



Mountain View School District AGREEMENT FOR INDEPENDENT CONTRACTOR SERVICES

THIS AGREEMENT is made and entered into this _____ day of _____, 20____
between the Mountain View School District (“DISTRICT”) and _____
_____ (“CONTRACTOR”).

1. SCOPE OF SERVICES

CONTRACTOR agrees to perform the following services for the DISTRICT at the times and places mutually acceptable to the DISTRICT and CONTRACTOR. CONTRACTOR services will include the following:

_____ (the “Project”).

◆ **CONTRACTOR is required to submit a resume or biographical sketch with this form.**

2. REPORTS

CONTRACTOR shall provide the following report(s): _____

No report(s) required.

3. PLACE OF PERFORMANCE

The place(s) of performance will be: _____

4. PERIOD OF AGREEMENT

This Agreement is effective _____, 20____ and will be completed by

_____, 20____ inclusive (“End Date”). By entering into this Agreement, CONTRACTOR hereby represents and warrants that it can and will complete all services necessary to finish project by the End Date. If CONTRACTOR fails to complete the Project to the satisfaction of the District by the End Date, for any reason, DISTRICT shall be entitled to all costs and expenses associated with CONTRACTOR’S delayed performance, including, but not limited to, the DISTRICT’s costs to hire additional entities to complete the PROJECT after the End Date

5. INDEPENDENT CONTRACTOR

While performing the services herein, the CONTRACTOR and its employees shall be and act as independent contractors and not officers, agents or employees of DISTRICT and are not entitled to benefits of any kind or nature normally provided employees of the DISTRICT and/or to which DISTRICT’S employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker’s Compensation. Nothing in this Agreement should be construed to create a partnership, agency, joint venture, or employment relationship between DISTRICT and the CONTRACTOR or its employees.

CONTRACTOR is solely responsible for, and will file on a timely basis, all tax returns and payments required to be filed with or made to any federal, state or local tax authority with respect to the performance of services and receipts of fees under this Agreement.

The undersigned, as an independent contractor, will carry workers’ compensation insurance on CONTRACTOR’S employees and other individuals (e.g., volunteers) as required by any applicable laws and regulations. CONTRACTOR assumes the full responsibility for the acts and/or omissions of CONTRACTOR’S employees or agents as they relate to the services to be provided under this agreement

6. PAYMENT

DISTRICT shall pay CONTRACTOR at a rate of _____ per _____ not to exceed _____ of \$_____. (“Total Fee”) which shall include all costs incurred by CONTRACTOR to complete the Project. CONTRACTOR shall provide all services required to complete the Project for the Total Fee and in no event shall CONTRACTOR be entitled to any payment in addition to the Total Fee. CONTRACTOR shall be solely responsible for any cost or expense incurred by CONTRACTOR which rise CONTRACTOR’S expenses above the Total Fee. Expenses are not reimbursed unless the DISTRICT and CONTRACTOR agree otherwise in writing prior to CONTRACTOR incurring such costs.

Payment to CONTRACTOR will be made on the following schedule: _____

CONTRACTOR shall provide an invoice to the DISTRICT on a monthly basis showing an accounting of hours worked with adequate documentation substantiating all such costs and hours worked, including, as applicable, receipts, time cards, and/or cost records.

7. ENTIRE AGREEMENT

This Agreement shall incorporate CONTRACTOR’S proposal to DISTRICT (“CONTRACTOR’S WORK PLAN”). This agreement, with the Certification Regarding Debarment, Suspension, or other Ineligibility included herein, and the CONTRACTOR’S WORK PLAN, shall constitute the entire Agreement between the Parties relating to the services to be provided to DISTRICT by CONTRACTOR as specified in Section 1 for the PROJECT. The Parties agree that the terms of this Agreement shall be controlling in the event any of the terms hereof are in conflict with any of the terms of the CONTRACTOR’S WORK PLAN. This Agreement may only be changed by the parties’ written mutual agreement.

