

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 New Leaders, Inc. (hereinafter "Contractor"), with its principal place of business at 30 West 26th Street, 10th Floor, New York, NY 10010. (Bk)

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 will provide the Emerging Leaders program to a cohort of 25 assistant principals and other district leaders with documented leadership experience and KY Administrative Certification for Principal K-12. The program components include the following services to be rendered by the Contractor: (Bk)

- a) Deliver Emerging Leaders Program Orientation – A single two (2) hour, on-site meeting;
- b) Deliver Intensives – Three full-day, on-site sessions
- c) Deliver Learning Cycles – Five (5), on-site sessions, which include five (5) Web-Based Tutorials
- d) Provide Learning Meetings – Four (4), two-hour, on-site meetings; and

- e) Furnish one-on-one Coaching sessions – Four (4), three-hour sessions per participant, on-site and virtual.

Dates and locations of all trainings shall be agreed upon by the contractor and the JCPS Manager of Teacher and Leader Development.

Both parties agree to the commitments referenced to in Exhibit A to facilitate delivery of services.

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>Not to Exceed \$375,000.00</u>
Progress Payments (if not applicable, insert N/A):	<u>Within 30 days receipt of approved invoice for services performed</u>
Costs/Expenses (if not applicable insert N/A):	<u>N/A</u>
Fund Source:	<u>Federal Grant, Project #456B</u>

ARTICLE IV Term of Contract

Contractor shall begin performance of the Services on January 9, 2019 and shall complete the Services no later than June 30, 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 notice to 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.

To the extent permitted by law, Contractor Each party agrees to hold harmless, indemnify, and defend the ~~Board~~ other party and its members, agents, and employees, successors and assigns 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 ("Loss"), in connection with the performance of this Contract, except for such Loss as is caused in whole or in part by the claiming party's own gross or willful negligence. Contractor also agrees to hold harmless, indemnify, and defend the Board and its members, agents, and employees from any and all claims or losses ("Loss to Supplier") incurred by any supplier, contractor, or subcontractor furnishing work, services, or materials to Contractor in connection with the performance of this Contract, except for such Loss to Supplier as is caused in whole or in part by the Board's gross or willful negligence. 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, except minor modifications ("Minor Modifications") may be made by Contractor and Board representatives as described herein. Minor Modifications are changes to the Contract that: (a) do not change the intent of this contract, including the inherent qualities of Services; (b) do not increase the total cost of the Services; and (c) afford Contractor at least one month prior notice before Minor Modification takes effect, including but not limited to any modification to the delivery schedule for services. 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. LBN

ARTICLE IX Termination for Convenience of the Board

~~The Board~~ Each party may terminate this Contract in whole or in part at any time by giving written notice to ~~Contractor~~ the other party 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. LBN

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~~ ten business 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 Board shall have the obligation to show proof to Contractor that it sought to mitigate such excess 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. LBN

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~~ LBN

~~Contract. Contractor agrees that the Works are "works for hire" and Contractor assigns all right, title and interest in the Works to the Board.~~

- (a) The Parties acknowledge and agree that, as between the parties, Contractor retains and exclusively owns all right, title and interest in and to its intellectual property rights, including but not limited to: (i) inventions, patents and patent applications; (ii) trademarks, service marks, designs, logos, trade names, internet domain names; (iii) copyrights or other works of authorship (whether or not copyrightable); (iv) trade secrets, know-how, processes, methodologies, techniques, ideas, and concepts; and (v) technology and software (collectively the "New Leaders IP"). For the avoidance of doubt, the New Leaders IP includes any works authored or developed by Contractor in connection with this Contract. No license is granted in, to or under the New Leader IP other than as expressly set forth herein.
- (b) Board employees participating in the Services ("Participants") may receive copies of Contractor's proprietary tools, job aids, handouts, or similar materials with ongoing practical application (collectively, "Tools") as part of their participation. Participants will receive a limited license, as set forth on the Tools, to use the Tools for purposes of their work in Board and for their personal and professional development. "Tools" does not include curriculum or instructional material prepared by Contractor to deliver the Services.

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~~ notice to 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.

ARTICLE XVI CONFIDENTIALITY

- A. "Confidential information" shall mean information of a confidential and proprietary nature revealed by or through a party (whether in writing, orally or by another means) to the other party in connection with this Contract, including, without limitation, (i) all forms and types of educational methods and training materials, financial, business, scientific, technical, economic, or engineering information including patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs or codes, whether tangible or intangible, and whether or how stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing; (ii) information traditionally recognized as proprietary secrets; (iii) all copies of the foregoing or any analyses, studies or reports that contain, are based on, or reflect any of the foregoing, (iv) all program evaluation data obtained in accordance with Exhibit A; and (v) any information marked as confidential by a Party.

