

MT. SAN ANTONIO COMMUNITY COLLEGE DISTRICT

PROFESSIONAL SERVICES AGREEMENT

This Professional 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 _____ ("Consultant"). District and Consultant are also referred to collectively as the "Parties" and individually as "Party."

WHEREAS the District published the (**Project Description**) Request for Proposal (the "RFP"),

WHEREAS, based on the Consultant's response to such RFP (Incorporated herein by reference), the Consultant has been selected to perform the services requested within the RFP.

WHEREAS, as part of such performance, the Consultant is required to perform the services set forth in this Agreement.

NOW, THEREFORE, in consideration of these mutual promises, the Parties agree as follows:

1. **Scope of Service.** Consultant shall furnish to the District the services described in **Exhibit "A,"** attached hereto and incorporated herein by this reference, and as provided herein as follows ("Services"): **INSERT DESCRIPTION OF WORK**.
2. **Term.** 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 ("Termination Date") during the Term pursuant to this Agreement. The Term of this Agreement shall not exceed five (5) years. In the event that any Services is not completed, or the District shall not have issued Final Payment to the Consultant as of the Termination Date through no fault or neglect of Consultant, the Termination Date shall be extended. In such event, Work provided by the Consultant following the Termination Date shall be in accordance with the Rate Schedule for the Consultant, or as may be negotiated by the Parties.

Notwithstanding expiration of the Term, if at such time, there are remaining Services or authorized Additional Services to be performed by the Consultant prior to expiration of this Agreement, the Consultant shall continue to diligently perform and complete all such remaining Services; notwithstanding expiration of this Agreement, the District will continue to make payment for the Services in accordance with the terms of the Agreement.

3. **Submittal of Documents.** The Consultant shall not commence the Services under this Contract until the Consultant has submitted and the District has approved the following documents:

- _____ Signed Agreement
- _____ Insurance Endorsements
- _____ Workers' Compensation Certificate (if applicable)
- _____ W-9 Form
- _____ Scope of Work/Proposal (Exhibit A)
- _____ Pricing Proposal (Exhibit B)

4. **Payment.**

- A. **Amount of Compensation.** District agrees to pay Consultant, as full consideration and compensation for Consultant's performance of the Work under this Agreement, a total amount not to exceed \$ _____ ("Contract Amount").
- B. **For Reimbursement of Expenses.** Unless otherwise agreed upon by District in writing or specifically provided in this Agreement, Consultant shall assume and pay, at Consultant's sole expense, all costs and expenses incurred by Consultant in performing the Work under this Agreement ("Expenses").
- C. **Method and Schedule of Payment.** District shall pay to Consultant the Contract Amount pursuant to invoice from Consultant in accordance with this Agreement.
 - i. **Invoice.** Consultant 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 Consultant'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 Consultant and has been

properly executed by District, and Consultant has submitted a completed Vendor Form/Substitute Form W-9 to District's Contract and Procurement Services Department.

5. California State Tax Withholding for Nonresidents of California. It is mutually understood that if Consultant 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 Consultants 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 Consultant's California State Income Tax Account, settlement of which must be made by Consultant directly with the State of California through Withholding Services and Compliance MS F182, Franchise Tax Board, PO Box 942867, Sacramento, CA 94267-0651. Completion and submission of the appropriate form shall be the obligation of the Nonresident Consultant and Consultant shall defend, indemnify and hold harmless the District against any loss, expense, or liability arising out of Consultant's acts or omissions with respect to this nonresident requirement. Consultant shall provide all necessary documentation and information to help District comply with all tax requirements related to California nonresidents.
6. Trademark/Logo Use. Consultant 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 Consultant with camera-ready artwork for such use. District, at its sole discretion, may limit or otherwise place conditions on Consultant's use of District's name, and/or logos in which case such limitations shall be incorporated into this Agreement. Consultant shall not revise, change, or otherwise alter any material related to District's name and/or logo without written consent from District. Consultant understands and agrees that all matters produced under this Agreement shall become the property of District and cannot be used without District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District (specifically excluding any underlying pre-existing intellectual property). District may use Consultant's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.
7. Independent Consultant. In the performance of the Work herein contemplated, Consultant is an independent Consultant 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. Consultant, in the performance of this Agreement, shall be and act as an independent Consultant and not an employee of District. Consultant, understands and agrees that he/she and all of his/her employees shall not be considered officers, employees or agents of the 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. Consultant assumes the full responsibility his/her acts and/or liabilities including those of his/her employees or agents as they relate to the services to be provided under this Agreement. Consultant shall assume full responsibility for withholding and payment of all: federal, state, local and applicable income taxes; workers' compensation; contributions, including but not limited to, unemployment insurance and social security with respect to Consultant and Consultant's employees. Consultant 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. The District will not withhold taxes, unemployment insurance or social security for Consultant or Consultant's employees or independent subcontractors. Consultant agrees to indemnify and hold District harmless from and against any and all liability arising from any failure or alleged failure of Consultant to withhold or pay any applicable tax, unemployment insurance or social security when due or any failure or alleged failure to comply with any applicable regulation applicable to Consultant's employees.
8. Use of Subcontractors. Consultant 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 Consultant 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, Consultant shall remain solely responsible for any harm, damage, or claim arising from any subcontractor's acts or omissions as set forth in Section 14.
9. Public Retirement System Retirees. Consultant must disclose to District if Consultant 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 Consultant has retired from CalSTRS and hours worked limitations if Consultant has retired from CalPERS. If Consultant has retired from either CalSTRS or CalPERS, Consultant 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.: _____

