

Mountain View Whisman School District
Independent Contractor for Professional Services Agreement
(Non-Construction Related)

THIS AGREEMENT is made and entered into on July 1, 2023 ("Agreement"), by and between and Mountain View Whisman School District ("District") and Atkinson, Andelson, Loya, Ruud & Romo ("Contractor"). Contractor and District may be referred to herein individually as a "Party" or collectively as the "Parties."

1. Services Check one of the options below

The District is authorized by Gov. Code § 53060 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. Contractor shall furnish to the District the following services ("Services" or "Work"). The Contractor warrants that it is specially trained, licensed and experienced and competent to perform the Services.

- Option 1 - As indicated in Exhibit A -- attached Agreement for Special Services
Option 2 - Services explained as follows:

2. Price & Payment Check one of the options below

Contractor shall furnish the Services to the District for the following compensation ("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).

- Option 1 - Flat Fee of \$
Option 2 - Maximum number of hours at an hourly rate of \$ Total not to exceed \$
Option 3 - Other, please explain: Fees for Service as indicated on Exhibit A Agreement for Special Services

3. Contract Dates "Agreement Time"

Services Start Date: July 1, 2023 Services End Date: June 30, 2024

4. Submittal of Documents

Contractor shall not commence the Services under this Agreement until Contractor has submitted the following documents.

- Signed Agreement
Insurance Certificates & Endorsements
W-9 Form

5. Classified Service

- YES NO

Education Code Sections 45100-45139/88000-88040 defines what constitutes classified service. Education Code Sections 44830-44929/87400-87488 defines certificated service. The IRS predisposes an employer/employee relationship when state law mandates such a relationship. Are you currently, or have you ever paid into the California State Public Employees Retirement System or California State Teachers Retirement System?

6. 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 94043
Attn: Chief Business Officer

Contractor: Atkinson, Andelson, Loya, Ruud and Romo ("AALRR")
Street: 5075 Hopyard Road Suite 210
City, Sate, Zip: Pleasanton, CA 94588
Attn: Elizabeth Rho-Ng

7. 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 subconsultants 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, the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 apply to any entity that has a contract with the District.

Contractor’s Initials Here:

(This portion to be filled out by District Representative)

7. Fingerprinting/Criminal Background/Megan’s Law (Sex Offenders)

Check one of the options below:

- 1. Contact with Students:** Contractor certifies that Contractor has complied with the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 and that the California Department of Justice has determined that neither Contractor nor any of Contractor’s employees, subcontractors, agents, and subcontractors’ employees or agents (collectively “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 interact with District pupils outside the immediate supervision and control of the pupil’s parent or guardian or a District employee in the course of providing services pursuant to this Agreement, have been convicted of a felony, as that term is defined in Education Code section 45122.1. Contractor shall immediately provide the District any subsequent arrest and conviction information it receives from the California Department of Justice for those Employees during the course of providing services pursuant to this Agreement. A complete and accurate list of all Employees who may interact with District pupils during the course and scope of this Agreement is attached hereto.
- 2. No Contact:** Neither Contractor nor Contractor’s Employees will have any interaction with District pupils outside the immediate supervision and control of the pupil’s parent or guardian or a District employee so that the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 do not apply to Contractor for the services provided 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.
- 3. Emergency /Exceptional Situation:** Agreement is provided in an emergency or exceptional situation, such as when pupil health or safety is endangered, and the District will take appropriate steps to protect the safety of any pupil that may interact with Contractor and/or Contractor’s Employees so that Contractor and/or Contractor’s Employees do not interact with District pupils outside the immediate supervision and control of the pupil’s parent or guardian or a District employee in the course of providing services pursuant to this Agreement. (Ed. Code, § 45125.1 (c).) 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.
- 4. Sole Proprietor:** Contractor is a sole proprietor and in compliance with Education Code section 45125.1 (h)(1)-(2), the District confirmed with the California Department of Justice that Contractor has not been convicted of a felony, as that term is defined in Education Code section 45122.1, pursuant to the requirements of Education Code section 45125.1 (a). 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.

