

**NAPA VALLEY UNIFIED SCHOOL DISTRICT
AGREEMENT FOR CONSULTANT SERVICES
(Demographic and Redistricting Services)**

This Professional Services Agreement ("Agreement") is made and entered into as of February 27, 2020 by and between the NAPA VALLEY UNIFIED SCHOOL DISTRICT ("District") and Q2 Data & Research, LLC, a California limited liability company ("Consultant").

RECITALS

A. The District requires the services of a consultant to render certain professional services ("Services"), as further described below and in the "Scope of Work" attached hereto as Exhibit A and incorporated herein by reference; and

B. The Consultant has available, and offers to provide the expertise, personnel, technology and materials necessary to complete the Services as specified in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

I. Services

The Consultant shall perform the services described in the Scope of Work. No term of the Consultant's proposal submitted in response to the RFP modifies the terms of this Agreement or the RFP unless specifically incorporated into Exhibit A to this Agreement. If a conflict arises between a Consultant proposal and this Agreement (and/or Exhibit A hereto), this Agreement, and the Services listed on Exhibit A to this Agreement shall control. The Services include, at no cost to the District and upon request, Consultant's participation at meetings with District to discuss, clarify or explain, as applicable, any reports, technical data or other deliverables described on the exhibits hereto.

II. Term

Unless earlier terminated as provided herein, the term of this Agreement shall commence on March 1, 2020 and shall end on July 1, 2020, unless further extended by mutual agreement of both parties in writing.

III. Compensation

In return for the Consultant's performance of the Services to the satisfaction of the District, the District agrees to pay compensation to Consultant under this Agreement in an amount not-to-exceed \$25,000. Compensation is payable within thirty days of the date District approves the final deliverables and Consultant submits a request for payment satisfactory to District. The District is not obligated to pay Consultant for any Services in excess of said amount that are provided without specific prior written authorization from the District.

Except as specified on Exhibit A, District shall not pay and shall not be liable for any costs or expenses incurred by Consultant for performance of the Services.

IV. Standard of Care

Consultant represents that it has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District. Consultant agrees to perform the Services and prepare reports and recommendations prepared in accordance with

generally and currently accepted principles and practices of its profession for similar services to California school districts. Furthermore, Consultant shall perform the Services with due care and in accordance with all applicable laws, statutes, regulations and ordinances.

V. Ownership of Documents

Consultant understands and agrees that all maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by Consultant in the course of providing any Services pursuant to this Agreement (collectively and individually, the "Documents") shall become the sole property of District and may be used, reused or otherwise disposed of by District without the permission of the Consultant. Upon completion, expiration or termination of this Agreement, Consultant shall turn over to District all such Documents.

VI. Time for Performance

The Services shall be completed during the Term pursuant to any schedule specified in **Exhibit A**. If the Services not be completed prior to the end of the Term (or are not in compliance with any agreed-upon schedule), Consultant shall be deemed to be in Default as provided below. District, in its sole discretion, may choose not to enforce the Default provisions of this Agreement and may instead allow Consultant to continue performing the Services pursuant to a revised schedule or by extending the Term hereof prior to the expiration of this Agreement, as applicable.

VII. Change in Scope of Work

Only additional services approved or requested specifically by District, in writing, will constitute the basis of a change, addition or modification to the Scope of Work. Consultant is responsible for ensuring that no work or services outside the Scope of Work are performed or invoiced. The extent additional Services are required, any additional compensation will be negotiated by the parties and, if an agreement is reached, the parties will execute an amendment to **Exhibit A** to the extent required in order to reflect such additional work and compensation. If no agreement is reached, District may choose to terminate this Agreement and retain another Consultant or may choose to retain another Consultant to provide only the additional services.

Consultant will not be entitled to compensation for any services rendered that are not specifically authorized under this Agreement or its Exhibits, and any amendments thereto. Any and all work performed without proper authorization will be considered part of this Agreement for no additional compensation.

VIII. Termination

This Agreement or the Services may be terminated at any time by mutual agreement of the Parties or by either Party as follows:

- a. District may terminate all or a portion of this Agreement or the Services, with or without cause, at any time by giving thirty calendar days written notice of termination to Consultant. If such notice is given, Consultant shall cease immediately all work in progress; or
- b. District may terminate all or a portion of this Agreement or the Services for cause in the event of a Default by giving written notice pursuant to Section XII, below; or
- c. Consultant may terminate this Agreement for cause at any time upon thirty calendar days written notice if District fails to make any undisputed payment to the Consultant when due; provided that, if District makes payment within the thirty day period, this Agreement shall

remain in effect. Consultant shall continue performance of the Services during the cure period following the date of the notice.

IX. Indemnification

To the furthest extent permitted by California law, Consultant shall defend, indemnify, and hold free and harmless the District, its agents, representatives, officers, consultants, employees, trustees, and volunteers ("the indemnified parties") from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity ("Claim"), arising out of, pertaining to or relating to, in whole or in part, the negligence, recklessness, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants, or agents directly or indirectly related to the performance of the Services and/or this Agreement, including without limitation the payment of all fees, costs, damages and losses incurred by the District in connection therewith.

It is expressly understood and agreed that the indemnification provisions of this Section IX will survive termination of this Agreement.

