

CONTRACT NAME: AGREEMENT BETWEEN ROBUST PHYSICAL FITNESS TESTING AND DAVIS JOINT UNIFIED SCHOOL DISTRICT

BRIEF DESCRIPTION OF CONTRACT: This agreement provides professional development services for Davis Joint Unified School District. Robust will support and collaborate with DJUSD to provide staff trainings for physical fitness data collection. This agreement includes customer support.

FISCAL IMPACT: The term of this agreement is August 1, 2019, to July 30, 2020. The cost is allocated in the approved budget.



AGREEMENT FOR PROFESSIONAL SERVICES

Program/Reason for use: Physical Education-Fitness data collection

COVER

This Contract Agreement is made between Davis Joint Unified School District ("CLIENT") and Robust PFT ("CONTRACTOR").

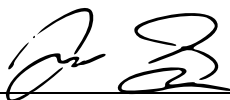
CLIENT	CONTRACTOR
Davis Joint Unified School District ("CLIENT") Attn: Heather Turner, Administrative Assistant 526 B Street Davis, CA 95616 Phone: 530-757-5300 (ext. 144) Email: hturner@djud.net	Robust PFT ("CONTRACTOR") Attn: Jesus Garcia, Owner PO BOX 2654 Fresno CA, 93745 Phone: (559) 289-4515 Email: jgarcia@robustpft.com
CONTRACT TERM	CONTRACT TERMINATION
"Effective Date": August 1, 2019 "Termination Date": July 30, 2020	Ground for Termination (mark one): <input type="checkbox"/> with cause only - "Notice Period": At least 30 days before the effective date of termination of this Agreement. <input checked="" type="checkbox"/> With or without causes - "Notice Period": At least 30 days before the effective date of termination of this Agreement.
CONTRACT AMOUNT: CLIENT Shall pay the following "Contract Amount" to CONTRACTOR.	PAYMENT SCHEDULE: CLIENT shall pay the Contract Amount to CONTRACTOR according to the Following "Payment Schedule".
Yearly Premium: \$2700 = \$225 Per School site Number of Schools: 12	Payments will be remitted on an annual basis and paid within 30 days from receipt of invoice from CONTRACTOR.
CLIENT OBLIGATIONS (See Art. 1 & 1A) CLIENT'S obligations under this Agreement: (leave blank if none)	
CONTRACTOR OBLIGATIONS (See Art 1 & 1A) Unless stated otherwise on this cover, CONTRACTOR shall provide all labor, materials, equipment, and transportation necessary to perform those obligations required of the CONTRACTOR under this Agreement including the following "Services":	
WHAT SERVICES WILL BE PROVIDED: 1 ROBUST PFT is web-hosted at Hivelocity Ventures Corporation. The CONTRACTOR/Owner will support and collaborate with the CLIENT'S Physical Education Coordinator or district designee in planning, implementing, and leading staff trainings. Services include, and are not limited to, providing customer care, technical support, ongoing updates, and upgrades throughout the term of this Agreement. WHEN WILL THE CONTRACTOR PROVIDE THE SERVICES: Yearly beginning August 1 WHERE WILL THE CONTRACTOR PROVIDE THE SERVICES: District Wide	
RECITALS/OTHER TERMS AND CONDITIONS (leave blank if none):	
REQUIRED DOCUMENTS. Each Party shall maintain the following insurance in effect throughout the Contract Term and, upon the other Party's request, provide written proof thereof, such proof referred to as "Required Document" (See Art 4) (leave blank if not applicable)	

In consideration of the covenants, conditions, and stipulations in and for good and valuable consideration and the mutual benefits to be derived from this Agreement, CLIENT and CONTRACTOR separately referred to as a "Party" and collectively as the "Parties," hereby enter into this Agreement. Unless this Agreement specifically states or the context requires otherwise, any reference to a Party shall mean the Party and its governing body, officers, employees, and agents, and, if CLIENT is a school district or charter school, includes CLIENT'S students. Each person executing this Agreement on behalf of a Party represents that he/she is authorized to execute on behalf of and to bind the party to this Agreement.

