

TITLE OF CONTRACT
RFP #

AGREEMENT

This agreement, made and entered into effective the _____ day of ____, 20__ by and between **Aurora Public Schools**, whose mailing address is 80 Airport Blvd., Aurora, CO 80011, hereinafter referred to as the "District", and _____, whose mailing address is _____, hereinafter referred to as "Contractor".

WITNESSETH:

In consideration of the mutual covenants and obligations herein expressed, it is agreed by and between the parties hereto as follows:

1. Scope of Services: The Contractor agrees to provide goods and/or services as set forth in Exhibit A hereto which is incorporated herein by this reference. In the event of any inconsistency between the provisions of this Agreement and the Scope of Services set forth in Exhibit A, the provisions contained within this Agreement shall control.
2. Effective Date and Duration: This Contract shall become effective on _____, or the date this Contract is fully executed and approved as required by applicable law. The obligations to be performed pursuant to this Agreement shall be initiated no later than _____ and shall be completed no later than _____, 20__. The initial agreement term shall be one year. The parties may renew and extend the executed agreement(s) pertaining to all prices, terms, conditions, and specifications upon mutual agreement between the District and Contractor.
3. Cancellation: Either party may terminate this Agreement at any time for a material breach with 10 business days written notice being provided to cure an alleged breach. After this Agreement has been in effect for six months, either party may terminate this agreement upon 30 days written notice to the other party for any or no reason. In the event of termination any commissions owed shall be promptly paid; provided however, that under no circumstances will any damages be paid solely as a result of the termination of this contract. If the vendor exercises the right to terminate the contract early, it cannot bid on future proposals with the school district for the period of five years. The District reserves the right to cancel the contract if it finds that one or more of the company's principals is classified as suspended/debarred on the Excluded Parties List System (EPLS) website.
4. Compensation:
 - a) In consideration of the obligations to be performed pursuant to this Agreement, the District agrees to pay Contractor _____ Dollars

(\$_____.00) per _____. Maximum compensation shall not exceed _____ Dollars (\$_____.00), except as provided in subsection (b), herein. The District shall provide no benefits to Contractor other than the compensation stated above.

- b) If additional work is necessary, as determined by the District, the District shall pay the Contractor for additional work according to the unit prices set forth in Exhibit A. If the additional work is not covered by Exhibit A the parties shall, prior to the work being done, agree in writing as to (a) the nature, scope and timeline of the additional work; and (b) the price for the additional work.
- c) The Contractor shall submit invoices monthly for services performed and expenses incurred during the prior month. Payment will be made to the Contractor within thirty (30) days of the District's receipt of the approved invoices.

5. Independent Contractor: The obligations to be performed by Contractor are those of an independent contractor and nothing herein contained shall constitute or designate the Contractor or any of its employees as agents of the school district or any of its Board members or any of its employees.

6. Insurance & Indemnification: Contractor agrees to indemnify, defend and hold the District (and its directors, officers, officials and employees) harmless from suits, claims, expenses (including attorney's fees) or actions of any kind, including worker's compensation claims, related in any way to the work done for the school district by Contractor or its agents; provided however that this obligation shall not be enforced where the party being indemnified engaged in willful misconduct. Contractor must furnish original insurance certificates confirming the following insurance coverage:

- Commercial general liability with limits of not less than \$2 million per occurrence/\$5 million aggregate. In addition, evidence of Technology Errors and Omissions coverage in the amount of no less than \$1 million shall be provided;
- Professional liability insurance (which shall protect Contractor, its officials, officers, directors, employees, contractors, volunteers and agents from claims which may arise from services performed under this Agreement, whether such services are performed by Contractor, by the District, its officials, officers, directors, employees, contractors or agents or by anyone directly or indirectly employed by any of them) with limits between \$2 million per claim and aggregate, if "claims made", coverage is to be maintained for a period of two years beyond the expiration of this contract or a two-year extended reporting period must be purchased.
- Statutory workers' compensation coverage and employer's liability insurance with limits of not less than \$1,000,000.
- Comprehensive automobile liability insurance coverage is also required with limits not less than 100/30/50.

