

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 Innovative Quality Solutions, Inc. DBA IQS Research (hereinafter "Contractor"), with its principal place of business at 308 North Evergreen Road, Suite 200, Louisville, Kentucky 40243.

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:

Contractor shall create and implement a survey method for gathering response data for the purpose of potential modifications to the JCPS Student Assignment Plan. Survey participants shall consist of a representative sample from the Louisville/Jefferson County community, JCPS parents and JCPS students. This survey shall produce responses from at least 2,000 individuals. IQS shall utilize research based practices in the creation, implementation and analysis of the survey instrument and results, and provide documented support for the strategies used in conducting the survey. IQS shall present survey results to the Jefferson County Board of Education and to the Student Assignment Review Committee. Dates and locations of these presentations shall be agreed upon by the Contractor

and the Student Assignment department. IQS shall provide JCPS with the raw, unidentifiable survey data following the completion of the survey. Services are further described in the IQS Research Solution Proposal and the Data Sharing/Use Agreement between Jefferson County Board of Education and Innovation Quality Solutions, Inc. DBA IQS Research that are attached and incorporated herein 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>\$75,000</u>
Progress Payments (if not applicable, insert N/A):	<u>50% upon approval of the research instrument in English; 50% upon completion of final report</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 31, 2018 and shall complete the Services no later than January 31, 2019, 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 race, color, national origin, age, religion, marital or parental status, political affiliations or beliefs, sex, sexual orientation, gender identity, gender expression, veteran status, genetic information, or disability. 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. If this Contract requires Contractor and/or any employees of Contractor to perform services on the premises of any JCPS schools during JCPS school hours, all individuals performing such services under this Contract are required to submit per KRS 160.380 to a national and state criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation and have a letter, provided by the individual, from the Cabinet for Health and Family Services stating no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.
- H. 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 31, 2018.

Contractor's Social Security Number or Federal Tax ID Number: 31-1572544

JEFFERSON COUNTY BOARD OF
EDUCATION

Innovative Quality Solutions, Inc. DBA IQS
Research
CONTRACTOR

By: _____

Title: Martin A. Pollio, Ed.D.
Superintendent

By: _____

Title: Shawn Herbig
President

Cabinet Member: Dr. Devon Horton

D.H.
(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: Education Consultant

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.

Cassie R. Blausey

Print name of person making Determination

Office of School Choice, JCPS

School or Department

[Signature]
Signature of person making Determination

10/18/18
Date

Innovative Quality Solutions, Inc. DBA IQS Research

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

SOLUTION PROPOSAL

Jefferson County Public Schools
Community Study
October 3, 2018

Project Manager
Contact Information:

Shawn Herbig
308 N Evergreen Road
Suite 200
Louisville, KY 40243

502-244-6600 (o)

sherbig@iqsresearch.com
www.iqsresearch.com



Jefferson County Public Schools Student Assignment Plan Community Survey

AN INTRODUCTION TO IQS RESEARCH

Founded in 1999, IQS Research is a custom market research and data analytics firm that uses engineering precision to solve social science problems. Our early work focused exclusively on automotive research with a particular, and nationally-recognized, expertise in warranty analysis. Ford, Fiat, KIA, and J.D. Power were among our first clients. In keeping with the niche of industry specializations, from 2007-2011 IQS created and operated the Center for Healthcare Reimbursement. This award-winning endeavor surveyed physicians in the 100 largest U.S. markets to establish an independent, national reimbursement database that physicians relied on to negotiate with insurance companies. Today, our portfolio is intentionally diverse and includes a focus within three particular areas:

1. Strategic research for ambitious non-profit and public organizations and complex public initiatives
2. Human capital analytics including employee engagement, employee climate and communication studies, and diversity and inclusion tools
3. Business strategy research for technical firms and manufacturing companies

