



JESSE BACON, SUPERINTENDENT
ADRIENNE USHER, ASSISTANT SUPERINTENDENT
BRANDY HOWARD, CHIEF ACADEMIC OFFICER
TROY WOOD, CHIEF OPERATIONS OFFICER

TO: Dr. Jesse Bacon, Superintendent *JB*

FROM: Adrienne Usher, Assistant Superintendent *AU*
Dr. Brandy Howard, Chief Academic Officer

DATE: September 11, 2023

RE: Luminate Contract

The attached contract with Luminate is for professional learning services connected to supporting the district's implementation of the Graduate Profile competencies into student learning experiences and innovative assessment practices. The services will provide training for teachers in the competencies, coaching sessions, and training for principals and instructional coaches. The cost will be \$58,700.00, not inclusive of travel costs, and will be funded through the SSIF grant and some student learning funds. Approval is requested for the contract between Luminate and Bullitt County Public Schools.

OUR MISSION IS TO INSPIRE AND EQUIP OUR STUDENTS TO SUCCEED IN LIFE

BULLITT COUNTY PUBLIC SCHOOLS IS AN EQUAL EDUCATION AND EMPLOYMENT INSTITUTION



Luminate, LLC: CONTRACT FOR PROFESSIONAL SERVICES

THIS CONTRACT FOR PROFESSIONAL SERVICES ("Contract"), is made by and between Luminate Images, LLC, a limited liability company ("Luminate"), and Bullitt County Public Schools ("Client").

1. **Services.** Luminate agrees to provide Client with the services detailed in Exhibit A to this Contract ("Services").
2. **Performance Dates.** Luminate shall begin performing the Contract on the date of the final signature to this Contract, and finish performing the Contract on June 30, 2024, unless the Contract (i) is mutually extended by written agreement of the parties or (ii) sooner terminated as provided herein.
3. **Compensation.** In consideration for the Services, Client shall pay Luminate per the Payment Schedule in Exhibit B.
4. **Standard of Performance.** Luminate represents that it has the necessary knowledge, experience, abilities, skills and resources to perform its obligations under this Contract, and agrees to perform its obligations under this Contract in a professional manner, consistent with prevailing industry standards and practices. All work performed must be in accordance with applicable local and federal laws and industry standards, and Luminate will be responsible for obtaining all permits and licenses required in connection with performance of services under this Contract.
5. **Independent Contractor.** The relationship between Luminate and Client will, at all times, be that of an independent contractor. It is further understood that neither party is, nor will be considered to be, an agent, partner, joint venturer, or employee of the other. Client shall not be responsible for withholding taxes with respect to Luminate's compensation. Luminate shall have no claim against Client hereunder or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind. Luminate does not have the authority to enter into any contract or agreement to bind Client and will not represent to anyone that it has such authority. Luminate represents that Luminate is authorized to work in the United States to service this Contract.
6. **Confidentiality.**
 - (a) Except as otherwise required by law, the party to whom disclosure is made (the "Recipient") shall not, and shall cause each of its trustees, directors, officers, employees, agents, and representatives (collectively, "Representatives") not to,
 - (i) disclose the Confidential Information (defined below) to any person or entity other than Representatives of the Recipient that
 - (A) need to know the Confidential Information for the purposes contemplated by this Contract; and
 - (B) agree to be bound by the provisions of this Section; or

- (ii) use the Confidential Information for any purpose other than the purposes contemplated by this Contract.
- (b) Promptly upon the written request of the party disclosing the Confidential Information (the "Disclosing Party"), the Recipient shall, and shall cause its Representatives to, return to the Disclosing Company or destroy all Confidential Information. If the Recipient destroys the Confidential Information, it shall certify that it has done so in writing and promptly deliver that certificate to the Disclosing Party.
- (c) "Confidential Information" means
 - (i) any information about the Disclosing Party or its business that is identified as "confidential" orally or in writing, at the time of the information's written disclosure or within 3 days after the disclosure, or that is reasonably understood by the Recipient as being confidential and proprietary information of the Disclosing Party, even if not so identified; and
 - (ii) all notes, analyses, compilations, studies and other materials containing any information described in subsection (c)(i).
- (d) "Confidential Information" excludes information that
 - (i) becomes generally publicly available other than as a result of disclosure by Recipient or any of its Representatives or
 - (ii) becomes available to the Recipient on a non-confidential basis from a third party that is not bound by a similar duty of confidentiality.

7. Rights in the Work Product. All materials created by Luminare pursuant to this Agreement (collectively, the "Work Product") shall be a work made for hire under US copyright law. If a court of competent jurisdiction determines that the Work Product is not a work made for hire, then Luminare hereby irrevocably transfers and assigns to Client all right, title and interest (including all copyright rights) in and to the Work Product in perpetuity. Luminare understands that it retains no rights to the Work Product and may not use the Work Product for any purpose without the prior written consent of Client. Notwithstanding the foregoing, Luminare retains all rights to the methodology and other know-how used in creating the Work Product, and also retains all rights to any preexisting materials incorporated into the Work Product by Luminare. Luminare hereby grants Client a nonexclusive, royalty-free, worldwide license to use the methodology and other know-how and all preexisting materials that are incorporated into the Work Product as part of the Work Product, in perpetuity. Client understands that Luminare can use the methodology and other know-how and the preexisting materials in work for other clients.

