



**SCHOOL BOARD OF LEON COUNTY, FL**  
**PROFESSIONAL/TECHNICAL SERVICES AGREEMENT**

LCS-9830-1009  
Revised 7/2013jk

REQ# or INTERNAL  
enter req# or internal

SP ✓ \_\_\_\_\_ L-II ✓ \_\_\_\_\_

LCSB Purchasing Director Approval: \_\_\_\_\_

This AGREEMENT is made as of enter date by and between the School Board of Leon County, Florida ("LCSB"), and enter company name, Inc. or enter individual's name. ("Individual"), (hereinafter "Contractor.").

**WITNESSED:**

WHEREAS, LCSB operates schools and educational institutions and is in need of qualified, experienced enter title to provide enter services to be provided services for LCSB; and

WHEREAS, Contractor employs qualified and/or duly licensed enter title with experience in providing enter services to be provided services; and

WHEREAS, LCSB desires to engage Contractor to provide such services for LCSB and Contractor is willing to provide such services for LCSB.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein set forth, the parties agree as follows:

**1. ENGAGEMENT; RESPONSIBILITIES OF CONTRACTOR**

- A. SERVICES: LCSB hereby engages Contractor to provide enter services to be provided services for LCSB as requested by LCSB, and Contractor hereby accepts such engagement and agrees to provide said services in accordance with the terms of this Agreement and Exhibits A and B, which exhibits are hereby incorporated in and made a part of this Agreement. Contractor shall provide said services individually or through employees and/or independent contractors of Contractor ("Contractor Staff") who are qualified and appropriately licensed and/or certified to perform all functions assigned to them by Contractor in connection with the provision of services by Contractor hereunder.
- B. DOCUMENTATION: Contractor shall submit to LCSB, on a monthly basis, appropriate documentation of services provided hereunder. Such documentation shall be in the form and shall contain the information requested by LCSB.

**2. REPRESENTATIONS AND WARRANTIES.**

Contractor represents and warrants to LCSB, upon execution and throughout the term of this Agreement, as follows:

- A. Contractor is not bound by any agreement or arrangement which would preclude it from entering into, or from fully performing the services required under, this Agreement;

- B. To the best of Contractor's knowledge, none of the Contractor's staff associated with this Agreement has ever had his or her professional license or certification denied, suspended, revoked, terminated, voluntarily relinquished under threat of disciplinary action, or restricted in any way, either in the State of Florida or in any other jurisdiction.
- C. Contractor and Contractor Staff shall perform the services required hereunder in accordance with:
  - 1. all applicable federal, state, and local laws, rules, and regulations;
  - 2. all applicable policies of: LCSB;
  - 3. all applicable Bylaws, Rules, and Regulations of LCSB;
- D. Contractor has, and shall maintain throughout the term of this Agreement, all appropriate federal and state licenses and certifications which are required in order for Contractor to perform the services required of Contractor under this Agreement; and
- E. Each member of the Contractor Staff working under this Agreement has, and shall maintain throughout the term of this Agreement, all appropriate federal and state licenses and certifications which are required in order for said staff to perform the functions, assigned to him or her by Contractor in connection with Contractor Staff's provision of services under this Agreement; and
- F. All Contractor Staff working under this Agreement shall comply with all applicable terms of this Agreement.

### **3. INDEPENDENT CONTRACTOR**

- A. In performing the services herein specified, Contractor is acting as an independent contractor, and neither Contractor nor any staff shall be or be considered employees of LCSB. Neither Contractor nor any Contractor staff shall be under the control of LCSB as to the manner by which results are accomplished, but only as to the results of Contractor's work. It is agreed and acknowledged by the parties that, as an independent contractor, Contractor Staff retain the right to contract with and provide enter services to be provided services to entities and individuals other than LCSB and its students, and nothing in this Agreement shall be interpreted as limiting or restricting in any way Contractor's right to do so.
- B. In no event shall this Agreement be construed as establishing a partnership or joint venture or similar relationship between the parties hereto, and nothing herein contained shall be construed to authorize either party to act as agent for the other.
- C. Contractor shall be liable for its own debts, obligations, acts and omissions, including the payment of all required withholding, social security and other taxes and benefits with respect to all Contractor Staff. Contractor hereby expressly agrees to provide LCSB with proof of payment of such taxes in the event such is requested by LCSB by federal or State tax authorities. Any such proof will be provided directly to LCSB's counsel for delivery to tax authorities in order to preserve the confidentiality of such records.
- D. Neither Contractor nor any Contractor Staff shall be subject to any LCSB policies solely applicable to LCSB's employees, except policy directly related to vendors and contractors.