CLIENT REPRESENTATIVE:

CONTRACTOR REPRESENTATIVE:

By: _____
Print Name: Bruce Colby
Title: Chief Business and Operations
Officer

By:  _____
Print Name: Jesus Garcia
Title: Robust PFT Owner

These General Terms and Conditions contain the following Articles:

Article 1	Scope of Services and Obligations
Article 2	Payment
Article 3	Term and Termination of Agreement
Article 4	Insurance
Article 5	Indemnity
Article 6	Dispute Resolution
Article 7	General Provisions

ARTICLE 1- SCOPE OF SERVICES AND OBLIGATIONS

SECTION 1.1 SCOPE. By this Agreement. The Parties desire to set forth the terms and conditions upon which the Contractor shall provide and Client shall compensate the CONTRACTOR for performance of this Agreement and to set forth the Parties' rights and obligations relating to this Agreement. (A) CONTRACTOR warrants that it has the expertise necessary to perform the services in a manner consistent with the generally accepted standards of CONTRACTOR'S profession. CONTRACTOR further warrants that it will perform said services in a legally adequate manner in conformance with all Federal, State and local laws and guidelines. (B) CONTRACTOR agrees that it has the time, ability and professional expertise to perform the services required under this Agreement.

SECTION 1.2 WORK PRODUCTS AND RIGHTS THERETO. Unless stated otherwise on the cover, the following applies to any data, document, display, drawing, report, material, invention, work, and discovery (whether written, recorded, or electronically stored), including any copyright, right, and interest therein or thereto (collectively "work"), that a party prepares for or provides to the other party pursuant to this Agreement: (A) the work of each party shall remain its property and the party shall have all rights thereto; (B) each party grants to the other party a limited license during the Contract Term to use and reproduce the other Party's Work for the purpose of performing this Agreement; and (C) upon termination of this Agreement and a Party's request, the other Party shall return any work that belongs to the requesting Party. The provisions of this section shall survive the termination of this Agreement. (D) Either party may request changes in the scope of services. Such changes, and any increase or decrease in compensation, must be authorized in advance by CLIENT in writing, and incorporated into this Agreement as an amendment. (E) Duly authorized representatives of CLIENT shall have right of access to CONTRACTOR'S technical plans, files and records relating to the project, and may review the work at appropriate stages during performances of the work. (F) CONTRACTOR shall maintain and make available for inspection and audit by CLIENT or its agents, accurate records of all costs, disbursements and receipts with respect to work performed under this Agreement.

SECTION 1.3 CONFIDENTIAL RECORDS AND INFORMATION. If any document and/or information (e.g., employee or student records) that are subject to nondisclosure or protection under federal and/or California Laws (collectively "Confidential Materials") are provided to or created by a party for or pursuant to this Agreement, the Party shall: (A) not release, disseminate, publish, or disclose the Confidential Material except as required by law or a court order, as this Agreement may permit, or as the other Party may authorize in writing; (B) not use the Confidential Materials, including those that are saved or stored in an electronic form, to ensure that they are safe from theft, loss, destruction, erasure, alteration, and unauthorized viewing, duplication, and use. The provisions of this Section shall survive the termination of this Agreement.