8. Assignment and Delegation. No party may assign any of its rights or delegate any performance under this Contract except with the prior written consent of the non-assigning party. Any purported assignment of rights or delegation of performance in violation of this Section is void.

9. Termination. Either Party may terminate this Contract, in whole or in part, upon 30 days' written notice to the other Party. If either Party breaches a material obligation under this Contract, and such breach is not cured within 30 days after such Party's receipt of written notice of the breach, the Party not in default may immediately terminate the Contract. If the Agreement is terminated pursuant to this Section 9, Luminare shall invoice Client for any unpaid amounts through termination date, and Client shall pay. Any such payment will be due within 30 days of the receipt of Luminare's invoice.

10. **No Waiver.** No failure or delay by either party in exercising any right, power or remedy will operate as a waiver of such right, power or remedy, and no waiver will be effective unless it is in writing and signed by the party to be charged thereby.
11. **Severability.** If a court of competent jurisdiction holds any part, term or provision of this Contract to be illegal or invalid (in whole or in part), the validity of the remaining Contract provisions will not be affected, and the illegal or invalid provision shall be restated in accordance with applicable law to best reflect the intention of the parties at the time of entering into this Contract.
12. **Notice.** Unless otherwise expressly provided herein, any notice or other communication required or given shall be in writing and shall be effective for any purpose if served, with delivery or postage costs prepaid, by a nationally recognized commercial overnight delivery service or by registered or certified mail, return receipt requested, to the following addresses:

To Luminate:

Amanda Avallone (member)
147 Pleasant Ave.
Portland, ME 04103
303-324-2990
amanda.avallone@gmail.com

To Client:

Jesse Bacon, Superintendent
Bullitt County Public Schools
1040 Hwy 44 East
Shepherdsville, KY 40165
502-869-8000
jesse.bacon@bullitt.kyschools.us

13. **Bankruptcy.** In the event of the bankruptcy or insolvency of either party or if either party shall make any assignment for the benefit of creditors, take advantage of any act or law for relief of its debtors, has a receiver, custodian or trustee appointed for all or a material portion of its assets and/or has its stock de-listed from the securities exchange on which it is currently listed, the other party to this Contract will have the right to terminate this Contract without further obligation or liability on its part. Should Luminate terminate the Contract in accordance with this section, all amounts owed by Client to Luminate for Services performed will immediately become due and payable to Luminate, or, if some or all of such amounts are not available for immediate repayment, such amounts will be deemed to be amounts owed to Luminate by Client and Luminate will be identified as a creditor of the Client in such amounts.
14. **Legal Authority.** The Client represents that it has the legal authority to enter into this Contract and that it has taken all actions required by its procedures, bylaws, and/or applicable law to exercise authority, and to lawfully authorize its undersigned signatory to execute this contract and to bind the contractor to its terms. The person executing this Contract on behalf of the Client warrants that he or she has full authorization to execute this Contract.
15. **Indemnification.** Luminate shall, during and after the term of this Contract, indemnify, defend, and hold harmless Client and Client's directors, officers, employees, affiliates, and agents, past or present, against all losses, claims, demands, actions, causes of action, suits, liabilities, damages, expenses, and fees (including but not limited to reasonable attorneys' fees) arising out of or related to any actual or alleged:

- (i) personal injury or property damage, but only to the extent caused by the negligent or willful acts, errors or omissions of Luminate in performing the Contract;
- (ii) misrepresentation, breach of warranty, or breach of covenant or other promise by Luminate of any representation, warranty, covenant or other promise in this Contract;
- (iii) infringement by Luminate of any third party's patent, trademark or copyright, or misappropriation of any third party's trade secret; and,
- (iv) violation of any applicable laws or regulations, including failure to comply with any applicable taxing authority.

Client shall, during and after the term of this Contract, indemnify, defend, and hold harmless Luminate and its trustees, directors, officers, faculty, employees, affiliates, and agents, past or present, against all losses, claims, demands, actions, causes of action, suits, liabilities, damages, expenses, and fees (including but not limited to reasonable attorneys' fees) arising out of or related to any actual or alleged:

- (i) personal injury or property damage, but only to the extent caused by the negligent or willful acts, errors or omissions of Client in performing the Contract;
- (ii) misrepresentation, breach of warranty, or breach of covenant or other promise by Client of any representation, warranty, covenant or other promise in this Contract;
- (iii) infringement by Client of any third party's patent, trademark or copyright, or misappropriation of any third party's trade secret; and,
- (iv) violation of any applicable laws or regulations, including failure to comply with any applicable taxing authority.

