



**SANTA ROSA CITY SCHOOLS
SERVICE CONTRACT**

This CONTRACT is hereby entered into between the Governing Board of the Santa Rosa City Schools, hereinafter referred to as “DISTRICT”, OR “BOARD” and **NELSON STAFFING**, hereinafter referred to as “CONTRACTOR”.

SCHOOL SITE/DEPARTMENT USE ONLY

Check one of the following:

X Independent Contractor/Business/Organization* Professional Services** Partnership***

- * Any person, business, or organization that will be providing non-professional services to the District
- ** Any person, business, or organization that will be providing professional services to the District (Usually as a result of an RFP, i.e., services that require extensive technical knowledge or training in their particular area of expertise.) Engineers, Financial Advisors, Architects, Auditors, Surveyors, Inspectors, etc.
- *** Two or more persons, businesses, corporations, or organizations that will be partnering with the District to perform certain services with the District

SCHOOL SITE/DEPARTMENT USE ONLY

Funding Source: 13-5310-0-9110-3700-5800-119-5186

Funding Category: Base Supplemental Concentration
 Restricted: _____ Other: _____

For Billing (if applicable): Bill to: _____ Billing frequency: _____

Contract is: X New Renewal Addendum Amendment

Number of Individuals Served: District Wide

Approved at Site by*: _____ Date: _____

* Signature - **FOR CONTRACTS ORIGINATED BY SCHOOL SITE**

Departmental Approval:** _____ Date: _____

** Signature - **DISTRICT OFFICE DEPT. SIGNATURE**

Contract Created by: Ed Burke, Child Nutrition Services **Phone #:** 707 890 3807
Name of SRCS employee AND dept. or school site

Proposed Contract Start Date: 10/6/2022 **Proposed Contract End Date:** June 30, 2023

Requisition #: _____

BUSINESS SERVICES USE ONLY

Verified Receipt of: Insurance(s) W-9 Form HR Clearance, if applicable
Funding Source /Funding Category verified: YES NO **Board Approval Date:** _____

Verified by: _____
Fiscal Services Authorizer

Date: _____
LAST REVISED ON 4-5-17

MASTER SERVICE AGREEMENT

This Master Services Agreement (“Agreement”) is made and entered into on October 6, 2022, by and between Gary D. Nelson Associates, Inc. dba Nelson Connects (“Nelson”) located at 19080 Lomita Avenue, Sonoma, CA 95476, and Santa Rosa City School District (“Client”) located at 211 Ridgway Ave. Santa Rosa, CA. 95401-4320, and is subject to the Terms and Conditions below. Nelson and Client shall be referred to collectively as the “Parties,” or individually as a “Party.”

HAVING READ THE TERMS AND CONDITIONS SET FORTH IN THE AGREEMENT BELOW, CLIENT ACKNOWLEDGES THAT CLIENT UNDERSTANDS THE TERMS AND CONDITIONS, HEREBY ACCEPTS ALL SUCH TERMS AND CONDITIONS, AND AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT.

The individual signing this Agreement on behalf of Client represents and warrants that he/she has the authority to enter into this Agreement on behalf of Client and to bind Client to the terms of this Agreement.

Santa Rosa City School District:

Gary D. Nelson Associates, Inc.:

By: _____

By: _____

Print Name: _____

Print Name: Joseph T. Prusko

Title: _____

Title: Chief Financial Officer

Date: _____

Date: _____

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Terms and Conditions

1. Billing Rates. Client shall pay all undisputed amounts to Nelson within ten (10) days from date of issuance of Nelson's invoice, including but not limited to, the established rates set forth in Exhibit A for services performed by Nelson Employees ("Employee"). All sums due to Nelson not paid within ten (10) days shall be subject to a charge of 1.5% per month or part thereof (18% per annum).

2. Non-exempt Timecard Approval. Client warrants that the approval of timecards certifies that the hours worked are correct and acceptable to Client for billing purposes, and that the work was performed in a satisfactory manner.