IQS RESEARCH: PARTIAL CLIENT LIST	
LOUISVILLE	Galt House Hotel and Suites
	TARC
	Jefferson County Public Schools
	Louisville Metro Police Department
	Waterfront Development Corporation
	Norton Healthcare
NATIONAL AND INTERNATIONAL	Mortenson Dental
	Brown-Forman Corporation
	FellonMcCord, wholly owned by Trane
	Fontainebleau Hotel
	Maker's Mark
	Subway
	Toyota Tsusho
	Truven Health Analytics, an IBM Company

While our roots are in big-data analytics and quantitative research, we also possess best-in-class qualitative capabilities. The results of our studies have been published in local, regional, national, and international publications and have withstood the scrutiny of legal courts as well as the court of public opinion.

A partial client list includes the organizations noted at left. IQS Research is also proud to serve as the [dedicated research partner to Louisville Metro Government](#), its 52 departments, and associated agencies. Any research with the Jefferson County Public Schools should be able to use this contracting vehicle as well.

WE KNOW JCPS AND WE KNOW EDUCATION RESEARCH

We have worked directly with JCPS previously on multiple research projects including providing the data collections for the Gary Orfield student assignment work in 2010. These data were ultimately used as part of the Supreme Court case. Another project, fielded in 2006, gathered opinions from parents as well as the business community regarding several programs within JCPS including the math and science curriculum, Every1Reads, and the school system as a whole. Furthermore, our education portfolio extends beyond JCPS to include work performed for 55,000 Degrees, JCTC, KCTCS, UofL, and Craven Community College.

WE ARE INTELLECTUALLY CURIOUS PROBLEM-SOLVERS.

Our team at IQS Research is, first and foremost, focused on using research, data, and analytics to solve problems. Throughout our 19-year history, we have focused these skills inside particular verticals – at times within the automotive industry and for several years within the health care sector. While we are successful at this specialization, we particularly enjoy tackling difficult problems across a variety of industries and service-lines. Whether that involves sensitive issues in a workplace, politicized issues in the public realm, strategy decisions in a business environment, and more, our team delights in the process of digging into a problem and designing research that provides actionable answers.



Jefferson County Public Schools Student Assignment Plan Community Survey

WE USE ENGINEERING PRECISION TO SOLVE SOCIAL SCIENCE PROBLEMS.

Our company was founded by a Ford-trained engineer with nationally-recognized expertise in quality analysis. As such, the very core of our firm is steeped in the precision and specificity associated with the engineering disciplines. In a manner that is quite unique in the marketplace, we have taken that scientific lens and focused it specifically on understanding how people think, act, and make decisions. What this orientation means for our clients is that our processes, and thus their research outputs, are disciplined, scientifically-based, and reliable – from our protocols for collecting data, to storing and securing data, to analyzing that data, and more. Because of this, we are often chosen to provide research to public sector institutions and, as such, we are familiar with the public scrutiny and open records requests that are associated with these kinds of projects.

Recently we were recognized by the [National Academy of Sciences](#) for having two national best practices. This recognition called out two data collection techniques that we employed during the building of the new Downtown and East End bridges.

WE UNDERSTAND THE LOUISVILLE MARKET.

In addition to being research experts, we also have deep and meaningful experience surveying individuals within Louisville. We understand and can appropriately interpret attitudes and opinions of the general public, while also having demonstrated particular acuity regarding opinions of low-income and minority individuals as well as those of the business community.

Furthermore, as a Metro Louisville-based firm, we have a sincere commitment to this community. We take seriously our role in providing research insights that inform the decisions of our local policy makers, and this translates into our willingness to work in a particularly collaborative and flexible way with our government partners.



Jefferson County Public Schools Student Assignment Plan Community Survey

PROJECT BACKGROUND

Like many school systems, the Jefferson County Public Schools has experienced both accolades and accusations related to the student assignment plan. While the history is too nuanced to document in this project summary, it is fair to say that the process of assigning almost 100,000 students, within one of the largest school systems in the US, is challenging. Furthermore, it is probably also fair to say that because of the complexity and nuance there will always be those who are pleased and those who are displeased.

