

**PROFESSIONAL CONSULTING SERVICES
AND OPTIONAL SOFTWARE LICENSE
AGREEMENT**

Plum Borough School District

900 Elicker Road
Plum, PA 15239-1453
TEL: (412) 798-6329

and

Davis Demographics & Planning, Inc.

11850 Pierce Street #200, Riverside, CA 92505
TEL: (951)270-5211 FAX: (951)270-5212

This Agreement is made by and between Davis Demographics & Planning, Inc., a California Corporation, (hereinafter referred to as "DDP") and the Plum Borough School District (hereinafter referred to as "DISTRICT") with reference to the following:

WHEREAS, DISTRICT requires professional services in demographic analysis, enrollment forecasting, facilities planning, committee and public meeting support, geographic information system (GIS) data development and GIS software; and

WHEREAS, DDP has the consulting expertise and software necessary to properly perform such services; and

IN CONSIDERATION of the foregoing, it is agreed between the parties hereto, as follows:

SECTION ONE - SERVICES OF DDP

DDP shall perform consulting services and/or provide licenses to software products as outlined in Appendix A of this Agreement. Additional work not specifically listed under Appendix A and requested by the DISTRICT will be performed at an agreed upon fee through an additional project authorization and shall be governed by the terms of this Agreement.

SECTION TWO - PERIOD OF PERFORMANCE

Performance of consulting services as outlined in Appendix A shall be on an annual basis commencing upon the later date this Agreement is signed by both parties through June 30, 2018 and consulting services shall continue through June 30th of each subsequent year of a multiple year Agreement. Any software is governed by the terms of the individual software product license included in Appendices B and/or C.

SECTION THREE - OBLIGATIONS OF THE DISTRICT

- A) DISTRICT agrees that its employees will cooperate with DDP in the performance of services under this Agreement and will be available for consultation with DDP at reasonable times.
- B) DISTRICT shall provide, at no cost to DDP, DISTRICT data which are requested DDP and required for providing the services of this Agreement.
- C) DISTRICT shall aid DDP in obtaining data from other public offices or agencies, local business firms, and private citizens whenever such data is necessary for the completion of the work outlined in this Agreement.

SECTION FOUR - LIMITATIONS

- A) DDP understands that time is of the essence in completing the work outlined in this Agreement. However, DISTRICT understands that DDP may be dependent upon the timely delivery of data from the DISTRICT as well as third parties and that all tasks may not be completed in the allotted time as may be specified in this Agreement, but will make all reasonable efforts to complete all tasks.
- B) DISTRICT understands that the work performed by DDP is based upon the best information available to DDP at the time of rendering services. DISTRICT also understands that DDP makes no warranties for these services and DISTRICT hereby agrees.
- C) DISTRICT understands that the mapping databases and associated information licensed from third parties in the performance of this Agreement are detailed and complex products. DDP will make all reasonable efforts to bring these databases and products into compliance for accuracy standards within the industry, however DDP makes no warranties for these third-party data products and DISTRICT hereby agrees.

SECTION FIVE - GENERAL PROVISIONS

This Agreement is a contract for services including the licensing of any optional software. Software licensed as part of this Agreement is/are subject to the software license terms outlined in the Appendices of this Agreement.

All report formats and software application programs remain the property of DDP. The DISTRICT may make as many duplicates of any hardcopy maps and reports as may be deemed necessary for its business use. The performance of the services in this Agreement may require DDP to execute a separate end user license agreement directly with a third party vendor for the use of certain computer mapping data. The cost of such data and/or license is included in this Agreement and shall be used by DDP to provide the services herein. The DISTRICT does not receive automatic access or use of this map data during or after completion of the services unless clearly stated in this Agreement. If map data is made available and transferred to the DISTRICT, it is expressly understood that such data developed by DDP, and/or licensed from, outside data providers is for DISTRICT free unlimited internal use only, and may not be reproduced, distributed or released by the DISTRICT to any third parties without the written consent of DDP and the data providers.