District Representative Name & Initials:

8. Tuberculosis (TB) Screening

Contractor has obtained any required TB clearance(s) and will maintain and immediately produce those clearance(s) to District upon the District’s request. Contractor’s Initials Here:

(This portion to be filled out by District Representative)

8. Tuberculosis (TB) Screening Select one option below:

- Contractor has obtained any required TB clearance(s) and will maintain and immediately produce those clearance(s) to District upon the District’s request.
- 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.

District Representative initials here:

add "and professional liability"

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9. 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

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

Contractor's Initials Here: ERN

TERMS & CONDITIONS TO INDEPENDENT CONTRACTOR AGREEMENT FOR PROFESSIONAL SERVICES

1. **Expenses.** District shall not be liable to Contractor for any costs or expenses paid or incurred by Contractor in performing the Work.
2. **Materials.** Contractor shall furnish, at Contractor's own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement.
3. **Independent Contractor.** Contractor, in the performance of this Agreement, shall be and act as an independent contractor. Contractor understands and agrees that Contractor and all Contractor's employees shall not be considered officers, employees, agents, partner, or joint venture 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. Contractor shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Contractor's employees.
4. **Standard of Care.**
 - 4.1. Contractor represents that Contractor has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District. Contractor's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California school districts. Contractor's Services will be performed with due care and in accordance with applicable law, code, rule, regulation, and/or ordinance.
 - 4.2. Contractor 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.
- 4.3. Contractor shall be responsible for the professional quality, technical accuracy, completeness, and coordination of the Services, and Contractor understands that the District relies upon such professional quality, accuracy, completeness, and coordination by Contractor in performing the Services.
- 4.4. Contractor shall ensure that any individual performing work under the Agreement requiring a California license shall possess the appropriate license required by the State of California. All personnel shall have sufficient skill and experience to perform the work assigned to them.
5. **Originality of Services.** Contractor agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to the District and/or used in connection with this Agreement, shall be wholly original to Contractor and shall not be copied in whole or in part from any other source, except that submitted to Contractor by District as a basis for such services.
6. **Copyright/Trademark/Patent.** Contractor 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. Contractor consents to use of Contractor's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.

7. **Termination.**

7.1. **Without Cause by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Contractor only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Contractor. Notice shall be deemed given when received by the Contractor or no later than three days after the day of mailing, whichever is sooner.

7.2. **Without Cause by Contractor.** Contractor may, upon sixty (60) days' notice, with or without reason, terminate this Agreement. Upon this termination, District shall only be obligated to compensate Contractor for services satisfactorily rendered to the date of termination. Written notice by Contractor shall be sufficient to stop further performance of services to District. Contractor acknowledges that this sixty (60) day notice period is acceptable so that the District can attempt to procure the Services from another source.

7.3. **With Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:

- 7.3.1. material violation of this Agreement by the Contractor; or
- 7.3.2. any act by Contractor exposing the District to liability to others for personal injury or property damage; or
- 7.3.3. Contractor is adjudged a bankrupt or makes a general assignment for the benefit of creditors or a receiver is appointed on account of Contractor's insolvency.

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 Contractor. If the expense, fees, and/or costs to the District exceeds the cost of providing the Services pursuant to this Agreement, the Contractor 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.

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

8. **Indemnification.** To the furthest extent permitted by California law, Contractor shall defend, indemnify, and

hold free and harmless the District, its agents, representatives, officers, consultants, employees, trustees, and volunteers ("the indemnified parties") from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, including without limitation the payment of all consequential damages ("Claim"), arising out of, pertaining to or relating to, in whole or in part, the negligence, recklessness, errors or omissions, or willful misconduct of Contractor, its officials, officers, employees, subcontractors, consultants, or agents directly or indirectly arising out of, connected with, or resulting from the performance of the Services or from any activity, work, or thing done, permitted, or suffered by the Contractor in conjunction with this Agreement, unless the claims are caused wholly by the sole negligence or willful misconduct of the indemnified parties. The District shall have the right to accept or reject any legal representation that Contractor proposes to defend the indemnified parties.

