

K.C.B. 7-1-19

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 FastBridge Learning (hereinafter "Contractor"), with its principal place of business at 150 South Fifth Street, Suite 600 Minneapolis, MN 55402.

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 provide one on-site training to each of the six (6) school zones (three elementary, one middle, and one high) for the Social, Academic, and Emotional Behavioral Risk Screener for Students (SAEBRS). Each training shall include instruction on behavior screening, progress monitoring and instructions on how to connect with the Positive Intervention Behavior System (PBIS). Participants shall learn how to use SAEBSRS to monitor student behavior, track on-going progress when intervention is implemented, and evaluate whether interventions have made the desired changes in student behavior. Dates and locations of all trainings shall be agreed upon by the Contractor and the



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>\$18,000</u>
Progress Payments (if not applicable, insert N/A):	<u>N/A</u>
Costs/Expenses (if not applicable insert N/A):	<u>N/A</u>
Fund Source:	<u>CCEIS</u>

ARTICLE IV Term of Contract

Contractor shall begin performance of the Services on July 22, 2019 and shall complete the Services no later than November 26, 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 July 17, 2019.

Contractor's Social Security Number or Federal Tax ID Number: 47-3157313

JEFFERSON COUNTY BOARD OF
EDUCATION

FastBridge Learning LLC
CONTRACTOR

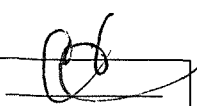
By: _____

By: 

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

Title: Dan Wallek
Chief Operating Officer

Cabinet Member: Carmen Coleman


(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: Publisher of Service

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

State the type of service: _____

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. Katy DeFerrari

Print name of person making Determination

Office of Climate and Culture

School or Department

[Signature]
Signature of person making Determination

6/11/19
Date

FastBridge Learning

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

Data Sharing/Use Agreement
Between
Jefferson County Board of Education
And
FastBridge Learning, LLC

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 ("Data Provider"), and FastBridge Learning, LLC, a limited liability company organized under the laws of Minnesota ("Contractor") describes the project proposed by Contractor, and the means to be used by Contractor to ensure the confidentiality and security of information and data exchanged between Data Provider and Contractor.

A. PERIOD OF THE AGREEMENT

This Agreement shall be effective as of and will terminate unless terminated earlier by either party pursuant to Section H.

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

1. **SCOPE OF WORK/PROJECT DESCRIPTION** – The use of data received under this agreement is limited to the purpose and scope described in Exhibit A. Only data elements included in Exhibit A will be provided to Contractor under this Agreement.
2. Data Provider and Contractor agree that Contractor is an organization to which Data Provider can disclose, upon written request, personally identifiable information from an education record of a student, as defined in 34 CFR 99.3, under the "studies exception" of the Family Educational Rights and Privacy Act, 20 U.S.C. 1232(g) and 34 C.F.R. 99.31 (a)(6) ("FERPA"), because the disclosure is to conduct studies for, or on behalf of, Data Provider to: develop, validate, or administer predictive tests; administer student aid programs; or improve instruction.
3. Data Provider shall disclose to Contractor, 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 "studies exception" of FERPA, 34 C.F.R. 99.31 (a)(6), when the disclosure is to conduct studies for, or on behalf of, Data Provider to: develop, validate, or administer predictive tests; administer student aid programs; or improve instruction. The confidential data including student and non-student information to be disclosed is described in a document attached to this Agreement as **Exhibit A**. Contractor shall use personally identifiable information from education records and other records in order to perform the studies described in Exhibit A. The description of the studies, as included in Exhibit A, shall include the purpose and scope of the studies, the duration of the studies,

a specific description of the methodology of disclosure and an explanation as to the need for confidential data to perform these studies. Contractor shall notify Data Provider and Data Provider shall provide written consent, if approved, of any changes to the list of disclosed data necessary for the studies or any changes to the scope, purpose or duration of the studies themselves. Any agreed upon changes to the data disclosed or to the studies shall be reduced to writing and included in Exhibit A.

4. Contractor and Data Provider shall work cooperatively to determine the proper medium and method for the transfer of confidential data between each other. Contractor shall confirm the transfer of confidential data and notify Data Provider 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 Contractor to Data Provider.

C. CONSTRAINTS ON USE OF DATA

1. Contractor agrees that the project shall be conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of Contractor that have legitimate interests in the information.
2. Contractor will report only aggregate data and will not report any individual data, nor will data be reported in a manner that permits indirect identification of any individual.
3. Contractor will not contact the individuals included in the data sets without obtaining advance written authorization from Data Provider.
4. Contractor 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 Data Provider.
5. Contractor shall use the data only for the purpose described in Exhibit A. The data shall not be used for personal gain or profit.

