

ORIGINAL

Cooperative Personnel Services doing business as CPS HR Consulting

Testing Services

AGREEMENT FOR SERVICES #4198

THIS AGREEMENT, made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County"), and Cooperative Personnel Services, a California Joint Powers Agency duly qualified to conduct business in the State of California, doing business as CPS HR Consulting, whose principal place of business is 2450 Del Paso Road, Suite 220, Sacramento, California 95834, (hereinafter referred to as "Contractor");

RECITALS

WHEREAS, County has determined that it is necessary to obtain a Contractor to provide specialized testing and scoring services for selected personnel recruitments for the Human Resources Department;

WHEREAS, Contractor has represented to County that it is specially trained, experienced, expert, and competent to perform the special services required hereunder, and County has determined to rely upon such representations;

WHEREAS, it is the intent of the parties hereto that such services be in conformity with all applicable state and local laws;

WHEREAS, County has determined that the provision of such services provided by Contractor are in the public's best interest and that these services are more economically and feasibly performed by outside independent Contractors as well as authorized by El Dorado County Charter, Section 210(b)(6) and/or Government Code Section 31000;

NOW, THEREFORE, County and Contractor mutually agree as follows:

ARTICLE I

Scope of Services: Contractor agrees to furnish personnel, equipment, and services necessary to provide testing services and materials on an "as requested" basis for the Human Resources Department. Services shall include, but not be limited to, provision of test rentals and scoring services for selected tests in accordance with Exhibit A, marked "Test Rental and Use Agreement," incorporated herein and made by reference a part hereof. In the event of conflict between Exhibit A and ARTICLE I, Scope of Services, through ARTICLE XXXI, Entire Agreement, of this Agreement ARTICLE I, Scope of Services, through ARTICLE XXXI, Entire Agreement, of this Agreement will prevail.

When Authorized Representatives for County change, Contractor and County's Contract Administrator mutually agree that a revised list of Authorized Representatives shall be attached to this Agreement as an addendum.

ARTICLE II

Term: This Agreement shall become effective upon execution and shall cover the period of October 1, 2019 through September 30, 2022.

ARTICLE III

Compensation for Services: For services provided herein, including any deliverables that may be identified herein, County agrees to pay Contractor upon the satisfactory completion and County's acceptance of work, in arrears. Payment shall be made within forty-five (45) days following County's receipt and approval of itemized invoices identifying the services rendered.

For the purposes hereof, the billing rates shall be in accordance with Exhibit B, marked "CPS HR Test Rental Division Rates," Exhibit C, marked "Spanish Language Proficiency Test Rental Division Rates," and Exhibit D, marked "CPS HR On-line Skills Test Pricing Schedule," incorporated herein and made by reference a part hereof. Rates for any services not listed require prior written approval from County's Contract Administrator. The rates in Exhibit B, Exhibit C, and Exhibit D, may be updated upon prior written approval from County's Contract Administrator.

The total amount of this Agreement shall not exceed \$120,000, inclusive of all costs and expenses.

Itemized invoices shall follow the format specified by County and shall reference this Agreement number on their faces. Copies of documentation attached to invoices shall reflect Contractor's charges for the specific services billed on those invoices. Invoices shall be mailed to County at the following address:

County of El Dorado
Human Resources
330 Fair Lane
Placerville, California 95667

Attn.: Tameka Usher
Director of Human Resources

or to such other location as County directs.

In the event that Contractor fails to deliver, in the format specified, the deliverables required by this Agreement, County at its sole option may delay the payment for the period of time of the delay, cease all payments until such time as the required deliverables are received, or proceed as set forth below in ARTICLE XII, Default, Termination, and Cancellation, herein.

ARTICLE IV

Taxes: Contractor certifies that as of today's date, it is not in default on any unsecured property taxes or other taxes or fees owed by Contractor to County. Contractor agrees that it shall not default on any obligations to County during the term of this Agreement.

ARTICLE V

Changes to Agreement: This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

ARTICLE VI

Contractor to County: It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further agreed that in all matters pertaining to this Agreement, Contractor shall act as Contractor only to County and shall not act as Contractor to any other individual or entity affected by this Agreement nor provide information in any manner to any party outside of this Agreement that would conflict with Contractor's responsibilities to County during the term hereof.