9. **FORCE MAJEURE CLAUSE:** Contractor shall be excused from performance hereunder during the time and to the extent that it is prevented from obtaining delivery, or performing by act of God, fire, strike, loss, or shortage of transportation facilities, lock-out, commandeering of materials, product, plant, or facilities by the government, or pandemic when satisfactory evidence thereof is presented to the District, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the Contractor. Any delay associated with any Infectious Disease, or any federal, state, or local order relating thereto, shall not be considered a Force Majeure Event unless it renders Contractor's performance of the Services impossible, and that event was not reasonably foreseeable at the time of the execution of this Agreement.

10. **Assignment.** The obligations of the Contractor pursuant to this Agreement shall not be assigned by the Contractor.

11. **Compliance with Laws.** Contractor shall observe and comply with all rules and regulations of the governing board of the District and all federal, state, and local laws, ordinances and regulations. Contractor shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Services as indicated or specified. If Contractor observes that any of the Services required by this Agreement is at variance with any such laws, ordinance, rules or regulations, Contractor shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Services shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Contractor's receipt of a written termination notice from the District. If Contractor performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Contractor shall bear all costs arising therefrom.

12. **Permits/Licenses.** Contractor and all Contractor'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 services pursuant to this agreement.

13. **Safety and Security.** Contractor is responsible for

maintaining safety in the performance of this Agreement. Contractor shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.

14. **Employment with Public Agency.** Contractor, if an employee of another public agency, agrees that Contractor will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.

15. **Anti-Discrimination.** It is the policy of the District that in connection with all work performed under Agreements there be no discrimination against any employee engaged in the work because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status and therefore the Contractor agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735. In addition, the Contractor agrees to require like compliance by all its subcontractor(s).

16. **Workers' Compensation.** Contractor shall comply with the provisions of Labor Code § 3700, et seq., that require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code. Contractor shall either being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State or by securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure.

17. **Audit.** Contractor shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Contractor transacted under this Agreement. Contractor shall retain these books, records, and systems of account during the Term of this Agreement and for three (3) years thereafter. Contractor 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 Contractor and shall conduct audit(s) during Contractor's normal business hours, unless Contractor otherwise consents.

18. **District's Evaluation of Contractor and Contractor's Employees and/or Subcontractors.** The District may evaluate the Contractor in any manner which is permissible under the law. The District's evaluation may include, without limitation: requesting that District employee(s) evaluate the Contractor and the Contractor's employees and subcontractors and each of their performance and announced and unannounced

observance of Contractor, Contractor's employee(s), and/or subcontractor(s).

19. **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.

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

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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 Contractor's 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

1090 *et seq.* and Section 87100 *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.

11. Infectious Disease Requirements

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

Contractor's Initials Here:

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INFECTIOUS DISEASE REQUIREMENTS FOR INDEPENDENT CONTRACTOR AGREEMENT FOR PROFESSIONAL SERVICES

1. **Compliance with Orders.** Contractor and its Subcontractors, agents and employees thereof, are responsible for complying with all applicable and existing federal, State, and/or local statutes, orders, rules, regulations, ordinances, and/or directives in any way relating to site safety, the Work, and the District site(s), in connection with any infectious and communicable disease in any form, whether bacterial or viral, including, without limitation, MSRA, influenza, COVID-19, and/or any similar virus or derivative strain ("**Infectious Disease**"). Contractor shall ensure its employees on District sites are trained and knowledgeable of all these requirements to ensure full compliance on any District site(s) and during the Work. Contractor's obligations hereunder shall include, without limitation providing personal protective equipment ("**PPE**") to its employees and to ensure that its subcontractors provide PPE equipment to its employees to prevent the spread of an Infectious Disease at District site(s).