D. DATA CONFIDENTIALITY AND DATA SECURITY

Contractor agrees to the following confidentiality and data security statements:

1. Contractor acknowledges that the data is confidential data and proprietary to Data Provider, and agrees to protect the data from unauthorized disclosures and to comply with all applicable Data Provider, Local, State and Federal confidentiality laws and regulations including but not limited to FERPA; the Privacy Act of 1974, 5 U.S.C. 552a; 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.; the Kentucky Open Records Act, KRS 61.820 et seq.; and the California Education Code.

2. If the performance of this Agreement involves the transfer by Data Provider to Contractor of any data regarding any Data Provider student that is subject to FERPA, Contractor 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 Project, and not share any such data with any person or entity other than Contractor and its employees, contractors and agents, without the approval of Data Provider.
 - c. Require all employees, contractors and agents of Contractor 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 Project.
 - e. Conduct the Project in a manner that does not permit the identification of an individual student by anyone other than employees, contractors or agent 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.
 - f. Destroy or return to Data Provider any such data obtained under this Agreement within thirty days (30) after the date within it is no longer needed by Contractor for the purposes of the Project.
 - g. If free or reduced price lunch eligibility data (i.e., free or reduced price lunch eligibility data which is the student poverty indicator for most education programs) is to be released to the Researcher, then the Data Provider shall disclose this data to the Contractor, upon written request utilizing the U.S. Department of Agriculture prototype request and confidentiality agreement, and upon the Data Provider agreeing that the Contractor has demonstrated that disclosure is allowed by 7 C.F.R. 245.6. A description of any data protected by 7 C.F.R. 245.6 which is to be disclosed under this agreement shall be included in Exhibit A. Any agreed upon changes to the data disclosed or to the studies shall be reduced to writing and included in Exhibit A to this agreement.
3. Contractor 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 Contractor 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 Contractor shall use all reasonable efforts to provide Data Provider with prior notice before disclosure so that Data Provider may seek a protective order or other appropriate remedy to prevent the disclosure or to ensure Data Provider's compliance with the confidentiality requirements of federal or state law; provided, however, that Contractor 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, Contractor will only disclose that portion of confidential and otherwise personally identifiable data that Contractor is legally required to disclose.

4. Contractor shall not distribute, reprint, alter, sell, assign, edit, modify or create derivative works or any ancillary materials from or with the data, other than publications permitted under Section I of this Agreement.
5. Contractor shall not use data shared under this Agreement for any purpose other than the goals outlined in this Agreement. Nothing in this Agreement shall be construed to authorize Contractor to have access to additional data from Data Provider that is not included in the scope of this Agreement (or addenda). Contractor understands that this Agreement does not convey ownership of the data to Contractor.
6. Contractor shall take reasonable security precautions and protections to ensure that persons not authorized to view the data do not gain access to the data as described in **Exhibit C**. 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 confidentiality agreement or nondisclosure statement, attached as **Exhibit B**, and maintain copies of signed confidentiality agreements or nondisclosure 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 Contractor 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"), Contractor 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. Contractor shall not re-disclose, without the written consent of Data Provider, 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. Contractor agrees to cooperate with Data Provider in complying with the response, mitigation, correction, investigation, and notification requirements of the Act.
 - e. Contractor agrees to undertake a prompt and reasonable investigation of any breach as required by KRS 61.933.

8. If Contractor 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"), Contractor agrees that:
9. Contractor 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. Contractor 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."
10. With a written agreement for educational research, Contractor may assist an educational institution to conduct educational research as permitted by FERPA.
11. Pursuant to KRS 365.734, Contractor 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.
12. Pursuant to KRS 365.734, Contractor shall not sell, disclose, or otherwise process student data for any commercial purpose.
13. Pursuant to KRS 365.734, Contractor shall certify in writing to the agency that it will comply with KRS 365.734(2).
14. Contractor 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.
15. Contractor shall securely and permanently destroy the data, and any and all hard and soft (electronic) copies thereof, upon the termination of this Agreement as described in Exhibit D. Contractor agrees to require all employees, contractors, or agents of any kind using Data Provider data to comply with this provision. Contractor agrees to document the methods used to destroy the data, and upon request, provide certification to Data Provider that the data has been destroyed.
16. For purposes of this agreement and ensuring Contractor's compliance with the terms of this Agreement and all application of the state and Federal laws, Contractor designates Dan Wallek (or an alternative designee(s) specified in **Exhibit D**) as the temporary custodian ("Temporary Custodian") of the data that Data Provider shares with Contractor. Data Provider 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. Data Provider or its agents may, upon request, review the records Contractor is required to keep under this Agreement.