Confounding the issue of program approval is the quantity of constituents who are outside of the system. That is to say, there are people who hold opinions of the school system and the student assignment plan where neither they nor their immediate family members are participants in that plan. Still, these opinions are important as they help shape the perceptions of JCPS and contribute to the organization's role in the community.

To help inform potential changes to the student assignment plan, additional information and opinions are being sought from a wide swath of the community, including JCPS students. This new process is different from previous attempts to gather input specifically because multiple channels and strategies will be utilized to ensure that previously unrepresented groups are able to participate and give their input. While some previous processes provide an *opportunity* for underrepresented groups to participate, the techniques employed for this work help to ensure the actual *participation* of these groups in the process.

A critical first step of this process is creating a sampling plan that identifies all stakeholders and balances the ratios of the different constituents. We believe these different groups require unique data collection strategies.

RESEARCH OVERVIEW

This research is designed to provide a quantitative assessment of a representative sample of three populations:

- **Adults in Jefferson County, KY.** This will include adults in Jefferson Co. who are predominantly not current parents of JCPS students.
- **Current JCPS Parents** This includes parents of students currently enrolled in JCPS
- **Current JCPS Students** While not all students will be asked to participate, a representative sample of students will be asked to provide their input.

This quantitative study is designed to produce responses from at least 2,000 individuals. In addition, we will work with JCPS to develop the research instrument which may include previously developed anchor questions that could show attitude changes over time.

The survey will be administered online, by phone, and (potentially) by paper to ensure that different groups are able to participate. In addition, the survey questions will be available in multiple languages as follows: English, Spanish, Arabic, and Somali. We will work with JCPS to have the questions and responses translated.



Jefferson County Public Schools
Student Assignment Plan Community Survey

The following table contains information about specific groups that will be addressed in the research. These groups generally fall into three categories: general community, current JCPS parents, current JCPS students.

DATA COLLECTION OUTLINE	
DESCRIPTION OF ELEMENT	
1. Mainstream Community Study	This research component focuses attention on adults (18 YO or older and not in high school) in the community (Jefferson Co), primarily those who are not parents of school-age children, but who may be connected to the school system in other ways (relative, friend, etc.) and creates a statistically valid sample (600 responses) to yield the industry standard 95% confidence level and ± 5 -point margin of error or better at the aggregate level. The survey itself will last 10-15 minutes and will take place through online and telephone (primarily mobile).
2. Socialized Community Study	IQS Research in conjunction with JCPS will develop a socialization strategy that empowers liaisons from a variety of communities within Jefferson County to spread the word about this effort to their respective constituencies through their particular channels. We will leverage relationships already forged between JCPS and these liaisons. This intent of this portion of research is to gather input from numerous, previously ignored populations.
3. Open Community Study	IQS Research will provide a link that can be hosted on the JCPS website and communicated through e-mail, online, media, social media, or other channels to make the community aware of the research and provide an opportunity for all who are interested to participate.
4. Parent Study	Utilizing information provided by JCPS IQS Research will survey a randomly selected population of parents of current students within the JCPS system.
5. Low Income Non-English Refugee Housing-Insecure	This research approach focuses attention on current JCPS families in four different segments of the population where participation in traditional research is typically limited. While there is some overlap in these demographic categories the unique attributes of each group are important and must be acknowledged. Utilizing liaisons within the JCPS system we will gather responses from each of these groups.
6. Student Study	IQS Research will provide a link to be used for the student population of JCPS so that students have an opportunity to participate in the research program during class time. We will gather information from students who are 7 th through 12 th grade.