8. INDEMNIFICATION

CONTRACTOR agrees to defend, indemnify, and hold harmless DISTRICT, its officers, agents, employees, and volunteers from all losses, costs, and expense arising out of any liability or claim of liability arising out of activities of the CONTRACTOR, its subcontractors, or those of any of its officers, agents, or employees, whether such act is authorized by this Agreement or not; and CONTRACTOR shall pay for any and all damages to the property of the DISTRICT, or loss or theft of such property, done or caused by such persons. DISTRICT assumes no responsibility whatsoever for any property placed on the premises. CONTRACTOR further agrees to waive all rights of subrogation against the DISTRICT. The provisions of the Article do not apply to any damage or losses caused solely by the active negligence of the DISTRICT or any of its agents or employees.

CONTRACTOR'S indemnity obligations shall include, to the fullest extent permitted by law, the duty of indemnify, defend and hold DISTRICT entirely harmless from all liability arising out of:

Worker Compensation and Employer Liability: Any and all claims under Worker's Compensation acts and other employee benefit acts with respect to CONTRACTOR's employees or CONTRACTOR'S subcontractor's employees arising out of CONTRACTOR'S work under this AGREEMENT; and

General Liability: Liability for damages for (1) death or bodily injury to person; (2) injury to, loss or theft of property; (3) any failure or alleged failure to comply with any provision of law or (4) any other loss, damage or expense arising under either (1), (2), or (3) above, sustained by the CONTRACTOR or the DISTRICT, or any person, firm or corporation employed by the CONTRACTOR, either directly or by independent contract, upon or in connection with the PROJECT, except for liability resulting from the sole or active negligence, or willful misconduct of the DISTRICT, its officers, employees, agents or independent Contractors who are directly employed by the DISTRICT;

Professional Liability: Any loss, injury to, or death of, persons or damage to property arising out of, pertaining to or relating to any default, error omission, negligent or wrongful act of the CONTRACTOR, or any person, firm or corporation employed by the CONTRACTOR, either directly or by independent contract, including damages due to loss or theft, sustained by any person, firm or corporation including the DISTRICT, arising out of, or in any way connected with the PROJECT, including liability for damages that occur on or off DISTRICT property; but not for damages that result from the sole or active negligence, or willful misconduct of the DISTRICT.

If arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the CONTRACTOR, the CONTRACTOR, at CONTRACTOR'S own expense, cost and risk, shall defend any and all claims, actions, suits, or other proceedings that may be brought or instituted against the DISTRICT, its officers, agents, or employees, or any such claim or liability, and shall pay or satisfy any judgment that may be rendered against the DISTRICT, its officers, agents or employees in any action, suit or other proceedings as a result thereof.

ANY ATTEMPT TO LIMIT THE CONTRACTOR'S LIABILITY TO THE DISTRICT IN AN ATTACHED EXHIBIT, INCLUDING THE CONTRACTOR'S TERMS AND CONDITIONS ADDENDUM, SHALL BE VOID AND UNENFORCEABLE BETWEEN THE DISTRICT AND THE CONTRACTOR.

9. FINGERPRINTING

If DISTRICT determines that the services provided by CONTRACTOR involve more than limited contact with students, CONTRACTOR agrees that CONTRACTOR and/or its employees providing services pursuant to this Agreement shall be fingerprinted before services commence pursuant to California Education Code §45125.1. CONTRACTOR shall indemnify and defend the DISTRICT against any claim, damage, or harm resulting from CONTRACTOR'S failure to comply with all fingerprinting and background requirements related to the PROJECT.