Timecards which are not approved by Nelson deadlines, unless otherwise agreed to in writing, will be sent to Nelson's Temp Payroll team for processing. Adjustments made to timecards after the payroll cut-off may be subject to delayed processing and/or waiting time penalties. Client is responsible for all related penalties and charges if a delay in timecard review is due to the Client and/or Client Supervisor not meeting the NelsonTime deadline.

Non-exempt employees furnished by Nelson to Client shall submit timecards to Client each week recording the number of hours worked in the preceding calendar week. Client shall review and approve those timecards, which accurately state the number of hours worked. The timecards approved by Client shall be the basis of the amounts billed to Client by Nelson for the services of its employee. Client approved timecards must be submitted to Nelson electronically through NelsonTime by 2:00 pm Monday.

3. Exempt Project Log Approval. Exempt employees supplied by Nelson to Client shall provide to Client a weekly project log showing each full or partial day worked in the preceding calendar week. Client shall review and approve the project logs and shall confirm that the project logs accurately state the number of full or partial days worked. The approved project logs shall be the basis of the amounts billed by Nelson to Client for the services of its exempt employees.

4. Overtime. Nelson shall pay all non-exempt employee overtime in accordance with the provisions of applicable federal and state laws. Nelson shall bill Client for all overtime worked. Client shall be responsible for all overtime pay with the established mark-up.

5. Subcontractors. Client agrees that Nelson may, on occasion, retain the services of a Subcontractor to fill Client's staffing needs. Should Nelson retain the services of a Subcontractor, Nelson shall enter into a Subcontractor Service Agreement with Subcontractor. Subcontractors will be paid upon Nelson's receipt of payment from Client.

6. Taxes. Nelson shall be solely responsible for paying its employees and for withholding all applicable payroll taxes and contributions, including, without limitation, federal, state, and local income taxes, FICA, FUTA and state unemployment, workers' compensation, and disability insurance. Nelson agrees that it shall report and pay the appropriate government entities all applicable taxes in a timely manner on all compensation received by employees.

7. Compliance with the Law. Nelson will comply with federal, state and local laws applicable to Employees, including the Immigration Reform and Control Act of 1986; the Internal Revenue Code ("Code"); the Employee Retirement Income Security Act ("ERISA"); the Health Insurance Portability and Accountability Act ("HIPAA"); the Family Medical Leave Act; Title VII of the Civil Rights Act of 1964; the Americans with Disabilities Act; the Fair Labor Standards Act; the Consolidated Omnibus Budget Reconciliation Act ("COBRA"); the Uniformed Services Employment and Reemployment Rights Act of 1994; and, as set forth in subparagraph a. below, the Patient Protection and Affordable Care Act (ACA).

a. Nelson will comply with all provisions of the ACA applicable to Employees, including the employer shared responsibility provisions relating to the offer of "minimum essential coverage" to "full-time" employees (as those terms are defined in Code §4980H and related regulations) and the applicable employer information reporting provisions under Code §6055 and §6056 and related regulations.

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7.1 Right to Control. In addition to Nelson's duties and responsibilities set forth above, Nelson, as the common law employer, has the right to physically inspect the work site and work processes; to review and address, unilaterally or in coordination with Client, Employee work performance issues; and to enforce Nelson's employment policies relating to Employee conduct at the worksite.

8. Confidential Information

8.1 Definition of Confidential Information. "Confidential Information" is defined herein as any proprietary information, technical data, trade secrets or know-how, including, but not limited to, research, product plans, products, services, customers, customer lists, markets, software, source code, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances, employee lists, workforce procedures, internal forms or other business information disclosed by Client or Nelson to the other Party, or otherwise received, developed or derived during the performance of the services outlined in this Agreement, either directly or indirectly in writing, orally or by drawings or inspection of parts or equipment.