Jefferson County Public Schools Student Assignment Plan Community Survey

ANALYSIS

At the end of the data collection process, IQS Research will perform a quantitative and qualitative analysis of the data received. The purpose of this analysis is multi-faceted but is generally designed to provide a series of answers that will meaningfully convey the current perceptions of the JCPS Student Assignment Plan and elucidate how those perceptions vary across constituencies. In keeping with the objectives of this research, we anticipate providing insights with respect to, at a minimum, the following groups:

- Overall Community – Non-parent citizens and Parents of school-aged children (whether at JCPS or not)
- Current JCPS parents
 - Housing Instability users
 - Non-English speakers (Spanish, Arabic, Somali)
 - Low income and poverty income households
- JCPS Students

While the results of one portion of research will often dictate the next element of the analysis, the final report will explore at least the components listed in the bulleted section above.

PROPOSED PROJECT SCHEDULE

This project will take place over a period of three months starting October 31, 2018.

PRICING

The price to deliver the above cited services is \$75,000.00 payable as follows:

- 50% upon approval of the research Instrument in English
- 50% upon completion of the final report

ALL TERMS

There are several requests outlined in the project overview provided by JCPS including presentations required, providing data to JCPS and other specific clauses. This statement assures that IQS Research agrees and will comply with all the terms specified in that document.

Data Sharing/Use Agreement

Between

Jefferson County Board of Education

And

Innovative Quality Solutions, Inc. DBA IQS Research

This Data Sharing/Use Agreement ("Agreement") between the Jefferson County Board of Education, a political subdivision of the Commonwealth of Kentucky doing business as the Jefferson County Public Schools ("JCPS"), and Innovative Quality Solutions, Inc. DBA IQS Research, a corporation organized under the laws of Kentucky ("Services Provider") describes the services to be provided to JCPS by Services Provider, and the means to be used by Services Provider to ensure the confidentiality and security of information and data exchanged between JCPS and Services Provider in connection with the provision of the services.

A. PERIOD OF THE AGREEMENT

This Agreement shall be effective as of **October 31, 2018** and will terminate January 31, 2019 unless terminated earlier by either party pursuant to Section H.

B. SCOPE OF THE AGREEMENT AND INTENDED USE OF THE DATA

1. Services Provider will provide the following services to JCPS under the terms of a services contract between JCPS and Services Provider effective October 31, 2018: to conduct a survey of a representative sample of JCPS parents for the purpose of potential modifications to the JCPS Student Assignment Plan.
2. JCPS and Services Provider agree that Services Provider is an organization to which JCPS can disclose, upon written request, personally identifiable information from an education record of a student, as defined in 34 CFR 99.3, under the "school official exception" of the Family Educational Rights and Privacy Act, 20 U.S.C. 1232(g) and 34 C.F.R. 99.31 (a)(1) ("FERPA"), because the disclosure is to a contractor to whom JCPS has outsourced institutional services or functions for which JCPS would otherwise use employees; the contractor is under the direct control of JCPS with respect to the use and maintenance of education records; and the contractor is subject to the requirements of 34 CFR 99.33(a) governing the use and redisclosure of personally identifiable information from education records.
3. JCPS shall disclose to Services Provider, upon written request, confidential, personally identifiable information from an education record of a student, as defined in 34 C.F.R. 99.3, under the "school official exception" of FERPA, 34

C.F.R. 99.31 (a)(1), when the disclosure is within such exception as stated in Paragraph B.2 above and Services Provider has a legitimate educational interest for access to such education records. The confidential data including student and non-student information to be disclosed is described in a document attached to this agreement as **Attachment A**. Services Provider shall use personally identifiable information from education records and other records in order to perform the services described in Paragraph B.1 above. Services Provider shall notify JCPS and JCPS shall provide written consent, if approved, of any changes to the list of disclosed data necessary for the services or any changes to the scope, purpose or duration of the services themselves. Any agreed upon changes to the data disclosed shall be reduced to writing and included in an update to Attachment A to this Agreement. Any agreed upon changes to the scope, purpose or duration of the services shall be reduced to writing and included in an amendment to the services contract described in Paragraph B.1 above.