10. INSURANCE

As a condition precedent to this Agreement, CONTRACTOR shall procure and maintain, for the duration of this Agreement and any renewals thereof, the following insurance coverage with insurance carriers that are admitted or authorized non-admitted insurers by the State of California and with a rating equivalent to an A:VII by Best Company:

- a. Professional Liability Insurance in an amount not less than \$1,000,000 per claim and in aggregate.
- b. General Liability Insurance in an amount not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate in a form equivalent to Insurance Services Office (ISO) form CG 00 01 in which CONTRACTOR of the services provided by Contractor under this Agreement are on DISTRICT property or on a third party's premises.
 - (1) If CONTRACTOR works with or near children, the policy shall include or be endorsed to include Sexual Misconduct Liability. Insurance covers actual or alleged claims for sexual misconduct and/or molestation with limits of not less than \$3 million per occurrence and coverage for negligent employment investigation, supervision, training or retention of, or failure to report to proper authorities, a person who has committed any act of abuse, molestation, harassment, mistreatment or maltreatment of a sexual nature.
 - (2) The policy shall include an additional insured endorsement equivalent in scope to ISO form CG 20 10 or CG 20 26 naming the DISTRICT, its board officials, employees, and agents as additional insured.
 - (3) The policy shall be endorsed with the insurer's waiver of its rights of subrogation against DISTRICT.
- c. Automobile Liability Insurance in an amount not less than \$1,000,000 combined single limit covering all owned and non-owned autos if use of an automobile is included in the Scope of Services provided under this Agreement.
- d. Workers Compensation Insurance as required by the California Labor Code and Employer's Liability Insurance in an amount not less than \$1,000,000 per accident/illness. The policy shall be endorsed with the insurer's waiver of its rights of subrogation against DISTRICT.

Each policy required above shall be endorsed to provide for thirty (30) days prior written notice of cancellation to the DISTRICT and to establish that coverage is primary and that any insurance or self-insurance held by the DISTRICT, its officials, employees and agents shall be excess and shall not contribute to it.

DISTRICT may, at its discretion, require additional coverage or additional limits based upon the nature of the services provided. Any waiver or modification of these insurance requirements can only be made with the prior written approval of the Assistant Superintendent of Business Services or designee.

The coverage and limits required hereunder shall not in any way limit the liability of the CONTRACTOR nor are the insurance requirements herein intended to represent adequate or sufficient coverage for the CONTRACTOR'S risks hereunder.

11. ASSIGNMENT

The DISTRICT and CONTRACTOR, respectively, bind themselves, their partners, officers, successors, assigns and legal representatives to the other PARTY to this AGREEMENT with respect to the terms of this AGREEMENT. CONTRACTOR shall not assign or subcontract to any other individual or entity the services to be provided by CONTRACTOR to DISTRICT without the prior written approval of DISTRICT.

12. CONFIDENTIAL INFORMATION

CONTRACTOR agrees to hold DISTRICT'S confidential information in strict confidence and not to disclose such confidential information to third parties without DISTRICT'S prior written consent unless required by court order or as permitted by law. "Confidential information" as used in this Agreement shall mean all information disclosed by DISTRICT to CONTRACTOR that is not generally known to the public including, but not limited to, information regarding students that is not "directory information" and/or is not released pursuant to DISTRICT policy (California Education Code §§49073-49079).

13. WORK PRODUCT

CONTRACTOR agrees that DISTRICT shall be owner of the Work Product produced by CONTRACTOR hereunder. "Work Product" for the purposes of this Agreement shall include, but is not limited to, all materials prepared, developed, assembled or collected by CONTRACTOR pursuant to performance of this Agreement.

This Work Product shall not be divulged or made available to third parties without the prior written consent of DISTRICT, except by court order or as permitted by law.