SECTION 1.4 COMPLIANCE WITH APPLICABLE LAWS. Each Party shall comply with all California Laws applicable to its performance of this Agreement. Each provision of law required to be inserted in or that applies to this Agreement shall be deemed inserted herein, and this agreement shall be read and enforced as though such provision of law is inserted herein, however, if any conflict or inconsistency exists between a provision in this Agreement and a provision in applicable law(s), the provision in this Agreement shall govern except where the provision in this Agreement is specifically prohibited or deemed void by the applicable law(s) in which case the provision in the applicable law(s) shall govern. (A) CONTRACTOR shall defend, indemnify, and save and hold harmless CLIENT, its officers, agents and employees from any claims, suits or actions of every name, kind and description brought forth, or on account of, personal injury or bodily injury (including death) of any person, including (but not limited to) workers and the public, or damage to property, resulting from or arising out of CONTRACTOR'S negligence or willful misconduct in the performance of this Agreement, save and except those matters arising from CLIENT'S sole, active negligence or willful misconduct. The parties intend that this provision shall be broadly construed to effectuate its purpose. (B) CONTRACTOR shall not engage in unlawful employment discrimination, including but not limited to, employment discrimination based upon a person's race, religious creed, color, national origin, ancestry, disability or medical condition, marital status, citizenship, gender, or sexual orientation. (C) CONTRACTOR shall make all disclosures required by CLIENT'S conflict of interest code in accordance with the category designated by CLIENT.

ARTICLE 2- PAYMENT

As full consideration and compensation for the CONTRACTOR'S performance of this Agreement, CLIENT shall pay the CONTRACTOR the Contract Amount stated on the Cover in accordance with the Payment Schedule stated on the Cover.

ARTICLE 3- TERM AND TERMINATION OF AGREEMENT.

SECTION 3.1 CONTRACT TERM. This Agreement shall become effective on the Effective Date stated on the Cover and shall continue in full force and effect thereafter until and including the Termination Date stated on the Cover (" Contract Term") unless this Agreement is terminated during the Contract Term in accordance with Section 3.2 below.

SECTION 3.2 GROUND FOR TERMINATION. This Agreement shall terminate upon expiration of the Contract Term. During the Contract Term, a Party may terminate this Agreement as marked on the Cover: (A) With or without cause: A Party, with or without cause , may terminate this Agreement by giving the other Party written notice for the Notice Period stated on the Cover; or (B) With cause only: A Party may terminate this Agreement only upon the other Party's material breach of one or more provisions of this Agreement and after the non-breaching Party has given the breaching Party written notice for the Notice Period stated on the Cover and an opportunity, within 30 days of the date on which the non-breaching Party received the breaching Party's notice, to cure the material breach and to notify the other Party in writing when such cure has been completed; if the material breach has not been cured upon expiration of the 30 days or any extension thereof agreed upon by the Parties, this Agreement shall terminate effective 12:00 midnight on the 30th day or the last day of the extension (if any) without any further notice or action by any Party.

SECTION 3.3 RIGHTS AND OBLIGATIONS UPON TERMINATION. Upon termination of this Agreement, CLIENT shall pay for all Services that the CONTRACTOR performed before the effective date of termination, such payment to be made within 30 days of the effective date of termination and CLIENT'S receipt of the CONTRACTOR invoice. The provisions of this Section shall survive the termination of this Agreement.

SECTION 3.4 FORCE MAJEURE. A Party is not liable for failing or delaying performance of this Agreement due to events that are beyond the Party's reasonable control and occurring without its fault or negligence , for example, acts of God such as tornadoes, lightning, earthquakes, hurricanes, floods , or other natural disasters (collectively "Force Majeure") provided that the Party has notified the other Party in writing of the occurrence of the Force Majeure except that a Force Majeure shall not excuse Client's payment of any portion of the Contract Amount that is due to the CONTRACTOR where the CONTRACTOR has performed the Services for which payment is sought and submitted an invoice to CLIENT.

ARTICLE- INSURANCE

CONTRACTOR, at its cost and throughout the contract term, shall maintain in effect insurance or self-insurance that complies, at a minimum, with the following requirements and shall provide written proof of such insurance to the CLIENT upon the CLIENT'S request: (A) Professional Liability with limits of not less than \$1,000,000 per occurrence and \$1,000,000 aggregate.