ARTICLE VII

Confidentiality: Contractor shall maintain the confidentiality and privileged nature of all records, including billing records, together with any knowledge therein acquired, in accordance with all applicable state and federal laws and regulations, as they may now exist or may hereafter be amended or changed. Contractor, and all Contractor's staff, employees, and representatives, shall not use or disclose, directly or indirectly at any time, any said confidential information, other than to Human Resources Department for the purpose of, and in the performance of, this Agreement. This confidentiality provision shall survive after the expiration or earlier termination of this Agreement.

ARTICLE VIII

Assignment and Delegation: Contractor is engaged by County for its unique qualifications and skills as well as those of its personnel. Contractor shall not subcontract, delegate, or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of County.

ARTICLE IX

Independent Contractor/Liability: Contractor is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by the terms of this Agreement. Contractor exclusively assumes responsibility for acts of its employees, associates, and subcontractors, if any are authorized herein, as they relate to services to be provided under this Agreement during the course and scope of their employment.

Contractor shall be responsible for performing the work under this Agreement in a safe, professional, skillful, and workmanlike manner and shall be liable for its own negligence and negligent acts of its employees. County shall have no right of control over the

manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to Contractor or its employees.

ARTICLE X

Fiscal Considerations: The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment, or services not budgeted in a given fiscal year. It is further understood that in the normal course of County business, County will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, County shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the services, products, or equipment subject herein. Such notice shall become effective upon the adoption of a final budget, which does not provide funding for this Agreement. Upon the effective date of such notice, this Agreement shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce or order a reduction in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of County, this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

ARTICLE XI

Audit by California State Auditor: Contractor acknowledges that if total compensation under this Agreement is greater than \$10,000.00, this Agreement is subject to examination and audit by the California State Auditor for a period of three (3) years, or for any longer period required by law, after final payment under this Agreement, pursuant to California Government Code § 8546.7. In order to facilitate these potential examinations and audits, Contractor shall maintain, for a period of at least three (3) years, or for any longer period required by law, after final payment under the Agreement, all books, records, and documentation necessary to demonstrate performance under the Agreement.

ARTICLE XII

Default, Termination, and Cancellation:

- A. **Default:** Upon the occurrence of any default of the provisions of this Agreement, a party shall give written notice of said default to the party in default (notice). If the party in default does not cure the default within ten (10) days of the date of notice (Time to Cure), then such party shall be in default. The Time to Cure may be extended at the discretion of the party giving notice. Any extension of Time to Cure must be in writing, prepared by the party in default for signature by the party

giving notice, and must specify the reason(s) for the extension and the date in which the extension of Time to Cure expires.

Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable period of time. No such notice shall be deemed a termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the Time to Cure has expired. In the event of termination, County reserves the right to take over and complete the work by contract or by any other means.

- B. Bankruptcy: This Agreement, at the option of County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Contractor.
- C. Ceasing Performance: County may terminate this Agreement immediately in the event Contractor ceases to operate as a business or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. Termination or Cancellation without Cause: County may terminate this Agreement in whole or in part upon seven (7) calendar days' written notice by County without cause. If such prior termination is effected, County will pay for satisfactory services rendered prior to the effective dates, as set forth in the Notice of Termination provided to Contractor, and for such other services which County may agree to in writing as necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total amount of the Agreement. Upon receipt of a Notice of Termination, Contractor shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the Notice directs otherwise.

ARTICLE XIII

Notice to Parties: All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to County shall be in duplicate and addressed as follows:

To County:

With a copy to:

County of El Dorado
Human Resources
330 Fair Lane
Placerville, California 95667

County of El Dorado
Chief Administrative Office
2850 Fairlane Court
Placerville, California 95667

Attn.: Tameka Usher
Director of Human Resources

Attn.: Michele Weimer
Procurement and Contracts Manager

or to such other location as County directs.

Notices to Contractor shall be addressed as follows:

CPS HR – Test Rental
2450 Del Paso Road, Suite 220
Sacramento, California 95834

Attn.: Amy Bigone
Test Rental Program Manager

or to such other location as Contractor directs.

ARTICLE XIV

Change of Address: In the event of a change in address for Contractor's principal place of business, Contractor's Agent for Service of Process, or Notices to Contractor, Contractor shall notify County in writing as provided in ARTICLE XIII, Notice to Parties. Said notice shall become part of this Agreement upon acknowledgment in writing by County's Contract Administrator, and no further amendment of the Agreement shall be necessary provided that such change of address does not conflict with any other provisions of this Agreement.

