

Mountain View Whisman School District (MNVSD)
Independent Contractor for Professional Services Agreement
 (Non-Exclusive/Non-Excluded)

THIS AGREEMENT is made and entered into this January 12th 2019
 by and between and Mountain View Whisman School District (District) and Kidz To Pros

("Contractor") Contractor and District may be referred to herein individually as a "Party" or collectively as the "Parties".

1. **Services.** The District is authorized by Gov. Code § 53100 to contract with any persons for the furnishing of special services and advice in financial, economic, accounting, engineering, legal or administrative matters if those persons are specially trained and experienced and competent to perform the special services required. The Contractor shall furnish to the District the following services ("Services" or "Work"). The Contractor warrants that it is specially trained, licensed and experienced and competently perform the Services. As Indicated in Exhibit "A" or as follows:

2. **Price & Payment.** The Contractor shall furnish the Services to the District for the following compensation:
 Contractor is providing services for a total flat fee of \$ 7,360 or
 Contractor will provide a maximum number of hours of service at a rate of \$ _____
 per hour for a total not to exceed \$ _____ or
 Other: _____

("Agreement Price"). Payment for the Services shall be made in accordance with the Terms and Conditions. District must approve Contractor's form of invoice, which must be sufficiently detailed (e.g., name of school or department service was provided to, period of service, number of hours of service, brief description of services provided)

3. **Agreement Time.** The Services shall commence on January 25th 2019 and shall be completed by May 17th 2019 ("Agreement Time")

4. **Submittal of Documents.** The Contractor shall not commence the Services under this Agreement until the Contractor has submitted the following documents as indicated below (Check all that are required):

<input checked="" type="checkbox"/> Signed Agreement	<input checked="" type="checkbox"/> Insurance Certificates & Endorsements	<input checked="" type="checkbox"/> W-9 Form
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5. **Notice.** Any notice under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered (effective upon receipt) or sent by overnight delivery service addressed as follows (effective the business day next following delivery thereof to the overnight delivery service):

Mountain View Whisman School District 1400 Montecito Ave. Mountain View, CA 94045 Attn: Chief Business Officer	Contractor: <u>Kidz To Pros</u> P.O. Box 1157 Fremont, CA 94539 Attn: <u>Community Manager</u>
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6. **Fingerprinting / Criminal Background / Megan's Law (Sex Offenders).** I have verified and will continue to verify that the employees of Contractor that will be on any school site and the employees of any subcontractors and/or subcontractors that will be on any school site are **not** listed on California's "Megan's Law" Website (<http://www.meganslaw.ca.gov/>). In addition, one of these two boxes below **must** be checked.

The fingerprinting and criminal background investigation requirements of Education Code section 45125.1 apply to Contractor's services under this Agreement and Contractor certifies its compliance with these provisions as follows: "Contractor certifies that the Contractor has complied with the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 with respect to all Contractor's employees, subcontractors, agents, and subcontractors' employees or agents ("Employees") regardless of whether those Employees are paid or unpaid, concurrently employed by the District, or acting as independent contractors of the Contractor, who may have contact with District pupils in the course of providing services pursuant to the Agreement, and the California Department of Justice has determined that none of those Employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. A complete and accurate list of all Employees who may come in contact with District pupils during the course and scope of the Agreement is attached hereto."

[TO BE COMPLETED BY AUTHORIZED DISTRICT EMPLOYEE ONLY.] Contractor's employees will have only limited contact, if any, with District pupils and the District will take appropriate steps to protect the safety of any pupils that may come in contact with Contractor's employees so that the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 shall not apply to Contractor for the services under this Agreement. As an authorized District official, I am familiar with the facts herein certified, and am authorized to execute this certificate on behalf of the District. (Ed. Code, § 45125.1 (c).)

District Representative's Name & Initials: Cyndee Nguyen INITIAL HERE cn

7. **Tuberculosis (TB) Screening.** Check one of the following boxes:

The District has a statement of TB Clearance on file for each person.

Waiver of TB Screening. Contractor is not required to provide evidence of TB Clearance because Contractor will not work directly with students on more than an occasional basis.

INITIAL HERE: KB (Contractor initials), INITIAL HERE: dn (District Representative initials)

8. **Insurance:** Contractor shall have and maintain insurance in force during the term of this Agreement with minimum limits identified below. Contractor shall provide to the District certificate(s) of insurance and endorsements satisfactory to the District. The policy(ies) shall not be amended or modified and the coverage amounts shall not be reduced without thirty (30) days written notice to the District prior to modification. Except for worker's compensation insurance, the District shall be named as an additional insured on all policies. Contractor's policy(ies) shall be primary; any insurance carried by the District shall only be secondary and supplemental. Contractor shall not allow any subcontractor, employee, or agent to commence Work on this Agreement or any subcontract until the insurance required of Contractor, subcontractor, or agent has been obtained.

