

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 the UNIVERSITY OF LOUISVILLE RESEARCH FOUNDATION, INC., a Kentucky nonprofit corporation (hereinafter "Contractor") with its principal place of business at 300 East Market Street, Louisville, KY 40202.

WITNESSETH:

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

WHEREAS, Contractor has held itself out to be competent and capable of performing the services desired by the Board;

NOW, THEREFORE, in consideration of the premises, the mutual covenants and conditions contained in this Contract, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the Board and Contractor (individually, a "Party" and collectively, the "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, as defined below, 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"), which 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 provision of the Regulations, the provision in the Regulations shall prevail.

ARTICLE II

Services

During the Term, as defined below, Contractor agrees to perform (a) the services described below, and (b) any other services that are agreed in writing by the Board and Contractor during the Term in an addendum to this Contract as provided in Article VIII (hereinafter "Services"), of a quality and in a manner that is within the highest standards of Contractor's profession or business. Compensation:

Deborah L. Powers, Ed.D. will serve as the Project Lead for the 2019 Jefferson County Public Schools (hereinafter "JCPS") Backpack Summer Camp initiative. In this role, she will work with JCPS staff and community-based partner organizations (hereafter "community partners") to plan and

implement a system of camps offering personalized, student-centered learning opportunities with a strong emphasis on literacy and numeracy skills, primarily for JCPS students entering grades 4 through 9 in the 2019-20 school year. The JCPS Backpack Summer Camps will be developed and implemented as a collaboration between JCPS and community partners that offer summer programming. Certified JCPS teachers and staff from community partners will create engaging camp experiences that include rich learning opportunities for JCPS students.

The specific duties of the Project Lead, with the support of JCPS staff and community partners, include, but are not limited to: the development of plans and timelines; convening and leading planning meetings; determining academic requirements for camp programming; developing the RFP and scoring rubric for proposals; selecting community partners, sites and programs for JCPS support; budget development; identification of and engagement with community partners to serve as host for camps; coordination of transportation and food service for JCPS students; recruitment of teachers; identification of JCPS students to attend; management of workflow and assignment of tasks; oversight of plan implementation and working closely with JCPS administration to ensure a successful program.

As compensation for the Services, 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 to the Chief Financial Officer of the Board, or his/her designee. If a schedule of progress payments is stated below, each invoice must specify the actual work performed. If payment of costs or expenses is authorized below, receipts must be attached to the invoice.

Contract Amount:

Deborah L. Powers, Ed.D will commit thirty percent (30%) effort to the project for a total of \$19,500.00 in salary. Fringe benefits are calculated at 33% of salary for an amount of \$6,435.00 for the period between October 31, 2018 through June 30, 2019, and indirect costs for off campus instruction are calculated at 26% of salary and fringe benefits for an amount of \$6,743 for such period, for a total Contract Amount of \$32,678.00.

Progress Payments (if not applicable, insert N/A):

Monthly invoices to be sent to: Rozy Kessinger, VanHoose Education Center, 3rd floor, 3322 Newburg Rd., Louisville, KY 40218.

Costs/Expenses (if not applicable insert N/A):

N/A

Fund Source:

General Fund.

ARTICLE III Term of Contract

This Contract shall be effective on October 31, 2018 (hereinafter "Effective Date"). Contractor shall begin performance of the Services no later than the Effective Date, and shall complete the Services no later than June 30, 2019, unless this Contract is modified as provided in Article VIII.