ARTICLE XV

Indemnity: Contractor shall defend, indemnify, and hold County and its officers, agents, employees, and representatives harmless against and from any and all claims, suits, losses, damages, and liability for damages of every name, kind, and description, including attorneys' fees and costs incurred, brought for, or on account of, injuries to, or death of, any person, including but not limited to workers, County employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to, or in any way arise out of, or are connected with Contractor's services, operations, or performance hereunder, regardless of the existence or degree of fault or negligence on the part of County, Contractor, subcontractor(s), and employee(s) of any of these, except for the sole or active negligence of County, its officers, agents, employees, and representatives, or as expressly prescribed by statute. This duty of Contractor to indemnify and save County harmless includes the duties to defend set forth in California Civil Code Section 2778.

ARTICLE XVI

Insurance: Contractor shall provide proof of a policy of insurance satisfactory to County's Risk Management Division and documentation evidencing that Contractor maintains insurance that meets the following requirements:

- A. Full Workers' Compensation and Employers' Liability Insurance covering all employees of Contractor as required by law in the State of California.
- B. Commercial General Liability Insurance of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage and a \$2,000,000 aggregate limit.

- C. Automobile Liability Insurance of not less than \$1,000,000 is required in the event motor vehicles are used by Contractor in performance of the Agreement.
- D. In the event Contractor is a licensed professional or professional contractor and is performing professional services under this Agreement, Professional Liability Insurance is required with a limit of liability of not less than \$1,000,000.
- E. Contractor shall furnish a certificate of insurance satisfactory to County's Risk Management Division as evidence that the insurance required above is being maintained.
- F. The insurance will be issued by an insurance company acceptable to County's Risk Management Division or be provided through partial or total self-insurance likewise acceptable to the Risk Management Division.
- G. Contractor agrees that the insurance required herein shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Contractor agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of Risk Management and Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event Contractor fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.
- H. The certificate of insurance must include the following provisions stating that:
 - 1. The insurer will not cancel the insured's coverage without prior written notice to County; and
 - 2. The County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured, on an additional insured endorsement, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- I. Contractor's insurance coverage shall be primary insurance in respect to County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by County, its officers, officials, employees, or volunteers shall be in excess of Contractor's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to and approved by County. At the option of County, either: The insurer shall reduce or eliminate such deductibles or self-insured retentions in respect to County, its officers, officials, employees, and volunteers; or Contractor shall procure a bond

guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to County, its officers, officials, employees, or volunteers.
- L. The insurance companies shall have no recourse against the County of El Dorado, its officers, and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- M. Contractor's obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement.
- N. In the event Contractor cannot provide an occurrence policy, Contractor shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- O. The certificate of insurance shall meet such additional standards as may be determined by the contracting County department, either independently or in consultation with County's Risk Management Division as essential for protection of County.

ARTICLE XVII

Interest of Public Official: No official or employee of County who exercises any functions or responsibilities in review or approval of services to be provided by Contractor under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or interest of any corporation, partnership, or association in which he/she is directly or indirectly interested; nor shall any such official or employee of County have any interest, direct or indirect, in this Agreement or the proceeds thereof.

ARTICLE XVIII

Interest of Contractor: Contractor covenants that Contractor presently has no personal interest or financial interest, and shall not acquire same in any manner or degree, in either: 1) any other contract connected with or directly affected by the services to be performed by this Agreement; or, 2) any other entities connected with or directly affected by the services to be performed by this Agreement. Contractor further covenants that in the performance of this Agreement no person having any such interest shall be employed by Contractor.

ARTICLE XIX

Conflict of Interest: The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and Section 87100 relating to conflict of interest of public officers and employees. Contractor attests that it has no current business or financial relationship with any County employee(s) that would constitute a conflict of interest with provision of services under this Agreement and will

not enter into any such business or financial relationship with any such employee(s) during the term of this Agreement. County represents that it is unaware of any financial or economic interest of any public officer or employee of Contractor relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement either party may immediately terminate this Agreement by giving written notice as detailed in ARTICLE XII, Default, Termination, and Cancellation, herein.

