



Requisition #: _____

Vendor #: _____

**INDEPENDENT CONTRACTOR SERVICE AGREEMENT
BETWEEN
The Board of Education of the City of St. Louis
AND**

“

”

THIS INDEPENDENT CONTRACTOR SERVICE AGREEMENT (“Agreement”) is made and entered into as of the day of _____, 20____ by and between The Board of Education of the City of St. Louis (hereinafter “SLPS,” the “ District,” or “Board”), a school district organized and existing under the laws of the state of Missouri and “ _____” (hereinafter “Independent Contractor”), organized and existing under the laws of the State of _____, and licensed to do business in the City of St. Louis, Missouri. The taxpayer identification number, address, contact person, and telephone number for the Independent Contractor is as follows:

Taxpayer Identification Number: _____

Address: _____

Contact Person: _____

Telephone Number: _____

1. **TERM:**

The Contractor shall commence performance of this Agreement on the _____ **Day of** _____ **20**____, and shall complete performance to the satisfaction of the District, as herein determined, no later than the _____ **Day of** _____, **20**____.

2. **SCOPE OF SERVICES:** The Contractor shall provide the following services:

3. **PERFORMANCE:**

The Contractor agrees to perform the Services set forth herein in a competent and professional manner as determined by the District. The Contractor shall be and shall remain fully responsible for the quality and accuracy of Contractor's work. Neither acceptance of such work by the District, nor payment therefore shall relieve the Contractor of this responsibility

4. **PERFORMANCE STANDARDS:**

The Contractor performance at the end of the term of this Contract will be measured using the following performance standards.

5. **COMPENSATION:**

The District shall compensate the Contractor for the work outlined in the Scope of Services in the amount of \$_____ upon full completion of services outlined in the scope of services.

6. **SUB-CONTRACTING:**

The Contractor may not, without the approval of the District, subcontract any rights, responsibilities or obligations under this Agreement. Any subcontract without the express written consent of the District shall render the Agreement void at the election of the District.

7. **SUBCONTRACTS:**

The Contractor may not subcontract any portion of the services hereunder without the District's prior written consent. If a subcontractor is agreed to, the Contractor agrees that it will contract with the subcontractor under a separate written agreement, which shall contain a specific provision that said subcontractor shall be bound by the applicable terms and conditions of this Agreement. The Contractor shall be solely responsible to pay any subcontractors it utilizes under this Agreement and the Contractor understands that the District shall have no liability whatsoever relating to such payment. The Contractor assures

the District that the Contractor will be responsible for the acts or omissions of said subcontractor and agrees to be liable consistent with the terms of Article 14., to the extent that any acts or omissions of the subcontractor relate to the performance of the services under this Agreement.

8. CONFIDENTIALITY:

a. **District Information.** The Consultant acknowledges that it shall now, and in the future may, have access to and contact with confidential information relating to ideas, strategies, plans, purposes, and/or agendas that the District may seek to advance. Any reports and information given to or generated by the Consultant hereunder, as well as the terms and conditions of this Agreement, shall also be considered confidential information. Both during the term of this Agreement and thereafter, the Consultant covenants and agrees to hold such information in trust and confidence and to exercise diligence in protecting and safeguarding such information, as well as any other information protected from public disclosure by federal or state law or by the policies or procedures of the District. The Consultant covenants and agrees it will not knowingly use, directly or indirectly, for its own benefit, or for the benefit of another, any of the confidential information, but instead will use such information only for the purposes contemplated hereunder. Further, the Consultant covenants and agrees that it will not disclose any confidential information to any third party except as may be required in the course of performing services for the District hereunder or by law. In no event, shall the Consultant be deemed a spokesperson for the District, nor shall Consultant utilize the District, the District's logo, and/or District information in any marketing materials without the express written consent of the District.

b. Student Information.

i. In the course of providing services during the term of the contract, certain personnel of Consultant may have access to student education records that are subject to the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, *et seq.* and the regulations promulgated there under. Such information confidential and is therefore protected. To the extent that Consultant's personnel require access to "education records" to perform Services pursuant to this Agreement, such personnel are deemed a "school official," as each of these terms are defined under FERPA. Consultant agrees that it shall not use education records for any purpose other than in the performance of this contract. Except as required by law, Consultant shall not disclose or share education records with any third party unless permitted by the terms of the contract or to subcontractors who have agreed to maintain the confidentiality of the education records to the same extent required of Consultant under this contract. For the avoidance of doubt, District will be responsible for obtaining any necessary consents from students or parents pursuant to FERPA to provide the information to Consultant.

ii. In the event any person(s) seek to access protected education records, whether in accordance with FERPA or other Federal or relevant State law or regulations,

the Consultant will immediately inform the District of such request in writing if allowed by law or judicial and/or administrative order. Consultant shall not provide direct access to such data or information or respond to individual requests. Consultant shall only retrieve such data or information upon receipt of, and in accordance with, written directions by the District and shall only provide such data and information to the District. It shall be District's sole responsibility to respond to requests for data or information received by Vendor regarding District data or information. Should Consultant receive a court order or lawfully issued subpoena seeking the release of such data or information, Consultant shall provide immediate notification to the District of its receipt of such court order or lawfully issued subpoena and shall immediately provide the District with a copy of such court order or lawfully issued subpoena prior to releasing the requested data or information, if allowed by law or judicial and/or administrative order.

