



Commonwealth of Kentucky

CONTRACT

OK AS TO FORM
AMH 5-21-2025

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Adult Ed Provider Agreements

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Effective From: 2025-07-01 Effective To: 2026-06-29

Line Item	Delivery Date	Quantity	Unit	Description	Unit Price	Contract Amount	Total Price
1		0.00000		Jefferson Co. Board of Education - IELCE & WIOA	\$0.000000	\$240,957.00	\$240,957.00

Extended Description:

Integrated English Literacy and Civics Education (IELCE) under the Workforce Innovation and Opportunity Act (WIOA) requires "education services provided to English language learners who are adults, including professionals with degrees and credentials in their native countries, that enables such adults to achieve competency in the English language and acquire the basic and more advanced skills needed to function effectively as parents, workers, and citizens in the United States. Such services shall include instruction in literacy and English language acquisition and instruction on the rights and responsibilities of citizenship and civic participation and may include workforce training." (Section 203(12) of WIOA) Additionally, the Section 243 IELCE program must be provided in combination with integrated education and training (IET). (Section 243(a) of WIOA).

Budgeted source of funds: 100% federal (CFDA 84.002A); Federal Award Number (FAIN) V002A230017 (\$9,984,876) and/or V002A240017 (\$9,546,936) and DUNS# 161181144 (Awarded July 1, 2023, July 1, 2024) UEI# JMM1JDK121H7. Federal funds are made available from the Office of Career, Technical, and Adult Education - US Department of Education. A negotiated restricted rate agreement is required Per 2 CFR 200.332

Method of payment: cost-reimbursement; receipt and approval of monthly online Expenditure Report. All costs must be reasonable, allowable, and actual.

Shipping Information:	Billing Information:
Education & Labor Cabinet 500 Mero Street, 4th Floor	Education & Labor Cabinet 500 Mero Street, 4th Floor

Frankfort	KY	40601	Frankfort	KY	40601
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TOTAL CONTRACT AMOUNT	\$240,957.00
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Memorandum of Agreement

This Memorandum of Agreement (MOA) is entered into, by and between the Commonwealth of Kentucky, Education and Labor Cabinet, Office of Adult Education (“the Commonwealth” and “OAE”) and Jefferson County Public Schools (JCPS) Integrated English Literacy and Civics Education (IELCE) (“the Contractor”) to establish an agreement for adult education services, including English language acquisition, literacy, and instruction on the rights and responsibilities of citizenship and civic participation in accordance with Section 243 of the Workforce Innovation and Opportunity Act and OAE requirements. This MOA is effective from July 1, 2025, through June 30, 2026.

I. Scope of Services:

OAE, through its contractors, provides free adult education services consisting of GED® preparation classes, family literacy programs, certification in job-related skills to increase employability and productivity, college preparation, integrated education and training (IET) and English as a second language (ESL) as well as Integrated English Literacy and Civics Education (IELCE) in all 120 counties.

IELCE, under the Workforce Innovation and Opportunity Act (WIOA) addresses education services provided to English language learners who are adults, including professionals with degrees and credentials in their native countries, that enables such adults to achieve competency in the English language and acquire the basic and more advanced skills needed to function effectively as parents, workers, and citizens in the United States.

Contractor shall fulfill all applicable Workforce Innovation and Opportunity Act requirements.

ADULT EDUCATION SERVICES:

The Contractor shall:

Operate a program in compliance with the Plan of Service, Kentucky State Plan, Performance Measures, and Budget(s).

Employ individuals to carry out its obligations under this Agreement. Individuals employed by the Contractor are considered employees of the provider, not OAE; therefore, the Contractor is responsible for compliance with all applicable federal and state employment laws, including but not limited to tax and social security obligations.

Operate a program in compliance with the provisions of the Kentucky Adult Education (KYAE) Program Manual as amended from time to time, located in Kentucky Adult Education Reporting System (KAERS) and in OAE Blackboard Learning Management System, and hereby incorporated by reference.

Operate a program in compliance with Contractor’s approved proposal, which is hereby incorporated by reference.

Adhere to all applicable federal grant funding laws.

In the event of a declaration of national or state emergency, provision of distance learning services is expected to continue according to guidance from OAE and federal sources. Student services, which are separate from distance learning and instruction, includes the same services expected during times of “normal” operations for example but not limited to intake and orientation; student enrollment, instruction, support, and assessment; and data reporting.

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Provide services that comply with all applicable laws, including the Kentucky Adult Education Act of 2000, the Request for Applications (RFA) Guidelines 2026-2028, the Kentucky State Plan, and with the current KYAE Program Manual.

Providers receiving funds through the Integrated English Literacy and Civics Education program must provide services that—

Include instruction in literacy and English language acquisition and instruction on the rights and responsibilities of citizenship and civic participation; and

Are designed to:

Prepare adults who are English language learners, including professionals with degrees and credentials in their native countries, for, and place such adults in, unsubsidized employment in in-demand industries and occupations that lead to economic self-sufficiency; and
Integrate with the local workforce development system and its functions to carry out the activities of the program.

Integrate English literacy and civics education in combination with integrated education and training activities by:

Co-enrolling participants in integrated education and training as described in [34 CFR 463 Subpart D](#) that is provided within the local or regional workforce development area from sources other than section 243 of the Act; or

Using funds provided under section 243 of the Act to support integrated education and training activities as described in [34 CFR 463](#).

PROGRAM DESIGN AND ACTIVITIES:

The Contractor shall:

Provide adult education services or instruction below the postsecondary level for any eligible individual who requests services and:

has attained 16 years of age;

is not enrolled or required to be enrolled in secondary school under State law;
is basic skills deficient; and

does not have a secondary school diploma or its recognized equivalent and has not achieved an equivalent level of education; or

is an English language learner.