ARTICLE XX

Nondiscrimination:

- A. County may require Contractor's services on projects involving funding from various state and/or federal agencies, and as a consequence, Contractor shall comply with all applicable nondiscrimination statutes and regulations during the performance of this Agreement including but not limited to the following: Contractor and its employees and representatives shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, genetic information, military or veteran status, marital status, age, gender, gender identity, gender expression, sexual orientation, or sex; Contractor shall, unless exempt, comply with the applicable provisions of the Fair Employment and Housing Act (Government Code, Sections 12900 et seq.) and applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Sections 7285.0 et seq.); the applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations incorporated into this Agreement by reference and made a part hereof as if set forth in full; and Title VI of the Civil Rights Act of 1964, as amended. Contractor and its employees and representatives shall give written notice of their obligations under this clause as required by law.
- B. Where applicable, Contractor shall include these nondiscrimination and compliance provisions in any of its agreements that affect or are related to the services performed herein.
- C. Contractor's signature executing this Agreement shall provide any certifications necessary under the federal laws, the laws of the State of California, including but not limited to Government Code Sections 12990 and 8355 and Title 2, California Code of Regulations, Section 8103.

ARTICLE XXI

California Residency (Form 590): If Contractor is a California resident, Contractor must file a State of California Form 590, certifying its California residency or, in the case of a limited liability company or corporation, certifying that it has a permanent place of business in California. Contractor will be required to submit a Form 590 prior to execution of this Agreement, or County shall withhold seven (7) percent of each

payment made to Contractor during the term of this Agreement. This requirement applies to any agreement/contract exceeding \$1,500.

ARTICLE XXII

County Payee Data Record Form: All independent contractors or corporations providing services to County who do not have a Department of the Treasury Internal Revenue Service Form W-9 (Form W-9) on file with County must file a County Payee Data Record Form with County.

ARTICLE XXIII

Business License: County's Business License Ordinance provides that it is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of El Dorado County without possessing a County business license unless exempt under County Ordinance Code Section 5.08.070. Contractor warrants and represents that it shall comply with all of the requirements of County's Business License Ordinance, where applicable, prior to beginning work under this Agreement and at all times during the term of this Agreement.

ARTICLE XXIV

Licenses: Contractor hereby represents and warrants that Contractor and any of its subcontractors employed under this Agreement has all the applicable licenses, permits, and certifications that are legally required for Contractor and its subcontractors to practice its profession or provide the services or work contemplated under this Agreement in the State of California. Contractor and its subcontractors shall obtain or maintain said applicable licenses, permits, or certificates in good standing throughout the term of this Agreement.

ARTICLE XXV

California Forum and Law: Any dispute resolution action arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

ARTICLE XXVI

Contract Administrator: The County Officer or employee with responsibility for administering this Agreement is Tameka Usher, Director of Human Resources, or successor.

ARTICLE XXVII

Authorized Signatures: The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties the obligations set forth herein.

ARTICLE XXVIII

Partial Invalidity: If any provision, sentence, or phrase of the Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining

provisions, sentences, and phrases will continue in full force and effect without being impaired or invalidated in any way.

ARTICLE XXIX

No Third Party Beneficiaries: Nothing in this Agreement is intended, nor will be deemed, to confer rights or remedies upon any person or legal entity not a party to this Agreement.

ARTICLE XXX

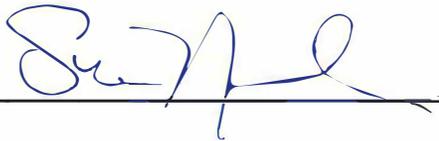
Counterparts: This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

ARTICLE XXXI

Entire Agreement: This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties, and they incorporate or supersede all prior written or oral agreements or understandings.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below.

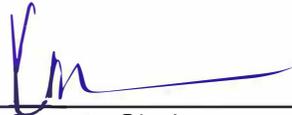
--COUNTY OF EL DORADO--

By: 

Dated: 9/10/2019

Board of Supervisors
"County"

Attest:
Kim Dawson
Clerk of the Board of Supervisors

By: 
Deputy Clerk

Dated: 9/10/2019

--COOPERATIVE PERSONNEL SERVICES
DBA CPS HR CONSULTING--

By: 
Amy Bigone
Test Rental Manager
"Contractor"

Dated: 9/9/19

Cooperative Personnel Services
dba CPS HR Consulting
Exhibit A

TEST RENTAL AND USE AGREEMENT



This Test Rental and Use Agreement (“Agreement”) is by and between Cooperative Personnel Services, dba CPS HR Consulting, a California Joint Powers Authority (“CPS HR”) and the Agency or Organization named in the signature block at the end of the Agreement (“Client”).