4. Services Provider and JCPS shall work cooperatively to determine the proper medium and method for the transfer of confidential data between each other. Services Provider shall confirm the transfer of confidential data and notify JCPS as soon as practicable of any discrepancies between the actual data transferred and the data described in this Agreement. The same protocol shall apply to any transfer of confidential data from Services Provider to JCPS.

C. CONSTRAINTS ON USE OF DATA

1. Services Provider agrees that the services shall be provided in a manner that does not permit personal identification of parents and students by individuals other than representatives of Services Provider that have legitimate interests in the information.
2. Services Provider will not contact the individuals included in the data sets without obtaining advance written authorization from JCPS.
3. Services Provider shall not re-disclose any individual – level data with or without identifying information to any other requesting individuals, agencies, or organizations without prior written authorization by JCPS.
4. Services Provider shall use the data only for the purpose described in Paragraph B.1 above. The data shall not be used for personal gain or profit.

D. DATA CONFIDENTIALITY AND DATA SECURITY

Services Provider agrees to the following confidentiality and data security statements:

1. Services Provider acknowledges that the data is confidential data and proprietary to JCPS, and agrees to protect the data from unauthorized disclosures and to comply with all applicable JCPS, Local, State and Federal confidentiality laws and regulations including but not limited to FERPA; the Kentucky Family

Educational Rights and Privacy Act, KRS 160.700 et seq.; the Richard B. Russell National School Lunch Act, 42 U.S.C. 1751 et seq.; the Child Nutrition Act of 1966, 42 U.S.C. 1771 et seq.; the Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931 et seq.; and the Kentucky Open Records Act, KRS 61.820 et seq.

2. If the performance of this Agreement involves the transfer by JCPS to Services Provider of any data regarding any JCPS student that is subject to FERPA, Services Provider agrees to:
 - a. In all respects comply with the provisions of FERPA.
 - b. Use any such data for no purpose other than to fulfill the purposes of the services contract described in Paragraph B.1 above, and not share any such data with any person or entity other than Services Provider and its employees, contractors and agents, without the prior written approval of JCPS.
 - c. Require all employees, contractors and agents of Services Provider to comply with all applicable provisions of FERPA with respect to any such data.
 - d. Maintain any such data in a secure computer environment, and not copy, reproduce or transmit any such data except as necessary to fulfill the purposes of the services contract described in Paragraph B.1 above.
 - e. Provide the services under the services contract described in Paragraph B.1 above in a manner that does not permit the identification of an individual student by anyone other than employees, contractors or agent of Services Provider having a legitimate interest in knowing such personal identification.
 - f. Destroy or return to JCPS any such data obtained under this Agreement within thirty days (30) after the date within it is no longer needed by Services Provider for the purposes of the services contract described in Paragraph B.1 above.
3. Services Provider shall not release or otherwise reveal, directly or indirectly, the data to any individual, agency, entity, or third party not included in this Agreement, unless such disclosure is required by law or court order. If Services Provider becomes legally compelled to disclose any confidential and otherwise personally identifiable data (whether by judicial or administrative order, applicable law, rule or regulation, or otherwise), then Services Provider shall use all reasonable efforts to provide JCPS with prior notice before disclosure so that JCPS may seek a protective order or other appropriate remedy to prevent the disclosure or to ensure JCPS's compliance with the confidentiality requirements of federal or state law; provided, however, that Services Provider will use all reasonable efforts to maintain the confidentiality of confidential and otherwise

personally identifiable data. If a protective order or other remedy is not obtained prior to the deadline by which any legally compelled disclosure is required, Services Provider will only disclose that portion of confidential and otherwise personally identifiable data that Services Provider is legally required to disclose.

