

**JEFFERSON COUNTY PUBLIC SCHOOLS  
CONTRACT FOR THE PROCUREMENT OF PROFESSIONAL SERVICES**

THIS CONTRACT FOR PROCUREMENT OF PROFESSIONAL SERVICES (hereinafter "Contract") is entered into between the JEFFERSON COUNTY BOARD OF EDUCATION (hereinafter "Board"), a political subdivision of the Commonwealth of Kentucky, with its principal place of business at 3332 Newburg Road, Louisville, Kentucky 40218 and Red7e (hereinafter "Contractor"), with its principal place of business at 637 West Main Street, Louisville, Kentucky 40202.

WITNESSETH:

WHEREAS, the Board desires to procure the particular services of Contractor, which are more fully defined below; and

WHEREAS, Contractor has held itself out to be competent and capable of performing the services contracted for herein;

NOW, THEREFORE, in consideration of the mutual promises and agreements hereinafter set forth, the Board and Contractor (hereinafter "Parties") agree as follows:

ARTICLE I

Entire Agreement; Amendments

This Contract is the entire agreement between the Parties and supersedes any and all agreements, representations and negotiations, either oral or written, between the Parties before the effective date of this Contract. This Contract may not be amended or modified except in writing as provided in Article VIII. This Contract is supplemented by the Board's Procurement Regulations currently in effect (hereinafter "Regulations") that are incorporated by reference into and made a part of this Contract. In the event of a conflict between any provision of this Contract and any provisions of the Regulations, the Regulations shall prevail.

ARTICLE II

Services

Contractor agrees to perform the following services (hereinafter "Services") of a quality and in a manner that is within the highest standards of Contractor's profession or business. The Services are as follows:

Red7e will serve as the Jefferson County Public School District's advertising agency and provide the services of purchasing advertising space with radio, television, print, and other advertising media for the Showcase of Schools. The contract also will provide creative design assistance and ad development work when needed. The fees for advertising will be paid by the media providers based upon levels negotiated with them (media providers) by Red7e. The red7e purchase summary is attached and incorporated by reference.

### ARTICLE III Compensation

The Board shall pay Contractor the total amount stated below (hereinafter "Contract Amount"). The Contract Amount shall be paid in a lump sum upon completion of the Services, unless a schedule of progress payments is stated below. The Contract Amount shall be for total performance of this Contract and includes all fees, costs and expenses incurred by Contractor including but not limited to labor, materials, taxes, profit, overhead, travel, insurance, subcontractor costs and other costs, unless otherwise stated below. To receive payment, Contractor must submit an itemized invoice or invoices. If progress payments are authorized, each invoice must specify the actual work performed. If payment of costs or expenses is authorized, receipts must be attached to the invoice.

Contract Amount:	<u>41,958</u>
Progress Payments (if not applicable, insert N/A):	<u>Payment will be issued within thirty (30) days of the Board receiving an approved invoice for services performed.</u>
Costs/Expenses (if not applicable insert N/A):	<u>N/A</u>
Fund Source:	<u>General Fund</u>

### ARTICLE IV Term of Contract

Contractor shall begin performance of the Services on October 6, 2014 and shall complete the Services no later than November 15, 2014, unless this Contract is modified as provided in Article VIII.

### ARTICLE V Performance of Services by Contractor

The Services shall be performed by Contractor, and in no event shall Contractor subcontract with any other person to aid in the completion of the Services without the prior written approval of the Contract Administrator defined below.

Contractor shall appoint one person who shall be responsible for reporting to the Board on all Services performed under the terms of this Contract and who shall be available for consultation with the Contract Administrator.

Contractor is an independent contractor, not an employee. Contractor is responsible for the payment of all federal, state and local payroll taxes and providing unemployment insurance and workers compensation coverage to Contractor's employees. Contractor shall provide all equipment, materials and supplies necessary for the performance of the Services.