- iii. If Consultant experiences a security breach concerning any education record covered by this contract, then Consultant will immediately notify the District and take immediate steps to limit and mitigate such security breach to the extent possible. The parties agree that any breach of the confidentiality obligation set forth in the contract may, at District's discretion, result in cancellation of further consideration for contract award and the eligibility for Consultant to receive any information from District for a period of not less than five (5) years. In addition, Consultant agrees to indemnify and hold the District harmless for any loss, cost, damage or expense suffered by the District, including but not limited to the cost of notification of affected persons, as a direct result of the unauthorized disclosure of education records.
 - iv. Upon termination of Agreement, Consultant shall return and/or destroy all data or information received from the District upon, and in accordance with, direction from the District. Consultant shall not retain copies of any data or information received from the District once the District has directed Consultant as to how such information shall be returned to the District and/or destroyed. Furthermore, Consultant shall ensure that they dispose of any and all data or information received from the District in a District-approved manner that maintains the confidentiality of the contents of such records (e.g. shredding paper records, erasing and reformatting hard drives, erasing and/or physically destroying any portable electronic devices).
- c. **Medical Records.** The Consultant acknowledges that it shall now, and in the future may, have access to and contact with the education and/or medical records of students. Both during the term of this Agreement and thereafter, the Consultant covenants and agrees to hold such information in trust and confidence and to exercise diligence in protecting and safeguarding such information, as well as any other information protected from public disclosure by federal or state law or by the policies or procedures of the District. The Consultant covenants and agrees it will not knowingly use, directly or indirectly, for its own benefit, or for the benefit of another, any of said confidential information, but

instead will use said information only for the purposes contemplated hereunder. Further, the Consultant covenants and agrees that it will not disclose any confidential information to any third party except as may be required in the course of performing services for the District hereunder or by law. Finally, the Consultant covenants and agrees that any disclosure of confidential information of any student during the course of performing services under this Agreement shall comply with all requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPPA”).

- d. **Exceptions to Confidentiality Obligations.** Notwithstanding the foregoing, the Consultant’s obligations of confidentiality will not include information which:
- i. at the time of disclosure was in the public domain;
 - ii. after such disclosure, immediately becomes generally available to the public other than through any act or omission of the Consultant or its Personnel; and
 - iii. Is required to be disclosed by a court of competent jurisdiction, provided that prior written notice of such disclosure is furnished to the District in a timely manner in order to afford the District the opportunity to seek a protective order against such disclosure and the disclosure is strictly limited to the information that the court requires.
- e. **Remedies for Disclosure.** The Consultant understands and agrees that any unauthorized disclosure or use of any confidential information as provided under this article may result in the District seeking injunctive relief. The Consultant agrees to give prompt notice to the District of any unauthorized disclosure, use, or misappropriation of any confidential information and take all steps as reasonably requested by the District to limit, stop, or otherwise remedy the disclosure, use, or misappropriation of any confidential information. All steps taken by the Consultant relating to remedy shall be at its sole expense.
- f. **Return of Confidential Information.** After expiration or termination of this Agreement, the Consultant must return or destroy all confidential information given to or generated by the Consultant hereunder within fifteen (15) days of the District’s written request. The Consultant agrees that it will comply with the District’s instructions regarding the return or disposition of its confidential information, including any copies or reproductions.

9. **INDEMNIFICATION:**

Contractor agrees to indemnify and hold harmless the Board and the Board’s officers, directors, servants, employees, and agents from and against any and all liabilities, losses, damages, costs, and expenses of any kind (including without limitation, reasonable legal fees and expenses) which may be suffered by, incurred by or threatened against the Board or any officers, directors, servants, employees, or agents of the Board on account of or resulting from injury, or claim of injury to person or property arising out of the operation of the program operated by Contractor under this Agreement or arising out of this Agreement in any manner, including but not limited to the breach or failure to

perform any term, covenant, condition or agreement herein provided to be performed by Contractor. This provision shall survive termination or expiration of the Agreement.