Assess students to determine their academic level utilizing an enrollment assessment instrument recognized by OAE and administered in a manner consistent with OAE assessment policy.

The Integrated English Literacy and Civics Education program refers to the use of funds provided under section 243 of WIOA for education services for English language learners who are adults, including professionals with degrees and credentials in their native countries.

Provide Integrated English Literacy and Civics Education educational services as described in 34 CFR § 463.33-.38 and 34 CFR § 463.70-.75.

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Provide an educational program that emphasizes contextualized instruction on the rights of parents, workers, and community members.

Such educational services must be delivered in combination with integrated education and training activities as described in 34 CFR § 463.36.

CONFIDENTIALITY:

The Contractor Agrees to:

Comply with all applicable federal and state confidentiality laws.

Assure the confidentiality of all information, whether written, verbal or electronic, provided by or about any client seeking or receiving services under this contract, except as approved and authorized in writing by the client, or as otherwise permitted by law.

Use or permit access to the Kentucky Adult Education Reporting System Information Network (hereafter referred to as "KAERS") or a Kentucky Adult Education designated Management Information System (hereafter referred to as "MIS"), an information system that allows for the transfer of data to accommodate the assessment of potential services and program eligibility, only for purposes specifically authorized;

Provide to OAE the completed Request for the KAERS or any future MIS Access form for any employee to be considered for access to the KAERS or any future MIS;

Require all employees who have been trained and granted access by OAE to the KAERS or any future MIS to read and sign a copy of the Employee Security Contract which is available in KAERS or designated in any future MIS and is hereby incorporated by reference;

Maintain a copy of signed security agreements in the personnel files of the respective employees and make copies available to OAE or designated agent upon request;
Ensure that only authorized employees are given access to the KAERS or any future MIS; and

Instruct all employees with access to the KAERS or any future MIS regarding the confidential nature of the information, including the relevant statutes and regulations.

Instruct all employees with access to KAERS or any future MIS to immediately report any suspected data breach or security incident to the OAE's Contact Point listed in the Contact Point section of this Agreement, fiscal agent, Program Director, and Program Administration Performance and Compliance Branch, 502-782-1529.

Contractor is a nonaffiliated third party as defined by KRS 61.931(5) and must comply with applicable laws set forth in KRS 61.931-.934.

AUDIT:

The Contractor shall comply with all applicable federal audit requirements, including but not limited to, the procurement of a single agency-wide audit, in accordance with and as required by, appropriate state and federal laws, regulations, and Federal Uniform Guidance documents, as applicable for the fiscal agent.

In addition, OAE may arrange for a comprehensive program and financial audit and/or follow-up audits of the Contractor. Significant or repeated issues identified in an audit may result in failure to renew a contract for the remainder of the grant period.

Failure to comply with this section may result in payments being delayed or withheld.

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MARKETING, OUTREACH & MEDIA RELEASES:

Assure that all signage, printed or electronic materials or presentations used for the promotion of programs paid wholly or in part with state or federal adult education funds identify that the program is a federal and state program administered by OAE.

All materials produced shall be tagged with "A Proud Partner of the American Job Center Network".

EXTENSION/AMENDMENTS:

This contract may be extended or amended by mutual consent of the parties in writing.

REALLOCATION OF FUNDS

The Contractor may reallocate funds, but no funds may be moved between sub-grants. The total amount of the grant is not subject to alteration by the Contractor.

Written notification of reallocation shall be made in the OAE Finance Module prior to invoicing with the reallocated budget. Notification of reallocation must be received by OAE no later than March 31, 2026.

REPORTING:

Submit to OAE by August 31, 2026, a cumulative Inventory Report online through the Finance Module for all non-consumable items purchased with OAE funds

Submit a copy of the fiscal agent's prior year single audit or a written notice that an audit is not required (see audit section above) by March 31, 2026; and that

Failure by the Contractor to adhere to OAE reporting requirements may result in:
Reimbursements being delayed, reduced or withheld; or

OAE invoking the 30-day contract termination clause.

Closeout: The Contractor must submit all reports (financial, performance, and other reports) outlined in this agreement, KYAE Program Manual, and as required by 2 CFR 200.344.

PROFESSIONAL DEVELOPMENT:

Adhere to OAE Professional Development and Training Policy as detailed in the KYAE Program Manual, which may be amended from time to time; and

Ensure that expenditure for professional development activities follows the Fiscal Guidelines for Professional Development in accordance with the KYAE Program Manual and the Professional Learning Handbook for OAE-approved professional activities.

SERVICES AT CORRECTIONS FACILITIES:

Grantees located in counties with full-service jails shall make every effort to work in cooperation with the local jailer to offer adult education services in correctional settings. (This is a State Requirement.) If unique circumstances arise and the Contractor is unable to offer services in a correctional setting, the Contractor shall notify OAE of the circumstances. OAE reserves the right to secure services from another entity if the Contractor is unable to offer services under this subsection.

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The Contractor agrees to provide, where applicable, adult education and literacy services to eligible incarcerated participants on a cost-reimbursable basis, and in compliance with the terms of this Agreement.

The Contractor is required to track correction facility related expenses in the finance module for federal reporting requirements.

Failure to do so can result in reimbursements being delayed, reduced or withheld.

FACILITIES AND FACILITY RENTALS:

Fiscal agents shall ensure, in accordance with state requirements, that.

All instructional facilities and services are in compliance with the Americans with Disabilities Act of 1990.

Facilities have appropriate exterior and interior signage identifying KYAE in adherence to the KYAE Program Manual.