8.2 Use of Confidential Information. The Parties shall hold all Confidential Information of the other Party in the strictest confidence and shall not, during or subsequent to the term of this Agreement, use the other Party's Confidential Information for any purpose whatsoever other than the performance of the services outlined in this Agreement. The Parties shall not disclose the other Party's Confidential Information to the other Party's employees except on a need-to-know basis or to third parties, who are under no less than the same confidentiality obligations to which the Parties are committed hereunder. It is understood and agreed upon that such Confidential Information shall remain the sole property of the disclosing Party. The Parties further formally agree to take all reasonable precautions to prevent any unauthorized disclosure of such Confidential Information including, but not limited to, executing a mutual nondisclosure agreement. Confidential Information does not include information which (i) is independently known to a Party at the time of disclosure to the other Party as evidenced by written records of the receiving Party, (ii) has become publicly known and made generally available through no wrongful act of a Party or a third party having the obligation to maintain the confidentiality of the same, or (iii) has been rightfully received by a Party from a third party who is authorized to make such disclosure.

8.3 Nondisclosure of Confidential Information. Each Party agrees that they will not (i) disclose any Confidential Information without the other Party's express prior written approval or (ii) improperly use or disclose any proprietary information or trade secrets of any former or current client or other person or entity with which they have an agreement or duty to keep in confidence information acquired in confidence, if any. Nelson will not bring onto the premises of Client, any unpublished document or proprietary information belonging to any employer, person or entity unless consented to in writing by such employer, person, or entity. Each Party shall indemnify the other party and hold it harmless from and against all claims, liabilities, damages, and expenses, including reasonable attorney's fees and costs of suit, arising out of or in connection with (a) the Party's violation of this provision and/or (b) any violation or claimed violation of a third party's rights resulting in whole or in part from Client's use of Nelson's services hereunder, the Nelson System, and/or any other work product under this Agreement.

8.4 Return of Confidential Information. Upon the termination of this Agreement, or upon Client's earlier request, Nelson shall deliver to Client all of Client's property and Confidential Information in tangible form that Nelson may have in its possession or control.

9. Insurance. During the term of this Agreement, Nelson shall maintain the following insurances with the following policy limits: (1) Workers' Compensation insurance as required by the law of the state in which the Services are to be performed; (2) Employers' Liability insurance with limits of \$1,000,000; (3) Commercial General Liability insurance with limits of \$2,000,000 Aggregate and \$1,000,000 occurrence

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for bodily injury and property damage; and (4) Comprehensive Automobile Liability insurance with limits of \$1,000,000 combined single limit for bodily injury and property damage.

10. Invoices. All invoices shall be submitted to Client on a weekly basis. The mark-up or service charge applies only to payroll (base wages and overtime, bonus, or commissions, if any). All costs applied to additional services are set forth in Exhibit A.

11. Notification of Changes to Employee's Job Duties. Client agrees, upon any change in job duties from those for which an Employee was initially placed, to obtain written agreement from Nelson. This is necessary to ensure that Nelson is properly informed in order to assess the risk of the duties and responsibilities of Nelson Employees. If Client makes a change without Nelson's written consent, then Client agrees to reimburse Nelson for any additional cost incurred, including, without limitation, the increased cost of insurance premiums for Worker's Compensation coverage.

12. Client Obligations. Client agrees that it will take reasonable steps to adequately protect, train, and supervise, employees, and to protect the employee's right to privacy and safety, while the Employee works under the direction of Client. Client agrees to comply with all Federal, State and Local laws relating to protecting employees from harassment, or any improper interference with their ability to perform their work, as well as obligations relating to federal and state occupational safety and health laws.

In addition, Client agrees to provide to employees job-specific safety training on any hazards associated with the performance of the job. Should the nature of the job change Client agrees to provide additional job specific safety training as needed. Client agrees to document the completion of all safety trainings for Nelson employees and to make said documentation available to Nelson upon request. Client agrees to provide all necessary Personal Protection Equipment (PPE) needed for employees to safely perform all job duties.

