

MT. SAN ANTONIO COMMUNITY COLLEGE DISTRICT

**BASIC SERVICES AGREEMENT
[INSERT GENERAL DESCRIPTION OF AGREEMENT]**

[INSERT CONTRACTOR'S NAME]

[INSERT EFFECTIVE DATES]

This Basic Services Agreement ("Agreement") is between Mt. San Antonio Community College District ("District"), a California community college district and political subdivision of the State of California, and **[INSERT NAME OF CONTRACTOR]** ("Contractor"), a **[INSERT TYPE OF ENTITY/JURISDICTION OR IF AN INDIVIDUAL INSERT "an individual residing in the state of" AND INSERT STATE OF RESIDENCE]**. District and Contractor are also referred to collectively as the "Parties" and individually as "Party."

In consideration of the premises and the mutual covenants set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the Parties' signatures, the Parties agree as provided in this Agreement.

1. **SCOPE OF AGREEMENT.** District requires certain specialized services and is authorized pursuant to California law, including Education Code Sections 70902 and 88003.1, to contract for the specialized services. Contractor represents that Contractor has the proper training, skill, and experience, and is qualified, including any required license, permits, and certification, to provide District the specialized services required by this Agreement. Contractor shall perform and provide all labor, materials, supplies, and equipment necessary to complete the Work (as defined below) required by this Agreement, which shall be performed in accordance with the terms and conditions of this Agreement.
2. **DUTIES AND OBLIGATIONS.** The Work to be provided by Contractor under this Agreement shall include the following ("Work"): **[INSERT DESCRIPTION OF WORK]**.
3. **TERM OF AGREEMENT.** This Agreement shall commence on **[INSERT START DATE]**, and shall continue in full force and effect thereafter until and including **[INSERT END DATE]** ("Term"), unless this Agreement is terminated during the Term as provided in Section 4.
4. **TERMINATION OF AGREEMENT.** This Agreement shall terminate upon expiration of the Term. Any termination of this Agreement during the Term shall be in accordance with the following:
 - A. **Termination for Convenience.** During the Term of this Agreement, District may terminate this Agreement at any time at its convenience and without cause, upon providing Contractor at least ten (10) days written notice before the effective date of termination. Upon such termination by District, Contractor shall only be entitled to payment for all Work provided, rendered, and received by District prior to the date of termination and in no event shall Contractor be entitled to any payment or reimbursement as the result of District's termination.
 - B. **Other Grounds.** Notwithstanding any provisions in this Agreement, District, at District's sole discretion and upon written notice to Contractor, shall have the right to terminate this Agreement effective on the date stated in District's written notice in the event District determines, at its sole discretion, that Contractor (i) is unable or unwilling to perform the Work or meet any obligation or duty as described or made necessary by the Agreement, (ii) changes the nature of its business so that it is not compatible with the mission or needs of the District or is involved in any incident or activity which embarrasses, creates unwelcome scrutiny or attention, or otherwise causes or threatens harm to the reputation of the District, or (iii) fails to comply with federal, state, and/or local laws applicable to Contractor's performance of the Work under this Agreement.
5. **PAYMENT.**
 - A. **Amount of Compensation.** District agrees to pay Contractor, as full consideration and compensation for Contractor's performance of the Work under this Agreement, a total amount not to exceed **[INSERT DOLLAR AMOUNT SPELLED OUT] Dollars (\$[INSERT NUMERICAL DOLLAR AMOUNT])** ("Contract Amount").
 - B. **For Reimbursement of Expenses.** Unless otherwise agreed upon by District in writing or specifically provided in this Agreement, Contractor shall assume and pay, at Contractor's sole expense, all costs and expenses incurred by Contractor in performing the Work under this Agreement ("Expenses").
 - C. **Method and Schedule of Payment.** District shall pay to Contractor the Contract Amount pursuant to invoice from Contractor in accordance with this Agreement.
 - i. **Invoice.** Contractor shall submit to District detailed billing information regarding the Work provided for the billing period, not more than once per month, and, **if applicable, District-authorized Expenses** incurred during the billing period. All **District-authorized Expenses** shall be documented **with original itemized receipts** and shall be **pre-approved in writing by District**, unless such expenses are specifically authorized by this Agreement. Invoices must be emailed to AccountsPayable@mtsac.edu and shall include the invoice date, date(s) of service(s), District's