DDP is, and shall at all times be deemed to be an independent contractor, and shall be responsible for determining the sequence, method, details and manner in which it performs those services required under the terms of this Agreement. Nothing herein contained shall be construed as creating a relationship of employer and employee, or principal and agent, between DISTRICT and DDP or any of DDP's agents or employees. DDP assumes exclusively the responsibility for the acts of its employees or agents as they relate to the services to be provided during the course and scope of their employment. DDP, its agents and employees, shall not be entitled to any rights and/or privileges of DISTRICT's employees and shall not be considered in any manner to be DISTRICT's employees.

SECTION SIX - COMPENSATION

Twenty-five percent (25%) of the consulting contract amount is due as a Retainer Fee and will be invoiced by DDP and is payable by the DISTRICT upon execution of this Agreement. This fee is non-refundable indicating a commitment by DDP staff to be available to complete any work outlined or requested as part of the Agreement. Initial hours and expenses incurred will be applied to this Retainer Fee amount. Once the Retainer Fee has been reached, compensation to DDP shall be made at an hourly rate of \$170.00 with a maximum fee for tasks to be completed as outlined in Appendix A. Any software will be invoiced in full upon shipment. DDP shall invoice DISTRICT on a monthly basis at which time such invoices shall be due and payable. DDP reserves the right to charge interest at the rate of 1½% monthly on any unpaid balances beyond 60 days. Professional services tasks outlined in Appendix A and their associated fees are for estimate purposes only within the total scope of the Agreement—task fees are not individual maximum

fees—DDP retains the right to shift fees between the tasks in order to complete the overall scope of work outlined in the Agreement.

Each additional year of this Agreement will be handled in the same manner with the Retainer Fee of 25% of each year's contract amount invoiced and due on July 1st.

Any additional services not specifically outlined in this Agreement shall be invoiced at the hourly fee noted above. Any meetings not specifically outlined in this Agreement shall be invoiced at the hourly fee (inclusive of travel time to and from any meeting) plus any airfare and \$250 per diem travel expenses (for overnight trips or any trips requiring air travel).

SECTION SEVEN - TERMINATION

It is understood and agreed that the DISTRICT may terminate this Agreement for the DISTRICT's convenience and without cause by giving DDP written notice at least thirty (30) days before the effective date of such termination. Upon termination, DDP shall:

- 1) Stop work under the Agreement on the date and to the extent specified in the Notice of Termination.
- 2) Transfer title to the DISTRICT (to the extent allowed under Section Five of this Agreement) and deliver, in the manner, at the times and to the extent directed by the DISTRICT, the work in process on the effective date of the Notice of Termination.
- 3) Require Payment

The amount due DDP upon receipt of termination notice shall be payment for all work completed including:

- a) The Retainer Fee (representing commitment of resources/personnel and lost opportunity for profit);
- b) payment at the hourly rate specified in this Agreement for all time spent over the Retainer Fee towards the performance of this Agreement up until the receipt of notice of termination;
- c) payment for all expenses incurred by DDP in the performance of this Agreement, including, but not limited to, mapping and other purchased or licensed data;
- d) in the case of a multiple year Agreement, additional Retainer Fees of 25% of the annual consulting contract amount for each year of the Agreement not completed shall be due, as an early termination convenience to compensate for commitment of staff, multiple year discount offered, and lost profit opportunity.

SECTION EIGHT – RENEWAL

If agreed to in writing by both parties no less than 30 days prior to the expiration of this Agreement, the Agreement may be renewed for the same period of performance (number of years as originally agreed to), for the same consulting services scope and fee as outlined in Appendix A, and under all of the same terms and conditions. Software licenses are subject to separate renewal as outlined in the software license agreements.

SECTION NINE – NONHIRE OF DDP PERSONNEL

It is hereby mutually agreed that the DISTRICT will not solicit for hire any current or former employee(s) of DDP's staff without the written permission of the President of Davis Demographics

for a period of two years after completion of the services outlined in this Agreement, or any ongoing Agreements for services for additional work, whichever is later. In the event the foregoing provision is breached, liquidated damages equal to twenty-four (24) months of the employee's compensation plus any legal expenses associated with the enforcement of this provision shall be paid by the DISTRICT to DDP.