The learning environment is in good condition and properly maintained with adequate space, equipment, climate control, and bathroom facilities.

There is a separate room available for student assessment and counseling purposes.
The building and surroundings are safe, sanitary, age-appropriate and non-hazardous.
The location is easily accessible with adequate parking.
The facility has an environment conducive to adult learning including internet access.

If it is determined through an OAE site visit that the facility does not meet requirements, the Contractor may be asked to relocate the center to a more appropriate location or correct deficiencies. The Contractor shall be responsible for any costs associated with relocation and deficiency corrections.

FISCAL MANAGEMENT:

Contractor shall comply with federal budget and cost law, including but not limited to the applicable laws in the Code of Federal Regulations (CFR) Title 2.

Indirect costs shall comply with federal law as set forth in 2 CFR 200.414. Indirect costs are allowable at the restricted rate if the Contractor has an approved federal restricted indirect cost rate agreement.

Otherwise, and because this is a supplement and not supplant award, if the Contractor does not have a restricted indirect cost rate agreement, it may elect to charge a de minimis rate of up to 15% of modified total direct costs (MTDC) as allowed in 2CFR 200.414(f).

All indirect cost charges will be reported as part of the program's administrative funds and meet the caps and guidance available in this Agreement and KYAE Program Manual, as applicable to funding source.

The Contractor understands that funds awarded under this Agreement are to supplement and not supplant—and cannot be used to provide services that would be otherwise available from another funding source or be available on a non-reimbursable basis.

If travel expense is included, it shall be paid in accordance with the Contractor's policy and guidelines or, in the absence of such policy, in accordance with state employee rates set forth in 200 KAR 2:006.

Report only expenditures that are for goods received or services provided or received during the contract term and are determined allowable in compliance with federal law. Encumbered but unexpended funds are not eligible for reimbursement unless the goods/services have been received by the close of business on June 30, 2025, unless notified otherwise in writing by OAE.

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Expenditures that exceed the approved budget line are not eligible for reimbursement without prior written approval by OAE.

Acceptable expenditures may include but are not limited to, OAE-approved or sponsored training, instructional materials and equipment, advertising, or facility improvements that comply with federal law, including but not limited to, 2 CFR 200.439.

Employee pay and benefits shall comply with applicable state and federal law including but not limited to 2 CFR 200.430 and 200.431.

To maximize the amount of funds available for direct instructional services, OAE encourages adult education programs to pay minimal or no rent for space; however, the needs of adult learners and the priorities of OAE take precedence over seeking space at minimal or no cost; those located in publicly owned buildings, particularly, should expect no or minimal rent for space that is allocable.

Reimburse OAE within 60 days of notification for any unresolved costs and/or payments that are disallowed as a result of OAE policy, federal or state law, audit findings, or the terms of this Agreement.

Failure by the Contractor to adhere to OAE or other reporting requirements may result in: Reimbursements being delayed or withheld; or

The 30-day contract termination clause being invoked by ELC.

Funds received under this Agreement will be used to supplement and not supplant funds already available to the Contractor from other sources for purposes authorized by the Adult Education and Family Literacy grant program.

OAE funds shall not be expended for any purposes other than the direct provision of the adult education services outlined in this Agreement.

The Contractor shall have sufficient working capital to sustain adult education services until the first invoice is paid as set forth in this Agreement. In accordance with the Federal Cash Management Improvement Act, eligible providers that lack sufficient working capital may submit a written request for a working capital advance.

FINANCIAL MANAGEMENT SYSTEM:

Accurate, current, and complete disclosure of the financial results of the functions/services performed under this Agreement shall be provided in accordance with reporting requirements set forth in federal law;

Records that identify the source and application of funds for activities/functions/services performed under this Agreement shall contain information pertaining to federal and/or state funds received, obligations, unobligated balances (if applicable), assets, liabilities, expenditures, income, and hours worked by each individual supporting this grant reported by county, role and personnel function.

The Contractor shall maintain effective control over and accountability for all funds, property, and other assets. The Contractor shall safeguard all such assets and shall assure that they are used solely for authorized purposes in the provision of functions/services under this contract.

The Contractor shall comply with the equipment and capital expenditure provisions of 2 CFR 200.439 and shall submit a cumulative inventory report form online using the OAE Finance Module on or before August 31, 2026, for all non-consumable property with a life expectancy of one year or more and acquired with OAE funds.

Cumulative inventory is defined as any inventory purchase made with OAE funds under this agreement or any previous agreement with OAE. All property purchased with OAE funds will revert to OAE in

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the event this contract is not executed or is terminated. Contractor shall not purchase any item valued at \$10,000 or greater without prior written approval from OAE.

When computer equipment has reached the end of its useful life, it may be disposed of in compliance with applicable state and federal law, and the Commonwealth Office of Technology (COT) guidelines for safeguarding personal and student information.

It is the responsibility of the Contractor to properly dispose of equipment in accordance with applicable law and COT policy. The sanitizing process shall be documented with the COT-F108, Commonwealth of Kentucky Record of IT Equipment Sanitization Form.

A completed record must be maintained in a central location designated by the agency. This information must be maintained as outlined by the Kentucky Department of Library and Archives (KDLA) record retention schedule.

Accounting records shall be supported by original source documentation—including personnel time records.

No other funds or assets of the Contractor shall be co-mingled with the funds provided under this agreement, and that these funds shall not be utilized for any purposes except those specifically identified in this Agreement.

ADDITIONAL REQUIREMENTS

The Contractor shall comply with all provisions of the KYAE Program Manual. (This is a State Requirement. The Federal Workforce Innovation Opportunity Act, Adult Education and Family Literacy Act, Title II, requires that RFPs identify state requirements)

The Contractor will meet enrollment, academic performance, GED®, State-Specific Requirements per pages 4–8 of the 2026–2028 RFA Guidelines and transition goals. (This is a State Requirement.)