17. Contractor has the right, consistent with scientific standards, to present, publish, or use student results it has gained in the course of its analysis, but only if the publication, presentation, or use does not include personally identifiable information of parents, students, or teachers, and not outside the bounds of a project.
18. Should Contractor use or collect data for conducting a research project, Contractor will separately submit an external research request through Data Provider's online system: <https://assessment.jefferson.kyschools.us/DRMS/>.
19. Should Contractor present, publish, or use student results it has gained in the course of its analysis, Contractor shall adhere to the following terms:
 - a. Contractor shall not publish, present, or use reports that include a cell size of less than 10. Reports must mask these cells so that the results are not revealed.
 - b. Publications and reports of data and information shared, including preliminary descriptions and draft reports, shall involve only aggregate data and no personally identifiable information or other information that could lead to the identification of any student, parent, or teacher.
 - c. No less than fifteen (15) business days prior to public disclosure of its data analysis, Contractor will provide Data Provider a manuscript or other draft of the proposed public disclosure. Within fifteen (15) business days following receipt thereof, Data Provider will notify Contractor in writing if the proposed disclosure contains any confidential information and specify the portions of the proposed disclosure requiring redaction.
 - d. Contractor shall provide Data Provider, free of charge and within thirty (30) days, a copy of any report that is generated using the data.
 - e. Reports or articles based on data obtained from Data Provider under this agreement must include the following acknowledgment: "This report/article was made possible, in part, by the support of the Jefferson County, Kentucky, Public Schools. Opinions contained in this report/article reflect those of the author and do not necessarily reflect those of the Jefferson County, Kentucky, Public Schools." Data Provider must be cited as the source of the data in all tables, reports, presentations, and papers.
20. Contractor 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 Data Provider 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 Data Provider 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 Contractor.

No payments will be made under this agreement by either party.

F. OBLIGATIONS OF DATA PROVIDER

During the term of this Agreement, Data Provider shall:

1. Prepare and deliver student demographic and academic data as defined in **Exhibit 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 Data Provider. No personally identifiable information will be provided to Contractor.
2. After the initial data is provided for the requested student population, Data Provider will not provide supplementary data for additional students.
3. Provide Data Stewardship training for data custodian.

G. LIABILITY

Contractor 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 Contractor’s intentional or negligent release of personally identifiable student, parent or staff data (“Claims”). Contractor agrees to hold harmless Data Provider and pay any costs incurred by Data Provider 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, Contractor shall return or destroy all confidential information when it is no longer needed for the project. Such return or destruction shall occur within seven (7) days after it is no longer needed for the project.
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. Detailed data destruction plan is provided in **Exhibit D**. Contractor's Certificate of Data Destruction is provided in **Exhibit E**.

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 project, ownership and copyright of such will remain with the developing entity.

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

Data Provider reserves the right to review Contractor's performance under this Agreement for effectiveness in serving the specific purposes as outlined in Paragraph B.1. Failure of Contractor to perform in a manner that meets or exceeds the quality standards for Data Provider shall serve as grounds for termination of this Agreement.

L. BREACH OF DATA CONFIDENTIALITY

Contractor acknowledges that the breach of this agreement or its part may result in irreparable and continuing damage to Data Provider for which money damages may not provide adequate relief. In the event of a breach or threatened breach of this agreement by Contractor, Data Provider, in addition to any other rights and remedies available to Data Provider 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 Contractor has violated paragraph 34 C.F.R. 99.31(a)(6)(iii)(B), Data Provider may not allow Contractor 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

Data Provider is not an employee, agent, partner or co-venturer of or with Contractor. Neither Contractor nor Data Provider 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 by the parties shall 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. Contractor shall not assign this Agreement or any portion thereof to a subcontractor or other third party without the prior written consent of Data Provider, and any attempted assignment without such prior written consent in violation of this Section R shall automatically terminate this Agreement.

AGREED:

FastBridge Learning, LLC
150 South Fifth Street, Suite 600
Minneapolis, MN 55402

BY:



Name: Dan Wallek

Title: Chief Operating Officer

Date: June 5, 2019

AGREED:

Jefferson County Board of Education
3332 Newburg Road
Louisville KY 40218

BY: _____

Name: , _____

Title: _____

Date: _____

61617751.2

Exhibit A

Contact Information:

Contractor Legal Name: FastBridge Learning, LLC

Primary Data Custodian Name: Dan Wallek

Title: Chief Operating Officer

Phone: 612-254-2534

Email: dan@fastbridge.org

Secondary Data Custodian Name: Kent Tangen

Title: Chief Technology Officer

Phone: 612-254-2534

Email: kent.tangen@fastbridge.org

Section I – to be completed by all requestors:

Describe purpose, scope and duration of project – use of data received under this agreement is limited to purpose and scope defined.