X. Successors and Assigns

This Agreement and all of the terms, conditions, and provisions hereof will inure to the benefit of and be binding upon the parties hereto, and their respective successors and assigns; provided, however, that no assignment of this Agreement will be made without written consent of the parties to this Agreement. Any attempt by the Consultant to assign or otherwise transfer any interest in this Agreement without the prior written consent of the District will be void. Since the primary consideration of the District in entering this agreement is the qualifications of the Consultant, as opposed to a low bid, the District may refuse to consent to assignments at its sole discretion.

XI. Project Organization

The Consultant hereby assigns **Karin Mac Donald** as the Consultant Representative under this Agreement. The Consultant Representative will not be removed from the project or reassigned without prior written approval of the District, which approval will not be unreasonably withheld. No subcontracting of significant portions of the contracted services will be made without prior approval of the District.

The District hereby assigns **Superintendent Mucetti** as the District Representative under this Agreement. The District may change the person assigned as its representative upon written notice to Consultant.

XII. Miscellaneous

A. Notice. Any notice or instrument required by, or contemplated under, this Agreement may be given by depositing the same in any United States Post Office, registered or certified, postage prepaid, addressed to:

DISTRICT:

Napa Valley Unified School District
2425 Jefferson Street
Napa, California 94558
Attention: Superintendent
Email: rmucetti@nvusd.org

CONSULTANT:

Q2 Data & Research, LLC
1225 Peralta St.
Oakland, CA 94607
Attention: Karin Mac Donald
Email: karinmacdonald.q2@gmail.com

Notices mailed to the address above will be effective upon date of mailing. Notices may also be given via email and will be effective on the day so given, provided that evidence of successful transmission or acceptance via return email is attached to the Notice as evidence of the time and date of transmittal.

B. Interpretation. The terms of this Agreement will be construed in accordance with the meaning of the language used and will not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply. The headings of sections are for convenience only and do not modify rights and obligations created by this Agreement.

C. California Law. This Agreement is entered into in the State of California and shall be enforced in accordance with its laws. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the county in which the District's administrative offices are located. Consultant waives any claim or right to remove an action on this Agreement to federal court.

D. Compliance with Laws. Consultant will comply with all applicable federal, state and local laws, regulations, statutes and ordinances, as well as District conflict of interest and other applicable policies and administrative regulations (collectively, the "Laws") in connection with this Agreement and the performance of the work. Consultant will indemnify and defend the Indemnified Persons from and against any liability incurred due to any failure on the part of Consultant to comply with any applicable Laws.

D. Legal Proceedings. If a dispute arises out of or relates to this Agreement, or the breach thereof, the parties agree to engage in good faith negotiations to attempt to resolve the matter. In the event of any action at law or in equity, including an action for declaratory relief, between the parties arising out of or relating to this Agreement, then the prevailing party in such action will be entitled to recover from the other party a reasonable sum as attorneys' fees and costs. The prevailing party will be determined in accordance with Civil Code Section 1717(b)(1) or any successor statute. The prevailing party will also be entitled to its reasonable attorneys' fees and costs in any post-judgment proceedings to collect or enforce the judgment. This provision is separate and several and will survive the merger of this Agreement into any judgment on this Agreement.

XIII. Integration/Waiver

This Agreement and the attached Exhibits represent the entire understanding by and between the District and the Consultant as to those matters contained herein. No prior oral or written understanding will be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing signed by both parties hereto. Any waiver by either party of any provision of this Agreement must be in writing and be attached as an Addendum to this Agreement. Any written waiver will affect only the provision specified and only for the time and in the manner stated in the writing. No waiver by a party of any provision in this Agreement will be considered a waiver of any other provision in the Agreement.

XIV. Execution

This person(s) executing this Agreement and any Exhibits hereto on behalf of the Consultant warrant and represent that Consultant has vested authority on such person(s) to execute and deliver this Agreement and to perform the services contemplated hereunder and that this Agreement is valid and binding on Consultant.

Q2 Data & Research, LLC



Karin Mac Donald, Authorized Representative

Napa Valley Unified School District

Rosanna Mucetti, Ed.D.
Superintendent

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EXHIBIT A SCOPE OF WORK

Consultant shall provide the work and services outlined in the Scope of Work enclosed with its proposal dated February 25, 2020 and incorporated herein by this reference as if fully set forth herein, with the following agreed-upon modifications:

- Page 3, Paragraph 6 of the Proposal is revised to provide that the District requires Consultant to attend more than 3 meetings, the District will pay Consultant \$2,000 attendance at each additional meeting.
- Deliverables – Consultant will deliver the following to the District upon completion of the Services:
- Inspection and Acceptance - District acceptance of any work or Services, whether specifically in writing or by virtue of payment, shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to indemnification and insurance provisions
- Payment. Payment of the agreed upon \$25,000 will be made by District within thirty (30) days of delivery of an invoice by Consultant following District's acceptance of the completed Services and deliverables. Payment for any hourly or additional services will be made within thirty days of approval by District of an invoice detailing all such additional services and related charges. District reserves the right to refuse, and shall not be liable for, payment of any charges for additional services rendered by or at the direction of Consultant without prior approval from District.