The Contractor or an approved consortium partner will provide direct services to eligible adults and will not subcontract service provision. (This is a State Requirement.)

The Contractor will provide structured, scheduled, instructor-led learning opportunities resulting in successful student and program outcomes as well as effectiveness and efficiency. The Contractor will incorporate OAE’s managed program design parameters. (This is a State Requirement.)

The Contractor will incorporate OAE College & Career Readiness Standards into classroom use. (This is a State Requirement.)

A major indicator of program success is a high-quality instructional staff and instructional leadership. The Contractor will maintain instructional staffing levels to meet the adult education and family literacy needs of adult learners/eligible participants and employer and training provider requirements in support of Integrated Education (IET) and Workplace Literacy (WPL) programs and other partnership requirements based on Education and Labor Cabinet priorities. The Contractor assures that all staff will meet OAE minimum personnel requirements as specified in the KYAE Program Manual, unless approved otherwise, and that new staff will be hired through a structured, rigorous recruitment and selection process. (This is a State Requirement.)

The Contractor will adhere to all OAE data collection and reporting requirements. (This is a State Requirement.)

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The Contractor is responsible for providing technical support to the adult education program as needed to ensure security of information, computer access for staff and students, and proper functionality of hardware and software. (This is a State Requirement.)

The Contractor will repay any funds that have been finally determined through federal or state audit resolution processes to have been disallowed costs or otherwise not properly accounted for, and further agrees to pay any collection fees that may subsequently be imposed by the federal and/or state government. (This is a State Requirement.)

The Commonwealth shall:

Monitor and evaluate the Contractor for compliance with the provisions of this contract.
Provide information, consultation, technical assistance when requested or when required (due to the Local Provider failing to meet the levels of performance agreed to for the primary performance indicators in WIOA Title II in any program year), and appropriate documents.

Provide the Contractor access to the KAERS (or any future MIS) and Finance Module for the limited purpose of data entry, assessment of potential services, program eligibility, and fiscal recordkeeping.

Provide timely payments to the contractor upon receipt of approved invoices.
Adhere to any statutes and regulations applicable as a result of receiving federal grant funding.

Payment by OAE to the Contractor, as well as the Contractor's continued performance, shall be subject to the availability of state and federal funds necessary to finance the provision of the services described in this contract.

OAE administers federal and state funds for the provision of adult education services in compliance with all applicable state and federal laws.

Family Literacy Component (as applicable): OAE administers state funds for adult education services to provide family literacy services that are of sufficient intensity in terms of hours, and of sufficient duration, to assist families to make sustainable increases in their literacy level and to become self-sufficient, pursuant to state law including but not limited to KRS 151B.408 and KRS 158.360.

II. Pricing:

The Budget for this contract is \$240,957.00 as set forth in Contractor's Application, which is hereby incorporated by reference.

The Method of Payment will be in accordance with applicable state and federal laws. This is a direct program cost reimbursement contract. Payment will be made based on reasonable, allowable, and actual costs incurred. All provider services of the Contractor (fiscal agent) will be reported to OAE by the Contractor.

Submit monthly expenditure reports to OAE detailing expenditures of actual costs incurred using the online Finance Module and including detailed personnel expenditure on the Time Sheet Summary section on or before the 10th of each month following the month of services. Invoices received after the 10th shall be processed in the subsequent payment cycle. Failure to submit invoices no later than the 10th of each month may result in delayed payments, and habitual (more than once) violations may result in suspension of the reimbursement/payment process.

Submit the final year-end online invoice detailing the actual cost incurred no later than July 21, 2026, unless notified otherwise in writing by OAE.

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Invoices shall include at a minimum:

- Contractor's name
- PON2 contract number
- List dates of service covered by the invoice.
- Date of invoice (date invoice is prepared).
- Total amount due for the dates of service.
- Cumulative total for all invoices to date.
- Detailed description of services provided, if requested.

Invoices that do not contain the requirements above will be rejected and returned to the Contractor for re-invoicing.

Payment shall be conditioned upon receipt of detailed, allowable, accurate, and acceptable invoices submitted in a timely manner.

The Contractor shall maintain supporting documentation to substantiate invoices and shall furnish same if requested.

III. Points of Contact

OAE contact information is:

Director of Fiscal Management and Contracts: OAEinvoices@ky.gov or
OAE Executive Director, in care of: OAEinvoices@ky.gov

Fiscal Agent contact information is:
Superintendent of Schools

IV. Additional Terms

Persistent failure, as judged by OAE, to meet state requirements referenced in 14 (b) and outlined in the provisions and processes of the Kentucky Adult Education Program Manual, as amended from time to time, with adequate notice to the Contractor, may result in specific conditions in future contracts consistent with 2 CFR 200.208.

ASSURANCES AND CERTIFICATIONS

The Contractor assures that it will comply with all regulations implementing the laws above and in the Standard Terms and Conditions. This assurance applies to the Contractor's status, if applicable, as a required partner in a one-stop delivery system established under WIOA. The Contractor understands that the United States has the right to seek judicial enforcement of this assurance.

CERTIFICATION OF A DRUG-FREE WORKPLACE

The Contractor shall comply with the provisions of 34 CFR Part 85, Subpart F, Drug-Free Workplace Act of 1988.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION, LOWER TIER COVERED TRANSACTIONS

The Contractor certifies that neither the Contractor nor its principals:

Are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Adult Education or agency.

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Have within three years preceding this contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with performing a public transaction.