- Describe purpose and scope of the project.
 - The purpose of this project is for FastBridge Learning to provide Jefferson with our FAST application as a universal screening and progress monitoring tool for Social, Academic and Emotional Behavior for the 2019-2020 academic school year. To effectively utilize the FAST application for this purpose, we will require uploading student classroom rostering data from the district student information system in to our FAST application.
- Describe any grant, third party or other funding source for project.
 - From the FastBridge Learning perspective, we believe this project is being funded by district funds. The district would need to provide any further clarification on different use of funds.
- Describe how results of project will be used and include Vision 2020 strategy supported by the project.
 - This information will need to be provided by the district personnel.

Start Date of Project: September 2019

End Date of Project: June 2020

Data Being Requested – provide specific data elements needed to complete project.

Here are the required fields needed in the student classroom roster file for each student:

- State
- School District
- School
- Grade
- Course
- Section
- StudentID
- Student First Name
- Student Last Name
- TeacherID

- Teacher First Name
- Teacher Last Name
- Teacher Email
- Student Birth Date

The following data fields are optional to include in the student classroom roster file for each student, but will be left up to district personnel to make the decision to include or not.

- StudentStateID
- Student Gender
- Student Race
- Student Meal Status
- Student English Proficiency
- Student Native Language
- Student Service Code
- Student Primary Disability Type
- IEP Reading
- IEP Math
- IEP Behavior
- Gifted and Talented
- Section 504
- Mobility

Section II – Complete if Personally Identifiable Information (PII) is being requested:

- Justify your request for student/individual level data.
 - In order for us to identify which student took the screening assessments in which class for which teacher and where to store the student performance results, we need this unique student identifying data in our system to ensure accurate storage of results and retrieval for reporting within the FAST application. We also need some of this data to properly identify what grade level in our assessments to start at the right level.
- Explain why project could not be completed using aggregate-level data without PII.
 - The student data we require is limited PII data and is needed for storing of student assessment result data and for reporting purposes. Without this information, staff will be unable to generate appropriate reports for the purpose of this project.

Special requirements for requests for Personally Identifiable Information (PII)

- *Student-Level/Individual detail from education records can only be used to meet the purpose or purposes of the project as stated in this MOU for duration as defined.*
- *Contractor agrees to conduct the project in a manner that does not permit the personal identification of parents, students, individuals by anyone other than designated data custodians.*
- *Contractor agrees to destroy all PII from education records and confidential data from other records.*

If Free/Reduced Lunch status is needed on PII, complete Section III.

- As stated above, Free/Reduced Lunch status is an “optional” data field to supply in our FAST application. Since this is NOT needed in FAST and is a district personnel decision, we will not

proceed in completing Section III.

Section III

Complete if free or reduced -price lunch eligibility data is required for project

Disclosure of Free and Reduced Price Information

A. Purpose and Scope

Jefferson County Public Schools, DATA PROVIDER, and _____ acknowledge and agree that children's free and reduced price meal and free milk eligibility information obtained under provisions of Richard B. Russell National School Lunch Act (42 USC 1751 et. seq.) (NSLA) or Child Nutrition Act of 1966 (42 USC 1771 et. seq.) (CNA) and the regulations implementing these Acts is confidential information. This Agreement is intended to ensure that any information disclosed by the DATA PROVIDER to _____ about children eligible for free and reduced price meals or free milk will be used only for purposes specified in this Agreement and that the DATA PROVIDER and _____ recognize that there are penalties for unauthorized disclosures of this eligibility information.

B. Authority

Section 9(b) (6) (A) of the NSLA (42 USC 1758(b) (6) (A)) authorizes the limited disclosure of children's free and reduced price meal or free milk eligibility information to specific programs or individuals, without prior parent/guardian consent. Except that, the parent/guardian must be provided the opportunity to decline to share eligibility information prior to the disclosure for identifying children eligible for benefits under or enrolling children in the State Medicaid Program and the State children's health insurance program. Additionally, the statute specifies that for any disclosures not authorized by the statute, the consent of children's parents/guardians must be obtained prior to the disclosure.

The requesting agency certifies that it is currently authorized to administer the following program(s) and that information requested will only be used by the program(s) indicated.

Check all that Apply	Program	Information Authorized
<input type="checkbox"/>	<i>Medicaid or the State children's health insurance program (SCHIP), administered by a State or local agency authorized under titles XIX or XXI of the Social Security Act. Specify Program:</i>	All eligibility information unless parents elect not to have information disclosed.
<input type="checkbox"/>	<i>State health program other than Medicaid/SCHIP, administered by a State agency or local education agency. Specify Program:</i>	Eligibility status only; consent not required
<input type="checkbox"/>	<i>Federal health program other than Medicaid/SCHIP Specify Program:</i>	No eligibility information unless parental consent is obtained.
<input type="checkbox"/>	<i>Local health program Specify Program:</i>	No eligibility information unless parental consent is obtained.
<input type="checkbox"/>	<i>Child Nutrition Program under the National School Lunch Act or Child Nutrition Act Specify Program:</i>	All eligibility information; consent not required.
<input type="checkbox"/>	<i>Federal education program Specify Program:</i>	Eligibility status only; consent not required.
<input type="checkbox"/>		Eligibility status only; consent