ARTICLE 5- INDEMNITY

Each Party's indemnity, defense , and hold harmless obligations to the other Party under this Agreement shall be as follows : (A) a Party ("Indemnitor") shall indemnify and hold harmless the other Party ("Indemnitee") to the full extent permitted by California laws for any Loss (excluding attorney' s fees and litigation costs that the Indemnitee or a Third Party incurred or paid related to the Loss or the Claim that resulted in the Loss) sustained by the Indemnitee or a Third Party only in proportion to the Indemnitor's liability based on a Final Determination; and (B) each Party shall defend and pay for all of its attorney's fees and litigation costs related to any Claim or Loss without any right against or from the other Party for indemnity and/or hold harmless of such costs and fees, or any right for defense. A Party who intends to seek or seeks indemnity and/or hold harmless for any Loss from the other Party: (1) shall notify the other Party in writing and within a reasonable time after the Party knows or becomes aware of any Claim that may or will result in a Loss, describing, if known or determinable, the pertinent circumstances, all entities and persons involved, and the amount being claimed; and (2) shall not settle or otherwise resolve the Claim until it has notified the other Party of the Claim in accordance with the preceding provision (1) and given the other Party written notice and an opportunity to participate in and to consent to the settlement or resolution of the Claim, which consent the other Party shall not unreasonably withhold. A Party's obligations under this Article are not limited to or by any insurance that it maintains or the lack of insurance but apply to the full extent permitted by California laws, and shall survive the termination of this Agreement. "Claim" means any claim, demand, lawsuit, cause of action, action, cross-complaint, cross-action, and/or proceeding arising out of, resulting from, or relating to this Agreement where there has been no Final Determination. "Loss" means any bodily injury, property damage, personal injury, advertising injury, liability, loss, judgment, expense, and/or cost arising out of, resulting from, or relating to this Agreement and for which there has been a Final Determination that a Party is or both Parties are liable. "Third Party" means a person who or an entity that is not a Party to this Agreement and is not employed by, contracted with, whether directly or through a subcontract of any level, or otherwise retained by a Party to act for or on the Party's behalf. "Final Determination" means any judgment, order, or decision by a court of competent jurisdiction or a governmental entity with jurisdiction to render such judgment, order, or decision where the judgment, order, or decision is not subject to appeal or the period for an appeal has expired.

ARTICLE 6- DISPUTE RESOLUTION

The Parties shall meet and confer in good faith to resolve any disputes between them arising out of, resulting from, or relating to this Agreement. During any dispute, CONTRACTOR decision, for the time being, shall prevail and each Party shall perform this Agreement as The CONTRACTOR directs without prejudice to a Final Determination, as this term is defined in Article 5 above. During a dispute regarding payment under this Agreement, CLIENT shall pay the CONTRACTOR the portion of the Contract Amount that is undisputed and due to the CONTRACTOR, of a disputed portion of the Contract Amount is detained in a Final Determination to be due to CONTRACTOR. CLIENT shall pay such amount to CONTRACTOR within 30 days of a Final Determination. Except for an action to preserve the status quo and/or prevent irreparable harm, a Party shall not commence any cause of action, action, lawsuit, or proceeding arising out of, resulting from, or relating to this Agreement until after complying with the provisions of this Article. The provisions of this Article shall survive the termination of this Agreement. (A) In any action brought by either party to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees.

ARTICLE 7- GENERAL PROVISIONS

SECTION 7.1 ENTIRE AGREEMENT, CONFLICTS, EXECUTION, AMENDMENT, AND WAIVER. This Agreement is a complete and exclusive statement of the Parties' Agreement under Code of Procedure 1856. If any deletion, interlineation, or change, whether typewritten or handwritten, appears on this Agreement, the deletion or change Shall be effective only if the initial of each Party's authorized designee appears beside the deletion or change. This Agreement consists of and, unless specifically stated elsewhere in this Agreement or an amendment, any conflicts or inconsistencies in this Agreement shall be resolved by giving precedence as follows: the cover, these General Terms and Conditions, any exhibit or attachment that is specifically stated as being a part of this Agreement, Required Documents marked as required on the Cover, and any amendment entered into by the Parties in accordance with this Section. The Parties may execute this Agreement and any amendment hereto in counterparts such that each Party's signature is on a separate page. A copy or an original of this Agreement with the Parties' Signatures, whether original or transmitted by electronic means, shall be deemed a fully executed contract. The Parties may amend or waive any covenant, term, or condition of this Agreement only by a writing executed by them. (A) CONTRACTOR is employed to perform unique personal services. There shall be no assignment of this Agreement by CONTRACTOR without prior written consent of CLIENT.