Are presently indicted for or otherwise criminally or civilly charged by a governmental entity with commission of any of the offenses defined at 34 CFR Part 85.

Have within three years preceding this contract had one or more public transactions terminated for cause or default.

Where the Contractor is unable to certify to any of the statements in this certification, they shall submit an explanation to OAE; and

The instructions for certification, which are an integral part of this certification, have been read and agreed to by the Contractor.

SAFETY

The Contractor assures that program participants shall not be required or permitted to receive OAE-funded services in buildings or surroundings that are dangerous, unsanitary, or hazardous to either the participant's or employee's health and safety.

Subcontractors - The Contractor agrees that it will not subcontract any work done pursuant to this Agreement without the express, written consent of the Commonwealth. If said consent is given, the Contractor agrees that all requirements of the Agreement shall also be applicable to Subcontractors and that the subcontractors shall be required to report to the Contractor in a manner that will meet the Contractor's reporting requirements. In no event shall any provision of this Section be construed as relieving the Contractor of the responsibility for ensuring that the performances rendered under all subcontracts comply with all of this Agreement's terms as if the Contractor rendered such performances rendered.

Before replacing an approved Subcontractor, the Contractor will notify the Commonwealth and provide the agency with information regarding the proposed Subcontractor, including but not limited to, the proposed Subcontractor's relevant qualifications, experience, and key personnel. The Commonwealth reserves the right to approve or disapprove any Subcontractor proposed by the Contractor; such approval shall not be unreasonably withheld.

All references to the Contractor shall be construed to encompass both the Contractor and any Subcontractors of the Contractor. The Contractor shall ensure all Subcontractors are aware of the obligations under this Agreement.

Modifications - No modification or change of any provision in this Agreement shall be made, or construed to have been made, unless such modification is mutually agreed to in writing by the Contractor and the Commonwealth, and incorporated as a written amendment prior to the effective date of such modification or change.

Authorization to do Business in Kentucky - The Contractor affirms that it is properly authorized under the laws of the Commonwealth of Kentucky to conduct business in this state and will remain in good standing to do business in the Commonwealth of Kentucky for the duration of any contract awarded.

If a foreign entity, the Contractor shall maintain certification of authority to conduct business in the Commonwealth of Kentucky during the term of this Agreement. Such registration is obtained from the Secretary of State, who will also provide the certification thereof.

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Travel Expenses - The Contractor shall be paid for no travel expenses unless and except as specifically authorized in this Agreement or authorized in advance and in writing by the Commonwealth. If authorized, Contractor shall be reimbursed for actual travel expenses in the same amounts as authorized for Commonwealth employees. Either original or certified copies of receipts must be submitted for airline tickets, hotel bills, restaurant charges, rental car charges, and any other miscellaneous expenses.

Headings - The section headings in this Agreement are for reference and convenience only and shall not have any effect on the construction or legal effect of this Agreement.

Assignment - This Agreement shall be binding upon and inure to the benefit of the respective legal successors of the parties. However, neither this Agreement nor any rights or obligations hereunder may be assigned, in whole or in part, without the prior written consent of the Commonwealth.

No Required Use of Contractor - This Agreement does not guarantee any minimum use of services. The Cabinet reserves the right to leave all, or any portion, of the contract unused and/or to establish other contracts for additional and/or related services. The Commonwealth of Kentucky may undertake or award other contracts for additional or related work, services, supplies, or commodities, and the Contractor shall fully cooperate with such other contractors and Commonwealth employees. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Commonwealth employees.

Severability - It is understood and agreed by the parties that if any part, term, or provision of this Agreement is held by the courts to be illegal or in conflict with any law of the Commonwealth of Kentucky or of the United States of America, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid, if the remainder of the Agreement is capable of performance.

Indemnification - The Contractor shall indemnify and hold harmless the Education and Labor Cabinet and its agents, representatives, officers, directors, employees, insurers, successors, and assigns from and against any and all expenses, costs (including attorneys' fees), causes of action, liability, loss and/or damages suffered or incurred by it or any of them, that results from or arises out of (a) this Agreement; (b) any and all acts of the Contractor and or its Subcontractor(s); (c) the policies and procedures of the Contractor, specifically including all Contractor employment practices employed by the Contractor during the term of this or any prior Agreement with the Education and Labor Cabinet; (d) any dishonest, fraudulent, criminal, or negligent or unauthorized acts or errors or omissions which are committed by the Contractor or any of the Contractor's employees or agents or Subcontractors; (e) the publication translation, reproduction, delivery, performance, use or disposition of any data produced by the Education and Labor Cabinet in an unauthorized manner, provided that such action was not taken by the Contractor or as a result of the express written request of the Education and Labor Cabinet; or (f) the Contractor's failure to comply with any applicable state or federal laws or regulations.

Provided, however, in the event the Contractor is an agency of the Commonwealth of Kentucky, the state agency's liability shall be governed instead by KRS 49.010 through KRS 49.180 and limited to any award from the Kentucky Claims Commission up to the jurisdictional amount.

Sovereign Immunity - The parties expressly agree that no provision of this Agreement constitutes a waiver by the Commonwealth of Kentucky of any immunities from suit or from liability that the Commonwealth of Kentucky may have by operation of law.