4. Services Provider shall not distribute, reprint, alter, sell, assign, edit, modify or create derivative works or any ancillary materials from or with the data.
5. Services Provider shall not use data shared under this Agreement for any purpose other than the services contract described in Paragraph B.1 above. Nothing in this Agreement shall be construed to authorize Services Provider to have access to additional data from JCPS that is not included in the scope of this Agreement (or addenda). Services Provider understands that this Agreement does not convey ownership of the data to Services Provider.
6. Services Provider shall take reasonable security precautions and protections to ensure that persons not authorized to view the data do not gain access to the data. Reasonable security precautions and protections include, but are not limited to:
 - a. Creating, distributing, and implementing data governance policies and procedures which protect data through appropriate administrative, technical and physical security safeguards, and outline staff responsibilities for maintaining data security;
 - b. Encrypting all data carried on mobile computers/devices;
 - c. Encrypting data before it is transmitted electronically;
 - d. Requiring that users be uniquely identified and authenticated before accessing data;
 - e. Establishing and enforcing well-defined data privilege rights which restrict users' access to the data necessary for this to perform their job functions;
 - f. Ensuring that all staff accessing data sign a nondisclosure statement, attached as **Attachment B**, and maintain copies of signed statements;
 - g. Securing access to any physical areas/electronic devices where sensitive data are stored;
 - h. Installing a firewall to permit or deny network transmissions based upon a set of rules; and
 - i. Installing anti-virus software to protect the network.

7. If Services Provider receives Personal Information as defined by and in accordance with the Kentucky Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931, et seq., (the "Act"), Services Provider shall secure, protect and maintain the confidentiality of the Personal Information by, without limitation, complying with all requirements applicable to "non-affiliated third parties" set forth in the Act, including but not limited to the following:
- a. "Personal Information" is defined in accordance with KRS 61.931(6) as "an individual's first name or first initial and last name; personal mark; or unique biometric or genetic print or image, in combination with one (1) or more of the following data elements:
 - i. An account, credit card number, or debit card number that, in combination with any required security code, access code or password, would permit access to an account;
 - ii. A Social Security number;
 - iii. A taxpayer identification number that incorporates a Social Security number;
 - iv. A driver's license number, state identification card number or other individual identification number issued by an agency;
 - v. A passport number or other identification number issued by the United States government; or
 - vi. Individually Identifiable Information as defined in 45 C.F.R. sec. 160.013 (of the Health Insurance Portability and Accountability Act), except for education records covered by FERPA.
 - b. As provided in KRS 61.931(5), a "non-affiliated third party" means "any person or entity that has a contract or agreement with the Commonwealth and receives (accesses, collects or maintains) personal information from the Commonwealth pursuant to the contract or agreement."
 - c. Services Provider shall not re-disclose, without the written consent of JCPS, any "personal information," as defined in KRS 61.931, or any other personally identifiable information of a student or other persons, such as employees.
 - d. Services Provider agrees to cooperate with JCPS in complying with the response, mitigation, correction, investigation, and notification requirements of the Act.

- e. Services Provider agrees to undertake a prompt and reasonable investigation of any breach as required by KRS 61.933.
- 8. If Services Provider is a cloud computing service provider (as defined in KRS 365.734(1)(b) as "any person or entity other than an educational institution that operates a cloud computing service"), Services Provider agrees that:
 - a. Services Provider shall not process student data for any purpose other than providing, improving, developing, or maintaining the integrity of its cloud computing services, unless the provider receives express permission from the student's parent. Services Provider shall work with the student's school and district to determine the best method of collecting parental permission. KRS 365.734 defines "process" and "student data."
 - b. With a written agreement for educational research, Services Provider may assist an educational institution to conduct educational research as permitted by FERPA.
 - c. Pursuant to KRS 365.734, Services Provider shall not in any case process student data to advertise or facilitate advertising or to create or correct an individual or household profile for any advertisement purposes.
 - d. Pursuant to KRS 365.734, Services Provider shall not sell, disclose, or otherwise process student data for any commercial purpose.
 - e. Pursuant to KRS 365.734, Services Provider shall certify in writing to the agency that it will comply with KRS 365.734(2).
- 9. Services Provider shall report all known or suspected breaches of the data, in any format, to Dr. Dena Dossett, Chief, Accountability, Research, and Systems Improvement. The report shall include (1) the name, job title, and contact information of the person reporting the incident; (2) the name, job title, and contact information of the person who discover the incident; (3) the date and time the incident was discovered; (4) the nature of the incident (e.g. system level electronic breach, an electronic breach of one computer or device, or a breach of hard copies of records; (5) a description of the information lost or compromised; (6) the name of the electronic system and possible interconnectivity with other systems; (7) the storage medium from which information was lost or compromised; (8) the controls in place to prevent unauthorized use of the lost or compromised information; (9) the number of individuals potentially affected; and (10) whether law enforcement was contacted.
- 10. Services Provider shall securely and permanently destroy the data, and any and all hard and soft (electronic) copies thereof, upon the termination of this Agreement. Services Provider agrees to require all employees, contractors, or agents of any kind using JCPS data to comply with this provision. Services Provider agrees to document the methods used to destroy the data, and upon request, provide certification to JCPS that the data has been destroyed.