10. Materials and Expenses. Consultant shall furnish, at his/her own expense, all labor, materials, equipment, supplies and other items necessary to complete the Work to be provided pursuant to this Agreement. District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing Work for District.
11. Policies & Procedures and Rules & Regulations. Consultant will review and comply with District's policies, procedures, rules and regulations and applicable laws posted on District's website at: <https://www.mtsac.edu/governance/trustees/apbp/index.html>
12. Originality of Services.
 - A. Matters Produced Under this Agreement. Consultant understands and agrees that all matters produced under this Agreement shall become the property of District and cannot be used without District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District. Consultant consents to use of Consultant's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.
 - B. Consultant Use of Other Copyright/Trademark/Patent Materials. Consultant is responsible for arranging and paying for all rights and copyrights necessary and for all costs arising from the use of any material covered by copyright, patent, trademark or franchise. Consultant agrees to indemnify, defend and hold harmless the District from any claims or costs, including legal fees, which might arise from questionable use of any such material. The District reserves the right to require verification.
13. Termination. 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 Consultant at least ten (10) days written notice before the effective date of termination. Upon such termination by District, Consultant 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 Consultant be entitled to any payment or reimbursement as the result of District's termination.
 - B. With Cause by District. Notwithstanding any provisions in this Agreement, District, at District's sole discretion and upon written notice to Consultant, 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, (i) any material violation of this Agreement by the Consultant; or (ii) any act by Consultant exposing the District to liability to others for personal injury or property damage; or (iii) Consultant is adjudged a bankrupt, Consultant makes a general assignment for the benefit of creditors or a receiver is appointed on account of Consultant's insolvency; or (iv) fails to comply with federal, state, local laws, and/or any District policies or procedures applicable to Consultant's performance of the Work under this Agreement.

Written notice by District shall contain the reasons for such intention to terminate and, unless within three (3) calendar days after that notice the condition or violation shall cease or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure the required Services from another Consultant. If the expense, fees, and/or costs to the District exceeds the cost of providing the Services pursuant to this Agreement, the Consultant shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expenses, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

Upon termination, Consultant shall provide the District with all documents produced, maintained or collected by Consultant pursuant to this Agreement, whether or not such documents are final or draft documents.

14. Indemnification. Consultant 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 Consultant, 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.
15. Insurance. Consultant agrees to maintain, in full force and effect, at Consultant'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) Professional Liability Insurance with limits of not less than **One Million Dollars (\$1,000,000)**; (iii) Employer's Liability with limits of not less than **One Million Dollars (\$1,000,000) per occurrence**; (iv) Workers' Compensation

insurance as required by statutory insurance requirement of the State of California; and (v) 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)**.

Consultant agrees to name District, District's Board of Trustees, its officers, agents, and employees as Additional Insured under its policy(ies). Consultant 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.

District's receipt of documents that do not comply with the requirements stated herein, or Consultant's failure to provide documents that comply with the requirements stated herein, shall not limit or relieve Consultant 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.

Consultant, upon execution of this contract and periodically thereafter upon request, shall furnish District with certificates of insurance evidencing such coverage. The Commercial General and Automobile Liability policies shall name the District as additional insureds with respect to any potential tort liability, irrespective of whether such potential liability might be predicated on theories of negligence, strict liability or products liability. The Consultant shall be required to provide District with 30 days' prior written notice if the insurance afforded by this policy shall be suspended, cancelled, reduced in coverage limits or non-renewed. Premiums on all insurance policies shall be paid by Consultant and shall be deemed included in Consultant's obligations under this Agreement at no additional charge.