2. **Infectious Disease & Extra Work.**

2.1. Contractor agrees that the Agreement Price is based on Contractor's full compliance with all applicable and existing federal, state, and/or local statutes, orders, rules, regulations, ordinances, and/or directives relating to site safety, the Work, and District site(s) in relation with an Infectious Disease at the time the Parties entered into the Agreement. Therefore, any additional costs to Contractor associated with an Infectious Disease, or any federal, state, or local order relating thereto, shall not be considered compensable unless:

2.1.1. It occurred after the date the Parties entered into this Agreement;

2.1.2. It materially increases the Agreement Price by imposing different, additional or more stringent requirements; and

2.1.3. Contractor notifies District within ten (10) Days of notice of any new public health order(s), including the anticipated increase to the Agreement Price due to the new public health order(s), and Contractor substantiates those costs with detailed supporting documentation.

2.2. If, during the Work, the applicable and existing federal, state, and/or local statutes, orders, rules, regulations, ordinances, and/or directives relating to site safety, the Work, and/or District site(s) in connection with an Infectious Disease, are changed or rescinded (e.g., by the reduction of potential exposure or risk due to vaccinations), the parties agree to reduce the Agreement Amount due to the removal of the required efforts. If the parties cannot mutually agree on the appropriate reduction, District may issue a notice of equitable adjust for an amount of time and money it determines to be both reasonable and appropriate.

3. **Infectious Disease Release.** Contractor acknowledges that it is voluntarily and freely entering into the Agreement for the Work and deciding to perform the Work which will require Contractor to enter upon and into District site(s) and that Contractor use of District site(s) includes the possible exposure to and illness from an Infectious Disease. Contractor further acknowledges the dangers involved and with full knowledge of these dangers, voluntarily agrees to assume all risks of bodily injury, death, or property damage, whether those risks are known or unknown. Contractor hereby releases District, its agents, representatives, officers, consultants, employees, trustees, and volunteers from any and all

liabilities, causes of action, lawsuits, claims, demands, or damages of any kind whatsoever that Contractor, its staff, participants, relatives, children, spouse, partner, household members, family members, employees, guests, invitees, volunteers, agents, consultants, Subcontractors, and any other person tracing exposure or illness to Contractor, now have, or may have in the future, for injury, trauma, illness, loss, unwanted contact, harassment, disability, death or property damages related to being exposed to or contracting an Infectious Disease while using any District site(s) for the performance of the Work. Contractor shall include this paragraph in all subcontracts with subcontractors/subconsultants.

- 4. Contractor shall ensure it has employees onsite that are trained and knowledgeable of these requirements to ensure full compliance on District site(s).
- 5. Any cost to comply with these "Infectious Disease Compliance Provisions" shall be at Contractor's sole expense and expense but may be included in the Agreement Price.

12. Type of Entity check one of the following:

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

Employer Identification and/or SSN#:

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.

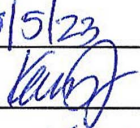
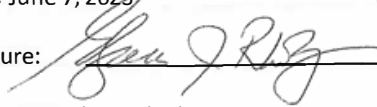
(This portion to be filled out by District Representative)

13. Dept/Site Budget Program

Please provide full SACS coding

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:

Approvals Required Prior to Contract Start Date

Requesting Administrator	Contractor:
Mountain View Whisman School District Dated: <u>6/5/23</u> , 20 <u>23</u> Signature: <u></u> Print Name: <u>Karin Jinbo</u> Print Title: <u>Director, Student Supports & Special Ed.</u>	Contractor Name: <u>ATKINSON, ANDELSON, LOYA, et al.</u> Dated: June 7, 2023 Signature: <u></u> Print Name: Elizabeth Rho-Ng Print Title: Partner

APPROVAL	
Authorized Signer	Superintendent/Designee
Dated: _____, 20____ Signature: _____ Print Name: <u>Cathy Baur</u> Print Title: <u>Chief Academic Officer</u>	Dated: _____, 20____ Signature: _____ Print Name: <u>Dr. Ayindé Rudolph</u> Print Title: <u>Superintendent</u>

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

EXHIBIT A TO PSA

AGREEMENT FOR SPECIAL SERVICES

I. PARTIES

This Agreement for Special Services (“Agreement”) is entered into by and between the law firm of ATKINSON, ANDELSON, LOYA, RUUD & ROMO, a professional corporation, hereinafter referred to as the “Law Firm” and MOUNTAIN VIEW-WHISMAN SCHOOL DISTRICT, hereinafter referred to as “District.”