Force Majeure - Neither party shall be liable for public utility performance (e.g., Postal Service, Telephone, or Water Company) or for the consequence of public utility non-performance. Events or conditions beyond the reasonable control of the parties, such as natural disasters, fires, floods, elements, transportation crashes, or utility failures shall not be construed as non-performance, nor shall reductions be applied as a result of such events, provided that the Commonwealth shall have the right to obtain

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the necessary services elsewhere in the event of such non-performance by the Contractor and the parties shall negotiate in good faith any appropriate offset to the compensation payable under this Agreement. The Contractor shall cooperate and shall require that any Subcontractor cooperate with the Commonwealth in such event. The existence of such causes of delay or failure will extend the period of performance in the exercise of reasonable diligence until after the causes of delay or failure have been removed. Each party must inform the other, orally or in writing, as soon as possible of the existence of a force majeure event. In order to preserve this right as a defenses each party must inform the other in writing, with confirmation of receipt, within twenty (20) business days of the existence of a force majeure event or otherwise waive this right as a defense.

Maintenance of Insurance - During the term of this Agreement, the Contractor shall maintain and shall require any Subcontractor to maintain their directors and officers liability insurance, Workers' Compensation insurance, employer liability insurance, and such other liability insurance as reasonably necessary in the Contractor's business judgment to provide adequate coverage against losses and liabilities attributable to the respective acts or omissions of the Contractor and the Subcontractor(s) in the performance of this Agreement. The Contractor shall provide or cause to be provided and shall require any Subcontractor to provide or cause to be provided evidence of such coverage upon request.

To the extent that the Contractor and any Subcontractor are not self-insured, each shall, in any event, name the Education and Labor Cabinet as an additional insured on any policy of coverage, with the exception of the Workers' Compensation and any reinsurance. The Contractor and any Subcontractor shall provide the Education and Labor Cabinet proof of insurance coverage upon request.

The Commonwealth shall not be responsible for any premiums or assessments on the policy or policies held by the Contractor or any Subcontractor under this Agreement.

The Certificate of Insurance for any policy other than self-insurance or any reinsurance must require that the insurer shall not cancel the coverage without thirty (30) days prior written notice to the Commonwealth.

The Contractor shall notify the Commonwealth within five (5) business days of any cancellation or interruption of the Contractor or Subcontractor's insurance coverage. The Commonwealth shall require in any subcontracts that the Subcontractor provide such notice within five (5) business days to the Contractor and the Commonwealth. The Contractor shall assure and require that any Subcontractor assure that insurance is in effect at all times during the life of this Agreement. If their respective insurance coverage expires at any time during the term of this Agreement, the Contractor and any Subcontractor shall provide at least thirty (30) calendar days prior to the expiration date, to the extent possible, a new Certificate of Insurance evidencing coverage as provided herein for not less than the remainder of the term of this Agreement.

Permits, Licenses, Taxes, and Laws - The Contractor shall ensure all necessary permits, licenses, registrations and certifications are maintained at all times to the extent such are required for performance under this Agreement; ensure that it has readily accessible copies of licenses, registration, and/or certifications necessary; and produce copies of any required license, registration, and/or certification upon request by the Commonwealth.

To the extent required by law, the Contractor shall pay any sales, use, personal property and income taxes arising out of this Agreement and the transaction contemplated hereby. Any other taxes levied upon this Agreement, the transaction, or the equipment or services delivered pursuant hereto shall be borne by the Contractor.

Contractor shall abide by all applicable laws, regulations, and ordinances of all federal, state, and local governments in which work under this Agreement is performed. Failure to do so shall be considered a breach of the terms of this Agreement.

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No Grant of Employment or Agency - Nothing in this Agreement shall be construed, in any way, as granting to any individual providing services under the Agreement any of the claims, privileges, or rights established or recognized for employees under KRS Chapter 18A or KAR Title 101.

At no point shall any individual providing services under this Agreement be considered a full-time or part-time employee of the Commonwealth, for any purpose, including but not limited to unemployment, taxes, withholding, health insurance, liability, retirement, Workers' Compensation, vacation, sick or other leave, the Family Medical Leave Act, accrued benefits, evaluations, or any other purpose. At all times, any such individual shall be considered and deemed to be an employee, volunteer, or independent contractor of the Contractor.

In no event shall any employee, volunteer, or independent contractor of the Contractor be deemed to be a third-party beneficiary of this Agreement or an agent or an employee of the Commonwealth.

Financial Record Retention - The Contractor agrees to maintain all records pertaining to this Agreement for a period of not less than three (3) years after all matters pertaining to this Agreement (e.g., audit, settlement of audit exceptions, disputes, etc.) are resolved in accordance with applicable federal and/or state laws, regulations, and policies (except as may otherwise be specified in this Agreement).

Confidential Information - The Contractor shall comply with the state and federal laws governing access to and use of information and data provided by the Commonwealth or collected by the Contractor under this Agreement and will use such information or data only for those purposes expressly delineated, defined, and authorized in this Agreement.

The Contractor shall instruct its employees to use the same degree of care as it uses with its own data to keep confidential information concerning client data, the business of the Commonwealth, its financial affairs, its relations with its citizens and its employees, as well as any other information that may be specifically classified as confidential by the Commonwealth in writing to the Contractor. The Contractor agrees to ensure that all confidential information and data shall remain confidential. The Contractor shall have an appropriate agreement with its employees to that effect.

Contractors that receive Personal Information as defined by and in accordance with Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931, KRS 61.932, KRS 61.933, and KRS 61.934, (the "Act"), shall secure and protect the Personal Information by, without limitation, complying with all requirements applicable to non-affiliated third parties set forth in the Act.

The Contractor hereby agrees to cooperate with the Commonwealth in complying with the response, mitigation, correction, investigation, and notification requirements of the Act.