ARTICLE IV 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 shall be an independent contractor of the Board for all purposes of this Contract. Nothing in this Contract is intended to create an employer-employee relationship, joint venture relationship, or partnership between the Board and Contractor or any personnel of Contractor assigned to this project by Contractor, and the Parties shall characterize their relationship as an independent contractor relationship for tax purposes and all other purposes. The Board shall have the right to exercise control and direction as to the results only and not as to the methods by which Contractor performs or otherwise provides the Services, it being recognized that Contractor will be exercising Contractor's independent judgment. Contractor and any personnel assigned to this project by Contractor shall have no claim under this Contract or otherwise against the Board for workers' compensation, unemployment compensation, vacation pay, sick leave, retirement benefits, Social Security benefits, disability insurance benefits, unemployment insurance benefits, or any other benefits. The Board shall not withhold on behalf of Contractor, or in any way be responsible for the payment of, any federal, state, or local income taxes, F.I.C.A. taxes, F.U.T.A. taxes, unemployment compensation or workers' compensation contributions, Social Security, or any other payments or withholdings pursuant to any law or requirement of any governmental body or agency on behalf of Contractor, and all such withholdings, payments, or obligations shall be the sole responsibility of Contractor. The Board shall issue to Contractor a Form 1099 statement for Contractor's federal and state income tax reporting purposes. Contractor warrants that Contractor will not take a position that is inconsistent with such independent contractor status, including in any court proceeding. This provision shall survive the termination of this Contract..

Contractor shall at all times during the Term of this Contract comply with all applicable federal, state and local statutes, regulations, ordinances, rules and policies. Contractor shall obtain and keep in force all licenses, permits and certificates necessary for the performance of the Services.

Contractor, as an agency of the Commonwealth of Kentucky, although vested with sovereign immunity, is subject to the Board of Claims Act, KRS 49.010 through 49.180 (hereinafter the "Act"). Claims against Contractor relating to personal injury or property damage may be filed and decided under the provisions of the Act. To the extent permitted by the Act, Contractor will 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 Contractor himself and any personnel of Contractor assigned to this project by Contractor, in

connection with the performance of this Contract. To the extent permitted by the Act, 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 shall survive the 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.

Contractor shall require all employees of Contractor and/or subcontractors performing services on JCPS school premises during JCPS school hours under this Contract 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 were found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.

ARTICLE V Equal Opportunity

During the Term, 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 affiliation 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 and made a part of this Contract as if set forth in full herein.

ARTICLE VI 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 following 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:

A. IT SHALL BE A BREACH OF ETHICAL STANDARDS FOR THE CONTRACTOR OR ANY BOARD EMPLOYEE TO PARTICIPATE DIRECTLY OR INDIRECTLY IN ANY PROCEEDING OR APPLICATION, REQUEST FOR RULING OR OTHER DETERMINATION, CLAIM OR CONTROVERSY, OR OTHER PARTICULAR MATTER PERTAINING TO ANY CONTRACT OR SUBCONTRACT, AND ANY SOLICITATION OF PROPOSAL THEREFOR, IN WHICH TO HIS KNOWLEDGE:

(a) HE, OR ANY MEMBER OF HIS IMMEDIATE FAMILY HAS A FINANCIAL INTEREST THEREIN; OR

(b) A BUSINESS OR ORGANIZATION IN WHICH HE OR ANY MEMBER OF HIS IMMEDIATE FAMILY HAS A FINANCIAL INTEREST AS AN OFFICER, DIRECTOR, TRUSTEE, PARTNER OR EMPLOYEE, IS A PARTY; OR

(c) ANY OTHER PERSON, BUSINESS OR ORGANIZATION WITH WHOM HE OR ANY MEMBER OF HIS IMMEDIATE FAMILY IS NEGOTIATING OR HAS AN ARRANGEMENT CONCERNING PROSPECTIVE EMPLOYMENT, IS A PARTY, DIRECT OR INDIRECT PARTICIPATION SHALL INCLUDE, BUT NOT BE LIMITED TO INVOLVEMENT THROUGH DECISION, APPROVAL, DISAPPROVAL, RECOMMENDATION, PREPARATION OR ANY PART OF A PURCHASE REQUEST, INFLUENCING THE CONTENT OF ANY SPECIFICATION OR PURCHASING STANDARD, RENDERING OF ADVICE, INVESTIGATION, AUDITING OR IN ANY OTHER ADVISORY CAPACITY.