#### **4. TERM**

The Initial Term of this Agreement shall be for a period of enter # spelled out (enter #) enter the word months, weeks or days, commencing enter start date and ending enter end date unless sooner terminated as provided herein. At the end of the Initial Term and each Renewal Term (as hereinafter defined), if any, this Agreement may be renewed for an additional term, ("Renewal Term"), but only upon mutual written agreement of the parties.

#### **5. COMPENSATION**

For the services rendered pursuant to this Agreement, Contractor shall be paid by LCSB, as and for its sole compensation hereunder, the amounts listed in Exhibit B attached hereto, which Exhibit is hereby incorporated by reference into, and made a part of, this Agreement. The Contractor and Contractor staff shall be responsible for payment of Contractor and Contractor staff expenses relating to the performance of duties hereunder, including expenses for travel and similar items. Notwithstanding the foregoing, no compensation shall be payable to Contractor for any services for which Contractor has not submitted the documentation required under Paragraph I(B) of this Agreement.

#### **6. BILLING**

Contractor shall bill LCSB for services provided hereunder on a monthly basis in the month following the month in which services are rendered. Each invoice shall be in the form, and contain the information, requested by LCSB, and LCSB shall pay each invoice within **thirty (30) days** after receipt thereof by LCSB. LCSB shall not be required to pay for any services for which Contractor does not provide a proper invoice.

#### **7. CONFIDENTIALITY**

Contractor recognizes and acknowledges that, by virtue of entering into this Agreement and providing services hereunder, Contractor and Contractor Staff may have access to certain confidential information, including confidential student information and personal health information ("PHI"). Contractor agrees that neither it nor any Contractor Staff will at any time, either during or subsequent to the term of this Agreement, disclose to any third party, except where permitted or required by law or where such disclosure is expressly approved by LCSB in writing, any confidential student information, PHI or other confidential information, and Contractor and all Contractor Staff shall comply with all Federal and State laws and regulations, and all LCSB rules, regulations, and policies regarding the confidentiality of such information. Without limiting the generality of the foregoing, Contractor shall comply with the Health Insurance Portability and Accountability Act. Contractor may not use or further disclose Personal Health Information ("PHI") other than as permitted or required by law or this Agreement. In addition, Contractor shall:

- A. Report to LCSB any impermissible use or disclosure of PHI.
- B. Ensure that any agents, including subcontractors to whom it provides PHI created or received from LCSB agrees to the same restrictions or conditions that apply to Contractor.
- C. Make PHI available in accordance with HIPAA Privacy Rules.

- D. Make PHI available for amendment and incorporate amendments into PHI in accordance with HIPAA rules.
- E. Make available the information required to make an accounting of disclosures under the applicable HIPA law and regulations.
- F. Make its internal practices, and any information related to the use and disclosure of PHI received from, or created or received by Contractor, available to applicable governmental entities.
- G. Upon termination of the contract, if feasible, return or destroy any and all PHI received from or created or received by the Contractor in performance of this Agreement.

## **8. CRIMINAL BACKGROUND CHECKS**

- A. **LEVEL II SCREENING REQUIREMENTS:** The following provisions which implement the requirements of Board Policy 8475, Florida Statute Sections 1012.315, 1012.32, 1012.465 (Jessica Lunsford Act), 1012.467 and 1012.468 are included as terms and conditions of this contract:

### **Finger Printing and Background Check:**

The Contractor agrees to comply with all requirements of Board Policy 8475 and Florida Statute Sections 1012.315, 1012.32, 1012.465 (Jessica Lunsford Act), 1012.467 and 1012.468 by certifying that Contractor and Contractor Staff have completed the mandatory background screenings as required by the referenced policy and statutes and shall provide the School Board with proof of compliance. These certifications will be provided to the Leon County School Board, Safety & Security Department in advance of the Contractor providing any/all services as required herein. The Contractor will bear the cost of acquiring the background screening required and any/all fees imposed by the Florida Department of Law Enforcement and or the District to maintain the fingerprints provided with respect to Contractor and Contractor Staff. Contractor agrees to indemnify and hold harmless the School Board, its officers, agents and employees from any liability in the form of physical injury, death, or property damage resulting from the Contractor's failure to comply with the requirements of these cited policies and statutes. The Contractor will follow procedures for obtaining employees background screening as established by the Leon County School Board, Safety & Security Department.

**Where:** Leon County School Board –Safety & Security Department

2757 W. Pensacola St.

Tallahassee, Florida 32304

**When:** Monday-Friday

8:00 a.m. – 5:00 p.m.

**Point of Contact:** Donald Kimbler @ 850-487-7293

- B. **RECIPROCITY OF FLORIDA SCHOOL I.D. BADGES:** If contractor has a Level II clearance registered with another Florida school district, they may be able to obtain a Leon County School Board vendor

i.d. badge. Contractor should check with the Safety & Security Department Fingerprint Services office to verify clearance and obtain a vendor i.d. badge.

**LCSB Policy 8475 is subject to review and change. As a provision of this Agreement any changes made to this policy or changes to relevant Florida Statute will automatically become a part of and be incorporated in this contract. It is the responsibility of the Contractor to be aware of any changes that may occur.**

## **9. AUDITS, RECORDS, AND RECORDS RETENTION:**

The LCSB or its representative reserves the right to inspect and/or audit all the Contractor's documents and records as they pertain to the products and services delivered under this Agreement. Such rights will be exercised with notice to the Contractor to determine compliance with and performance of the terms, conditions and specifications on all matters, rights and duties, and obligations established by this Agreement. Documents/records in any form shall be open to the LCSB representative and may include but are not limited to all correspondence, ordering, payment, inspection and receiving records, and contracts or sub-contracts that directly or indirectly pertain to the transactions between the LCSB and the Contractor in order:

- A. To establish and maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting procedures and practices, which sufficiently and properly reflect all revenues and expenditures of funds provided by the LCSB under this Agreement.
- B. To retain all Contractor records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to this Agreement for a period of five (5) years after termination of the Agreement, or if an audit has been initiated and audit findings have not been resolved at the end of five (5) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of this Agreement.
- C. That completion or termination of the Agreement and at the request of LCSB, the Contractor will cooperate with LCSB to facilitate the duplication and transfer of any said records or documents during the required retention period as specified in paragraph A above.
- D. To assure that these records shall be subject at all reasonable times to inspection, review, or audit by Federal, state, or other personnel duly authorized by the LCSB.
- E. That persons duly authorized by the LCSB and Federal auditors, pursuant to 45 CFR, Part 92.36 (I) (10), shall have full access to and the right to examine any of Contractor's related records and documents, regardless of the form in which kept, at all reasonable times for as long as records are retained.
- F. To include these aforementioned audit and record keeping requirements in all approved subcontracts and assignments.

## **10. INDEMNIFICATION**

Contractor shall indemnify and hold harmless LCSB from and against any and all claims, liabilities, damages, and expenses including, without limitation, reasonable attorneys' fees, incurred by LCSB in defending actions brought against it arising out of or related to the acts or omissions of Contractor, its agents, officers, or employees in the provision of services or performance of duties by Contractor pursuant to this Agreement.

## **11. INSURANCE**

Contractor shall secure and maintain at all times during the term of this Agreement, at Contractor's sole expense, comprehensive general liability insurance in an amount not less than \$1,000,000 with limits for bodily injury and property damage combined in the amount of \$100,000 per person, \$200,000 per occurrence, with a reputable and financially viable insurance carrier. **LCSB shall be named as an additional insured on Contractor's general liability policy.** Such insurance shall not be cancelable except upon thirty (30) days written notice to LCSB. Contractor shall provide LCSB with a certificate evidencing such insurance coverage and agrees to notify LCSB immediately of any material change in any insurance policy required to be maintained by Contractor hereunder.