- A. Purpose.** This Agreement defines CPS HR test rental, use, and security policies and procedures. CPS HR develops and rents tests for a number of purposes and in a number of formats (including but not limited to print and electronic media). For that reason, some of the below paragraphs apply under certain circumstances. But, unless specifically limited, each paragraph applies to all testing purposes and formats.
- B. Ownership of CPS HR Tests.**
1. CPS HR owns all rights, title and interest, including copyrights, in all tests provided under this Agreement. They are the property of CPS HR and shall remain the property of CPS HR, even while in the custody of Client.
 2. Additionally, tests that have been constructed or modified based on information provided by the client shall not be considered works made for hire, as that term is defined under U.S. Copyright Law. CPS HR shall own all rights, title and interest, including the copyright, in any test it creates for the Client.
 3. Ownership of tests specifically developed for a client and of individual test questions supplied by Client, if any, shall be governed by a separate Agreement between CPS HR and Client.
- C. Test Materials.** Test Materials consist of all used and unused test booklets, proctors instructions, proctors manuals, scoring instructions, key sheets, key overlays, keyed booklets, scoring keys, instructions, CDs (for oral tests), and any other materials generated at the test administration, such as completed answer sheets (if applicable), scratch paper, note paper, and the like.
- D. Test Security.** CPS HR security standards are designed to protect the mutual interests of all Clients that use Test Materials as well as the interests of applicants who take CPS HR tests. In order that no person may gain special advantage by having improper access to the material, all users must sign this Agreement and agree to fulfill its terms, before the Agreement is effective.
1. Client agrees to take all reasonable and diligent steps to keep CPS HR tests, sample tests, and testing processes confidential and free from unauthorized access and use. This includes, but is not limited to, client agreeing not to divulge, convey, copy in whole or part, duplicate, convert to another format or medium, or otherwise disseminate tests, portions of tests, or test materials.
 2. For on-line tests, client further agrees to take all reasonable and diligent steps to prevent any modification to or reverse engineering of the testing software, and any transfer, storage, or dissemination of tests or testing software and data on any storage medium or computer server other than those specifically authorized by CPS HR.
 3. Should Client suspect any breach of test security, Client agrees to immediately notify CPS HR and immediately take all steps necessary to preserve evidence of or related to the breach, whether physical or electronic.
- E. Test Review, Ordering and Administration.**
1. **Review Copies.** Review of CPS HR tests, regardless of format, is subject to the test security standards.
 - (a) **Test Rental Division:** To help in deciding whether to rent exams, Client may review CPS HR stock tests and other stock test materials free of charge (e.g., stock supplements, structured interview packages, and specialized item sets).
 - (b) **SLPP:** CPS HR does not offer review copies of the Spanish Language Proficiency Program (SLPP) tests. However, for new clients, CPS HR can provide a sample written test booklet showing the different components of the test.
 - (c) **On-line Testing:** To help in deciding whether to utilize on-line testing, Client may review sample on-line tests free of charge.
 2. **Ordering Testing Materials and Scheduling of Examinations.**
 - (a) **Test Rental Division and SLPP:**
 - (i) To ensure materials are received in time, Client must notify CPS HR at least 10 business days prior to the test date of the total number of candidates in each job classification to be tested. If orders are placed less than 10-business-days prior to the test date, rush shipment charges may apply and timely delivery cannot be guaranteed.
 - (ii) Client shall rent one test booklet per candidate to be tested. CPS HR shall provide Client with Test Materials including instructions for administering the test, sufficient test booklets and any other material CPS HR deems necessary.
 - (b) **On-line Testing:**
 - (i) To ensure Client equipment is functioning and capable of administering on-line testing, Client must request testing from CPS HR at least 10 business days prior to the test date on the first time Client utilizes on-line testing. After Client has successfully used on-line testing, 5 working days notice is normally sufficient for subsequent testing.
 - (ii) Client recognizes that CPS HR has no control over the functioning of the internet, and any problems with on-line testing due to the failure thereof are not attributable to CPS HR.