10. **WARRANTY FOR SERVICES:**

Contractor warrants and represents to the Board that Contractor possesses the background, experience, expertise and qualifications to undertake and to carry out the Services. Contractor further warrants and represents that the Services will be performed in a professional, good, thorough and workmanlike manner, and consistent with accepted industry standards.

11. **REMEDIES FOR UNSATISFACTORY SERVICES:**

In the event Contractor fails to provide the Services consistent with the warranties and representations set forth in Section 9 above, the Board at its option, may: (a) require Contractor to re-perform the unsatisfactory Services at no cost to the Board; (b) refuse to pay Contractor for Services, unless and until Services are corrected and performed satisfactorily; (c) require Contractor to reimburse the Board for all amounts paid for such unsatisfactory Services; and/or (d) proceed with, and assert, any and all remedies available at law. The foregoing options and remedies available to the Board shall be deemed mutual and severable, and not exclusive.

12. **INSURANCE:**

Contractor shall maintain occurrence-based insurance including Comprehensive General Liability coverage of \$1,000,000.00 per occurrence and Automobile Liability coverage of \$300,000.00 per occurrence. Such insurance shall be provided by insurance companies authorized to do business in the State of Missouri.

OPTION:

The Compensation amount set forth in Paragraph 4 above, shall be reduced by \$_____ to offset the cost of the District's purchase of insurance coverage for the event.

13. **TERMINATION:**

- a. **Termination without Cause.** The District may terminate this Agreement without cause by giving written notice of the intent to terminate. In the event that such written Notice of Intent to Terminate is provided, termination of this Agreement shall become effective from the date set forth in the Notice of Intent to Terminate. The Contractor will cease work on said termination date and take all reasonable actions to minimize any expenses. The Contractor will be compensated for those services provided through the date of termination and any approved related expenses within sixty (60) days of receipt of a properly submitted invoice.

- b. **Effect of Termination on the Parties Obligations.** Upon termination of this Agreement for any reason, the parties shall have no further obligations under this Agreement, except as expressly set forth in this Agreement.

14. **ASSIGNMENT:**

This Agreement may not be assigned by Contractor without the prior written authorization of the Board, which authorization the Board may withhold in its sole discretion.

15. **ENTIRE AGREEMENT:**

This Agreement contains the complete agreement between the parties and shall, as of the effective date hereof, supersede all other agreements between the parties relating to the subject matter of this Agreement. The parties stipulate that neither of them has made any representation with respect to the subject matter of this Agreement or the execution and delivery hereof except such representations as are specifically set forth herein. All agreements not expressly set forth herein are null and void. Each of the parties hereto acknowledges that they have relied on their own independent judgment in entering into this Agreement and have had the opportunity to consult legal counsel.

16. **WAIVER:**

No failure on the part of either party at any time to require the performance by the other party of any term hereof shall be taken or held to be a waiver of such term or in any way affect such party's right to enforce such term, and no waiver on the part of either party of any term hereof shall be taken or held to be a waiver of any other term hereof or a breach thereof.

17. **SEVERABILITY:**

If any clause or provision of this Agreement is illegal, invalid or unenforceable under present or future laws effective during the term of this Agreement, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby.

18. **COUNTERPARTS:**

The Agreement may be executed in two or more counterparts, each of which shall be deemed an original.

19. **BINDING EFFECT:**

The Agreement shall not be binding and effective unless and until it is duly and fully executed by both parties. This Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns of the respective parties.

- a. **Executed Agreement.** This Agreement will not become effective unless and until an understanding is reached between the parties and the Agreement has been fully executed. The Contractor understands and agrees that the obligations of the District are conditioned upon, and subject to, such execution. **The Contractor understands that the District shall not be obligated to compensate it for any services provided prior to the execution of this Agreement and performance of such services hereunder shall be at the sole risk and liability of the Contractor.**

20. **CONTRACTOR REPRESENTATIONS:**

Contractor acknowledges and represents that (i) Contractor is legally authorized to transact business in the State of Missouri and to provide the Services required hereunder (ii) the entering into this Agreement has been duly approved by the Contractor, (iii) the undersigned is duly authorized to execute this Agreement on behalf of Contractor and to bind Contractor to the terms hereof, and (iv) Contractor will comply with all State, Federal and local statutes, regulations and ordinances, including civil rights and employment laws, and agrees not to discriminate against any employee or applicant for employment or in the provision of Services on the basis of race, color, national origin, sex, sexual orientation, age or disability. Contractor also agrees to abide by all applicable Board policies and regulations.

