



## PROFESSIONAL SERVICES AGREEMENT

This agreement made and entered into between **Mountain View Whisman School District** (hereinafter referred to as MVWSD) located at **750 A San Pierre Way Mountain View, CA 94043** and **Ausin Texas Learning Group, LLC** (hereinafter referred to as Consultant) located at **12613 Scofield Farms Dr., Austin, TX, 78727**. In consideration of their mutual covenants, the parties hereto agree as follows:

**A. DUTIES OF CONSULTANT:** The Consultant shall provide the following Professional services, studies, and/or reports.

**Provide direct service, perform any needed evaluation, and recommend equipment to carry out special education program in consultation with director, principals, teacher/school staff, and parents.**

**B. CONTRACT PERIOD:** The Consultant's work as specified in this agreement shall commence on **Date as specified in Addendum A**

**C. COMPENSATION** For the full performance of this agreement, the MVWSD shall pay the Consultant as follows: Consultant's Fee:

- a. **For Consultant : Rate as Specified in Addendum A**
- b. **Consultant will work for minimum of 40 billable hours per week**
- c. **School shall not be liable to pay for school holidays**

Payment shall be as follows: Payments to be made within **30 days** of receipt of invoice. Any amounts due and payable which have not been paid within 30 days of invoice shall be subject to interest at the rate of 12% per annum, not to exceed the highest amount allowed under California law. All payments due and payable in Mountain View, Santa Clara County, California. In addition, any and all collection costs including attorney fees and court costs shall be recoverable in favor of consultant.

### **D. GENERAL TERMS AND CONDITIONS**

1. **INDEMNIFICATION:** The Consultant hereby assumes, releases and agrees to indemnify, defend, protect and save Board, its Officers, Board Members, employees, and Agents harmless from and against any loss of and/or damage to the person or property of Consultant, and all loss and/or damage on account of injury to or death of any persons whomsoever arising in any way from the negligence or misconduct of Consultant, its employees or agents
2. **NON-SOLICITATION OF EMPLOYEES:** MVWSD agrees to not solicit for hire employees or independent contractors of Consultant for a period of not less than 1 (One) Year following the first date of that employee or independent contractor's services to MVWSD.
3. **ASSIGNMENT:** Without the written consent of the MVWSD, this agreement is not assignable by the Consultant.
4. **NON-DISCRIMINATION:** No discrimination shall be made in the employment of persons under this agreement because of the race, religion, sex, age, national origin, ancestry, political affiliations, disability, medical condition, marital status, or sexual orientation.
5. **LICENSE AND AUTHORITY:** The Consultant and its employee or independent contractors will maintain all necessary licenses during the term of this agreement. Consultant will provide evidence or copies of all necessary licenses and credential/ clearance to MVWSD at their request.



6. **EQUIPMENT AND FACILITIES:** MVWSD and the Consultant will agree on all necessary equipment and facilities to render services pursuant to this agreement.
7. **TIME.** Time is the essence of this agreement.
8. **GOVERNING LAW.** The validity of this agreement and any of its terms or provisions as well as the rights and duties of the parties hereunder shall be governed by the laws of the state of California. Any dispute between the parties shall be heard in the courts sitting in Santa Clara County, California.
9. **WITHHOLDING.** The MVWSD shall not withhold or set aside any money on behalf of the Consultant for Federal Income Tax, State Income Tax, Social Security Tax, Unemployment Insurance, Disability Insurance, or any other federal or state fund whatsoever.
10. **HEADINGS.** All section headings contained herein are for clarification and convenience of reference only and are not intended to limit the scope of any provision of the agreement.
11. **AMBIGUITY.** The language herein shall be construed as jointly proposed and jointly accepted, and in the event of any subsequent determination of ambiguity, all parties shall be treated as equally responsible for such ambiguity.
12. **MODIFICATION.** Any modification to this agreement must be in writing and signed by both parties to be effective.
13. **AUTHORITY.** Each party executing this agreement has the authority to do so.
14. **DAMAGES.** In no event shall either party claim damages against the other in excess of 50% of the total amount to be paid out under the contract, nor shall there be any recovery of any special, consequential, or indirect damages of any type.
15. **TERMINATION:** Either party may terminate this contract by providing 30 days calendar notice.
16. **CONTRACTOR** shall require all employees and all subcontractors to submit fingerprints consistent with California Education Code Section 44237. **CONTRACTOR** shall comply with the requirements of Education Code Section 45125.1 including, but not limited to: obtaining California Department of Justice (CDOJ) clearance for **CONTRACTOR'S** employees; prohibiting its employees from coming in contact with students until CDOJ clearance is ascertained; and certifying in writing and providing such certification to the LEA that none of its employees who may come in contact with students have been, convicted of a violent or serious felony. Nor will any person be employed who has been convicted of or entered a plea of nolo contendere to charges of any sex offense as defined in Education Code § 44010 or to a felony that would disqualify that person from employment pursuant to EC 44237. The requirements of this section apply to all of the contractors, subcontractors, in addition to employees.
17. **CONTRACTOR** shall require all regular and substitute employees, volunteers, and any other individual who may come into contact with a student on school grounds to provide verification of having been tested for tuberculosis and cleared to work with minors as evidenced by a state licensed medical doctor's signature. **CONTRACTOR** shall keep a copy of said information in the employee file or volunteer file.

At all times the Consultant shall be deemed to be independent and is not authorized to bind the MVWSD to any contracts or other obligations, or to state or imply that it or its employee or independent contractor is an employee or authorized representative of the MVWSD, or to utilize the MVWSD's letterhead or logo without the prior consent of the MVWSD. Except as otherwise set forth herein or agreed to by the parties in writing, the Consultant and MVWSD agree to comply with each of the following factors as is necessary to maintain independent Consultant status, each of which shall form a part of this Agreement:



INSTRUCTIONS	The MVWSD shall provide job specifications and instructions.
TRAINING/SUPERVISION	The MVWSD shall provide training/supervision for consultant, if required.
WORK NOT ESSENTIAL TO CCS	The MVWSD's success or continuation does not depend on the services of the Consultant.
JOB LOCATION	MVWSD controls the job location.
TOOLS & EQUIPMENT	Tools and equipment for the job shall be provided by MVWSD.
SERVICES AVAILABLE TO PUBLIC	The Consultant's services are available to the general public after school hours.
PROGRESS REPORTS	The Consultant will be required to make progress report.

UNDERSTANDING AND ACCEPTANCE OF THE PARTIES: This Agreement constitutes the entire understanding of the parties. The Contract Initiator's and Consultant's signatures below signify both an understanding and acceptance of the contract provisions.

G. AUTHORIZED REPRESENTATIVE:

Signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_

Branch / Dept.: \_\_\_\_\_

Address (or Mail Code): \_\_\_\_\_

Phone / Fax: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

CONSULTANT:

Signature:     *Fred Miller*    

Date Signed:     May 10, 2018    

Title: Vice President

Company Mailing Address:

ATX Learning LLC, 12613 Scofield Farms Dr., Austin, TX, 78727

Phone: 800-846-5120 x 103, Fax: (512) 212-1338

E-Mail Address:     fred@atxlearning.com



**ADDENDUM – A**

<b>Services:</b>	<b>Special Education Teacher</b>
<b>Rate for Services (SET):</b>	<b>\$83 per hour</b>
<b>Contract Term:</b>	<b>School Year 2018-19</b>
<b>Start Date:</b>	<b>Monday July 02, 2018</b>
<b>End Date:</b>	<b>Friday June 28, 2019</b>
<b>Service time</b>	<b>40 hours per week</b>