	<i>State education program</i> administered by a State agency or local education agency	not required.
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Note: Section 9(b)(6)(A) specifies that certain programs may receive children's eligibility status only, without parental consent. Parental consent must be obtained to disclose any additional eligibility information. Section 9(b)(6)(D)(ii) specifies that for State Medicaid or SCHIP, parents must be notified and given opportunity to elect not to have information disclosed. Social security numbers may only be disclosed if households are given notice of the disclosure and the uses to be made of their social security numbers as required by Sec. 7 of the Privacy Act.

C. Responsibilities

DATA PROVIDER will:

When required, secure parents/guardians consent prior to any disclosure not authorized by the National School Lunch Act or any regulations under that Act, unless prior consent is secured by the receiving agency and made available to the determining agency;

For State Medicaid and SCHIP, notify parents/guardians of potential disclosures and provide opportunity for parents/guardians to elect not to have information disclosed;

Disclose eligibility information only to persons directly connected to the administration or enforcement of programs authorized access under the National School Lunch Act or regulations under the Act or to programs or services for which parents/guardians gave consent.

CONTRACTOR will:

Ensure that only persons designated as data custodians and listed on Exhibit E who are directly connected with the administration or enforcement of the _____ (program) and whose job responsibilities require use of the eligibility information will have access to children's eligibility information.

Use children's free and reduced price eligibility information for the following specific purpose(s):

Describe:

Inform all persons that have access to children's free and reduced price meal eligibility information that the information is confidential, that children's eligibility information must only be used for purposes specified above, and the penalties for unauthorized disclosures.

Protect the confidentiality of children's free and reduced price meal or free milk eligibility information as follows:

Specifically describe how the information will be protected from unauthorized uses and further disclosures:

D. Effective Date

This agreement shall be effective during the dates of duration for the project.

E. Penalties

Any person who publishes, divulges, discloses, or makes known in any manner, or to any extent not authorized by Federal law (Section 9(b)(6)(C) of the National School Lunch Act; 42 USC 1758(b)(6)(C)) or regulation, any information about a child's eligibility for free and reduced price meals or free milk shall be fined not more than a \$1,000 or imprisonment of not more than 1 year or both.

F. Signatures

The parties acknowledge that children's free and reduced price meal and free milk eligibility information may be used only for the specific purposes stated above; that unauthorized use of free and reduced price meal and free milk information or further disclosure to other persons or programs is prohibited and a violation of Federal law which may result in civil and criminal penalties.

Contractor

Typed or Printed Name: _____

Title: _____ Phone: _____

Signature: _____

Date: _____

Data Provider

Name: _____

Title: _____ Phone: _____

Signature: _____

Date: _____

**Any attachments will become part of this agreement.*

Exhibit B

FastBridge Learning requires each employee to sign an employment agreement which requires them to follow our employment policy handbook. As part of the employment agreement and the employment policy handbook, they are required to adhere to our confidentiality standards. Therefore, each employee who potentially has access to student data is already under a confidentiality agreement with FastBridge Learning and will not be signing the non-disclosure document below.

For your reference, here is the text from our employment policy handbook speaking to confidentiality and student data. We will also provide a copy of our Privacy Policy for your reference.

Confidentiality, Files and Personal Information

The purpose of this Policy is to assure that all FastBridge Learning employees are informed and understand the serious nature of disclosing any type of proprietary information that they may be involved with and/or around, during their working hours.

Protecting FastBridge Learning's and client information is critical to our success. It is the policy of FastBridge Learning that all aspects of FastBridge Learning proprietary information and intellectual property remain secure. Proprietary information and intellectual property are not to be shared with unauthorized sources.

Proprietary Information

Proprietary information and intellectual property include, but are not limited to: formulas, computer data, all electronic information which may include product and device history records, confidential correspondence includes customer documents, lists, emails, phone calls, internal communication (meetings, graphs, memos, etc.), any verbal communication and any written correspondence that could lead to revealing any FastBridge Learning proprietary information and intellectual property or its clients' proprietary information and intellectual property. Said information may be in paper or electronic form. Revealing proprietary information and/or intellectual property to an unauthorized source may be grounds for dismissal and potential litigation.

Paper copies of proprietary information shall be limited according to this policy; however, if an employee has access to proprietary information in written form and the employee no longer requires it, the information must be shredded. Sales and history reports, costings, including any financial information and/or any written correspondence containing proprietary information and/or intellectual property, are also to be shredded. Proprietary information stored electronically shall also be limited, and shall be properly disposed of once it is no longer needed.