II. PURPOSE

The District desires to retain and engage Law Firm to perform legal and, upon request, non-legal consultant, services on the District’s behalf. Law Firm accepts this engagement on the terms and conditions contained in this Agreement.

III. TERMS AND CONDITIONS

A. Fees for Services

1. Standard Hourly Rate Services

District agrees to pay the Law Firm at the following standard hourly rates:

Senior Partners	\$325
Partners/Senior Counsel	\$310
Senior Associates	\$300
Associates	\$290
Non-Legal Consultants	\$260
Electronic Technology Litigation Specialist	\$230
Senior Paralegals/Law Clerks	\$215
Paralegals/Legal Assistants	\$210

2. Fixed Fee Services

District agrees to pay the Law Firm a fixed fee for the following services:

A full day of training (up to 8 hours)	\$6,000
A half day of training (up to 4 hours)	\$4,500
A two-hour training	\$3,500
A one-hour training	\$2,500

EXHIBIT A TO PSA

3. Fee Arrangements for Specialized Legal Services

For specialized litigation and transactional services in the areas of construction, procurement, technology, prevailing wage, real property, CEQA, mitigation negotiations, school and college finance, tax, bankruptcy, copyright, non-profit organizations, immigration and appellate law, the District agrees to pay Law Firm at rates higher than the standard hourly rates for special projects or particular scopes of work. The Law Firm shall inform the District of the rates for specialized services and the Superintendent or designee shall agree to such rates in writing prior to any billings for specialized legal services by the Law Firm.

4. Costs and Expenses

In addition to the fees described above, the District agrees to pay a three percent (3%) “administrative fee” calculated and based on the total monthly billed fees to cover certain operating expenses of the Law Firm incurred in providing services to the District. This administrative fee is in lieu of charging the District for Westlaw, photocopies, automobile mileage, parking, facsimiles, telephone, document preparation, and postage.

Costs relating to fees charged by third parties retained to perform services ancillary to the Law Firm’s representation of District are not included in the administrative fee and are charged separately. These include, but are not limited to, deposition and court reporter fees, transcript costs, witness fees (including expert witnesses), process server fees, and other similar third party fees. The Law Firm shall not be obligated to advance costs on behalf of the District; however, for purposes of convenience and in order to expedite matters, the Law Firm reserves the right to advance costs on behalf of the District with the prior approval of the Superintendent or designee in the event a particular cost item exceeds \$2,000.00 in amount, and without the prior approval of the Superintendent or designee in the event a particular cost item totals \$2,000.00 or less.

If the Law Firm retains, with authorization from the District, experts or outside consultants for the benefit of the District, rather than the District contracting directly with any expert or outside consultant, the District agrees to pay a five percent (5%) “consultant processing fee” in addition to the actual costs paid by the Law Firm to the expert or outside consultant in order to offset related costs to the Law Firm resulting from administering and initially paying such expert and outside consultant fees on behalf of the District. This fee shall not apply to the services of Law Firm-provided non-legal consultants as set forth in paragraph F., below.

B. Billing Practices

1. A detailed description of the work performed and the costs and expenses advanced by the Law Firm will be prepared on a monthly basis as of the last day of the month and will be mailed to the District on or about the 15th of the following month, unless other arrangements are made. Payment of the full amount due, as reflected on the monthly statement, will be due to the Law Firm from the District by the 10th of the month following delivery of the statement, unless other arrangements are made. In the event that there are funds of the District in the Law Firm’s Trust Account at the time a monthly billing statement is prepared, funds will be transferred from the Law Firm’s Trust Account to the Law Firm’s General Account to the extent of the balance due on the monthly statement and a credit will be reflected on the monthly statement. Any balance of fees or costs advanced remaining unpaid for a period of 30 days will be subject to a 1% per month service charge.