16. Transportation. Consultant 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 Consultant's transportation for which the Consultant shall indemnify the District in accordance with Section 14 above.
17. Assignment. The obligations of the Consultant pursuant to this Agreement shall not be assigned by the Consultant without the express, written approval of the District.
18. Compliance with Applicable Laws. The Work completed herein must meet the approval of the District and shall be subject to the District's general right of inspection to secure the satisfactory completion thereof. Consultant agrees to comply with all federal, state and local laws, rules, regulations and ordinances, District policies, procedures, regulations, and guidelines related to COVID-19, or any other pandemic or epidemic, that are now or may in the future become applicable to Consultant, Consultant's business, equipment and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations ("Rules"). If District disapproves of any service provided by Consultant, or if Consultant fails to comply with any applicable Rule, Consultant shall address the issue immediately at no additional cost to District.
19. Permits/Licenses. Consultant and all Consultant's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of Work pursuant to this Agreement.
20. Safety and Security. Consultant is responsible for maintaining safety in the performance of this Agreement. Consultant shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when students are present.
21. Professional Practices. All Work provided pursuant to this Agreement shall be provide in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professionals in similar fields and circumstances in accordance with sound professional practices.
22. Performance of Services / Standard of Care. Consultant represents that Consultant has the qualifications and ability to perform the Work in a professional manner, without the advice, control or supervision of District. Consultant's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession and applicable laws, rules and regulations.
 - A. Consultant hereby represents that it possesses the necessary professional capabilities, qualifications, licenses, skilled personnel, experience, expertise, and financial resources, and it has available and will provide the necessary equipment, materials, tools, and facilities to perform the Services in an efficient, professional, and timely manner in accordance with the terms and conditions of the Agreement.
 - B. Consultant shall be responsible for the professional quality, technical accuracy, completeness, and coordination of the Services, and Consultant understands that the District relies upon such professional quality, accuracy, completeness, and coordination by Consultant in performing the Services.
 - C. Consultant shall ensure that any individual performing work under the Agreement requiring a California license shall possess all appropriate licenses, and shall have sufficient skill and experience to perform the work

assigned to them.

- D. Consultant and District agree to participate in regular meetings to discuss strategies, timetables, implementation of services, and any other issues deemed relevant to the operation of Consultant's performance of Services.
23. Audit. Consultant shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Consultant transacted under this Agreement. Consultant shall retain these books, records, and systems of account during the Term of this Agreement and for three (3) years thereafter. Consultant shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's normal business hours, unless Consultant otherwise consents.
24. No Rights in Third Parties. This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
25. Limitation of District Liability. Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the Services performed in connection with this Agreement.
26. Disputes. In the event of a dispute between the Parties as to performance of the Services, the interpretation of this Agreement, or payment or nonpayment for work performed or not performed, the Parties shall attempt to resolve the dispute in good faith. In the event of a dispute between the Parties, Consultant agrees it will continue providing services and will neither rescind the Agreement nor stop the performance of the Services.
- A. Mandatory Mediation. All claims, disputes and other matters in controversy between the Consultant and the District arising out of or pertaining to this Agreement shall be submitted for resolution by non-binding mediation conducted under the auspices of the American Arbitration Association ("AAA") or JAMS and the AAA or JAMS Arbitration Rules in effect at the time the Demand for Mediation is filed. Notice of the demand for mediation of a dispute shall be filed in writing with the other party to the Agreement. The demand for mediation shall be made within a reasonable time after written notice of the dispute has been provided to the other party, but in no case longer than ninety (90) days after initial written notice. The commencement and completion of mediation proceedings pursuant to the foregoing is a condition precedent to either the District or the Consultant commencing arbitration proceedings pursuant to the Arbitration provision below.
- B. Arbitration. All claims, disputes or other matters in controversy between the Consultant and District arising out of or pertaining to this Agreement which are not fully resolved through the mandatory mediation set forth in the Mandatory Mediation provision above shall be settled and resolved by binding arbitration conducted under the auspices of AAA or JAMS and the AAA or JAMS Arbitration Rules in effect at the time of the filing of a Demand for Arbitration, as modified herein. The foregoing notwithstanding, an express condition precedent to the Consultant's commencement of arbitration proceedings hereunder, the Consultant shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code. Any arbitration hereunder shall be conducted in the AAA or JAMS Regional Office closest to the District. For purposes of those provisions, the running of the time within which a claim must be presented to the District shall be tolled from the time the Consultant submits its written claim until the time the claim is denied, including any time utilized by any applicable meet and confer process.
27. Confidentiality. Subject to any state or federal laws requiring disclosure (e.g., the California Public Records Act), the Parties agree, during the term of this Agreement and for five (5) years after termination or expiration of Agreement, to hold each other's proprietary or confidential information in strict confidence, except for any information protected under confidentiality laws which shall be held in such confidence in perpetuity. Parties agree not to provide each other's proprietary or confidential information in any form to any third party or to use each other's proprietary or confidential information for any purpose other than the implementation of, and as specified in, this Agreement. Each Party agrees to take all reasonable steps to ensure that proprietary or confidential information of either Party is not disclosed or distributed by its employees, agents or Consultants in violation of the provisions of this Agreement.
28. Employment with Public Agency. Consultant, if an employee of another public agency, agrees that Consultant will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which Work is actually being performed pursuant to this Agreement.
29. Entire Agreement/Amendment. The Agreement documents consist of this Agreement, any exhibits attached to or referenced herein, and all amendments and/or modifications issued in writing, duly approved by District's Board of Trustees, and executed by the Parties after the release of this Agreement. Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (a) provisions set forth in this Agreement, (b) provisions set forth in any referenced

attachments or exhibits to this Agreement attached or incorporated herein by reference.