As required by the Act, the Contractor shall notify as soon as possible, but not to exceed seventy-two (72) hours, the Commonwealth, the Commissioner of the Kentucky State Police, the Auditor of Public Accounts, and the Commonwealth Office of Technology of a determination of or knowledge of a breach, unless the exception set forth in KRS 61.932(2)(b)2 applies and the Contractor abides by the requirements set forth in that exception. If the agency is a unit of government listed in KRS 61.931(1)(b), the Contractor shall notify the Commissioner of the Department of Local Government in the same manner as above. If the agency is a public school district listed in KRS 61.931(1)(d), the Contractor shall notify the Commissioner of the Department of Education in the same manner as above. If the agency is an educational entity listed under KRS 61.931(1)(e), the Contractor shall notify the Council on Postsecondary Education in the same manner as above. Notification shall be in writing on a form developed by the Commonwealth Office of Technology.

The Contractor hereby agrees that the Commonwealth may withhold payment(s) owed to the Contractor for any violation of the requirements in this subsection.

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The Contractor hereby agrees to undertake a prompt and reasonable investigation of any breach as required by KRS 61.933.

Upon conclusion of an investigation of a security breach of Personal Information as required by KRS 61.933, the Contractor hereby agrees to an apportionment of the costs of the notification, investigation, and mitigation of the security breach.

In accordance with KRS 61.932(2)(a) the Contractor shall implement, maintain, and update security and breach investigation procedures that are appropriate to the nature of the information disclosed, that are at least as stringent as the security and breach investigation procedures and practices established by the Commonwealth Office of Technology:

See:

[Policies - Commonwealth Office of Technology \(Kentucky\)](#)

Advertising Award Prohibition - The Contractor shall not refer to this Agreement in commercial advertising in such a manner as to state or imply that the Contractor or its services are endorsed or preferred by the Commonwealth of Kentucky.

Breach, Notice and Cure - In addition to any breaches specified in other sections of the Agreement, the failure of either party to perform any of its material obligations hereunder in whole or in part or in a timely or satisfactory manner, constitutes a breach. In the event of a breach, the aggrieved party shall give notice of such in writing to the other party. If such breach is not cured within 30 days of receipt of written notice, or if a cure cannot be completed within 30 days, or if cure of the breach has not begun within 30 days and pursued with due diligence, the Commonwealth may exercise any of the remedies set forth in the Remedies section.

Remedies - If Contractor is in breach under any provision of this Agreement, the Commonwealth shall have all of the remedies listed in this section in addition to all other remedies set forth in other sections of this Agreement following the notice and cure period set forth in the Breach, Notice and Cure section. The Commonwealth may exercise any or all of the remedies available to it, in its sole discretion, concurrently or consecutively, subject to the right of the Contractor to exercise any available appeal rights.

Termination for Cause and/or Breach - If Contractor fails to perform any of its obligations hereunder with such diligence as is required to ensure its completion in accordance with the provisions of this Agreement and in a timely manner, the Commonwealth may notify Contractor of such nonperformance in accordance with the provisions herein. If Contractor thereafter fails to promptly cure such non-performance within the cure period, the Commonwealth, at its option, may terminate this entire Agreement or such part of this Agreement as to which there has been delay or a failure to properly perform. Exercise by the Commonwealth of this right shall not be deemed a breach of its obligations hereunder. Contractor shall continue performance of this Agreement to the extent not terminated, if any.

Obligations and Rights - To the extent specified in any termination notice, Contractor shall not incur further obligations or render further performance hereunder past the effective date of such notice and shall terminate outstanding orders and sub-Grants with third parties. However, Contractor shall complete and deliver to the Commonwealth all Work, Services and Goods not cancelled by the termination notice and may incur obligations as are necessary to do so within this Agreement's terms. At the sole discretion of the Commonwealth, Contractor shall assign to the Commonwealth all of Contractor's right, title, and interest under such terminated orders or sub-Grants. Upon termination, Contractor shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Contractor in which the Commonwealth has an interest. All materials owned by the Commonwealth in the possession of Contractor shall be immediately returned to the Commonwealth. All work product, at the option of the Commonwealth, shall be delivered by Contractor to the Commonwealth and shall become the Commonwealth's property.

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Payments - The Commonwealth shall reimburse Contractor only for accepted performance up to the date of termination.

Remedies Not Involving Termination - The Commonwealth, as its sole discretion, may exercise one or more of the following remedies in addition to other remedies available to it:

Suspend Performance - Suspend Contractor's performance with respect to all or any portion of this Agreement pending necessary corrective action as specified by the Commonwealth without entitling Contractor to an adjustment in price/cost or performance schedule. Contractor shall promptly cease performance and incurring costs in accordance with the Commonwealth's directive and the Commonwealth shall not be liable for costs incurred by Contractor after the suspension of performance under this provision.

Temporarily Withhold Payment – Payment will be made upon satisfactory delivery of services.

Disallow or Deny Payment - Deny payment for those obligations not performed, or, that due to Contractor's actions or inactions, cannot be performed; provided, that any denial of payment shall be reasonably related to the value to the Commonwealth of the obligations not performed.

Removal - Demand removal of any of Contractor's employees, agents, or subcontractors whom the Commonwealth deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued relation to this Agreement is deemed to be contrary to the public interest, not in the Commonwealth's best interest, or jeopardizes the Commonwealth's obligations to the United States Department of Education.

Intellectual Property – If infringes on a patent, copyright, trademark, trade secret or other intellectual property right while performing its obligations under this Agreement, Contractor shall, at the Commonwealth's option:

Obtain for the Commonwealth or Contractor the right to use such products and services;
Replace any goods, services or other product involved with non-infringing products or modify them so that they become non-infringing; or,
If neither of the foregoing alternatives are reasonably available, remove any infringing goods, services or products and refund the price paid therefore to the Commonwealth.

Any Other Available Remedy - The Commonwealth shall take any other remedy that may be legally available to it.