- B. Each Party acknowledges that, through the performance of the Services, it may have access to Confidential Information. Confidential Information provided by New Leaders includes but is not limited to any materials marked as confidential by New Leaders. Each Party agrees not to publish or otherwise disclose to any person, without specific permission by the other Party, any Confidential Information, nor to use said Confidential Information for any purposes not related to the Services, unless any Confidential Information (i) is or becomes generally known to and available for use by the public other than as a result of a Party's acts or omissions in breach of this Contract, or (ii) is required to be disclosed pursuant to applicable law or court order. In the event that a Party is requested or required by law or court order to disclose any Confidential Information, that Party will provide the other Party with prompt notice of such request or requirement in order to enable the other Party to seek an appropriate protective order or other remedy (and if a Party seeks such an order or remedy, the other Party will cooperate with it, at the expense of the Party seeking the order or remedy, in connection therewith). Upon expiration or termination of the Contract, or at any other time a Party ("Disclosing Party") may request in writing, the other Party ("Receiving Party") will deliver to Disclosing Party or, at Disclosing Party's option, destroy, all Confidential Information and other documents relating thereto, that Receiving Party may then possess or have under his or her control, provided that Receiving Party will not be required to deliver to Disclosing Party or destroy any materials in Receiving Party's possession that were obtained or prepared by Receiving Party prior to the engagement hereunder or outside the scope of the Services. Nothing in this Agreement shall allow for the destruction of documents in a manner not in accordance with the Public School District Records Retention Schedule set forth by the Kentucky State Archives and Records Management Division (the "Retention Schedule"). In the event that a request is made to have records destroyed prior to the permissible destruction period under the Retention Schedule, the Receiving Party will notify the Disclosing Party that records shall not be destroyed at that time, and the records shall be retained until the date of destruction specified by the Retention Schedule. The parties hereto agree that Disclosing Party would suffer irreparable harm from a breach by Receiving Party of any of the covenants or agreements contained in this Article XVI. In the event of an alleged or threatened breach by Receiving Party of any of the provisions of this Article XVI, Disclosing Party or its successors or assigns may, in addition to all other rights and remedies existing in its favor, apply to any court of competent jurisdiction for specific performance and/or injunctive or other relief in order to enforce or prevent any violations of the provisions hereof without the requirement of posting any bond.

IN WITNESS WHEREOF, the Parties hereto have executed this Contract to be effective as of January 9, 2019.

Contractor's Social Security Number or Federal Tax ID Number: 04-3519203

JEFFERSON COUNTY BOARD OF
EDUCATION

By: _____

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

New Leaders, Inc.
CONTRACTOR

By: Jean Desravines

Title: Jean Desravines
CEO

By: Laura Kadetsky

Title: Laura Kadetsky
General Counsel

Cabinet Member: Dr. Devon Horton

DH
(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 Specialists to provide leadership development training and coaching.

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.

Dr. Devon Horton

Print name of person making Determination

Chief of Schools

School or Department

Devon Horton

Signature of person making Determination

12-19-18

Date

New Leaders, 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

EXHIBIT A -- Commitments of Board and Contractor Related to Delivery of Services

Both Parties agree to the following commitments as conditions for the delivery of services:

- 1) The Board will coordinate with Contractor to identify a mutually acceptable implementation calendar prior to program kick-off.
- 2) Any costs associated with participating school leaders taking part in the Services during training days shall be covered by the Board, including travel costs, meals not included in training, and costs for substitutes.
- 3) The Board will ensure attendance at training of participating school leaders during the program except due to illness or emergency.
- 4) The Board will provide adequate meeting space for in-person program sessions.
- 5) The Board will enter into a data sharing agreement with Contractor if required pursuant to the Board's policies.
- 6) The Board will cooperate with Contractor to develop program metrics for both Parties' evaluation purposes and to assess progress against those metrics.
- 7) The Board will ensure participation in any survey, assessment, other data collection tools, or the collection of non-confidential data for the purposes of evaluating the impact of the training.
- 8) The Board will respond to Contractor' inquiries and updates in a reasonably timely manner.
- 9) The Board will provide Contractor at least thirty (30) days' notice of any proposed cancellations or changes in the implementation calendar and work with Contractor to identify mutually acceptable alternative implementation dates.
- 10) The Board will review and provide comments on session materials reasonably in advance of each session to allow Contractor to make appropriate revisions; comments shall be consolidated through one Board point of contact and shall result in one round of revisions by Contractor.
- 11) The Board will engage in monthly or as needed, check-ins with Contractor to ensure delivery of Services aligns with Board's expectations.
- 12) The Board will engage in planning meetings with Contractor, as needed.
- 13) The Board will establish agreements with Contractor around outcomes for participants around practice as a result of these programs.
- 14) The Board will provide information regarding Board's strategies, frameworks, and expectations to inform design and delivery of the programs.