimating the full school facilities impacts per unit and square foot of residential floor space that must be mitigated by each housing category. Residential housing impacts will be based on data and material assembled in Activities I, II, and III. If full school facilities impact per square foot of residential floor space exceeds the new School Fee for a housing category, then the full new School Fee is justified for such housing category.

ACTIVITY IV. STUDY PREPARATION

Task 6 Study Preparation

This task involves preparing one (1) draft and one (1) final version of the report presenting the findings of the Commercial/Industrial Study in PDF format.

Task 7 Attendance at Meetings of the Governing Board

At the School District's request, CS will attend in up to one (1) Governing Board meeting when the study is considered for adoption

EXHIBIT B

FEE SCHEDULE

**ALVORD UNIFIED SCHOOL DISTRICT
SCHOOL FEE JUSTIFICATION STUDIES**

The proposed budget for services performed by Cooperative Strategies, LLC for Alvord Unified School District ("Client" or "School District") under the Statement of Work shall be a flat fee of \$8,670 (plus reimbursable expenses) for 2021-22 school year. This fee shall be payable in monthly installments based on the percentage of work completed.

Payments are due upon presentation of invoice. Cooperative Strategies may stop work if payments are not made within 45 days of presentation of invoice.

Additional services outside of the defined scope will be billed on a time and materials basis (plus expenses). Professional services will be billed at the hourly rates shown in the table below.

POSITION	RATE
Partner	\$250/hour
Senior Director	\$225/hour
Associate Director	\$175/hour - \$225/hour depending on level of experience
Senior Associate	\$150/hour
Associate	\$120/hour
Research Analyst	\$85/hour

Reimbursable Expenses

In addition to professional fees, "Client" is responsible for expenses including travel (mileage, lodging, parking, etc.), meals, all printing, postage, overnight delivery service, and other direct expenses associated with the project. Reimbursable expenses will be invoiced monthly with professional fees.

Limitations

It is assumed that the School District or its consultants will provide all required enrollment, school facility, and other data and materials identified in the Statement of Work. If Cooperative Strategies must assume primary responsibility for any responsibilities of the School District or attend additional meetings at the School District, such tasks may be defined as Additional Work if they cause the maximum budget amount to be exceeded. Additional Work may also include other tasks not described in the Statement of Work.

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