Purchase Order number (if available), and Contractor's Taxpayer Identification Number. Invoices shall be paid on a "net 30-day basis" for Work satisfactorily rendered (as determined by the District) pursuant to this Agreement. An invoice cannot be paid unless this Agreement has been signed by Contractor and has been properly executed by District, and Contractor has submitted a completed Vendor Form/Substitute Form W-9 to District's Contract and Procurement Services Department.

6. **CALIFORNIA STATE TAX WITHHOLDING FOR NONRESIDENTS OF CALIFORNIA.** It is mutually understood that if Contractor is a Nonresident of California, which may include California Nonresidents, corporations, limited liability companies, non-profits, and partnerships that do not have a permanent place of business in the State of California, the District is obligated to abide by California Franchise Tax Board (FTB) withholding requirements. The District is required to withhold from all payments or distributions of California source income made to a Nonresident when payments or distributions are greater than One Thousand Five Hundred Dollars (\$1,500) for the calendar year unless the District receives authorization for a waiver or a reduced withholding rate from the Franchise Tax Board. As of January 1, 2008, the standard withholding amount for all payments to Nonresident California Contractors is Seven Percent (7%). District will deduct the amount ordered by the State of California from the payment hereunder and will pay such amount directly to the Contractor's California State Income Tax Account, settlement of which must be made by Contractor directly with the State of California through Withholding Coordinator, Franchise Tax Board, PO Box 651, Sacramento, California, 95812-0651; telephone (916) 845-6262. Completion and submission of the appropriate form shall be the obligation of the Nonresident Contractor and Contractor shall defend, indemnify and hold harmless the District against any loss, expense, or liability arising out of Contractor's acts or omissions with respect to this nonresident requirement. Contractor shall provide all necessary documentation and information to help District comply with all tax requirements related to California nonresidents.
7. **TRADEMARK/LOGO USE.** Contractor must obtain written approval from District's Public Information Office ("PIO") to use the District's name and/or logos in any advertisements, promotions, press releases or other media. In the event such permission is extended, PIO will furnish Contractor with camera-ready artwork for such use. District, at its sole discretion, may limit or otherwise place conditions on Contractor's use of District's name, and/or logos in which case such limitations shall be incorporated into this Agreement. Contractor shall not revise, change, or otherwise alter any material related to District's name and/or logo without written consent from District.
8. **INDEMNIFICATION.** Contractor agrees to defend, hold harmless and indemnify District, its parent, affiliates, subsidiaries, authorized representatives, directors, officers, agents and employees against any and all liability for any judgments, awards, expenses, fines, penalties, attorneys' fees, costs, or other claims for damages in connection with any suit, complaint, charge, proceeding or action of any kind alleging a violation of any statutory or regulatory provision or otherwise arising out of the negligent act or willful misconduct by Contractor, of its duties and responsibilities under this Agreement, unless such performance or nonperformance occurred at the direction of or was caused by District. This hold harmless and indemnification includes but is not limited to compensatory damages, punitive damages, regulatory fines and penalties, and extra-contractual liability and shall survive the termination of this Agreement.
9. **INSURANCE.** Contractor agrees to maintain, in full force and effect, at Contractor's expense, the following insurance coverages from an admitted carrier in the State of California with a Best Rating of A-VII or higher:
 - (i) Commercial General Liability insurance, with limits of not less than One Million Dollars (\$1,000,000) per occurrence including bodily injury, broad form property damage and blanket contractual liability, written on an "occurrence" form; and not less than Two Million Dollar (\$2,000,000) aggregate;
 - (ii) Employer's Liability with limits of not less than One Million Dollars (\$1,000,000) per occurrence; Workers' Compensation insurance as required by statutory insurance requirement of the State of California; and
 - (iii) Automobile Liability covering all owned, non-owned and hired vehicles with combined single limit for bodily injury and/or property damage of not less than One Million Dollars (\$1,000,000).