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2. The Law Firm shall bill in one-quarter hour increments.
3. Certain tasks shall be billed at established minimum time increments. These include: (a) telephone conference (.25 hour), (b) electronic correspondence (.25 hour), (c) standard written correspondence (.50 hour), (d) provide a document (.50 hour).
4. The Law Firm may charge the full hourly rate to more than one client for services provided concurrently during the same time period. For example, in the course of traveling to the District or while providing legal services at the District, it may be necessary for the Law Firm to provide billable services to other clients.
5. District agrees to review the Law Firm's monthly statements promptly upon receipt and to notify the Law Firm, in writing, with respect to any disagreement with the monthly statement. Failure to communicate written disagreement with the Law Firm's monthly statement within thirty (30) days of the District's receipt thereof shall be deemed to signify the District's agreement that the monthly billing statement accurately reflects the services performed; and the proper charge for those services.
6. After the conclusion of a particular engagement (e.g., an investigation) should a need arise for the Law Firm to respond to any subpoena or discovery, to provide testimony at deposition, trial or arbitration, or to otherwise perform services with respect to any matter relating to or arising out of that engagement, the District shall compensate the Law Firm at its then applicable rates for time expended, including all required preparation time.

C. Termination of Representation on a Particular Matter

The Law Firm reserves the right to discontinue the performance of legal services on behalf of the District on a particular matter upon the occurrence of any one or more of the following events:

1. Upon order of a court of law requiring the Law Firm to discontinue the performance of legal services;
2. Upon a determination by the Law Firm in the exercise of its reasonable and sole discretion, that state or federal legal ethical principles require it to discontinue the performance of legal services;
3. Upon a failure of the District to perform any of the District's obligations with respect to the payment of the Law Firm's fees, costs or expenses as reflected on the monthly bill;
4. Upon a failure of the District to perform any of the District's obligations with respect to the duty of cooperation with the Law Firm in connection with the Law Firm's representation of the District.

In the event that the Law Firm ceases to perform services for the District on a matter, the District agrees that it will promptly pay to the Law Firm any and all unpaid fees and costs advanced, and retrieve all of its files, signing a receipt therefor. Further, the District agrees that, with respect to any litigation where the Law Firm has made an appearance in a court of law on its behalf, the District will promptly execute an appropriate Substitution of Attorney form. Any

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termination of Law Firm's representation on such a matter may be subject to approval by the applicable court of law.

D. Consent to Joint Representation

The District acknowledges that from time to time Law Firm may be asked to perform legal services on a matter affecting two or more public education local agencies. In such situations before proceeding with representation, Law Firm shall seek separate written consent to joint representation from all involved parties if permissible according to ethical principles applicable to attorneys. The District acknowledges that it is often in the best interest of the District for such representation to commence without undue delay which may result from waiting until a regularly-scheduled Board meeting. Therefore, pursuant to Education Code section 7, the Governing Board of the District hereby delegates to the Superintendent or designee authority to consent to joint representation in the circumstances described in this paragraph.

E. Client Cooperation

The District agrees to fully cooperate with the Law Firm in connection with the Law Firm's representation of the District, including but not limited to, attending mandatory court hearings and other appearances, making its employees and officials available, and providing accurate information documentation necessary to enable the Law Firm to adequately represent the District.

F. Services Performed by Law Firm-Provided Non-Legal Consultants

The Law Firm has an affiliation with non-legal consultants who are available to provide services in areas including, but not limited to, personnel/business office audits, human resources/collective bargaining consultation, special education consultation, public/employee relations surveys and communications, media and public relations, budget analysis/support services, instructional coaching/counseling at school improvement sites, leadership coaching, board/superintendent relations and best practices, and interim management placement.

Because the Law Firm has a financial interest in the District's use of these affiliated non-legal consultants, the rules of the State Bar of California require that the District provide its informed written consent to this arrangement prior to utilizing these services. Execution of this Agreement shall be deemed "informed consent" for the purpose of this paragraph. The District is hereby advised that it may seek the advice of an independent attorney of your choice prior to providing such written consent.