3. After the test date.

(a) Test Rental Division and SLPP:

- (i) Within 10 business days of the test date, Client shall return to CPS HR all Test Materials including all materials provided by CPS HR for the test administration.
- (ii) Client shall not reuse printed tests on the test date or on any other date but shall return Test Materials to CPS HR, whether or not the test was administered.

(b) On-line Testing:

- (i) After the scheduled test date(s), CPS HR will suspend access to the on-line test site.
- (ii) Within 10 business days of the test date, Client shall destroy all CPS HR Test Materials including scratch paper and note paper in a way that make the materials unrecoverable.

F. Billing, Pricing, and Payment.

1. CPS HR shall bill Client at the billing address provided in Exhibit A, unless notified in writing of a new billing address.
2. The bill shall be derived from the most current applicable Rate Sheet (s): Exhibit B for Test Rental, Exhibit C for SLPP, and Exhibit D. Client acknowledges and understands that the Test Price List(s) are only effective as of the date shown each of them and are subject to change.
3. Client shall be billed for any work done on a canceled or postponed test up to the time CPS HR is notified of such cancellation or postponement. Under certain circumstances, and in CPS HR's sole discretion, credit may be given for work already performed if the test is rescheduled.
4. CPS HR may charge Client for lost or compromised tests if Test Materials are not returned according to 3(a) above. Client shall be liable for the actual cost associated with the creation of a substantially similar replacement test up to a maximum of \$15,000.
5. Client agrees to and shall pay all invoices within forty-five (45) days of receipt of invoice.

G. Candidate Inspections

1. Test Materials.

CANDIDATE INSPECTION OF TEST MATERIALS SHALL **NOT** BE ALLOWED EXCEPT IN CASE OF ANSWER SHEETS AS DESCRIBED BELOW

2. Answer Sheets.

- (a) If a candidate files a protest regarding the scoring of his or her test, inspection of a candidate's own answer sheet(s) for the purpose of detecting whether any clerical or other error has been made in the scoring of the answer sheets shall be allowed, upon request by the Client, for a 10-business-day period immediately following the notification to the candidate of test results.
- (b) Candidates are not allowed to review the question booklet during this inspection period.
- (c) Not more than one hour will normally be allowed for answer sheet(s) review. A representative of Client's Personnel or Administrative office shall be present to assure that no changes or marks of any kind are made

by the candidate on the answer sheet(s) or keyed answer sheet.

H. Client Responsibilities.

1. Client shall perform all parts of the testing process which are not performed by CPS HR. Client has the responsibility for assuring that the testing process performed by Client conforms to any applicable laws, rules or ordinances, and for the test as a whole. Under the federal Uniform Guidelines on Employee Selection Procedures, the Client as test user is responsible for local validation efforts (e.g., SME review, job analysis studies) and the results of the selection process, and Client understands and acknowledges that it must be prepared to demonstrate that the process is valid and meets other testing standards if it adversely affects groups protected by fair employment laws.
2. Client is responsible for insuring that all persons who handle or have access to Test Materials in any capacity for Client shall do so in compliance with this Agreement, and are trained to handle Test Materials and administer tests before they do so.

I. Legal Proceedings Involving Test Materials.

1. If Client receives notice of any administrative or court proceeding involving a CPS HR test, or a request for disclosure of Test Materials, such as a subpoena, or a public records or freedom of information request, Client shall notify CPS HR of such request immediately and well before a response is due.
2. Upon CPS HR request, Client shall maintain the confidentiality of the Test Materials pending the grant or denial of a protective order or the decision of a court or administrative body as to whether the requested Test Materials must be disclosed under the applicable public records statute.
3. Client shall cooperate with CPS HR in seeking any relief necessary to maintain the confidentiality of the Test Materials.
4. Client shall indemnify and hold CPS HR harmless from and against any and all claims, costs, damages, losses, liabilities, and expenses (including reasonable attorney fees and costs) arising out of or in connection with administration of a test, or with maintaining confidentiality of Test Materials.

Term and Termination of Agreement.

- J. 1. Term. This Agreement is effective beginning the date it is signed by both parties and shall cover the period of October 1, 2019 through September 30, 2022 unless earlier terminated by either party as stated below.
- 2. Immediate Termination upon Material Breach. Either party may terminate this Agreement immediately upon any material breach by the other party. For purposes of this Agreement, but without limiting the meaning of material breach, any breach of the test security provisions, however minor, shall be considered a material breach. Client understands and acknowledges that immediate termination by CPS HR may result in the withholding or recall of Test Materials.
- 3. Termination Without Cause. CPS HR and Client may terminate the Agreement without cause upon thirty days written notice to the other party.