Contractor shall at all times during the term of this Contract comply with all applicable laws, regulations, rules and policies. Contractor shall obtain and keep in force all licenses, permits and certificates necessary for the performance of the Services.

Contractor agrees to hold harmless, indemnify, and defend the Board and its members, agents, and employees from any and all claims or losses accruing or resulting from injury, damage, or death of any person, firm, or corporation, including the Contractor himself, in connection with the performance of this Contract. Contractor also agrees to hold harmless, indemnify, and defend the Board and its members, agents, and employees from any and all claims or losses incurred by any supplier, contractor, or subcontractor furnishing work, services, or materials to Contractor in connection with the performance of this Contract. This provision survives termination of this Contract.

Unless waived in writing by the Contract Administrator, Contractor shall maintain during the term of this Contract policies of primary insurance covering the following risks and in at least the following amounts: commercial general liability, including bodily injury, property damage, personal injury, products and completed operations, and contractual, \$1,000,000; and automobile liability, \$1,000,000. Contractor shall furnish to the Contract Administrator certificates of insurance evidencing this coverage and naming the Board as an additional insured. Additionally, Contractor shall maintain workers compensation coverage with limits required by law; and professional errors and omissions coverage with minimum limits of \$1,000,000. Contractor shall furnish certificates of insurance evidencing this coverage to the Contract Administrator.

#### ARTICLE VI Equal Opportunity

During the performance of this Contract, Contractor agrees that Contractor shall not discriminate against any employee, applicant or subcontractor because of age, color, creed, disability, marital or parental status, national origin, race, sex, veteran status, religion, or political opinion or affiliation. If the Contract Amount is paid from federal funds, this Contract is subject to Executive Order 11246 of September 24, 1965 and in such event the Equal Opportunity Clause set forth in 41 Code of Federal Regulations 60-1.4 is hereby incorporated by reference into this Contract as if set forth in full herein.

#### ARTICLE VII Prohibition of Conflicts of Interest

It shall be a breach of this Contract for Contractor to commit any act which is a violation of the provisions of Article XI of the Regulations entitled "Ethics and Standards of Conduct," or to assist or participate in or knowingly benefit from any act by any employee of the Board which is a violation of such provisions.

#### ARTICLE VIII Changes

The Board and Contractor may at any time, by mutual agreement set forth in a written addendum, make changes in the definition of the Services; the scope of the Services; and the Contract Amount. The Contract Administrator and Contractor may, at any time, by mutual agreement set forth in a written addendum, make changes in the time within which the Services are to be performed; the schedule of Progress Payments; and mutual Termination of the Contract.

ARTICLE IX  
Termination for Convenience of the Board

The Board may terminate this Contract in whole or in part at any time by giving written notice to Contractor of such termination and specifying the effective date thereof, at least thirty (30) days before the specified effective date. The Board shall compensate Contractor for Services satisfactorily performed through the effective date of termination.

ARTICLE X  
Termination for Default

The Board may, by written notice of default to Contractor, terminate the whole or any part of this Contract, if Contractor breaches any provision of this Contract, or so fails to make progress as to endanger performance of this Contract, and in either of these circumstances, does not cure the breach or failure within a period of five (5) days after receipt of notice specifying the breach or failure. In the event of termination for default, the Board may secure the required services from another contractor. If the cost to the Board exceeds the cost of obtaining the Services under this Contract, Contractor shall pay the additional cost. The rights and remedies of the Board provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

ARTICLE XI  
Disputes

Any differences or disagreements arising between the Parties concerning the rights or liabilities under this Contract, or any modifying instrument entered into under Article VIII of this Contract, shall be resolved through the procedures set out in the Regulations.

ARTICLE XII  
Contractor's Work Product

Unless waived in writing by the Contract Administrator, the Board shall retain ownership in and the rights to any reports, research data, creative works, designs, recordings, graphical representations or other works of a similar nature (hereinafter "Works") produced or delivered by Contractor under this Contract. Contractor agrees that the Works are "works for hire" and Contractor assigns all right, title and interest in the Works to the Board.