Contractor agrees to name District, District's Board of Trustees, its officers, agents, and employees as Additional Insured under its policy(ies). Contractor shall deliver Certificate(s) of Insurance and Additional Insured Endorsement(s) evidencing the required coverages to the District, which shall be subject to the District's approval for adequacy of protection. The Certificate(s) of Insurance shall provide thirty (30) days prior written notice of cancellation. All certificates and endorsements must be furnished before Work is to commence. The coverage(s) provided shall be primary insurance and not contributing with any other insurance available to the District.

District's receipt of documents that do not comply with the requirements stated herein, or Contractor's failure to provide documents that comply with the requirements stated herein, shall not limit or relieve Contractor of the duties and responsibility of maintaining insurance in compliance with the requirements in this Section and shall not constitute a waiver of any of the requirements in this Section.

10. **TRANSPORTATION.** Contractor hereby acknowledges and understands that it is his/her responsibility to arrange for transportation to provide all Work necessary and/or required by this Agreement and is solely responsible for all associated costs. The District is in no way responsible for, nor does District assume any liability for, any injury or loss which may result from Contractor's transportation for which the Contractor shall indemnify the District in accordance with Section 8 above.

11. **USE OF SUBCONTRACTORS.** Contractor must obtain District's prior written approval to use any subcontractors while performing any portion of this Agreement and such approval may be conditioned on approval of the subcontract between Contractor and subcontractor. Such approval must include approval of the proposed subcontractor and the terms of compensation. District retains the right to obtain copies of subcontractor insurance coverage at any time. Nothing in this Section shall be interpreted as creating a contractual relationship between District and any approved subcontractor. Notwithstanding District's approval of any subcontractor's contract, Contractor shall remain solely responsible for any harm, damage, or claim arising from any subcontractor's acts or omissions as set forth in Section 8.
12. **PUBLIC RETIREMENT SYSTEM RETIREES.** Contractor must disclose to District if Contractor has retired from the California State Teachers' Retirement System ("CalSTRS") or the California Public Employees' Retirement System ("CalPERS"). Pursuant to California Education Code Section 24214 and 24214.5, there are postretirement limitations on earnings if Contractor has retired from CalSTRS and hours worked limitations if Contractor has retired from CalPERS. If Contractor has retired from either CalSTRS or CalPERS, Contractor should be aware that the District is required to report all payments under this and any additional Agreements in any given year (July 1 – June 30).

CalSTRS or CalPERS: _____ Agency Retired From: _____ Date Retired: _____ D.O.B.: _____