Confidentiality of Student Data

Employees shall maintain the confidentiality of student records possessed by the Company, and in any handling of student performance data, will ensure that confidential and/or personally identifiable data on any individual students is not created, collected, stored, maintained, displayed, or disseminated in violation of state or federal laws.

Confidential Information

In addition, as the result of employment with FastBridge Learning, an employee will acquire and have access to other confidential information belonging to FastBridge Learning or its clients.

"Confidential Information" means information belonging to FastBridge Learning of a special and unique nature and value, including, but not limited to, such matters as; accounts; trade secrets; procedures; manuals; financial cost and sales data; supply sources and resources; contracts; price lists, accounting and bookkeeping practices; financial information, including pricing and formulas used to determine pricing; marketing plans; business plans; prospect names and lists; existing and potential business opportunities; confidential reports; customer lists and contracts; customers' needs for FastBridge Learning's products and services; litigation and other legal matters, as well as information specific to the FastBridge Learning's products, such as source code, coding standards, programming techniques, processes and systems; computer programs, algorithms, techniques, processes, designs, specifications, diagrams, flow charts, ideas, systems, and methods of operation of such programs; and

research and development work.

Employees must use reasonable and prudent care to safeguard and prevent the unauthorized use or disclosure of Confidential Information. Confidential Information shall not include any information that: a) is or becomes a part of the public domain through no act or omission of Employee or is otherwise available to the public other than by breach of this agreement; b) was in Employee's lawful possession prior to the disclosure and was not obtained by Employee either directly or indirectly as a result of employment with FastBridge Learning; c) is disclosed to Employee by a third party who has the right to make such a disclosure; or d) is independently developed by Employee outside of employment with FastBridge Learning, does not directly relate to the business of FastBridge Learning, and was developed without access to Confidential Information.

Likewise, FastBridge Learning does not solicit confidential business information from its employees regarding any other organization. FastBridge Learning does not and will not authorize its employees to disclose or otherwise make impermissible use of confidential business information obtained by means of an employee's former employment or association with any organization other than FastBridge Learning.

**CONTRACTOR'S EMPLOYEE OR
SUBCONTRACTOR NONDISCLOSURE STATEMENT**

Include the completed Nondisclosure Statements or confidentiality agreement with your proposed DATA SHARING AGREEMENT.

Contractor: FastBridge Learning, LLC

Contractor's employee or subcontractor's name: Dan Wallek

Title: Chief Operating Officer

Address: 150 S. Fifth Street, Suite 600, Minneapolis, MN 55402

Phone: 612-254-2534

I understand that the performance of my duties as an employee or contractor of the Contractor involve a need to access and review confidential information (information designated as confidential by FERPA, NSLA, CNA, KRS 61.931(6), or other federal or state law); and, that I am required to maintain the confidentiality of this information and prevent any redisclosure prohibited under the law as stated below. By signing this document, I agree to the following:

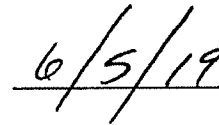
- I will not permit access to confidential information to persons not authorized by the CONTRACTOR and its subcontractor.
- I will maintain the confidentiality of the data or information.
- I will not access data of persons related or known to me for personal reasons.
- I will not reveal any individually identifiable information furnished, acquired, retrieved, or assembled by me or others for any purpose other than statistical purposes specified in the CONTRACTOR, project.
- I will report, immediately and within twenty-four (24) hours, any known reasonably believed instances of missing data, data that has been inappropriately shared, or data taken off site
 - to my immediate supervisor, and
 - to the Division of Human Resources if I am a CONTRACTOR employee or
 - to the CONTRACTOR Office for whom I perform work under the contract if I am a subcontractor or an employee of a subcontractor
- I understand that procedures must be in place for monitoring and protecting confidential information.
- I understand and acknowledge that FERPA-protected information obtained under provisions of Family Educational Rights and Privacy Act of 1974 (FERPA) as a subcontractor's employee or subcontractor of CONTRACTOR is confidential information.
- I understand that FERPA protects information in students' education records that are maintained by an educational agency or institution or by a party acting for the agency or institution, and includes, but is not limited to the student's name, the name of the student's parent or other family members, the address of the student or student's family, a personal identifier, such as the student's social security number, student number, or biometric record, other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name, and other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.
- I understand that any unauthorized disclosure of confidential information is illegal as provided in FERPA and in the implementing of federal regulations found in 34 CFR, Part 99. The penalty for unlawful disclosure is a fine of not more than \$250,000 (under 18 U.S.C. 3571) or imprisonment for not more than five years (under 18 U.S.C. 3559), or both.
- I understand and acknowledge that children's free and reduced price meal and free milk eligibility information or information from the family's application for eligibility, obtained under provisions of the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq)(NSLA) or Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.)(CNA) and the regulations implementing these Acts, is confidential information.
- I understand that any unauthorized disclosure of confidential free and reduced price lunch information or information from an application for this benefit is illegal as provided in the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq)(NSLA) or Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.)(CNA) and the regulations implementing these Acts, specifically 7 C.F.R. 245.6. The penalty for unlawful disclosure is a fine of not more than \$1,000.00 (under 7 C.F.R. 245.6) or imprisonment for up to one year (under 7 C.F.R. 245.6), or both.