11. For purposes of this agreement and ensuring Services Provider's compliance with the terms of this Agreement and all application of the state and Federal laws, Services Provider designates Innovative Quality Solutions (or an alternative designee specified in writing) as the temporary custodian ("Temporary Custodian") of the data that JCPS shares with Services Provider. JCPS will release all data and information under this Agreement to Temporary Custodian. Temporary Custodian shall be responsible for transmitting all data requests and maintain a log or other record of all data requested and received pursuant to this Agreement, including confirmation of the return or destruction of the data as described below. JCPS or its agents may, upon request, review the records Services Provider is required to keep under this Agreement.
12. Services Provider acknowledges that any violation of this Agreement and/or the provisions of FERPA or accompanying regulations related to the nondisclosure of protected student information constitutes just cause for JCPS to immediately terminate this Agreement.

E. FINANCIAL COSTS OF DATA-SHARING

Each party shall be responsible for their portion of costs that may result from data sharing. Examples of potential costs to JCPS are costs associated with the compiling of student data requested under this agreement and costs associated with the electronic delivery of the student data to Services Provider.

No payments will be made under this Agreement by either party. Any payments to Services Provider will be made under services contract described in Paragraph B.1 above.

F. OBLIGATIONS OF JCPS

During the term of this Agreement, JCPS shall:

1. Prepare and deliver student demographic and academic data as defined in **Attachment A – Data File Description**. All items will be keyed to a "proxy" student identifier that is different from the official student ID. The link between the official and proxy IDs will not be disclosed by JCPS. No personally identifiable information will be provided to Services Provider.
2. After the initial data is provided for the requested student population, JCPS will not provide supplementary data for additional students.
3. Provide Data Stewardship training for data custodian.

G. LIABILITY

Services Provider agrees to be responsible for and assumes all liability for any claims, costs, damages or expenses (including reasonable attorneys' fees) that may arise from or relate to Services Provider's intentional or negligent release of personally identifiable

student, parent or staff data ("Claims"). Services Provider agrees to hold harmless JCPS and pay any costs incurred by JCPS in connection with any Claim. The provisions of this Section shall survive the termination or expiration of this Agreement.

H. TERMINATION

1. This Agreement may be terminated as follows, after notification via the United States Postal Service (certified mail or registered mail) or recognized overnight delivery service (e.g., UPS, DHL, or FedEx):
 - a. By either party immediately in the event of a material breach of this Agreement by another party.
 - b. By either party after thirty (30) days advance written notice to the other party, for any reason or no reason.
2. The confidentiality provisions of this Agreement shall survive the termination of this Agreement. If this Agreement is terminated by either party for material breach or for any other reason with thirty (30) days written notice, the confidential information shall be returned or destroyed within seven (7) days of the termination. If this Agreement terminates at the end of the term described in Section A, Services Provider shall return or destroy all confidential information on December 31, 2019.
3. Destruction of the confidential information shall be accomplished by utilizing an approved methods of confidential destruction, including shredding, burning or certified/witnessed destruction for physical materials and verified erasure of magnetic media using approved methods of electronic file destruction.