13. **GENERAL PROVISIONS.**

- A. **Entire Agreement and Amendment.** This Agreement constitutes the entire agreement and understanding between the Parties, and is a complete and exclusive statement of the terms of the Parties' agreement pursuant to Code of Civil Procedure Section 1856. This Agreement cannot be modified orally, and is to be modified only by a written instrument executed by the Parties.
- B. **Non-Discrimination.** Contractor agrees not to engage in unlawful discrimination in the provision of Work, allocation of benefits, accommodation in facilities, employment of persons, or in the acceptance, assignment, treatment, evaluation or compensation of students who participate in programs sponsored or arranged by District, on the basis of race, color, religion, genetic information, nationality, national origin, ancestry, pregnancy, sex, gender, gender identity, gender expression, ethnicity, age, medical condition, mental or physical disability, marital status, sexual orientation, military or Vietnam-era veteran status, or any other characteristic protected by law.
- C. **Applicable Law, Venue, and Interpretation.** This Agreement, and the Parties' rights and obligations, are to be governed by and construed in accordance with California laws. If any action is instituted to enforce or interpret this Agreement, the venue of any such action shall be in the appropriate state or federal court in Los Angeles County, California, provided that nothing in this Agreement constitutes a waiver of immunity to suit by District. The provisions of this Agreement are to be construed in all cases as a whole, according to their fair meaning, and not strictly for or against any Party.
- D. **Independent Contractor.** In the performance of the Work herein contemplated, Contractor is an independent contractor or business entity, with the sole authority for controlling and directing the performance of the details of the Work, District being interested only in the results obtained. Contractor and all of Contractor's officers, employees, and agents are not officers, employees, or agents of District. Contractor understands and agrees that he/she is not entitled to benefits of any kind normally provided employees of the District, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Contractor should be aware the IRS regulations require District to report total income exceeding six hundred dollars (\$600) under this and any additional Agreements in any given year.
- E. **Assignment.** The obligations of the Contractor pursuant to this Agreement shall not be assigned by the Contractor without the express, written approval of the District.
- F. **Compliance with Applicable Laws.** In performing the Work, Contractor shall comply with applicable federal and California anti-discrimination laws, as well as all federal, state, and local laws, codes, regulations, and ordinances applicable to the Work.
- G. **Force Majeure.** Neither Party shall be deemed in default or in violation of this Agreement if prevented from performing any obligation hereunder for any circumstance or reason beyond its control, including, without limitation, acts of God or of the public enemy, governmental restrictions or regulations, epidemics or pandemics, flood, storm, strikes, regulatory or legal delay or restraint. In this event, all or a portion of either Party's performance is rendered impossible, the Parties shall cooperate with each other and use their best efforts to remove the impediment or develop a substitute manner of performance.
- H. **Notices.** All notices or other communications required or permitted under this Agreement shall be deemed duly given if in writing and delivered personally, sent via electronic mail or by a reputable overnight courier services (with package tracking capability), or sent by certified mail, return receipt requested, first class postage prepaid, addressed as follows:

District: Mt. San Antonio Community College District
 Attn: Director, Purchasing
 1100 N. Grand Ave.
 Walnut, CA 91789

Phone: (909) 274-4245
Email: purchasing@mtsac.edu

Contractor: **[INSERT CONTRACTOR'S NAME]**
Attn: [IF BUSINESS INSERT CONTRACT PERSON'S NAME]
[INSERT ADDRESS]
[INSERT CITY, STATE, ZIP]
Phone: [INSERT PHONE NUMBER]
Email: [INSERT EMAIL ADDRESS]

A Party may change its/his/her designated representative and/or address for the purpose of receiving notices and communications under this Agreement by notifying the other Party of the change in writing and in the manner described in this Section.

I. Certification Regarding Debarment, Suspension or Other Ineligibility.

1. By executing this contractual instrument, Contractor agrees to comply with applicable federal suspension and debarment regulations, including, but not limited to, regulations implementing Executive Order 12549 (29 C.F.R. Part 98).
2. 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: (a) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or Local) or private transaction or contract; (b) Violation of Federal or State antitrust statutes; (c) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or (d) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects Contractor's present responsibility;
 - 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 2.b. above, of this certification;
 - d. Have not, within a three-year period preceding the execution of this contractual instrument, had one or more public transaction (Federal, State or Local) terminated for cause or default;
 - e. Shall not, except as otherwise provided under applicable federal regulations, knowingly enter into any lower tier covered transaction with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded by any federal department or agency from participation in such transaction; and
 - f. Include in all lower tier covered transactions, and all solicitations for covered transactions, provisions substantially similar to those set forth herein.

J. Approval by District's Board of Trustees. Pursuant to Education Code Section 81655, this Agreement is not valid and does not constitute an enforceable obligation against District unless and until District's Board of Trustees has approved or ratified this Agreement as evidenced by a motion duly passed and adopted by the Board of Trustees.

IN WITNESS WHEREOF, Parties hereby agree.

CONTRACTOR

MT. SAN ANTONIO COMMUNITY COLLEGE DISTRICT

BY: _____
Signature of Authorized Representative
Print Name _____
Print Title _____
Date _____

BY: _____
Signature of Authorized Representative
Print Name **MORRIS RODRIGUE**
Print Title **VICE PRESIDENT, ADMINISTRATIVE SERVICES**
Date _____
District's Board of Trustee's Approval/Ratification Date _____

District Contract # **[INSERT CONTRACT #]**