12.1 Client Obligations – Powered Industrial Truck Operator Positions. In the event Nelson fills a position where an employee will drive a Powered Industrial Truck (PIT), Client agrees to conduct a driving evaluation for each placement on the Powered Industrial Truck (PIT) that the employee will be operating, as well as discuss all the hazards of operating the PIT in the Client's environment. Client agrees this evaluation will be documented and provided to Nelson within 72 hours after the start of each PIT assignment. If Client fails to provide documentation to Nelson within 7 days after start of employee's assignment, then Client agrees to hold Nelson harmless and to indemnify Nelson from any costs, claims or losses which occur in whole or in substantial part from Client's failure to comply with this provision and to reimburse Nelson for any additional cost incurred, including, without limitation, the increased cost of insurance premiums for Worker's Compensation coverage.

Client agrees that each PIT that an employee operates will be in good working order and that an inspection of each PIT will be conducted at the start of each shift. Client agrees that this inspection will be documented and made available to Nelson upon request.

Client has insurance for any motor vehicle or other motorized mobile equipment that might be driven by Nelson employees. During an assignment, if a Nelson employee operates a motor vehicle, forklift, or any other motorized equipment, Client agrees to indemnify and hold Nelson harmless for bodily injury, property damage, collision, or public liability claims, regardless of fault.

13. Indemnification and Limitation of Liability.

a. To the extent permitted by law, Nelson will defend, indemnify, and hold Client and its parent, subsidiaries, directors, officers, agents, representatives, and employees harmless from all claims, losses, and liabilities (including reasonable attorneys' fees) to the extent caused by Nelson's breach of this Agreement; its failure to discharge its duties and responsibilities as set forth in this Agreement; or the negligence, gross negligence, or willful misconduct of Nelson or Nelson's officers, employees, or authorized agents in the discharge of those duties and responsibilities.

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b. To the extent permitted by law, Client will defend, indemnify, and hold Nelson and its parent, subsidiaries, directors, officers, agents, representatives, and employees harmless from all employment-related claims, losses, and liabilities (including reasonable attorneys' fees) to the extent caused by Client's breach of this Agreement; its failure to discharge its duties and responsibilities set forth in paragraph 2; or the negligence, gross negligence, or willful misconduct of Client or Client's officers, employees, or authorized agents in the discharge of those duties and responsibilities.

c. Neither Party shall be liable for or be required to indemnify the other Party for any incidental, consequential, exemplary, special, punitive, or lost profit damages that arise in connection with this Agreement, regardless of the form of action (whether in contract, tort, negligence, strict liability, or otherwise) and regardless of how characterized, even if such Party has been advised of the possibility of such damages.

d. As a condition precedent to indemnification, the Party seeking indemnification will inform the other Party within five (5) business days after it receives notice of any claim, loss, liability, or demand for which it seeks indemnification from the other Party; and the Party seeking indemnification will cooperate in the investigation and defense of any such matter.

e. The provisions in this section of this Agreement constitute the complete agreement between the parties with respect to indemnification, and each Party waives its right to assert any common-law indemnification or contribution claim against the other Party.

14. Waiver of Consequential Damages. Neither Party shall have any liability to the other Party or any third party for any indirect, special, or consequential damages arising in any way out of this Agreement, or the transaction contemplated thereby, under any cause or action or theory or liability, and irrespective of whether such party had advance notice of the possibility of such damages.

15. Nature of Relationship. The services that Nelson will render to Client under this Agreement will be as a vendor. Nothing contained in this Agreement will be construed to create the relationship of principal and agent, or employer and employee, between Nelson and Client.

16. Access to Valuables. Client agrees not to entrust employees with unattended premises, or to give access to or advance to employees any cash, cash negotiables, jewelry, or other valuables, unless Nelson gives Client written consent. Client agrees to waive any claim against Nelson and to hold Nelson harmless and to indemnify Nelson from any costs, claims or losses (including attorneys' fees) which occur in whole or in substantial part from Client's failure to comply with this provision.