## **12. TERMINATION**

- A. **TERMINATION WITHOUT CAUSE.** Either party may terminate this Agreement without cause by giving the other party at least thirty (30) days prior written notice.
- B. **TERMINATION FOR BREACH.** Either party may terminate this Agreement upon breach by the other party of any material provision of this Agreement, provided such breach continues for fifteen (15) days after receipt by the breaching party of written notice of such breach from the non-breaching party.
- C. **IMMEDIATE TERMINATION BY LCSB.** LCSB may terminate this Agreement immediately by written notice to Contractor (such termination to be effective upon Contractor's receipt of such notice) upon the occurrence of any of the following events:
  - 1. the denial, suspension, revocation, termination, restricting, relinquishment, or lapse of any license or certification required to be held by Contractor or Contractor Staff in the State of Florida, or
  - 2. conduct by Contractor or any member of Contractor Staff which affects the quality of services provided to LCSB or the performance of duties required hereunder and which would, in LCSB's sole judgment, be prejudicial to the best interests and welfare of LCSB or its students;
  - 3. breach by Contractor or any member of Contractor Staff of the confidentiality provisions of Section 7 hereof;
  - 4. failure by Contractor to maintain the insurance required under Section 11 of this Agreement;
  - 5. failure to comply with Board Policy 8475 and associated background screening procedures outlined under Section 8 of this Agreement.

- D. **EFFECT OF TERMINATION**. As of the effective date of termination of this Agreement, neither party shall have any further rights or obligations hereunder except for rights and obligations accruing prior to such effective date of termination, or arising as a result of any breach of this Agreement. Notwithstanding the foregoing, the following provisions shall survive the expiration or other termination of this Agreement, regardless of the cause of such termination: Paragraphs I(B), 2, 5, 13, and 15.

### **13. ARBITRATION**

The parties may mutually agree to resolve any dispute or controversy arising under, out of or in conjunction with, or in relation to, this Agreement, or any amendment hereof, of the breach hereof, through arbitration in Leon County, Florida, in accordance with the rules of the American Arbitration Association and applying the laws of the State of Florida. Any award rendered by the arbitrator shall be final and binding upon each of the parties, and judgment thereon may be entered in any court having jurisdiction thereof. The arbitration costs shall be borne equally by both parties, however, each party shall bear its own expenses. During the pendency of any such arbitration and until final judgment thereon has been entered, this Agreement shall remain in full force and effect unless otherwise terminated as provided hereunder.

### **14. ENTIRE AGREEMENT; MODIFICATION**

This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior agreements, oral or written, and all other communications between the parties relating to such subject matter. This Agreement may not be amended or modified except by mutual written agreement.

### **15. GOVERNING LAW**

This Agreement shall be construed in accordance with the laws of the State of Florida and venue shall be in Leon County, Florida.

### **16. COUNTERPARTS**

This Agreement may be executed in one or more counterparts, all of which together shall constitute only one Agreement.

### **17. NOTICES**

All notices hereunder by either party to the other shall be in writing, delivered personally, by certified or registered mail, return receipt requested, or by Federal Express or Express Mail, and shall be deemed to have been duly given when delivered personally or when deposited in the United States mail, postage prepaid, addressed as follows:

**If to LCSB:**      The School Board of Leon County, Florida  
2757 West Pensacola Street

Tallahassee, Florida 32304

**Copy to:** Jeff Wahlen  
Ausley & McMullen  
123 South Calhoun Street  
Tallahassee, FL 32301

**Contractors Full Name:** enter individual name

Name of additional individual(s) **(full name only, no nicknames or abbreviations as LCSB Contract Administrator may need to verify Level II Clearance in accordance with Board Policy 8475)** that will be performing services on this PTSA *(if more than four individuals, add attachment)*:

enter individual name

enter individual name

enter individual name

enter individual name

Address enter address

City/State/Zip: enter city, state & zip

or to such other persons or places as either party may from time to time designate by written notice to the other.

## **18. WAIVER**

A waiver by either party of a breach or failure to perform hereunder shall not constitute a waiver of any subsequent breach or failure. A waiver of the insurance requirements listed in Section 11 (Insurance) does not relieve the Contractor of the provisions listed in Section 10 (Indemnification).