Commercial General Liability	\$1,000,000 per occurrence; \$2,000,000 aggregate
Automobile Liability, Any Auto, combined single limit	\$1,000,000 per occurrence; \$2,000,000 aggregate
Workers Compensation	Statutory limits pursuant to State law
Employers' Liability	\$1,000,000
Professional Liability (E&O) If Contractor is providing professional services or advice (on a claims-made form)	\$1,000,000

9. **Terms & Conditions.** The Contractor has read and agrees to comply with the Terms & Conditions attached hereto.

INITIAL HERE: KB (Contractor initials).

TERMS & CONDITIONS TO IMPLEMENTATION CONTRACT FOR AN AGENCY'S...

Expenses: District shall pay the salaries of the staff...
District shall pay the salaries of the staff...

Materials: District shall furnish all the materials...
District shall furnish all the materials...

Independent Contractor: Contractor is a contractor...
Contractor is a contractor and will be an independent contractor...

2. Standard of Care

2.1 Contractor represents that Contractor has the...
Contractor represents that Contractor has the qualifications...

2.2 Contractor hereby represents that it possesses the...
Contractor hereby represents that it possesses the necessary...

2.3 Contractor shall be responsible for the professional...
Contractor shall be responsible for the professional quality...

2.4 Contractor shall ensure that its independent performing...
Contractor shall ensure that its independent performing work...

Assignment of Services: Contractor agrees that all...
Contractor agrees that all services, functions, procedures...

Contractor shall be liable for its services...
Contractor shall be liable for its services...

Contractor shall be liable for its services...
Contractor shall be liable for its services...

Copyright/Trademark/Domain: Contractor shall...
Contractor shall agree that all work...

3. Termination

3.1 Without Cause by District: District may at any time...
District may at any time terminate this Agreement...

3.2 Without Cause by Contractor: Contractor may...
Contractor may terminate this Agreement...

3.3 With Cause by District: District may terminate this...
District may terminate this Agreement upon giving...

3.3.1 material violation of this Agreement by the...
material violation of this Agreement by the Contractor...

3.3.2 any act by Contractor exposing the District to...
any act by Contractor exposing the District to death...

3.3.3 Contractor's assigned a contract or...
Contractor's assigned a contract or general assignment...

Written notice by District shall constitute the...
Written notice by District shall constitute the reason...

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.

20. Disputes. In the event of a dispute between the parties as to performance of Work, Agreement interpretation, or payment, the Parties shall attempt to resolve the dispute by negotiation and/or mediation, if agreed to by the Parties. Pending resolution of the dispute, Contractor shall neither rescind the Agreement nor stop Work.

21. Confidentiality. The Contractor and all Contractor's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.

22. Integration/Entire Agreement of Parties. This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.

23. California Law. This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the California county in which the District's administration offices are located.

24. Waiver. The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

25. 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.

26. Incorporation of Recitals and Exhibits. The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

27. Drug-Free/Smoke Free Policy. No drugs, alcohol, and/or smoking are allowed at any time in any buildings and/or grounds on District property. No students, staff, visitors, Contractors, or subcontractors are to smoke or use drugs or alcohol on these sites.

28. Conflict of Interest. Contractor shall abide by and be subject to all applicable District policies, regulations, statutes or other laws regarding conflict of interest. Contractor shall not hire any officer or employee of District to perform any service by this Agreement. Contractor affirms to the best of his/her/its knowledge, there exists no actual or potential conflict of interest between Contractor's family, business or financial interest and the services provided under this Agreement, and in the event of change in either private interest or services under this Agreement, any question regarding possible conflict of interest

which may arise as a result of such change will be brought to District's attention in writing. Through its execution of this Agreement, Contractor acknowledges that it is familiar with the provisions of Section 10300 et seq. and Section 17100 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provisions. In the event Contractor receives any information subsequent to execution of this Agreement, which might constitute a violation of said provisions, Contractor agrees it shall notify District of this information.

29. Agreement Contingent on Governing Board Approval. The District shall not be bound by the terms of this Agreement until it has been formally approved or ratified by the District's Governing Board, and no payment shall be owed or made to Contractor absent formal approval.