17. Solicitation. Should Client decide to hire or contract with any Nelson candidate that was placed at Client through Nelson, or presented to Client by Nelson, and do so without Nelson's written consent, Client agrees, even if the candidate was referred to a position by another agency, to pay Nelson a placement fee equal to twenty-five percent (25%) of the first year's salary effective as of the date of Client hiring contract. This obligation continues for 365 days from the day Nelson presented the candidate or the last day the candidate was on Nelson payroll, whichever date is later.

Client agrees that should they, their subsidiary, or any related company, decide to hire or contract with a Nelson internal employee for any position, and do so without Nelson's written consent, to pay Nelson a placement fee in the amount of twenty-five percent (25%) of the employee's base salary due and payable within ten (10) days. This obligation continues for 365 days from the last day that Nelson is responsible to pay Employee.

18. Term. This Agreement shall commence on the effective date and shall continue for a period of one (1) year thereafter unless earlier terminated in accordance with the provisions of this Agreement or upon the mutual written agreement of Client and Nelson. The term of this Agreement may be extended by a written agreement signed by both parties.

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19. Termination. Either party may terminate this Agreement by delivering written notice to the other at least thirty (30) days in advance of the desired termination date.

20. Governing Law. This Agreement and the rights of the parties hereunder shall be governed by and construed in accordance with the laws of the State of California, exclusive of conflict or choice of law rules.

21. Arbitration.

- a. Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation, or validity thereof, including the determination of the scope or applicability of this Agreement to arbitrate, shall be determined by arbitration in California before one arbitrator. However, any dispute raised by Client related to billing and balances due from Client must be written and served on the Company within sixty (60) days after the dispute arises; otherwise, the Client's right to arbitration is waived. The prevailing party shall be entitled to attorneys' fees and costs from the other party in the event of any legal dispute arising under this Agreement.
- b. The arbitration shall be administered by JAMS pursuant to JAMS' Streamlined Arbitration Rules and Procedures. Judgment on the Award may be entered in any court having jurisdiction.
- c. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.
- d. The parties shall maintain the confidential nature of the arbitration proceeding and the Award, including the Hearing, except as may be necessary to prepare for or conduct the arbitration hearing on the merits, or except as may be necessary in connection with a court application for a preliminary remedy, a judicial challenge to an Award or its enforcement, or unless otherwise required by law or judicial decision.
- e. In any arbitration arising out of or related to this Agreement, the arbitrator is not empowered to award punitive or exemplary damages, except where permitted by statute, and the parties waive any right to recover any such damages.
- f. In any arbitration arising out of or related to this Agreement, the arbitrator may not award any incidental, indirect or consequential damages, including damages for lost profit.

In any arbitration arising out of or related to this Agreement, the arbitrator shall award to the prevailing party, if any, the costs, and attorneys' fees reasonably incurred by the prevailing party in connection with the arbitration. If the arbitrator determines a Party to be the prevailing party under circumstances where the prevailing party won on some but not all of the claims and counterclaims, the arbitrator(s) may award the prevailing party an appropriate percentage of the costs and attorneys' fees reasonably incurred by the prevailing party in connection with the arbitration.

22. Modification/Waiver. This Agreement may not be amended, modified, waived, or changed in any respect except as agreed in writing and signed by Nelson and Client. A waiver by either party of any term or condition of this Agreement shall not be deemed or construed to be a waiver of any other term or condition of this Agreement. A waiver by either party of any term or condition of this Agreement in any instance shall not be deemed or construed to be a waiver of any such term or condition for the future, or of any subsequent breach thereof.

23. Severability and Interpretation. In the event that any provision of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, such provision or portion thereof shall be considered separate and apart from the remainder of this Agreement, and the other provisions shall remain fully valid and enforceable.