B. IT SHALL BE A BREACH OF ETHICAL STANDARDS FOR ANY CONTRACTOR OR ANY OTHER PERSON TO OFFER, GIVE OR AGREE TO GIVE, ANY BOARD EMPLOYEE OR FORMER EMPLOYEE, OR FOR ANY BOARD EMPLOYEE OR FORMER EMPLOYEE TO SOLICIT, DEMAND, ACCEPT OR AGREE TO ACCEPT FROM ANOTHER PERSON, A GRATUITY OR AN OFFER OF EMPLOYMENT IN CONNECTION WITH ANY DECISION, APPROVAL, DISAPPROVAL, RECOMMENDATION, PREPARATION OF ANY PART OF A PURCHASE REQUEST, AUDITING OR IN ANY OTHER ADVISORY CAPACITY IN ANY PROCEEDING OR APPLICATION, REQUEST FOR RULING OR ANY OTHER DETERMINATION, CLAIM OR CONTROVERSY, OR OTHER PARTICULAR MATTER PERTAINING TO ANY CONTRACT OR SUBCONTRACT AND ANY SOLICITATION OR PROPOSAL THEREFOR.

C. IT SHALL BE A BREACH OF ETHICAL STANDARDS FOR ANY PAYMENT, GRATUITY OR OFFER OF EMPLOYMENT TO BE MADE BY OR ON BEHALF OF A SUBCONTRACTOR UNDER A CONTRACT TO THE PRIME CONTRACTOR OR HIGHER TIER CONTRACTOR OR ANY PERSON ASSOCIATED THEREWITH, AS AN INDUCEMENT FOR THE AWARD OF A SUBCONTRACTOR OR ORDER.

D. IT SHALL BE A BREACH OF ETHICAL STANDARDS FOR ANY PUBLIC EMPLOYEE OR FORMER EMPLOYEE KNOWINGLY TO USE CONFIDENTIAL INFORMATION FOR HIS ACTUAL OR ANTICIPATED PERSONAL GAIN, OR THE ACTUAL OR ANTICIPATED PERSONAL GAIN OF ANY OTHER PERSON.

ARTICLE VII

Changes

The Board and Contractor may at any time, by mutual agreement set forth in a written addendum to this Contract, 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 to this Contract, make changes in the time within which the Services are to be performed; the schedule of progress payments, if progress payments are authorized in Article III; and mutual Termination of this Contract.

ARTICLE VIII

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. Upon termination under this Article IX, the rights and obligations of the Parties shall be as set forth in Article XI.

ARTICLE IX

Termination for Default

The Board may, by written notice of default to Contractor, terminate the whole or any part of this Contract, (a) the commission by Contractor or any personnel assigned to this project by Contractor of any act which is a violation of the provisions of Article VI or assisting or participating in or knowingly benefitting from any act by any employee of the Board which is a violation of such provisions, (b) an occurrence of dishonest, fraudulent or illegal conduct or misappropriation of Board funds by Contractor or any personnel assigned to this project by Contractor, (c) the indictment or entry of a guilty plea or a plea of no contest to a felony offense by Contractor or any personnel assigned to this project by Contractor, or (d) a material breach of this Contract by Contractor, provided that the Board has first given written notice to Contractor describing the breach with reasonable specificity and demanding that Contractor take action to cure the breach, but Contractor has failed to cure the breach within a period of five (5) days after receipt of notice specifying the breach or failure. In the event of termination under this Article X, 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 X shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract. Upon termination under this Article X, the rights and obligations of the Parties shall be as set forth in Article XI.

ARTICLE X

Obligations Upon Termination

Upon the termination of this Contract under either Article IX or Article X, (a) each Party shall be required to carry out any provisions which contemplate performance by or impose obligations on such Party after the effective date of termination, (b) termination shall not affect any liability or other obligation which has accrued prior to the effective date of termination, including, with limitation, any liability or loss or damage on account of a breach of this Contract, and (c) the Board shall have no obligation to pay any compensation to Contractor for periods after the effective date of termination, except the obligation to pay any compensation that accrued before the effective date of termination.

ARTICLE XI

Disputes

Any differences or disagreements arising between the Parties concerning the rights or liabilities under this Contract, or any addendum 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. If, however, the Board publishes or permits research with the Works to an outside party, beyond the Jefferson County Public Schools, then the Board shall provide Contractor, acting through the University of Louisville College of Education and Human Development, the first right of refusal to participate in the study, publications, or other dissemination efforts.