4. **Return of Test Materials.** Upon termination of the Agreement, Client shall immediately return to CPS HR any Test Materials that it possesses.

K. Miscellaneous.

1. **Notices.** Any notice to the parties required or permitted under this Agreement shall be given in writing and shall be sent to Client at the address provided for the Principal Signer and to CPS HR at 2450 Del Paso Rd, Ste 220, Sacramento, CA 95834.
2. **Dispute Resolution; Remedies.**
 - (a) In the event of a dispute, the parties may agree to pursue mediation or either binding or nonbinding arbitration to resolve their dispute, under such rules as the parties may agree.
 - (b) Client acknowledges that breach of this Agreement may result in irreparable harm to CPS HR for which damages would be an inadequate remedy and, therefore, in the event of a breach, in addition to its rights and remedies otherwise available by law, CPS HR shall be entitled to seek equitable relief, including injunction.
3. **Attorneys Fees.** If any legal action or arbitration or other proceeding is brought to enforce or construe the term of this Agreement or because of an alleged dispute, breach, or default in connection with any provision of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys fees and other costs incurred in that action, arbitration, or proceeding in addition to any other relief to which it may be entitled.
4. **Waiver.** The failure of any party at any time or times to require performance of any provisions of this Agreement shall in no manner affect its right to

enforce such provision at a later time. Nor shall the waiver by either party of a breach of any provision of this Agreement be taken or held to be a waiver of the provision itself. No waiver shall be enforceable unless made in writing and signed by the party granting the waiver.

5. **Entire Agreement; Modifications.** This Agreement constitutes the entire Agreement between the parties regarding the subject matter hereof and supersedes all other Agreements, representations, and warranties. All modifications and supplements to this Agreement must be in writing and signed by both parties.
6. **Counterparts; Facsimile Signature; Electronic Signature.** This Agreement may be executed in any number of counterparts. If this Agreement or any counterpart is signed and then faxed or e-mailed by PDF or otherwise, the faxed or e-mailed copy bearing the signature shall be as good as the original wet-ink signed copy for all intents and purposes.
7. **Interpretation; Jurisdiction.** This Agreement shall be interpreted and enforced under the laws of the State of California and jurisdiction shall be in El Dorado County, California. The Agreement shall be interpreted in a fair and balanced manner to best preserve its intent, and without bias against the drafter.
8. **Authority to Sign.** The person signing this Agreement on behalf of the Client (the Principal Signer) represents that he or she is the head of the agency or is otherwise duly authorized to sign this Agreement and to bind the Client.

Authorized Representative(s) *(use an additional page if needed)* By signing as an Authorized Representative, I affirm that I will handle all CPS HR Test Materials in accordance with the terms of the CPS HR Test Rental Agreement then in effect.

Name, Title	Signature
E-mail Address	Phone Number

Name, Title	Signature
E-mail Address	Phone Number

Name, Title	Signature
E-mail Address	Phone Number

Name, Title	Signature
E-mail Address	Phone Number

Name, Title	Signature
E-mail Address	Phone Number

Name, Title	Signature
E-mail Address	Phone Number

II. Billing Contact

Contact Name and Title		
Agency		
Street Address, City, State, Zip		
E-Mail	Phone Number	Fax Number

III. Physical Address

Agency / Department Name
Street Address, City, State, Zip

**Cooperative Personnel Services
dba CPS HR Consulting
Exhibit B**

CPS HR Test Rental Division Rates (Effective March 25, 2009 – Subject to Change)