Please also be advised that because the services of these non-legal consultants are provided to the District outside of the attorney-client relationship, communications with these non-legal consultants will not be protected from disclosure by the attorney-client privilege.

G. Consent to Law Firm Communication

As part of our commitment to client service, the Law Firm will send the District periodic alerts on case developments and legislative changes, and notices of breakfast briefings, conferences, and other training opportunities designed to help the District with daily legal concerns. The Law Firm will send those and other additional service notices to the District via

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regular mail and/or electronic mail at the email address which you designate or the email used in your daily communications with us. By execution of this Agreement, the District and designated contact(s) consent to receive such communications by electronic mail subject to the right to unsubscribe at any time.

H. Identification of Insurance Coverage

With respect to insurance coverage for any matters covered by the scope of services under this Agreement, you agree that it is your own responsibility, rather than the Law Firm's responsibility, to identify potential insurance coverage and to tender legal matters to any appropriate insurance companies that may insure you. If you desire that the Law Firm become involved in identifying potential insurers and/or the tender of legal disputes, then a separate written agreement between you and the Law Firm to that effect will be required.

I. Miscellaneous

1. The Law Firm maintains errors and omissions insurance coverage applicable to the services to be rendered.

2. The parties agree that the Law Firm, while engaged in carrying out and complying with any of the terms and conditions of this Agreement, is an independent contractor and is not an employee of the District.

3. After a file on a matter is closed, the District has a right to request the Law Firm to return the file to the District. Absent such a request, the Law Firm shall retain the file on the District's behalf.

IV. BINDING ARBITRATION

If any dispute arises out of, or related to, a claimed breach of this agreement, the professional services rendered by attorneys, or any other disagreement of any nature, type, or description, regardless of the facts or the legal theories which may be involved, including attorney malpractice, breach of fiduciary duty, misrepresentation, or conflict of interest, such dispute shall be resolved by confidential and binding arbitration upon the written request of one party after service of that request on the other party.

There are significant advantages and disadvantages of binding arbitration. The parties shall agree on an arbitrator with special skills and experience to hear and determine the dispute unlike in a court proceeding where a judge is assigned. If the parties cannot agree, then the Superior Court of Los Angeles County shall choose an impartial arbitrator whose decision shall be final and conclusive on all matters.

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The parties shall each have the right of discovery in accordance with Code of Civil Procedure Section 1283. Arbitrations conducted pursuant to this agreement permit the same discovery rights as in a court proceeding. Each party shall bear their own costs and attorney fees, including payments to the arbitrator which can be significantly more costly than the filing fee in Court proceedings where costs may be awarded to the prevailing party. Each party to this agreement waives and therefore gives up important constitutional rights in arbitration as the arbitrator’s decision is final. There is no right to appeal to challenge any errors made in the arbitration proceeding. Unlike court proceedings, arbitration proceedings are conducted privately and the outcome will remain confidential. There is no right to a trial by a judge or jury of one’s peers. There is no limitation on the type of monetary damage that can be awarded by the arbitrator. The client is advised that the client has the right to have an independent lawyer of client’s choice review this arbitration provision.

V. DURATION

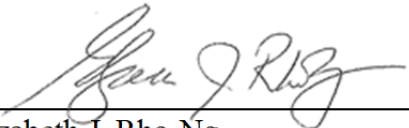
This Agreement shall commence July 1, 2023 and terminate on June 30, 2024, and shall thereafter continue from month to month at the then current rate schedules until modified in writing by agreement between the Law Firm and the District up to a maximum of five (5) years duration per Education Code section 17596.

Either the District or the Law Firm may terminate this Agreement on thirty (30) days’ written notice.

¶ “Law Firm”

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

Dated: May 16, 2023

By: 
Elizabeth J. Rho-Ng

“District”

MOUNTAIN VIEW-WHISMAN SCHOOL DISTRICT

Dated: _____

By: _____
Ayindé Rudolph, Superintendent