The District must be included as an "Additional Insured" on the commercial general liability.

The company which writes the insurance (or bond) for Contractor must carry a rating of "A-VIII" or better as rated by Moody's or A.M. Best Company.

Either party shall have the right, during the Term from time to time, to request copies of certificates of insurance and/or other evidence of the adequacy of the above insurance coverages.

7. Undocumented Workers: The Contractor certifies that the Contractor shall comply with the provisions of Section 8-17.5-101 *et seq.*, C.R.S. The Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or enter into an agreement with a subcontractor that knowingly employs or contracts with an illegal alien. The Contractor represents, warrants, and agrees that it has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the Agreement through participation in either the E-Verify Program or the Department Program described in Section 8-17.5-101, C.R.S. The Contractor shall not use either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while the public contract for services is being performed. If the Contractor obtains actual knowledge that a subcontractor performing work under this contract knowingly employs or contracts with an illegal alien, the Contractor shall: (i) notify the subcontractor and the District within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and (ii) terminate the subcontract with the subcontractor if within three days of receiving such notice, the subcontractor does not stop employing or contracting with the illegal alien, unless the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien. The Contractor shall comply with all reasonable requests made in the course of an investigation by the Colorado Department of Labor and Employment. If the Contractor fails to comply with any requirement of Section 8-17.5-102(2), C.R.S., the District may terminate this Agreement for breach and the Contractor shall be liable for actual and consequential damages to the District, even in the absence of gross negligence or willful misconduct. If Contractor participates in the Department Program, Contractor shall provide the affirmation required under Section 8-17.5-102(5)(e)(III), C.R.S., to the District.
 - a. If Contractor operates as a sole proprietor, Contractor hereby swears or affirms under penalty of perjury that Contractor (i) is a citizen of the United States or otherwise lawfully present in the United States pursuant to federal law, (ii) shall comply with the provisions of Section 24-76.5-101 *et seq.*, C.R.S., and (iii) shall produce one of the forms of identification required by Section 24-76.5-103, C.R.S., prior to the commencement of services.

8. Assignment and Subcontractor: The duties and obligations of the Contractor shall not be assigned, delegated, nor subcontracted without the express written consent of the District. Any subcontractor, assignee or delegatee consented to by the District shall be subject to the requirements of this Agreement. The Contractor shall remain responsible for the delivery of services as set forth in this Agreement and for the performance of any subcontractor.
9. Compliance with Applicable Laws: The Contractor is obligated to familiarize itself and comply with all laws applicable to the performance of the Scope of Services. Contractor shall comply with all federal, state and local laws and ordinances applicable to the work under this contract. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with: (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 (Pub L No. 101-336), C.R.S. 24-34-301 et seq, and all regulations and administrative rules established pursuant to those laws; and (iv) all other applicable requirements of federal, state and local civil rights and rehabilitation statutes, rules and regulations.
10. **Confidentiality**: Contractor acknowledges and agrees it is responsible for ensuring compliance, including ensuring subcontractor compliance, with all applicable confidentiality laws, including, but not limited to, the Health Insurance Portability Accountability Act (HIPAA) and Family Educational Rights and Privacy Act (FERPA).
11. Law, Venue and Arbitration: This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado without regard to conflicts of laws principles. Any legal proceeding of any nature whatsoever brought by either party against the other to enforce any right or obligation under this Agreement, or arising out of any matter pertaining to this Agreement, shall be submitted for trial before the Courts of the State of Colorado, or the United States District Court for the District of Colorado or, if neither of such courts shall have jurisdiction, then before any court sitting in Arapahoe County, Colorado having subject matter jurisdiction. The parties consent and submit to the jurisdiction of any such court and agree to accept service of process as provided by law. In addition, at the option of either party, any dispute related to this Agreement may be submitted for expedited arbitration under the auspices of, and in accordance with the then-current procedures of, the American Arbitration Association. Such Arbitration shall take place at an appropriate facility within the District at a time and place to be reasonably agreed upon by the Parties.
12. Annual Appropriation: The District's obligations hereunder are subject to the annual appropriation of funds necessary for the performance thereof, which appropriations shall be made in the sole discretion of the District's Board of Directors. The parties acknowledge therefore that this Agreement does not bind the school district beyond the current fiscal year.
13. Ownership of Work Product: All documents such as reports, plans, drawings and contract specifications, information, and other materials prepared or furnished by Contractor (or Contractor's independent professional associates, subcontractors, and consultants) and paid for pursuant to this Agreement are instruments of public