## **19. CAPTIONS**

The captions contained herein are used solely for convenience and shall not be deemed to define or limit the provisions of this Agreement.

## **20. ASSIGNMENT; BINDING EFFECT**

Contractor shall not assign or transfer, in whole or in part, this Agreement without the prior written consent of LCSB, which consent shall not be unreasonably withheld. Any assignment or transfer by Contractor without such consent shall be null and void. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, representatives, successors and permitted assigns.

## **21. FORCE MAJEURE**



Either party shall be in default by reason of failure in performance, if such failures arise out of causes reasonably beyond its control, including but not limited to strikes, lockouts, war, epidemics, fire, embargoes, acts of God, default of common carriers, or inaction of governmental authorities.

## 22. SEVERABILITY

In the event any part of this Agreement is held to be unenforceable, such holding shall not invalidate or render unenforceable any other provision hereof or the Agreement as a whole.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

ATTEST: The School Board of Leon County, Florida

PRINCIPAL/DEPARTMENT HEAD SIGNATURE: \_\_\_\_\_  
enter name written above

DIVISION DIRECTOR SIGNATURE: \_\_\_\_\_  
enter name written above.

If NTE is > \$50,000: \_\_\_\_\_  
Enter name of LCSB Board Chair

BY CONTRACTOR: \_\_\_\_\_  
enter name written above

## **EXHIBIT A**

CONTRACTOR FEID NUMBER: enter FEID # if applicable

INDIVIDUAL SOCIAL SECURITY NUMBER: enter SS# if applicable

# **EXHIBIT B**

## **Scope of Services to be Provided**

enter description of services

## **Fee Schedule**

Provide Rate of Pay and Not to Exceed (NTE) figure.

enter NTE \$ amount

# **EXHIBIT C**

## **FEDERAL SUBRECIPIENT ADDENDUM**

1. General Information:

- A) CFDA Title enter # if applicable
- B) CFDA Number enter # if applicable
- C) Award Name enter award name
- D) Award Number enter award #
- E) Award Year enter award year
- F) R & D Yes ☐ No ☐

2. Federal Agency Name enter agency name

3. The following requirements must be complied with:

- A) Federal Laws and Regulations: enter requirements
- B) Contract or Grant Agreement Provisions: enter provisions
- C) District Supplemental Requirements: enter requirements

4. enter name(*Name of Subrecipient*) shall allow LCSB to monitor activities to ensure use of the funds complies with the authorized purposes in compliance with Federal laws, regulations and the provisions of contracts or grant agreements and that performance goals are achieved.

5. enter name(*Name of Subrecipient*) shall meet the Single Audit and OMB Circular A-133 requirements within 120 days of enter name (*Name of Subrecipient*) fiscal year.