14. TERMINATION

- A. **TERMINATION FOR CONVENIENCE.** Either party can terminate this Agreement during the term of this Agreement, with or without cause, upon thirty (30) days written notice of termination. Upon termination, CONTRACTOR shall only be entitled to payment for all completed services provided pursuant to this Agreement supported by invoices and adequate documentation, submitted to the DISTRICT, demonstrating satisfactory completion of the work. CONTRACTOR shall not be entitled any additional payment as a result of any termination for convenience as set forth herein.
- B. **TERMINATION FOR CAUSE.** This AGREEMENT may be terminated by either party in the event of a substantial failure of performance by such other Party, including insolvency of CONTRACTOR. In the event termination is for a substantial failure of performance, all damages and costs associated with the termination, including any cost incurred by the DISTRICT to remedy CONTRACTOR'S deficient work and/or costs to hire third parties to remedy and complete the Project, shall be deducted from payments to the CONTRACTOR. If the DISTRICT'S costs rise above the payments owed to CONTRACTOR, CONTRACTOR shall be responsible for reimbursing DISTRICT for the additional costs.
- C. **DISPUTE RESOLUTION.** In the event of a dispute between the Parties as to performance of the Project or the interpretation of this Agreement, or payment or nonpayment for work performed or not performed pursuant to this Agreement, the parties shall attempt to resolve the dispute. Pending resolution of this dispute, CONTRACTOR agrees to continue the Project services diligently to completion. If the dispute is not resolved, CONTRACTOR agrees it will neither rescind the Agreement nor stop the progress of the work, but CONTRACTOR'S sole remedy shall be to submit such controversy to determination by a court having competent jurisdiction of the dispute, after the Project has been completed, and not before.

15. GOVERNING LAW

This Agreement shall be governed by the laws of the State of California.

16. SEVERABILITY

If any of the provisions of this Agreement are held by a court of law to be illegal, invalid, or unenforceable, the remaining provisions of this Agreement shall be legal, valid and enforceable.

17. WAIVER

The waiver by DISTRICT of a breach of any provision of this Agreement by CONTRACTOR shall not operate or be construed as a waiver of any other or subsequent breach by CONTRACTOR.

18. TIME IS OF THE ESSENCE.

Time is of the essence with respect to all provisions of this AGREEMENT.

19. ATTORNEYS FEES.

If either PARTY becomes involved in litigation arising out of this AGREEMENT or the performance thereof, each party shall bear its own litigation costs and expenses, including reasonable attorney fees. In no event shall DISTRICT be responsible or liable for any attorney fees & costs, court costs collection costs, or any other costs incurred by the CONTRACTOR which arise out of, relate to, or pertain to any payment dispute(s) between the CONTRACTOR and the DISTRICT.

Contractor Name: _____ **Mountain View School District**

<input checked="" type="checkbox"/>	<i>Signature constitutes agreement of all *19 conditions</i>	Date _____	Requestor/Principal Signature _____	Date _____
_____		_____	Director Signature (Categorical)	Date _____
Taxpayer ID or Social Security Number _____		_____	Authorized District Signature	Date _____
Street Address _____	City, State, Zip _____	_____	Mountain View School District	
Phone Number(s) _____		_____	3320 Gilman Rd.	
		_____	El Monte, Ca. 91732	
		_____	(626) 652-4963	
		_____	Fax (626) 552-4038	

Funding Source	Fund	Resource	Goal	Function	Object	Location

CERTIFICATION REGARDING DEBARMENT, SUSPENSION OR OTHER INELIGIBILITY

(Federal Executive Order 12549 and 12689)

- By executing this contractual instrument, contractor certifies to the best of its knowledge and belief that it and its principals:
- a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or Agency;
 - b) Have not, within a three-year period preceding the execution of this contractual instrument, been convicted of, or had a civil judgment rendered against them, for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction (Federal, State or Local) or contract under a public transaction; or violation of Federal or State Antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c) Are not presently indicted for, or otherwise criminally or civilly charged by any government entity (Federal, State or Local) with commission of any of the offenses enumerated in Section B above, of this certification; and,
 - d) Have not, within a three-year period preceding the execution of this contractual instrument, had one or more public transactions (Federal, State or Local) terminated for cause of default.

Contractor's Signature _____ Date _____

Appendix II to Part 75 – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards Debarment and Suspension (Executive Orders 12549 and 12689) – A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR part 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 1890 and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.