- I understand that KRS 61.931 also defines "personal information" to include 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:
 - a) An account number, 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;
 - b) A Social Security number;
 - c) A taxpayer identification number that incorporates a Social Security number;
 - d) A driver's license number, state identification card number, or other individual identification number issued by any agency;
 - e) A passport number or other identification number issued by the United States government; or
- 0 Individually identifiable health information as defined in 45 C.F.R. sec. 160.103, except for education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. sec. 1232g.
- I understand that other federal and state privacy laws protect confidential data not otherwise detailed above and I acknowledge my duty to maintain confidentiality of that data as well.
- I understand that any personal characteristics that could make the person's identity traceable, including membership in a group such as ethnicity or program area, are protected.

In addition, I understand that any data sets or output reports that I may generate using confidential data are to be protected. I will not distribute to any unauthorized person any data sets or reports that I have access to or may generate using confidential data. I understand that I am responsible for any computer transactions performed as a result of access authorized by use of sign on/password(s).

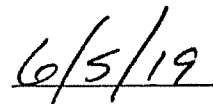
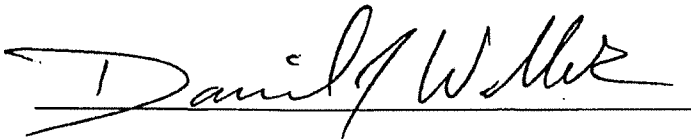
Contractor employee or subcontractor signature:

Date:



Contractor authorized agent signature:

Date:



Contractor authorized agent name (typed): Dan Wallek, Chief Operating Officer

Exhibit C

Please describe the measures you take to ensure the protection of data released to you. If you have a policy, please attach or copy/paste here as Exhibit C and include information on the requested delivery method.

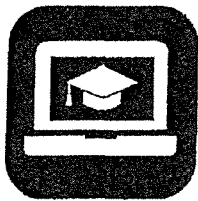
Data Security

FAST's data and backups are stored in FAST's virtual private cloud hosted with Amazon Web Services (AWS). Daily backups of all FAST™ data are maintained for 14 days in FastBridge Learning's virtual private cloud, and are accessible only to senior IT staff. Amazon's data centers are secure, Level 1 service providers as defined by the Payment Card Industry Data Security Standard. More information about AWS' security policies can be found here: <http://aws.amazon.com/security/>.

To ensure data security within our application, FAST™ employs independent security and testing firms to execute security and penetration tests on a yearly basis. The tests audit against the Open Web Application Security Project (OWASP) top ten vulnerabilities, <https://www.owasp.org>, as well as common hacking techniques.

FERPA and Data Privacy Law Compliance

FastBridge Learning is honored to be entrusted by educators and families to support their educational needs and school operations. As such, we take responsibility to both support the effective use of student information and safeguard student privacy and information security. We are proud signatories of the Student Privacy Pledge, and as such we pledge to carry out responsible stewardship and appropriate use of student personal information per the commitments below and in adherence to all laws applicable to FastBridge Learning.



**STUDENT
PRIVACY
PLEDGE
SIGNATORY**

FastBridge Learning makes the following commitment to:

- ☒ Not collect, maintain, use or share student personal information beyond that needed for authorized educational/school purposes, or as authorized by the parent/student.
- ☒ Not sell student personal information.
- ☒ Not use or disclose student information collected through an educational/school service (whether personal information or otherwise) for behavioral targeting of advertisements to students.
- ☒ Not build a personal profile of a student other than for supporting authorized educational/school purposes or as authorized by the parent/student.
- ☒ Not make material changes to school service provider consumer privacy policies without first providing prominent notice to the account holder(s) (i.e., the educational institution/agency, or the parent/student when the information is collected directly from the student with student/parent consent) and allowing them choices before data is used in any manner inconsistent with terms they were initially provided; and not make material changes to other policies or practices governing the use of student personal information that are inconsistent with contractual requirements.
- ☒ Not knowingly retain student personal information beyond the time period required to support the authorized educational/school purposes, or as authorized by the parent/student.
- ☒ Collect, use, share, and retain student personal information only for purposes for which we were authorized by the educational institution/agency, teacher or the parent/student.
- ☒ Disclose clearly in contracts or privacy policies, including in a manner easy for parents to understand, what types of student personal information we collect, if any, and the purposes for which the information we maintain is

used or shared with third parties.