**NOTE: To Be Used With Federal Grants Only**

## PROFESSIONAL/TECHNICAL SERVICES AGREEMENT CHECKLIST

QUESTIONS		YES	NO
1.	Will the Contractor be working with minor children?	<input type="checkbox"/>	<input type="checkbox"/>
2.	Is the Contractor a district employee? <b>(Board Policy 1129 Conflict of Interest prohibits employees from doing business with the Board).</b>	<input type="checkbox"/>	<input type="checkbox"/>
3.	Is the Contractor aware that LCSB is protected under Art. 768.28(Sovereign Immunity)?	<input type="checkbox"/>	<input type="checkbox"/>
4.	Does the Contractor have Errors and Omissions Coverage? If yes, what limit? enter \$	<input type="checkbox"/>	<input type="checkbox"/>
5.	Does the Contractor have Worker's Compensation Insurance?	<input type="checkbox"/>	<input type="checkbox"/>
6.	Will the Contractor services be rendered personally?	<input type="checkbox"/>	<input type="checkbox"/>
7.	Does the Contractor hire, supervise and pay his/her assistants?	<input type="checkbox"/>	<input type="checkbox"/>
8.	Has there been a continuing relationship between the Contractor and the LCSB?	<input type="checkbox"/>	<input type="checkbox"/>
9.	Does the Contractor set his own hours?	<input type="checkbox"/>	<input type="checkbox"/>
10.	Will the Contractor be working full-time on the project?	<input type="checkbox"/>	<input type="checkbox"/>
11.	Will the Contractor work on school premises?	<input type="checkbox"/>	<input type="checkbox"/>
12.	Will the services provided be performed in a set order or sequence?	<input type="checkbox"/>	<input type="checkbox"/>
13.	Will the Contractor submit regular or written reports?	<input type="checkbox"/>	<input type="checkbox"/>
14.	Will LCSB pay by the hour, week or month as compared to a lump sum?	<input type="checkbox"/>	<input type="checkbox"/>
15.	Is it possible for the Contractor to realize a profit or suffer a loss?	<input type="checkbox"/>	<input type="checkbox"/>
16.	Does the Contractor have an owning interest in facilities used to provide services?	<input type="checkbox"/>	<input type="checkbox"/>
17.	Does the Contractor make his services available to the general public?	<input type="checkbox"/>	<input type="checkbox"/>
18.	Can the LCSB discharge the Contractor?	<input type="checkbox"/>	<input type="checkbox"/>
19.	Can the Contractor terminate his services to LCSB without liability?	<input type="checkbox"/>	<input type="checkbox"/>
20.	What are the date(s) or term of consulting engagement? enter term	<input type="checkbox"/>	<input type="checkbox"/>
21.	Will the services provided under this agreement exceed \$50,000 in a fiscal year?	<input type="checkbox"/>	<input type="checkbox"/>
22.	If yes to 21 above, what is the date of school board approval? enter Bd. Approval date and item no.	<input type="checkbox"/>	<input type="checkbox"/>

When looking at the answers provided on this Professional/Technical Services Agreement, Administrators will review all options. The more control that the LCSB exercises over the vendor, the more likely the vendor can be considered as an employee. The Internal Revenue Service (IRS) and the Florida Retirement System (FRS) look at each case separately; therefore, there are no exact number answers for them to rule either way. The more control LCSB exercises over the vendor, the less likely that vendor will be considered as an Independent Contractor.

Note: Administrators may not have vendors render services until the PTSA is approved by the Purchasing Department. Although there is no right or wrong answer, Administrators are reminded that the welfare of the LCSB is paramount.

## WAIVER OF INSURANCE REQUIREMENTS

The purpose of this waiver form is to provide a medium by which administrators can explain the reasons for a particular Contractor not being required to provide insurance according to the insurance provisions in Section 11 of this Agreement. This waiver form is to be used only in conjunction with the PTSA.

1. Date: **enter date**

2. Site: **enter cost center and site name**

3. Contractor's Name: **enter contractors name**

4. Reason why administrator feels insurance requirements should be waived:

☐ Contractor will not be working with minor children.

☐ Contractor will be escorted by Leon County School Board employee during **the entire time** he/she is in the presence of minor children.

☐ Services to be provided will not place the School District at risk (please explain).

**enter explanation**

☐ Other (Please explain in detail; attach additional documentation if necessary)

**enter explanation**

\* Be sure to attach PTSA checklist with this form.

Purchasing Director Approval: YES ☐ NO ☐

Purchasing Director: \_\_\_\_\_ Date: \_\_\_\_\_

jlk

## Guidelines for Level II Clearance

QUESTIONS		YES	NO
1.	Will the Contractor/Contractor Staff have direct contact with students?	<input type="checkbox"/>	<input type="checkbox"/>
2.	Will the Contractor/Contractor Staff be unsupervised on a school campus? (All Contractors/Contractor Staff must be supervised by an individual(s) with a Level II Clearance)	<input type="checkbox"/>	<input type="checkbox"/>
3.	During the term of this Agreement will the Contractor/Contractor Staff be on a school campus in excess of 8 hours?	<input type="checkbox"/>	<input type="checkbox"/>

**“Yes” to any of the above questions requires that the Contractor/Contractor Staff have a Level II Fingerprint Check.** All other circumstances can be handled with Raptor checks and supervision during the school visits.

*John Hunkiar, Director of Safety & Security has authorized these procedures after full review of Florida Statutes with emphasis on The Jessica Lunsford Act. The Office of Safety & Security can be reached at (850) 487-7117.*