SECTION TEN - CONFIDENTIALITY

All communication and information obtained by DDP from the DISTRICT relating to this Agreement and all information developed by DDP under this Agreement are confidential. Should there be a need for DDP to maintain on its server(s) and/or other data storage media, personnel and/or student information protected by the Family Educational Rights and Privacy Act Regulations 34 CFR Part 99 (FERPA), DDP will take appropriate measures to ensure the security of said information and maintain its confidentiality according to applicable regulations. In addition, DDP acknowledges and agrees that, in the course of its Agreement with the DISTRICT, DDP will receive or have access to personal information. Personal information means information provided to DDP or to which access was provided to DDP by or at the direction of the DISTRICT in the course of DDP's performance under this Agreement that (a) identifies or can be used to identify an individual, including without limitation, names, addresses, or other unique identifiers or (b) can be used to authenticate an individual, including, without limitation identification numbers or other sensitive information. DDP shall comply with this Agreement in its collection, receipt, transmission, storage, disposal, use and disclosure of personal information under its control or in its possession and shall remain liable to the DISTRICT and to any other person whose personal information is under its control or in its possession. In recognition of the foregoing, DDP agrees and covenants that it shall: (a) keep and maintain all personal information in strict confidence using such degree of care as is appropriate to avoid unauthorized access use or disclosure, including but limited to security or data breach, malware intrusion or any other unauthorized access to such personal information; (b) shall not use, sell, rent, transfer or otherwise disclose or make available personal information for the benefit of anyone other than the DISTRICT; (c) at a minimum, DDP shall have in place safeguards for the protection of personal information which shall include limiting access to the DISTRICT information, securing business facilities, data centers, servers, back-up systems and computing equipment with information storage capability, as well as implementing network, database and platform security on computing equipment that are either owned by, used by or in the care or control of DDP.

SECTION ELEVEN - INDEMNIFICATION

DDP shall defend, indemnify and hold DISTRICT, its officials, officers, employees and agents free and harmless from all liability due to damage to property or injury to persons, including wrongful death, arising out of or incident to any negligent acts, omissions or willful misconduct of DDP arising out of or in connection with DDP's performance of this Agreement, including without limitation the payment of attorney's fees. Further, DDP shall defend at its own expense, including attorney's fees, DISTRICT, its officials, officers, employees, and agents in any legal action based upon such negligent acts, omissions or willful misconduct.

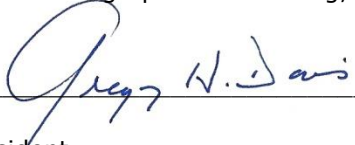
DISTRICT likewise shall defend, indemnify and hold DDP, its officials, officers, employees and agents free and harmless from all liability due to damage to property or injury to persons, including wrongful death, arising out of or incident to any negligent acts, omissions or willful misconduct of the DISTRICT arising out of or in connection with the DISTRICT's performance of this Agreement, including without limitation the payment of attorney's fees. Further, DISTRICT shall defend at its own expense, including attorney's fees, DDP, its officials, officers, employees, and agents in any legal action based upon such negligent acts, omissions or willful misconduct.

This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements, either oral or written. This Agreement may only be modified in writing signed by both parties.

The parties hereto have caused this Agreement to be executed by their duly authorized representatives.

Davis Demographics & Planning, Inc.

Plum Borough School District



President

Signed _____

Name _____

March 6, 2018

Title _____

FEIN: 33-0759263

Date _____

Appendix A

Consulting Services:

Attendance Boundary Redistricting Services:

- Develop Attendance Boundary Scenarios
 - Based on Fall 2017 student files
 - Limited to 3 separate scenarios (examples below)
 - Grade reconfigurations
 - Rezoning existing configurations
 - School consolidation
- Publish Final Proposed Boundaries on Web for Public Viewing prior to Board Approval
- Publish second SchoolSite Locator on web for Board-approved boundaries

Fee will be based on a Not To Exceed price. Additional hours beyond this will be requested if needed in advance of work.

_____ **Check the box and initial above for single year Consulting Services Agreement Redistricting Services**

TOTAL NOT TO EXCEED: \$6,800