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.

The provisions in this Article XIII shall survive the termination of this Contract.

ARTICLE XIII Proprietary Information

At all times during the Term and thereafter, Contractor and all personnel of Contractor assigned by Contractor to this project will hold in strictest confidence and will not disclose, use, or publish any Proprietary Information, as defined below, of the Board except as such disclosure, use or publication may be required in connection with Contractor's performance of the Services, or unless the Board expressly authorizes such disclosure, use or publication in writing. The term "Proprietary Information" shall mean all information, data and records relating to the Board's business, business plans, trade secrets, financial statements, services, personnel information, student information, and any other proprietary information of the Board which the Board treats as confidential with respect to the general public. For purposes of this Article XIV, the term "Proprietary Information" shall not include information that Contractor can show by competent proof (a) was known to Contractor prior to disclosure by the Board and not subject to a duty or obligation of confidentiality or nondisclosure on the part of Contractor; (b) was generally known to the public at the time the Board disclosed the information to Contractor; (c) became generally known to the public after disclosure by the Board through no act or omission of Contractor; (d) was disclosed to Contractor by a third party having a bona fide right both to possess the information and to disclose it to Contractor; or (e) is otherwise public information under applicable law. Upon the termination of this Contract for whatever reason, Contractor will deliver to the Board, or if agreed by the Board in writing will destroy, all data, records, reports, summaries, plans, notes, memoranda and documents, together with all copies thereof (whether in tangible or intangible form), and any other material containing or disclosing any Proprietary Information of Board. This Article XIII shall survive the termination of this Contract.

ARTICLE XIV
Contract Administrator

The Board shall appoint a Contract Administrator for the purposes of daily administrative decision-making pertaining to this 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 XV
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 XVI
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. Any action or claim against Contractor arising from, under or pursuant to this Contract shall be brought under the Board of Claims Act, KRS 49.010 through 49.180. Any action or claim against the Board arising from, under or pursuant to this Contract shall be brought in the Jefferson County, Kentucky, Circuit Court. Each Party expressly waives the right to bring any legal action or claims in any other forum.
- 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. If Contractor has access to student records, Contractor shall at all times (a) comply with the Family Educational Rights and Privacy Act of 1974 ("FERPA"), and (b) limit the access to those records by Contractor's employees and other personnel assigned to this project to those persons for whom access is essential to perform this Contract. Without limitation of the preceding sentence, Contractor agrees to:

In all respects comply with the provisions of FERPA. For purposes of this Contract, "FERPA" includes the requirements of Chapter 99 of Title 34 of the Code of Federal Regulations.

Use any such data for no purpose other than to fulfill the purposes of this Contract, and not share any such data with any person or entity other than Contractor and its employees, contractors and agents, without the approval of the Board.

Require all employees, contractors and agents of Contractor to comply with all applicable provisions of FERPA with respect to any such data.

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 this Contract.

Conduct services in a manner that does not permit the identification of an individual student by anyone other than employees, contractors or agents of Contractor having a legitimate interest in knowing such personal identification, and not disclose any such data in a manner that would permit the identification of an individual student in any published results of studies.

Destroy or return to the Board any such data obtained under this Contract within thirty days after the date when it is no longer needed by Contractor for the purposes of this Contract.

- G. If this Contract is procured by the Board under KRS Chapter 45A, 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 the Effective Date.

Contractor's Social Security Number or Federal Tax ID Number: 61-1029626

JEFFERSON COUNTY BOARD OF
EDUCATION

UNIVERSITY OF LOUISVILLE
RESEARCH FOUNDATION, INC.
CONTRACTOR

By: _____

Martin Pollio, Ed.D.

Title: Superintendent

By: _____

Carla Hilse

Carla Hilse

Title: Assistant Director, OSPA

10/23/18
19-0361

Cabinet Member: Carmen Coleman

CC
(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 Specialist

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.

Jonathan Lowe

Print name of person making Determination

Chief of Staff

School or Department

Signature of person making Determination

Date

10-23-2018

University of Louisville Research Foundation, Inc.

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

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