	STOCK TESTS*	MODULAR TESTS	SEMI-STOCK TESTS	CUSTOM TESTS	AGENCY TESTS
Base Fee (per order) ‡	\$295.00	\$395.00	\$595.00	\$995.00	\$350.00
1-100 Candidates (per candidate)	\$9.00	\$12.00	\$14.00	\$15.00	\$10.00
101-500 Candidates (per candidate)	\$8.50	\$11.00	\$13.00	\$14.00	\$9.50
501+ Candidates (per candidate)	\$8.00	\$10.00	\$12.00	\$13.00	\$9.00
New Item Writing/Entry	N/A	N/A	N/A	\$35 per item	N/A
Pick Up/Handling	5%	5%	5%	5%	5%
Standard Shipping/Handling **	10%	10%	10%	10%	10%
Expedited Shipping/Handling **	15%	15%	15%	15%	15%
Premium Shipping/Handling **	20%	20%	20%	20%	20%
Shipping outside contiguous U.S.	CALL FOR DETAILS				
Entry Law/Fire Candidate Preparation Manuals <i>**Now available Online**</i>			Structured Interview Packages		
Quantity Per Booklet/Candidate Fee 10 - 1000 \$ 3.00 1001+ Call for volume discount details			Base Fee: \$ 595.00 Per Candidate Fee: 1 - 500 \$7.50		

*CPS HR will apply a credit of \$35.00 for each **fully paid UNOPENED package of Stock Exams** of test booklets on the current **STOCK test order**.

**Standard shipping applies to orders placed at least 10 business days prior to test date. Expedited shipping applies to orders placed less than 10 business days prior to test date. Orders placed 3 or less than business days prior to the test date will be charged at the premium shipping rate.

‡ Base fee includes the following at no additional charge: Proctor's Manual, Scoring Manual, CPS HR Scoring, CPS HR answer sheets and a scoring report.

SPECIAL SERVICES

Stock Supplements	\$ 2.00 per book when ordered with a Stock test
Writing Proficiency Exam	\$ 350.00 Base Fee + \$ 15.00 per candidate (Professional Scoring included)
Scoring Keys	Available at no additional charge
Re-Scoring/Hand-Scoring of Answer Sheet	\$ 30.00 (Requested directly by Agency)
Non-specified special services	CALL FOR DETAILS (Billed at applicable hourly rate)

Test Rental Contact Information:

CPS HR Consulting
Attn: Test Rental Division
2450 Del Paso Rd., Ste. 220, Sacramento CA 95834

Telephone: 916.263.1800 / Toll Free 866.867.5272
Fax: 916.921.6240 / E-mail: testrental@cpsshr.us

Cooperative Personnel Service
dba CPS HR Consulting

Exhibit C

**Spanish Language Proficiency Test Rental Division Rates
Effective March 25, 2009 -- Subject to Change**

	WRITTEN TEST	ORAL TEST
Base Fee (per order)	\$295.00	\$295.00
**Per Booklet Fee	\$9.00	N/A
***Per Tape Scoring Fee	N/A	\$120.00
Expedited Shipping	*20%	*20%
*Orders placed less than two weeks prior to the exam date will incur expedited shipping charges **Per Booklet Fee will be charged for number of books ordered ***Billed for the number rated		

SPECIAL SERVICES	
Faxing/Emailing Test Results	Available at no additional charge
Hand Scoring	\$30.00
Proctoring Services	Call for details/quote
SLPP Extended Use Program	Call for details

Cooperative Personnel Services
dba CPS HR Consulting

Exhibit D

**CPS HR On-line Skills Test Pricing Schedule
Effective August 2015 – Subject to Change**

Online Skills Test Pricing Schedule	Single-Subject Test	Two-Subject Test	Each Additional Subject
1 - 25 Candidates (per candidate)	\$20.00	\$30.00	\$6.00
26 - 100 Candidates (per candidate)	\$18.00	\$27.00	\$6.00
101 - 250 Candidates (per candidate)	\$17.00	\$25.50	\$6.00
251 - 1,000 Candidates (per candidate)	\$15.00	\$22.50	\$6.00
1,001+ Candidates (per candidate)	\$12.00	\$18.00	\$6.00

Access 2007 or 2010	Excel 2007 or 2010	Word 2007 or 2010
Advanced Skills	Advanced Skills	Advanced Skills
Basic Skills	Basic Skills	Basic Skills
Standard	Standard	Standard
PowerPoint 2007 or 2010	Windows XP	Digital Literacy 2008
Advanced Skills	Advanced Skills	Computing
Basic Skills	Basic Skills	Internet
Standard	Standard	Software Skills
Other Exams		
Basic Computer Literacy	Typing Test	
Excel Functions	Ten Key Test	
Publisher 2003 - Standard	Data Entry Test - Numeric	
Outlook 2007 or 2010 - Standard	Data Entry Test - Alphanumeric	