21. INDEPENDENT CONTRACTOR:

The Board and Contractor agree that Contractor will act for all purposes as an independent contractor and not as an employee, in the performance of Contractor's duties under this Agreement. Accordingly, Contractor shall be responsible for payment of all taxes, including federal, state and local taxes arising out of Contractor's services in accordance with this Agreement, including by way of illustration but not limitation, federal and state income tax, Social Security tax, unemployment insurance taxes, and any other taxes. In addition, Contractor's employees shall not be entitled to any vacation, insurance, health, welfare, or other fringe benefits provided by the Board. Contractor shall have no authority to assume or incur any obligation or responsibility, or make any warranty for, on behalf of the Board, or to attempt to bind the Board except with prior written authorization from the Board. Contractor shall pay all costs of conducting its activities hereunder, including all compensation to employees of Contractor.

22. CONTRACTOR'S PERSONNEL:

- a. **Control of Personnel and Work.** The Contractor understands and agrees that it is solely obligated to and responsible for the selection, qualification, performance, workmanship, quality of services, licensing, and compliance with the terms and conditions hereunder for all Personnel providing services relevant to this Agreement and that it shall have sole control over the means and details of performing the services, which shall be consistent with the District's intent hereunder. The Contractor shall use its best efforts, care, and diligence in the administration and performance of services hereunder. The Contractor ensures the District that it will properly supervise all Personnel during the performance of services and/or while any Personnel is on District property.
- b. **Background Checks.** All Personnel providing services under this Agreement that may in any way come into contact with students must undergo background checks consistent with those used by the District and state-licensed facilities; all such checks must be performed and passed prior to any Personnel providing any services hereunder. At a minimum, checks hereunder shall include a Department of Family Services background check, a criminal background check, and fingerprinting. The cost of all such background checks shall be borne by the Contractor and the District shall not be liable for such cost under any circumstance. The Contractor assures the District that the Contractor agrees to remove or not hire for the District's account any Personnel who have any Department of Family Services claims: a) that would raise concerns about inappropriate behavior with children; b) where a criminal offense has been committed that would raise concerns about inappropriate behavior with children; c) where there has been a conviction for any

sex-related offense or any other offense indicating a lack of acceptable moral character for associating with children; d) where there has been a determination of any physical and/or mental abuse of children; and/or e) where there has been termination for cause due to inappropriate behavior with children in any project, program, and/or location of services of the Contractor. The District will receive notice of any Personnel so removed or terminated. The Contractor will select, hire, and train replacement Personnel within fifteen (15) days of a vacancy on the District's account, all without any additional cost to the District. Within three (3) days of a written request by the District, the Contractor agrees to provide written confirmation that the background checks on all Personnel hereunder reflected no negative findings and said Personnel passed the background checks and are, therefore, eligible to provide services under this Agreement.

c. Removal of the Contractor's Personnel. If the District determines that any of the Contractor's Personnel is not providing satisfactory service, or if any issues of behavior or inappropriate conduct or similar concerns occur, the District shall notify the Contractor in writing and the Contractor shall remove that individual from the District's account. The Contractor will be compensated for any services satisfactorily performed by the removed individual and any expenses as approved by the District, up to and including the date that the Contractor receives the District's written notice. The Contractor will not be compensated for any expenses associated with replacing the individual. The Contractor will select, hire, and train replacement personnel within fifteen (15) days of a vacancy on the District's account.

23. INFRINGEMENT:

Contractor warrants to the Board that Contractor, in connection with performing the Services, will not infringe any patent, trademark, copyright, trade secrets, confidential information or any other proprietary right of any person. Contractor further represents and warrants to the Board that neither Contractor or any company or individual performing services pursuant to this Agreement is under any obligation to assign or give any work done under Agreement to any third party.

24. USE OF DATA / INFORMATION:

a. Information and other data developed or acquired by or furnished to Contractor in the performance of this Agreement shall remain the Board's property and shall be used only in connection with the Services provided to the Board.

25. DEFINITION:

For purposes of this Agreement, the term "person" shall mean any natural person, firm, association, partnership, corporation or other form of legal entity.

26. **AUTHORIZATION:** this Agreement is authorized by:

Board Resolution # _____, attached hereto.

or

Other. Please describe and attach appropriate documentation

or under \$5,000

Emergency Request

27. **DELIVERABLES:** Please list the specific deliverables associated with this Agreement.

(See attached Scope of Services for Details)

INDEPENDENT CONTRACTOR NAME: _____

ADDRESS: _____

PRINT NAME: _____

SIGNATURE: _____

TITLE: _____

**THE BOARD OF EDUCATION
OF THE CITY OF ST. LOUIS**

PRINT NAME: _____

SIGNATURE: _____

TITLE: _____

FOR OFFICE USE ONLY _____

Vendor# _____

Requisition# _____

Purchase Order # _____

Board Resolution# _____