Any reports, information, data, etc. given to or prepared or assembled by Contractor under this Contract shall not be made available to any individual or organization by Contractor without the prior written approval of the Board. Provided, nothing in this Article may be used to violate the provisions of any Kentucky or Federal statute or regulation which requires reporting of information.

ARTICLE XIII  
Contract Administrator

The Board shall appoint a Contract Administrator for the purposes of daily administrative decision-making pertaining to the Contract. If Contractor and the Contract Administrator disagree on any circumstance or set of facts pertaining to the administration or execution of this Contract, the Board shall resolve the matter after notification by either the Contract Administrator or the Contractor in the manner prescribed by the Regulations. If the Board fails to give notice to Contractor of the

appointment of a Contract Administrator, the Contract Administrator shall be the Board's Chief Financial Officer.

#### ARTICLE XIV Right to Audit

The Board shall have the right to inspect and audit all accounting reports, books or records which concern the performance of the Services. Inspection shall take place during normal business hours at Contractor's place of business. Contractor shall retain all records relating to the performance of this Contract for five (5) years after the end of the term of this Contract.

#### ARTICLE XV Miscellaneous

- A. All Articles shall be construed as read, and no limitation shall be placed on any Article by virtue of its descriptive heading.
- B. Any notices or reports by one Party to the other Party under this Contract shall be made in writing, to the address shown in the first paragraph of this Contract, or to such other address as may be designated in writing by one Party to the other. Notices shall be effective when received if personally delivered, or three days after mailing if mailed.
- C. If any part of this Contract is held to be void, against public policy or illegal, the balance of this Contract shall continue to be valid and binding.
- D. This Contract shall be governed and construed in accordance with the laws of the Commonwealth of Kentucky.
- E. No delay or omission by either Party in exercising any right under this Contract shall operate as a waiver of that or any other right or prevent a similar subsequent act from constituting a violation of this Contract.
- F. At all times during the term of this Contract, Contractor shall comply with the Family Educational Rights and Privacy Act of 1974. If Contractor has access to student records, Contractor shall limit its employees' access to those records to persons for whom access is essential to perform this Contract.
- G. Contractor shall be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that apply to the Contractor or subcontractor for the duration of this Contract and shall reveal any final determination of a violation by the Contractor or subcontractor of the preceding KRS Chapters.

IN WITNESS WHEREOF, the Parties hereto have executed this Contract to be effective as of October 14, 2014.

Contractor's Social Security Number or Federal Tax ID Number: 61-0867413

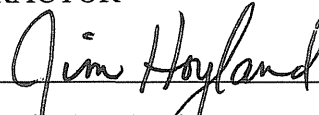
JEFFERSON COUNTY BOARD OF  
EDUCATION

Red7e  
CONTRACTOR

By: \_\_\_\_\_

Donna M. Hargens, Ed.D.

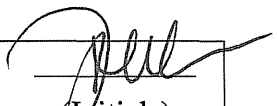
By: \_\_\_\_\_

  
Jim Hoyland

Title: Superintendent

Title: Vice President, Chief Operating Officer

Cabinet Member: Helene Kramer

  
(Initials)

Jefferson County Public Schools  
**NONCOMPETITIVE NEGOTIATION  
DETERMINATION AND FINDING**

1. An emergency exists which will cause public harm as a result of the delay in competitive procedures (Only the Superintendent shall declare an emergency.) —

State the date the emergency was declared by the superintendent: \_\_\_\_\_

2. There is a single source for the items within a reasonable geographic area —

Explain why the vendor is a single source: \_\_\_\_\_

3. The contract is for the services of a licensed professional, education specialist, technician, or an artist —

State the type of service: Media buys and/or creative design

4. The contract is for the purchase of perishable items purchased on a weekly or more frequent basis —

State the item(s): \_\_\_\_\_

5. The contract is for proprietary item(s) for resale: This can include the buying or selling of item(s) by students when it is part of the educational experience —