30. Non-Discrimination. Consultant 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.
31. Non-Waiver. The failure of District or Consultant to seek redress for violation of, or to insist upon, the strict performance of any term or condition of this Agreement, shall not be deemed a waiver by that Party of such term or condition, or prevent a subsequent similar act from again constituting a violation of such term or condition.
32. 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.
33. Severability. If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
34. Exhibits. All exhibits referenced herein and attached hereto shall be deemed incorporated into and made a part of this Agreement by each reference as though fully set forth in each instance in the text hereof.
35. Provisions Required By Law Deemed Inserted. Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.
36. Authority to Bind Parties. Neither Party in the performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has any authority to bind the other to any agreements or undertakings.
37. Attorney's Fees/Costs. Should litigation be necessary to enforce any terms or provisions of this Agreement, then each Party shall bear its own litigation and collection expenses, witness fees, court costs and attorneys' fees.
38. Interpretation. In interpreting this Agreement, it shall be deemed to have been prepared by the Parties jointly, and no ambiguity shall be resolved against District on the premise that it or its attorneys were responsible for drafting this Agreement or any provision hereof. The captions or heading set forth in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any Sections or other provisions of this Agreement. Any reference in this Agreement to a Section, unless specified otherwise, shall be a reference to a Section of this Agreement.
39. Calculation of Time. For the purposes of this Agreement, "days" refers to calendar days unless otherwise specified.
40. Counterparts. This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.
41. Conflict of Interest. Consultant hereby represents, warrants and covenants that (i) at the time of execution of this Agreement, Consultant has no interest and shall not acquire any interest in the future, whether direct or indirect, which would conflict in any manner or degree with the performance of Work under this Agreement; (ii) Consultant has no business or financial interests which are in conflict with Consultant's obligations to District under this Agreement; and (iii) Consultant shall not employ in the performance of Work under this Agreement any person or entity having any such interests.
42. Governing Law. The terms and conditions of this Agreement shall be governed by the laws of the State of California with venue in Los Angeles, California.
43. Authority to Execute. The individual(s) executing this Agreement on behalf of the Consultant is/are duly and fully authorized to execute this Agreement on behalf of Consultant and to bind the Consultant to each and every term, condition and covenant of this Agreement.
44. 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.
45. Time is of the Essence. Time is of the essence with respect to all provisions of this Agreement.
46. Accessibility of Information Technology. Consultant hereby warrants that the Work to be provided under this Agreement

complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C §794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, Part 1194. Consultant agrees to promptly respond to and resolve any complaint regarding accessibility of its products brought to its attention. Consultant further agrees to indemnify and hold harmless the Mt. San Antonio Community College District, the Chancellor's Office of the California Community Colleges and any California community college using the Consultant's products from any claim arising out of its failure to comply with the aforesaid requirements. Failure to comply with these requirements shall constitute a breach and be grounds for termination of this Agreement.

47. Certification Regarding Debarment, Suspension or Other Ineligibility. (applicable to all agreements funded in part or whole with federal funds).

- A. By executing this contractual instrument, Consultant 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).
- B. By executing this contractual instrument, Consultant certifies to the best of its knowledge and belief that it and its principals:
 - i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.
 - ii. 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 Consultant's present responsibility;
 - iii. 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 B.ii) above, of this certification;
 - iv. 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;
 - v. 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
 - vi. Include in all lower tier covered transactions, and all solicitations for covered transactions, provisions substantially similar to those set forth herein.

48. Notice. 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 service (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

Consultant:
Attn:
Phone:
Email:

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.

IN WITNESS WHEREOF, Parties hereby agree.

CONSULTANT

MT. SAN ANTONIO COMMUNITY COLLEGE DISTRICT

BY: _____

BY: _____

Signature of Authorized Representative

Signature of Authorized Representative

Print Name _____

Print Name _____

Print _____

Print _____

Title

Title

Date

Date

District's Board of Trustee's
Approval/Ratification Date

District Contract # [INSERT CONTRACT #]

SAMPLE

EXHIBIT "A"
DESCRIPTION OF SERVICES TO BE PERFORMED BY CONSULTANT

SAMPLE

EXHIBIT "B"
PRICING PROPOSAL

SAMPLE