I. PUBLICATIONS AND COPYRIGHTS

Both parties recognize that each organization may have extant work that predates this agreement. If those materials and/or data are used in the course of this work, they remain the property of the original developer or researcher. If new materials are developed during the term of the services contract described in Paragraph B.1 above, ownership and copyright of such will be governed by the terms of the services contract.

J. MODIFICATION

No waiver, alteration or modification of the provisions of this Agreement shall be binding unless in writing and mutually agreed upon. Any modifications or additions to this Agreement must be negotiated and approved by both parties.

K. QUALITY OF SERVICES

JCPS reserves the right to review Services Provider's performance under this Agreement for effectiveness in serving the specific purposes as outlined in Paragraph

B.1. Failure of Services Provider to perform in a manner that meets or exceeds the quality standards for JCPS shall serve as grounds for termination of this Agreement.

L. BREACH OF DATA CONFIDENTIALITY

Services Provider acknowledges that the breach of this agreement or its part may result in irreparable and continuing damage to JCPS for which money damages may not provide adequate relief. In the event of a breach or threatened breach of this agreement by Services Provider, JCPS, in addition to any other rights and remedies available to JCPS at law or in equity, may be entitled to preliminary and permanent injunctions to enjoin and restrain the breach or threatened breach. If the United States Department of Education's Family Policy Compliance Office determines that Services Provider has violated paragraph 34 C.F.R. 99.31(a)(6)(iii)(B), JCPS may not allow Services Provider access to personally identifiable information from education records for at least five (5) years.

M. CHOICE OF LAW AND FORUM

This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Kentucky. Any action or claim arising from, under or pursuant to this Agreement shall be brought in the Jefferson County, Kentucky, Circuit Court, and the parties expressly waive the right to bring any legal action or claims in any other courts.

N. WAIVER

No delay or omission by either party in exercising any right under this Agreement shall operate as a waiver of that or any other right or prevent a similar subsequent act from constituting a violation of this Agreement.

O. SEVERABILITY

If any part of this Agreement is held to be void, against public policy or illegal, the balance of this Agreement shall continue to be valid and binding.

P. NOTICES

Any notices or reports by one party to the other party under this Agreement shall be made in writing, to the address shown in the signature portions of this Agreement, 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.

Q. RELATIONSHIP OF PARTIES

JCPS is not an employee, agent, partner or co-venturer of or with Services Provider. Neither Services Provider nor JCPS shall represent or imply to any party that it has the power or authority to enter into a contract or commitment in the name of or on behalf of the other, or to otherwise bind the other.

R. ENTIRE AGREEMENT; ASSIGNMENT

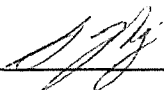
This Agreement, together with any attachments hereto and any amendment or modifications that may hereafter be agreed to, constitute the entire understanding between the parties with respect to the subject-matter hereof and supersede any and all prior understandings and agreements, oral and written, relating hereto. Services Provider shall not assign this Agreement or any portion thereof to a subcontractor or other third party without the prior written consent of JCPS, and any attempted assignment without such prior written consent in violation of this Section R shall automatically terminate this Agreement.

AGREED:

Innovative Quality Solutions, Inc. DBA IQS Research

308 North Evergreen Road, Suite 200

Louisville, Kentucky 40243

BY:  _____

Name: Shawn Herbig

Title: President

Date: 10/17/2018

AGREED:

Jefferson County Board of Education

3332 Newburg Road

Louisville KY 40218

BY: _____

Name: _____

Title: _____

Date: _____

Attachment A

CONFIDENTIAL INFORMATION TO BE DISCLOSED

Names, email addresses, and phone numbers of parents of JCPS students