SECTION 7.2 INTERPRETATION; APPLICABLE LAWS, TIME ZONE; VEN; SEVERABILITY, AND SURVIVAL OF TERMINATION. This Agreement is to be interpreted according to its fair meaning and not strictly for or against any Party, and under California laws without giving effect to California's choice of law provisions that may result in the application of the laws of another jurisdiction. Each Party shall comply with all federal and California laws applicable to its performance of this Agreement. Each provision of law required to be inserted in or that applies to this Agreement shall be deemed inserted herein, and this Agreement shall be read and enforced as though such provision of law is inserted herein; however, if any conflict or inconsistency exists between a provision in this Agreement and a provision in applicable law(s), The provision on this Agreement shall govern except where the provision in this Agreement is specifically prohibited or deemed void by the applicable law(s) in which case the provision in the applicable law(s) shall govern. If this Agreement is funded with any federal funds, each Party shall comply with federal suspension and debarment regulations, including Executive Order 12549 (29 C. F. R. Part 98). Each Party shall comply with the terms and conditions of each grant (if any) that provides funding for this Agreement. All dates and times stated in this Agreement shall be according to Agreement shall be adjudicated in the state of federal court in Fresno, California provided that Contractor does not hereby waive any immunity to suit, if a court of competent jurisdiction holds any provision of this Agreement void, illegal, or unenforceable, this Agreement shall remain in full force and effect and shall be interpreted as though such invalidated provision is not a part of this Agreement and the remaining provisions shall be construed to preserve

the Parties' intent in this Agreement. Any provision in this Agreement that by its nature applies after, or is specifically stated to survive, the termination of this Agreement shall survive the termination of this Agreement.

SECTION 7.3 INDEPENDENT CONTRACTOR, ASSIGNMENT, TRANSFER, AND SUBCONTRACT. Each Party is an independent contractor, and its officers, employees, and agents are not, and shall not represent themselves as, officers, employees, or agents of the other Party. This Agreement does not and shall not be construed to create an agency relationship, partnership, or joint venture between the Parties. A Party and its officers, employees, agents and any other person performing services on its behalf shall not have any right or claim against the other Party for wages or employee compensation, social security benefits, workers compensation benefits, health benefits, vacation, sick leave, or any other employee benefits of any kind. A Party shall not assign, transfer, or subcontract any or all of its obligations and/or rights under the Agreement, including by operation of law or change of control or merger, without the other Party's prior written consent; however, this shall not prohibit CONTRACTOR from contracting or subcontracting with a third party to provide any or all of the Services required of CONTRACTOR under this Agreement.

SECTION 7.4 NOTICES. Except as may be specifically stated otherwise in this Agreement in which case such provision shall govern to the extent provided therein, each Party shall give any notices demands, and all other communications required or permitted under this Agreement in writing and by one of the following methods to the other Party at the address, FAX number, and/or email stated on the Cover, delivery to be effective upon receipt thereof by the other Party: (A) hand delivery (B) sent by a reputable overnight courier services that tracks the delivery; (C) sent by certified mail, return receipt requested, first class postage prepaid; or (D) sent by regular mail and transmitted by facsimile or e-mail; and if to CONTRACTOR a copy thereof , not to include and communications regarding normal implementation of this Agreement by facsimile to CONTRACTOR, CLIENT shall submit all payments to the attention of Robust PFT, 733 E. ARETHA AVE FOWLER CA, 93625. Either Party may change its contact person and/or contact information stated on the Cover by notifying the other Party of the particular change and the effective date thereof in accordance with this Section. The provisions of this Section shall survive the termination of this Agreement.