16. **Dispute Resolution.** In the event of any dispute under this Contract, the parties shall attempt to resolve the matter themselves in an amicable manner. Failing such resolution, all disputes arising out of or relating to this Contract will be resolved by arbitration. Any award, order, or judgment pursuant to arbitration is final and may be entered and enforced in any court of competent jurisdiction.
17. **Attorney Fees.** If any action (whether legal or equitable and whether litigation or arbitration or some other proceeding), is brought under this Contract, the substantially prevailing party (as will be determined by the court or other adjudicator) will be entitled to recover its reasonable attorney fees and costs of suit from the other party in addition to such other relief as may be granted.
18. **Governing Law.** This Contract is governed by and will be construed in accordance with the laws of the Commonwealth without regard to its conflict of law rules. Both parties agree that any state or federal court within the County of Bullitt, Kentucky, will have exclusive jurisdiction over any action or proceeding relating to or arising under this Contract.
19. **Modification; Final Contract.** No revision or modification hereof will be effective unless it is in writing and signed by both parties. This Contract as well as the attached Exhibits constitute the entire and complete agreement between Luminate and the Client with respect to the subject engagement and supersede all other oral and written representation, understanding, or agreements relating to the subject engagement.

SO AGREED,

For Luminate:

Amanda P Avallone

Signature

Name: Amanda Avallone

Title: **Member**

Date of Signature: Sept 12, 2023

For Client:

Signature

Name: Jesse Bacon

Title: **Superintendent**

Date of Signature:

SERVICES
(Exhibit A to Contract for Professional Services)

Luminate agrees to provide Client with the following Services:

This Scope of Work describes work that will be undertaken by Luminate, LLC, on behalf of Bullitt County Public Schools in Shepherdsville, KY.

Contract duration: October 2023-June 2024

Description of Services:

Strand 1, coaching: To support district-wide activation of the BCPS Graduate Profile and build educator capacity to create conditions/structures and experiences to transform student learning, Luminate will provide 25 direct service hours (and associated planning and preparation) of coaching to Adrienne Usher and/or Brandy Howard (or designees) and educators participating in the 2023-2024 Graduate Profile cohort, including up to TWO in-person meetings, with the remainder of the service hours delivered virtually. Deliverables of this work will include:

- Five 2-hour “office hour” teacher coaching sessions scheduled between Graduate Profile competency workshops to provide individualized support for learning transformation. Areas of support include: co-design of daily practices and projects to develop learner competency integrated with content mastery; pitch and feedback sessions for new learning designs and practices (curriculum, instruction, and assessment); interpreting and applying grade-appropriate performance levels for competencies
- Co-design of events and experiences to support the scaling and spreading of graduate profile-aligned teaching, learning, and assessment: specifically, supporting a team to design and implement an educator “exhibition of learning” to showcase and publicly share new designs for learning with peers and others

Cost for strand 1: \$15,000.00

Strand 2, Educator professional learning: To continue to build instructional capacity among educators (including teachers, principals, and instructional coaches) to support implementation of the Graduate Profile learning transformation, Luminate will provide:

- Six 2-hour “learn-and-design” sessions to a cohort of teacher leaders (not to exceed 30 participants) selected from across the district (October 2023-May 2024), at least one in person and the rest virtually)
- One 2-hour in-person professional learning workshop for principals to unpack and experience the Graduate Profile competencies, as well as recognize implications for teaching, learning, and instructional leadership. (October 2023)
- Four 2-hour “learn-design-coach” workshops for instructional coaches to support them in their role as instructional leaders by providing them with a comparable set of learning experiences around the Graduate Profile competencies as the teachers they are coaching. One of these will be in person (October 2023) and three will be virtual (December 2023, February and April 2024)

Cost for strand 2: \$43,700.00

Total cost (exclusive of airfare, lodging, rental car, and meals associated with travel to in-person events, not to exceed \$7,000.00): **\$58,700.00**

PAYMENT SCHEDULE
(Exhibit B to Contract for Professional Services)

Fee: In consideration for these services described in Exhibit A, Client agrees to pay Luminare \$58,700.00.

Expenses: In addition to its fee, Client SHALL reimburse Luminare for unusual costs approved in writing by Client in advance. Expenses should not exceed \$7,000.00 until approval in writing is obtained from CLIENT'S AUTHORIZED SIGNER.

Invoicing Schedule: Payment will be issued upon receipt of invoice from Luminare along with proof of performance report. The fee and expenses, if any, will be paid in two installments of \$29,350.00, the first at the start of the contract, October 1, 2023, and the second upon completion of the contract on June 15, 2024.

Late Payment Penalty: Payment terms will be 30 days from receipt of invoice. Should any invoice remain unpaid for more than **45 days**, interest must be paid at a rate of **1.0% per month**.