Choice of Law and Forum – The laws of the Commonwealth of Kentucky shall govern all questions as to the execution, validity, interpretation, and performance of this Agreement. Any legal action brought on the basis of this Agreement shall be filed in the Franklin Circuit Court in Frankfort, Kentucky.

Attorney Fees – Each party shall bear its own attorneys fees incurred in disputes arising from this Agreement.

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Memorandum of Agreement Standard Terms and Conditions Revised August 2024

1.00 Effective Date

All Memorandum of Agreements are not effective until the Secretary of the Finance and Administration Cabinet or his authorized designee has approved the agreement and until the agreement has been submitted to the government contract review committee. However, in accordance with KRS 45A.700, memoranda of agreement in aggregate amounts of \$50,000 or less are exempt from review by the committee and need only be filed with the committee within 30 days of their effective date for informational purposes.

KRS 45A.695(7) provides that payments on personal service contracts and memoranda of agreement shall not be authorized for services rendered after government contract review committee disapproval, unless the decision of the committee is overridden by the Secretary of the Finance and Administration Cabinet or agency head if the agency has been granted delegation authority by the Secretary.

The vendor shall be paid, upon the submission of proper invoices to the receiving agency at the prices stipulated for the supplies delivered and accepted, or services rendered. Unless otherwise specified, payment will not be made for partial deliveries accepted. Payments will be made within thirty (30) working days after receipt of goods or a vendor's invoice in accordance with KRS 45.453 and KRS 45.454.

2.00 EEO Requirements

The Equal Employment Opportunity Act of 1978 applies to All State government projects with an estimated value exceeding \$500,000. The contractor shall comply with all terms and conditions of the Act.

3.00 Cancellation Clause

Both parties shall have the right to terminate and cancel this contract at any time not to exceed thirty (30) days' written notice served on the Contractor by registered or certified mail.

4.00 Funding Out Provision

The state agency may terminate this agreement if funds are not appropriated to the contracting agency or are not otherwise available for the purpose of making payments without incurring any obligation for payment after the date of termination, regardless of the terms of the agreement. The state agency shall provide the Contractor thirty (30) calendar day's written notice of termination of the agreement due to lack of available funding.

5.00 Reduction in Contract Worker Hours

The Kentucky General Assembly may allow for a reduction in contract worker hours in conjunction with a budget balancing measure for some professional and non-professional service contracts.

If under such authority the agency is required by Executive Order or otherwise to reduce contract hours, the agreement will be reduced by the amount specified in that document. If the contract funding is reduced, then the scope of work related to the contract may also be reduced commensurate with the reduction in funding. This reduction of the scope shall be agreeable to both parties and shall not be considered a breach of contract.

6.00 Access to Records

The state agency certifies that it is in compliance with the provisions of KRS 45A.150, "Access to contractor's books, documents, papers, records, or other evidence directly pertinent to the contract." The Contractor, as defined in KRS 45A.030, agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this agreement for

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the purpose of financial audit or program review. The Contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the agreement and shall be exempt from disclosure as provided in KRS 61.878(1)(c).

7.00 Violation of tax and employment laws

KRS 45A.485 requires the Contractor and all subcontractors performing work under the contract to reveal to the Commonwealth any final determination of a violation by the Contractor within the previous five (5) year period of the provisions of KRS chapters 136, 139, 141, 337, 338, 341, and 342. These statutes relate to corporate and utility tax, sales and use tax, income tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers compensation insurance laws, respectively. Disclosure of any violations is required prior to the award of any state contract and throughout the duration the contract.

Failure to disclose violations, shall be grounds for the Commonwealth's disqualification of a contractor or subcontractor from eligibility for future state contracts for a period of two (2) years.

To comply with KRS 45A.485, the Contractor and all subcontractors performing work under this contract shall report any such final determination(s) of any violation(s) within the previous five (5) years to the Commonwealth by providing a list of the following information regarding any violation(s): (1) specific KRS violated, (2) date of any final determination of a violation, and (3) state agency which issued the final determination.

A list of any disclosures made prior to award of a contract shall be attached to the contract. The Contractor affirms that it has not violated any of the provisions of the above statutes within the previous five (5) year period, aside from violations explicitly disclosed and attached to this contract. Contractor further affirms that it will (1) communicate the above KRS 45A.485 disclosure requirements to any subcontractors and (2) disclose any subcontractor violations it becomes aware of to the Commonwealth.

8.00 Discrimination

This section applies only to agreements disbursing federal funds, in whole or part, when the terms for receiving those funds mandate its inclusion. Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. During the performance of this agreement, the Contractor agrees as follows:

The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity or age. The Contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The Contractor agrees to provide, upon request, needed reasonable accommodations. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. Such action shall include, but not be limited to the following; employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensations; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

In all solicitations or advertisements for employees placed by or on behalf of the Contractor, the Contractor will, state that all qualified applicants will receive consideration for employment

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without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.

The Contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

In the event of the Contractor's noncompliance with the nondiscrimination clauses of this agreement or with any of the said rules, regulations or orders, this agreement may be cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

The Contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

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Approvals

This contract is subject to the terms and conditions stated herein. By affixing signatures below, the parties verify that they are authorized to enter into this contract and that they accept and consent to be bound by the terms and conditions stated herein. In addition, the parties agree that (i) electronic approvals may serve as electronic signatures, and (ii) this contract may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single contract.

1st Party:

Signature

Title

Printed Name

Date

2nd Party:

Superintendent

Signature

Title

Dr. Marty Pollio

Printed Name

Date

Other Party:

Signature

Title

Printed Name

Date

Approved as to form and legality:

Attorney