State the type(s) of item(s): \_\_\_\_\_

6. The contract is for replacement parts when the need cannot be reasonably anticipated and stockpiling is not feasible —

State the item(s): \_\_\_\_\_

7. The contract or purchase is for expenditures made on authorized trips outside the boundaries of Jefferson County Public Schools —

State the location: \_\_\_\_\_

8. The contract is for a sale of supplies at reduced prices that will afford Jefferson County Public Schools a savings (Purchase must be approved by Director of Purchasing) —

Explain the logic: \_\_\_\_\_

9. The contract is for the purchase of supplies which are sold at public auction or by receiving sealed bids —

State the items: \_\_\_\_\_

**I have determined that, pursuant to K.R.S. 45A. 380, the above item(s) should be obtained by the Noncompetitive Negotiation Methods since competition is not feasible.**

Helene Kramer

Print name of person making Determination

Communications

School or Department

  
Signature of person making Determination

Date

10/1/14

Red7e

Name of Contractor (Contractor Signature Not Required)

Requisition Number

Explanation of Noncompetitive Negotiation Methods can be found under K.R.S. 45A.380 and on page 15 in the Procurement Regulations

F-471-1

Revised 05/2011



## **Jefferson County Public Schools**

Showcase of Schools 2014: October 17-18 and November 15

### **Target:**

Target student groups underrepresented in the magnet process.

### **Media:**

#### Outdoor

- Flight Oct 6- Nov 15
- 15 Bus Shelters located in Southern and Western areas of Jefferson County
- Locations listed on separate addendum
- Cost: \$4,120

#### TV:

- Flight: Oct 8- Oct 18 and Nov 5- Nov 15
- Weight: 365 TRPs
- Schedule on separate addendum
- Cost: \$20,575

#### TV Rationale:

All stations and programming will be chosen based on research of TV viewing in households with the presence of children between the ages of 5 to 17. Special consideration given to programming and networks that skew to African Americans and Latinos. Sample programming listed on separate addendum.

#### Radio

- Flight: Oct 8- Oct 18 and Nov 5- Nov 15
- 60 sec spots on 96.5 WGZB, 101.3 WMJM, and 620/105.7 WTUV (Hispanic radio)
- Weight: 208 TRPs, 408 radio spots
- Schedule on separate addendum
- Cost: \$10,603

#### Facebook: Page Post Engagement

- Targeted to users in Louisville DMA, Adults 25-49 with HH income below \$75K
- Placed within news feeds (desktop and mobile)
- Estimated Daily Reach: 8,600 to 23,000 impressions per day (54,000 total eligible users)



- Track engagement: impressions, likes, comments
- Cost: \$2,000

Print

*The Defender*

- Circulation: 3,225 weekly
- 1/4 Page Color
- Insertion Dates: Oct 9 and Nov 6
- Cost: \$2,360

**Media Total: \$39,658**

**Bus Shelter Production and installation total: \$2,300**

**Total Campaign: \$41,958**

August 21, 2014

Jefferson County Public Schools  
3332 Newburg Road  
Louisville, KY 40218  
Attn.: Ben Jackey, Helene Kramer

Re: Showcase of Schools 2014  
Contract amount \$41,958

This will set forth the terms and conditions on which you agree to employ us and we agree to serve as your advertising agency for the 2014 Showcase of Schools campaign.