24. Entire Agreement. This Agreement sets forth the entire agreement and understanding between Nelson and Client, with respect to the subject matter hereof and supersedes any and all other agreements, written or oral, that the parties heretofore may have had with respect to the subject matter herein.

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Exhibit A

Scope of Services to be provided by Manufacturing & Logistics by Nelson Connects and Business Professionals by Nelson Connects, specialty divisions of Nelson. This pricing does not apply to any other divisions of Nelson.

Temporary Staffing

Nelson will furnish employees to meet the short term and project needs of Client. The temporary employee provided will be recruited, screened tested, and reference checked prior to assignment at Client.

Rates 60% mark-up above employee pay rate.

A Statutory Surcharge will be added to each invoice for costs relating to local, city, state, and/or federally mandated employee benefits and/or training.

Nelson will bill back to Client the cost of sick leave taken by employees at the regular hourly rate.

Nelson will bill back to Client any premiums incurred resulting from meal and rest break requirement violations.

Nelson reserves the right to request from the Client an increased markup and may adjust the Statutory Surcharge due to changes to the mandated employee benefits and/or training.

Guarantee Should any temporary employee provided by Nelson division not be satisfactory, and Nelson is notified immediately or within twenty-four (24) hours of the first workday, there will be no charge to Client for the first eight (8) hours worked by that employee.

Temporary to Hire Placement

Client may choose to hire one of Nelson’s temporary employees currently on assignment at Client.

Rates Client will be charged a conversion fee equal to twenty-five percent (25%) of employee’s starting annual salary at the time of conversion, less a partial credit for hours worked on the temporary assignment.

| Hours | Credit |
|--------------|----------------------------|
| 0 – 180 | No credit |
| 181 – 360 | Credit equal to 25% of fee |
| 361 – 540 | Credit equal to 50% of fee |
| 541 – 720 | Credit equal to 75% of fee |
| 721+ | \$1,750 conversion fee |

Guarantee There is no guarantee for a Temporary-to-Hire placement.

Screening

Client has indicated that pre-employment drug and background screening is not required under this contract.

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Exhibit A

Direct Hire Placement

Nelson will place candidates for regular employment with Client based on Client requirements. Candidates are recruited, screened, tested and reference checked prior to referral.

Rates

A flat fee of twenty-five percent (25%) of the candidate's annual starting salary.

Guarantee

Each placement is guaranteed for sixty (60) calendar days, effective the day the candidate begins. If the employer terminates for cause or the employee voluntarily resigns during the first sixty (60) calendar days, the fee will be prorated at 1/60th of the original fee for each consecutive calendar day employed, and the portion of the fee that exceeds that amount will be promptly refunded. This guarantee is only valid if the invoice is paid within ten (10) days of candidate start date and void in the case of company downsizing, reorganization, sale, merger, relocation, or other significant changes in the conditions of the role or agreed upon compensation provided to the candidate.

Fees are invoiced on the date the applicant begins work and are due and payable upon receipt.

Payroll Service

Our service allows Client to identify, prescreen and select employees to be paid through Nelson payrolling program. These individuals may be former employees, retired employees or other individuals Client has identified for temporary work at its firm. Client supervises payrolled employees and shall remain responsible for compliance with employment laws (e.g. harassment, wrongful termination, etc.). Nelson shall take responsibility for payroll related matters (e.g. timely payment, unemployment claims, etc.).

A Statutory Surcharge will be added to each invoice for costs relating to local, city, state, and/or federally mandated employee benefits and/or training.

Nelson will bill back to Client the cost of sick leave taken by employees at the regular hourly rate.

Nelson will bill back to Client any premiums incurred resulting from meal and rest break requirement violations.

Nelson reserves the right to request from the Client an increased markup and may adjust the Statutory Surcharge due to changes to the mandated employee benefits and/or training

Rates

50% mark-up above employee pay rate.