- ✓ Support access to and correction of student personally identifiable information by the student or their authorized parent, either by assisting the educational institution in meeting its requirements or directly when the information is collected directly from the student with student/parent consent.
- ✓ Maintain a comprehensive security program that is reasonably designed to protect the security, privacy, confidentiality, and integrity of student personal information against risks – such as unauthorized access or use, or unintended or inappropriate disclosure – through the use of administrative, technological, and physical safeguards appropriate to the sensitivity of the information.
- ✓ Require that our vendors with whom student personal information is shared to deliver the educational service, if any, are obligated to implement these same commitments for the given student personal information.
- ✓ Allow a successor entity to maintain the student personal information, in the case of our merger or acquisition by another entity, provided the successor entity is subject to these same commitments for the previously collected student personal information.

All FastBridge Learning employees are required to complete FERPA training and certification on an annual basis. FastBridge Learning acknowledges and commits to complying with all requirements for data security and privacy expectations as set forth within the Data Privacy Law.

Exhibit D

Please describe the methods Contractor will use to irrevocably destroy, wipe or sanitize all personal or confidential data at the completion of the project. This includes all formats and media including but not limited to paper, electronic, magnetic as well as any internal hard drive of a printer or copier prior to its disposal, relocation or being sent to surplus. Please specify the planned date of destruction for each format and media that is applicable. If you have a policy that describes the methods you will use to destroy all confidential data, it can be attached as Exhibit D. Contractor's Certificate of Destruction (Exhibit E) is required for certification that all forms of personal or confidential data have been irrevocably destroyed, wiped • or sanitized.

FastBridge Learning's FAST application is a web-based SaaS solution hosted in the Amazon Web Services (AWS) environment. As a web-based SaaS solution, if a customer requests to have their data to be destroyed, FastBridge Learning will deploy the appropriate database scripts that will permanently delete the performance data and student database from our application and production environment. If required, we can provide appropriate proof that delete database scripts were executed successfully.

In alphabetical order by last name, provide information for those persons designated as data custodians. This should include anyone with access to confidential data. A designated primary and secondary data custodian are required and a minimum of four is requested. A signed Confidentiality Agreement or Data Provider's Nondisclosure Statement labeled Exhibit B is required for each data custodian.

(Prior to designating additional data custodians who are not listed on Exhibit D at the time the DATA SHARING AGREEMENT is executed, Contractor must submit a written request and DATA SHARING AGREEMENT amendment will be required.

Primary Data Custodian

Last Name, First Name: <u>Wallek, Daniel</u>	Last Name, First Name: _____
Phone: <u>612-254-2534</u>	Phone: _____
Email: <u>dan@fastbridge.org</u>	Email: _____
Employer: <u>FastBridge Learning, LLC</u>	Employer: _____

Secondary Data Custodian

Last Name, First Name: _____	Last Name, First Name: _____
Phone: _____	Phone: _____
Email: _____	Email: _____
Employer: _____	Employer: _____

All Other Data Custodians

Last Name, First Name: _____	Last Name, First Name: _____
Phone: _____	Phone: _____
Email: _____	Email: _____
Employer: _____	Employer: _____
Last Name, First Name: _____	Last Name, First Name: _____
Phone: _____	Phone: _____
Email: _____	Email: _____
Employer: _____	Employer: _____

Last Name, First Name: ____

Phone: ____

Email: ____

Employer: ____

Last Name, First Name: ____

Phone: ____

Email: ____

Employer: ____

Exhibit E
CONTRACTOR'S CERTIFICATE OF DATA DESTRUCTION

The Contractor shall irreversibly destroy all copies of all confidential and otherwise personally identifiable data regardless of format (e.g. paper, electronic) within forty-five (45) days after it is no longer needed to perform the studies described in this agreement, upon DATA PROVIDER's request or upon termination of this agreement, whichever occurs first unless agreed otherwise in writing. Using this form, the Contractor shall provide written verification of the data destruction to the DATA PROVIDER within forty-five (45) days after the data is destroyed. Scan the signed Certificate of Data Destruction and return it to

If the Contractor uses a contractor for data destruction services, a certificate of destruction from the contractor is also required. Please submit the contractor's certificate of destruction with this signed Certificate of Data Destruction.

In accord with the provisions of the DATA SHARING AGREEMENT between the Data Provider and the ("Contractor" or "Contractor"), the confidential and otherwise personally identifiable data were destroyed as required in Section N according to the methods described in Exhibit D of the DATA SHARING AGREEMENT.

Date submitted:

Scheduled date of destruction (per DATA SHARING AGREEMENT):

Actual destruction date:

Media type	Method of Destruction	Comments

I hereby certify that all confidential and otherwise personally identifiable data described above have been destroyed in the manner indicated.

Contractor's Authorized Agent Signature / Date

Agent's Name:

Agent's Title: