

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 Evolve502, Incorporated, a Kentucky non-profit corporation, (hereinafter "Contractor"), with its principal place of business at 334 E Broadway, Louisville, KY 40202.

WITNESSETH:

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

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

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

ARTICLE I Entire Agreement; Amendments

This Contract is the entire agreement between the Parties and supersedes any and all agreements, representations and negotiations, either oral or written, between the Parties, and related to this subject matter, before the effective date of this Contract. This Contract may not be amended or modified except in writing as provided in Article IX. 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") to provide Jefferson County Public School (JCPS) students with access to learning and enrichment opportunities within the framework of the 2022 Summer Backpack League, a summer learning program that will offer multiple opportunities for students to gain supplemental learning through interactive student-centered activities (hereinafter "Project"). The contractor shall provide the Services for the Project of a quality and in a manner that is within the highest standards of Contractor's profession or business. The Services and Project requirements are as follows:

- a. Facilitate relationships with students in local colleges and universities; particularly colleges of education to recruit up to 150 college students to work in Community Learning Hubs. Contractor shall enter into an agreement with each participating college and university to secure their services and outline the

- terms of agreement.
- b. Provide payments to participating Community Learning Hubs on a per-student basis to supplement the community organizations' ability to provide summer learning opportunities to youth in communities for this Project. Contractor shall enter into an agreement with each participating Community Learning Hub organization outlining the terms of the agreement.
 - i. Contractor shall enter into an agreement with each participating Community Learning Hub organization outlining the terms of the agreement.
 - ii. The standard payment to an organization hosting a Community Learning Hub for student participation in the six (6) week Summer Backpack League shall not exceed \$300 per student.
 - iii. Contractor shall ensure that up to 5,000 students participate via Community Learning Hubs.
 - iv. The Contractor's total expenditure under this section shall not exceed \$1,500,000.
 - c. Collaborate with KentuckianaWorks for the SummerWorks program to hire up to 100 high school students to work in Summer Backpack League sites as Leadership Counselors in Training.
 - i. Contractor shall enter into an agreement with KentuckianaWorks to secure services and outline the terms of an agreement.
 - ii. Per student stipends or payments shall not exceed \$3,000.
 - iii. The Contractor's total expenditure under this section shall not exceed \$300,000.
 - d. Maintain accurate records of all expenditures associated with this Project.
 - e. Provide detailed expense reports to the Board including, but not limited to the description of services, number of students served in Community Learning Hubs via the Project, number of college students hired through partnering colleges and universities, and the number of community arts and cultural organizations. Reports shall also include any work provided by approved volunteer organizations. Reports required by this section shall be tendered to the Board on or before September 30, 2022.
 - f. Ensure all subcontractors and partner organizations follow the CDC, KY Healthy at Work, and KY Healthy at School guidance for safety during the period of the COVID-19 pandemic.
 - g. Hire additional consultants and contracting services to help implement and manage the various components of this Project in order to meet all the administrative and reporting requirements of the Board, the Kentucky Department of Education and any federal agency.
 - h. Ensure compliance in all material respects with all applicable laws and regulations and all applicable JCPS policies and procedures.

ARTICLE III
Obligations of the Board

To facilitate the Project, the Board agrees to the following obligations:

- a) Provide JCPS certified teachers, classified and substitute staffing for each Project site; including but not limited to lead administrators, home-school coordinators, mental health practitioners, counselors, and nurses;
- b) Provide transportation to students participating at all Project sites within a defined radius.
- c) Collaborate with KentuckianaWorks for the SummerWorks program to train and assign the High School students as Leadership Counselors for the Project.
- d) Provide breakfast and lunch service to Project sites, if so requested by site leaders.
- e) Support technology needs at all Project sites.
- f) Create the registration portal for families and manage registration for the Project.
- g) Provide marketing materials for the Project and assist with communication efforts for the duration of the Project.
- h) Provide curricular and instructional materials and resources for the students and staff participating in the Project.
- i) Provide training sessions for all Project staff.

ARTICLE IV
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:

Not to exceed \$2,650,000.00

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

Initial payment of \$300,000 to provide start-up funding and will be reconciled within the final billing. Payments thereafter will be based on submitted invoices for student attendance where applicable and actual incurred expenses by services as listed in Article II. A maximum management fee of 3.5% may be included with each submitted invoice. The final invoice will be reconciled against all previous payments provided and allowable costs incurred during the term of this contract.

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

See above.

Fund Source:

ESSER III

ARTICLE V
Term of Contract

Contractor shall begin performance of the Services on June 1, 2022 and shall complete the Services no later than October 12, 2023, unless this Contract is modified as provided in Article VIII.

ARTICLE VI
Performance of Services by Contractor

The Services shall be performed by Contractor, and through Contractor's sub-agreements with colleges, universities, community not-for-profit organizations, and with any other person to aid in the completion of the Services (Hereinafter "Subcontractors").

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 or Subcontractors 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. Contractor shall furnish certificates of insurance evidencing this coverage to the Contract Administrator.

Unless waived in writing by the Contract Administrator, Contractor shall ensure through any sub-agreements with Subcontractors that during the term of this Contract, all participating organizations and venues acting as Subcontractors shall maintain 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

ensure via sub-agreements with Subcontractors that Subcontractors maintain workers compensation coverage with limits required by law; and professional errors and omissions coverage with minimum limits of \$1,000,000, if applicable to the services provided by the Subcontractor. Contractor shall furnish certificates of insurance evidencing this coverage to the Contract Administrator.