ACCEPTED AND AGREED on the date indicated below. By signing this Agreement, each Party certifies, under penalty of perjury, that all the information provided in the Agreement is true, complete, and correct and that the person executing this Agreement has full power and authority to enter into the Agreement:

Information regarding Contractor:

Indicate type of entity or if individual:

- Individual
- Sole Proprietorship
- Partnership
- Limited Partnership
- Corporation
- Limited Liability Company
- Other: _____

Employer Identification and/or Social Security Number: 82-0619451

NOTE: United States Code, title 26, sections 6041 and 6109 require non-corporate recipients of \$600 or more to furnish their taxpayer identification number to the payer. The United States Code also provides that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these rules, the District requires your federal tax identification number or Social Security number, whichever is applicable.

Dept/Site Budget Program Coding

Program Code(s): 130

Project Approvals Required Prior to Contract Start Date

<u>Requesting Administrator/Authorized Signer:</u>	<u>Contractor:</u>
Mountain View Whisman School District	Contractor Name: <u>KidzToPros</u>
Dated: <u>1/17</u> , 20 <u>19</u>	Dated: <u>January 16th</u> , 20 <u>19</u>
Signature: <u>[Signature]</u>	Signature: <u>[Signature]</u>
Print Name: <u>Cynthia Noyes</u>	Print Name: <u>Ryan Bender</u>
Print Title: <u>Principal</u>	Print Title: <u>Community Manager</u>

APPROVAL	
Authorized Signer (if not above)	Superintendent/Designee
Dated: _____, 20____	Dated: _____, 20____
Signature: _____	Signature: _____
Print Name: _____	Print Name: _____
Print Title: _____	Print Title: _____

Board of Trustees Action (District Office Use Only)			
Board of Trustees Meeting Date: _____	For Contract:	Review	Ratification

**UNITED STATES LIABILITY INSURANCE GROUP
WAYNE, PENNSYLVANIA**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

BLANKET ADDITIONAL INSURED ENDORSEMENT

Section II – Who Is An Insured is amended to include as an insured any person, entity or organization that is:

1. A franchisor under a franchise agreement with the Named Insured as franchisee relating to “your work”; or
2. A licensor under a license agreement with the Named Insured as licensee relating to “your work”; or
3. A co-owner with the Named Insured in premises used for “your work”; or
4. A majority owner with a controlling interest in the Named Insured but only with respect to liability arising out of such owner’s (i) financial or operational control of the Named Insured; or (ii) ownership, maintenance or use of premises leased or occupied by the Named Insured for purposes of “your work”; or
5. A mortgagee, assignee or receiver of the Named Insured relating to “your work”; or
6. A lessor, or an agent of a lessor, under a lease agreement with the Named Insured as lessee relating to “your work”; or
7. A grantor of a permit to the Named Insured as permittee relating to “your work”.

However, if the grantor of a permit is a federal, state or local government or political subdivision, there is coverage under this endorsement only for liability arising from:

- a. The existence, maintenance, repair, construction, erection or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners or decorations and similar exposures; or
 - b. The construction, erection or removal of elevators; or
 - c. The ownership, maintenance or use of any elevators covered by this insurance; or
8. A lessor of equipment leased to the Named Insured relating to “your work”; or
 9. A contributor, benefactor, or supporter who provides financial assistance to the Named Insured in connection with “your work”;

but only to the extent the Named Insured is required to add such person, entity or organization as an additional insured to this policy under a written contract, written permit or written agreement relating to “your work”.

Such person, entity or organization is an insured only with respect to liability for “bodily injury”, “property damage” or “personal and advertising injury” that is caused, in whole or in part by your acts or omissions or the acts or omissions of those acting on your behalf in connection with “your work” while such written contract, written permit or written agreement is in effect.

EXCLUSIONS

There is no coverage under this endorsement for loss or expense, including but not limited to the cost of defense for "bodily injury", "property damage" or "personal and advertising injury":

1. That occurs after all of "your work", including materials, parts or equipment furnished in connection with "your work" and performed under a written contract, written permit or written agreement has ended; or

When that portion of "your work" out of which the "bodily injury", "property damage" or "personal and advertising injury" arises and performed under a written contract, written permit or written agreement has been put to its intended use by any person(s) or organization(s);

whichever occurs first.

2. Arising directly or indirectly from construction or demolition operations of any kind performed by you.
3. Caused or alleged to be caused by the sole negligence of an additional insured under this endorsement.
4. Arising out of "your work" performed for a federal, state or local government or political subdivision under a written permit.
5. Included within the "products-completed operations hazard".

CONDITIONS

Coverage provided by this endorsement will be excess over any insurance available to any additional insured under this endorsement unless a written contract, written permit or written agreement specifically requires that coverage under this endorsement is primary.

All other terms and conditions of this policy remain unchanged. This endorsement is a part of your policy and takes effect on the effective date of your policy unless another effective date is shown.