### I. BASIC SERVICES

Our services to you shall include services customarily performed by a general advertising agency, including but not limited to the following:

- a) Formulate and submit for your approval advertising campaigns and recommendations.
- b) Plan media commitments consistent with budgeted and approved funds and support these media commitments with advertising strategy and rationales and submit detailed media cost estimates.
- c) Purchase, on your behalf, all materials and services necessary for the production of finished advertisement for the bus shelter component of the media commitment.
- d) Order advertising space and time or other means for transmitting your advertising and forwarding advertising material to media with proper instructions.
- e) Verify placement and check advertisements and publications for appearance, date, position, size and mechanical reproduction.
- f) Pay all charges incurred and assumed by us with your prior consent on your behalf.
- g) Endeavor to do all of the above on the most advantageous rates, terms and conditions available.

**Jefferson County Public Schools is responsible to provide all finished advertising materials to Red7e for transmittal to media.**

## **II. CREATIVE, PRODUCTION, MEDIA, AND OTHER CHARGES**

- a) You agree to pay us in accordance with estimates which we will supply you for production and installation of bus shelter messages.
- b) All third party charges for production and installation of bus shelter messages will be charged at cost plus an amount, which after deduction of our cost, will yield us 15% of the gross amount, before deduction of any prompt payment discounts, as an agency commission.
- c) If Red7e places media at your direction, you agree to pay for media services under the standard agency 15% commission procedure for the following costs incurred: All media charges for advertising run in all media at the current standard published or negotiated rates, except that if a medium allows no agency commission or a commission of less than 15%, you will make up the difference to yield us 15% of the amount charged to Jefferson County Public Schools. If, in a medium having a schedule of graduated rates, you use a different amount of space or time than contracted for, the amount payable by you will be adjusted to reflect the charges for the space or time actually used.

## **III. PAYMENTS**

We will bill you for charges in connection with our services upon your approval of estimates for such charges, as follows:

- a) We will bill all media charges as of the end of the month prior to scheduled run dates and all creative and production charges, for work in progress or completed, as of the end of the month in which the activities occurred.
- b) You agree to pay these charges within 30 days, except that any payments we must make on your behalf must be collected from you no later than the earliest dates on which we must make payments on your behalf.
- c) We shall have the right to require reasonable assurance of the availability of your funds in advance of undertaking commitments on your behalf.

- d) If payment is not received on a timely basis we will have the right to assess a finance charge up to one and one-half percent per month on the unpaid balance.

#### IV. GENERAL

- a) We will obtain your authorization before making any substantial commitments for media placement or any substantial expenditure on your behalf, and we are authorized to act on your behalf as an agent for a disclosed principal. As your agent, we will act to obtain the most favorable terms, conditions and pricing for any such expenditures.
- b) If you should desire any advertising material or special material created by us (or anything derived from such material) to be placed outside the United States (whether during or after the term of our services hereunder) through another advertising agency or other party, you and we will agree upon the terms in advance.
- c) As between you and us, any plan or advertising material which we produce on your behalf will become your property when you have paid any undisputed invoice amount associated with the property. We will execute any additional documents necessary to evidence ownership of materials produced on your behalf, including any necessary assignments. Any material or ideas prepared or submitted to you, which you have chosen not to produce and for which you have not paid our corresponding production invoices, will remain our property (regardless of whether the physical embodiment of creative work is in your possession in the form of copy, artwork, plates, recordings, films, tapes, etc.) and may be submitted to other clients for their use, provided that such submission or use does not involve the release of any confidential information regarding your business or methods of operation.
- d) We hereby agree to indemnify and hold you harmless from and against any and all third party claims, demands, regulatory proceedings damages, costs (including, without limitation, settlement costs) and expenses (including, without limitation, reasonable attorneys' fees) arising from any claim pertaining to libel, slander, defamation, copyright infringement, invasion of privacy, piracy and/or plagiarism arising from your use consistent with releases and agreements with third parties of

any materials we create or supply to you, except to the extent that such claim arises from materials created or supplied by you.

- e) Other than that for which we agree to indemnify and hold you harmless pursuant to Section IV(d) above, you hereby agree to indemnify and hold us harmless from and against any and all third party claims, demands, regulatory proceedings, damages, costs, and expenses (including reasonable attorneys' fees) arising from or relating to the use by you, your retailers or dealers, or anyone else of any materials we create or supply to you or your products or services based on grossly negligent conduct. Absent written authorization from Jefferson County Public Schools, Red7e shall not settle any claim that requires Jefferson County Public Schools to contribute any settlement funds, or to enjoin or modify its advertising practices.
- f) We will use our reasonable best efforts to guard against any loss to you caused by the failure of media, suppliers, or others to perform in accordance with their commitments, but we will not be responsible for any such loss, or failure on their part, or any destruction or unauthorized use by others of any of your property.
- g) You have the right at any time to direct us to cancel any plans, schedules or work in progress, but you agree to indemnify us against any loss, cost or liability we may sustain as a result of such action. We will be entitled to our commissions, fees and payments for services performed prior to your instructions to cancel, and for advertising and materials placed or delivered thereafter if we are unable to halt such placement or delivery. Under no circumstances will we be obliged to breach any lawful contractual commitment to others.
- h) In the event that we are required to resort to collection procedures or litigation for the collection of any compensation due us, we shall be entitled to collect from you reasonable attorneys' fees and costs in addition to such compensation.
- i) We acknowledge that Red7e may acquire information and knowledge concerning your business plans and operations that is not otherwise available to the public ("Confidential Information"). Red7e shall not at any time during or after termination of its relationship with you divulge to any person, firm, corporation or other entity any knowledge, information or fact related to the Confidential Information, except as otherwise may be required by force of law.

## V. TERMINATION

- a) We shall continue to serve as your advertising agency for the duration of the Showcase of Schools 2014 campaign or until you or we shall terminate, with or without cause, our services in full or only with respect to specified products or services assigned to us, by giving not less than thirty days' prior written notice by registered mail to the principal place of business of the other. Notice of termination shall become effective upon receipt of such notice by the party to whom it is addressed.
- b) Our rights and duties hereunder shall continue in full force during the thirty-day notice period including the ordering of advertising media which is normally ordered during the period, and we shall continue to receive commissions on any advertising normally ordered, or actually ordered, or whose closing date occurs before or during the sixty day period, even if the closing date is after the sixty day period. Closing dates for print media shall be the actual closing date and for electronic media the date the media is ordered.
- c) Any reservation, contract, or arrangement made by us for you prior to the termination date which continues beyond the termination date will be carried to completion by us and paid for by you in accordance with this agreement unless you direct us to transfer such reservation, contract, or arrangement to another entity and you release and indemnify us, in which event we will attempt to make such transfer, subject to obtaining any necessary consent of third parties. We will be entitled to our undisputed commissions, fees and payments for services performed prior to accomplishing the transfer. You shall own all rights in any advertising materials produced by us for you in finished form, and upon termination, and you assume any third party obligations (including, without limitation, any applicable union or guild obligations relating to the production and use of commercials), we shall transfer in accordance with your instructions all property and materials owned by you which are under our control.

- d) All indemnification obligations shall survive the termination of our services or the termination or expiration of this agreement.

## VI. MISCELLANEOUS

- a) This agreement contains the entire understanding between the parties and may not be altered or waived except by a writing signed by both parties. No waiver by either party of the breach of any term or condition of this agreement will constitute a waiver of, or consent to, any subsequent breach of the same or any other term or condition of this agreement.
- b) This agreement will be governed by the laws of the State of Kentucky applicable to contracts executed and to be performed entirely in the State of Kentucky.

Please indicate your acceptance of the terms and conditions by signing the enclosed copy of this letter and returning it to us.

Red7e

By: \_\_\_\_\_ Date: \_\_\_\_\_

Jim Hoyland, Vice President/COO

## AGREED TO:

Client

By: \_\_\_\_\_ Date: \_\_\_\_\_

Ben Jackey