ARTICLE VII 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, disability, or limitations related to pregnancy, childbirth, or related medical conditions. 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.

During the performance of this Contract, Contractor shall ensure that Subcontractors 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, disability, or limitations related to pregnancy, childbirth, or related medical conditions. 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 VIII 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 IX 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 X 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 XI

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 XII

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 XIII

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 XIV

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 XV

Right to Audit

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

ARTICLE XVI
Miscellaneous

- A. All Articles shall be construed as read, and no limitation shall be placed on any Article by virtue of its descriptive heading.
- B. Any notices or reports by one Party to the other Party under this Contract shall be made in writing, to the address shown in the first paragraph of this Contract, or to such other address as may be designated in writing by one Party to the other. Notices shall be effective when received if personally delivered, or three days after mailing if mailed.
- C. If any part of this Contract is held to be void, against public policy or illegal, the balance of this Contract shall continue to be valid and binding.
- D. This Contract shall be governed and construed in accordance with the laws of the Commonwealth of Kentucky.
- E. No delay or omission by either Party in exercising any right under this Contract shall operate as a waiver of that or any other right or prevent a similar subsequent act from constituting a violation of this Contract.
- F. If the performance of this Agreement involves the transfer by JCPS to Contractor or Subcontractors of any data regarding any student that is subject to the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g as amended, ("FERPA"), Contractors agrees to and shall require Subcontractors to agree to:
 - (i) In all respects comply with the provisions of FERPA, including any requirements of Chapter 99 of Title 34 of the Code of Federal Regulations and any other applicable state or federal law.
 - (ii) Use any such data for no purpose other than to fulfill the purposes of this Agreement, and not share any such data with any person or entity other than Evolve502 and its employees, contractors, volunteers, and agents, without the prior approval of JCPS. Disclosure shall be limited to only those employees, contractors, volunteers, or agents who are necessary for the fulfillment of this Agreement.
 - (iii) Require all employees, contractors, volunteers, and agents of Evolve502 to comply with all applicable provisions of FERPA with respect to any such data. Evolve502 shall require and maintain confidentiality agreements with each employee, contractor, volunteer or agent with access to data pursuant to this agreement.
 - (iv) Maintain any such data in a secure environment, whether physical or electronic, and not copy, reproduce, or transmit any such data except as necessary to fulfill the purposes of this Agreement. Evolve502 shall notify JCPS within 24 hours in the event of any data breach or disclosure of data to any person or entity other than the parties listed in this MOU.
 - (v) Collect, store, and maintain data in a manner that does not permit the identification of an individual student by anyone other than employees, contractors, or agents of Evolve502 necessary for the fulfillment of this Agreement and having a legitimate interest

related to the purposes of this Agreement 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 form, including, but not limited to, published results of studies.

(vi) Destroy or return to JCPS any such data obtained under this Agreement within thirty days (30) after the date by which it is no longer needed by Evolve502 for the purposes of this Agreement. Evolve502 will require all employees, contractors, volunteers, or agents of any kind to comply with this provision.

- G. Because this Contract requires Contractor and/or any employees, volunteers or staff of Contractor or Subcontractors access to community educational Project facilities on a regularly scheduled and continuing basis for the purpose of providing services directly to a student or students, all individuals performing such services under this Contract and resulting subcontracts 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 administrative findings of child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.
Contractor shall ensure partner organizations prohibit contractors, employees, interns and volunteers under this Contract and resulting Subcontracts from performing services under this

Contract and from remaining on the premises of a Project facility for any purpose under this Contract if the contractor, employee, intern or volunteer has been convicted of the following:

- (i) Any conviction for sex-related offenses;
- (ii) Any conviction for offenses against minors;
- (iii) Any conviction for felony offenses except as provided in number 6 below;
- (iv) Any conviction for deadly weapon-related offenses;
- (v) Any conviction for drug-related offenses, including felony drug offenses, within the past seven (7) years;
- (vi) Any conviction for violent, abusive, threatening or harassment related offenses; OR other convictions determined by the Superintendent/designee to bear a reasonable relationship to the ability of the applicant to serve as a volunteer.
- (vii) Contractors, employees, interns and volunteers under this agreement shall immediately notify the Project site administrator or the JCPS Volunteer Talent Center if they are convicted of or plead guilty to one of the criminal offenses listed above and shall immediately cease providing services under this Contract and shall not remain upon premises of a Project facility for any purpose under this Contract.

- 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.

- I. For any projects, involving research, program evaluation, monitoring activities, or data collection of any kind, JCPS student or staff participation is voluntary. As a federally authorized Institutional Review Board (IRB), JCPS complies with the federal definition for research, which includes sharing of Personally Identifiable Information (PII) for the purpose of answering a question or evaluating activities for effectiveness beyond standard educational or operational procedures. Thus, all research and program evaluation and data collection activities must be approved by the JCPS IRB and shall not begin before approval is secured from the JCPS IRB.

IN WITNESS WHEREOF, the Parties hereto have executed this Contract to be effective as of May 25, 2022.

Contractor's Social Security Number or Federal Tax ID Number:

JEFFERSON COUNTY BOARD OF
EDUCATION

Evolve502, Incorporated
CONTRACTOR

By: _____

By: Marland Cole

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

Title: Marland Cole
Executive Director

Cabinet Member: Dr. Carmen Coleman

(Initials)