information and property of the District. All internal documents which support the public information such as field data, field notes, laboratory test data, calculations, estimates and other documents prepared by Contractor as instruments of service shall be provided to the District. The District understands such documents are not intended or represented to be suitable for reuse by the District or others for purposes outside the specific scope and conditions of the Scope of Services. The District may retain ownership of and may reuse such documents without written verification of Contractor.

14. Miscellaneous Provisions:

- **No Waiver of Governmental Immunity:** Notwithstanding any other provision of this Agreement to the contrary, no term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, by the School District of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act, C.R.S. 24-10-101, et seq., as now or hereafter amended.
- **Entire Understanding:** This Agreement represents the entire understanding between the parties hereto with respect to the subject matter hereof. This Agreement supersedes all previous representations, understandings or agreements, oral or written, between the parties with respect to the subject matter hereof and cannot be modified except by written instrument signed by both parties hereto.
- **Savings Clause:** If any provision of this Agreement shall be deemed or declared unenforceable, invalid or void, the same shall not impair any of the other provisions contained herein which shall continue to be enforceable in accordance with their respective terms, except that this clause shall not deprive any party of any remedy afforded under this Agreement.
- **Counterparts:** This agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall be deemed one instrument. Facsimile signatures shall be deemed to be the same as original signatures.

15. Any notices or other communication hereunder shall be in writing, shall be sent via registered or certified mail addressed to the following, and shall be deemed given when received:

For Contractor: **Name of Company**
ATTN: Name
Address
City, State Zip

For District: Aurora Public Schools:
ATTN: Curt Humphrey
80 Airport Blvd.
Aurora, CO 80011

Any party hereto may change its address for purposes of this paragraph by written notice given in the manner provided above.

16. Contractor shall:

- Make payments promptly, as due, to all persons supplying to such contractor labor or material for the prosecution of the work provided for in such contract.
- Not permit any lien or claim to be filed or prosecuted against APS on account of labor or material furnished.
- Pay to the Department of Revenue all sums withheld from employees pursuant to Colorado law.

17. Background checks: Contractor agrees that each person who will perform work under this agreement and interact with district students will be subjected to a criminal background check by the District similar to that which the District is legally obligated to perform on any new employee. Contractor agrees to provide the District with a signed release by which each employee authorizes such background check. If, as a result of the background check, the District does not wish an individual to serve under this contract, contractor agrees to the extent possible, to furnish another person within one (1) week. If such permanent replacement cannot be located within one week, contractor can fill the position with a substitute until a permanent employee can be retained, provided that a permanent replacement must be found within six (6) weeks.

For contractor employees who do not interact with District Students Contractor will be required to complete criminal record checks on all employees who work on District property for this contract. Employees who have been convicted of a violent or serious felony, including crimes that require registration on the National Sex Offender Registry will not be allowed to work on District property for this contract. Each individual respondent/vendor will be responsible to adhere to any federal, state and local privacy and confidentiality requirements.

18. Child abuse reporting: Contractor agrees that each person who performs work on its behalf under this agreement shall immediately report any suspicions of child abuse or neglect to the building administrator (or if one is not available, to the Superintendent's office or such other office as is designated by the School District) upon becoming aware of information which forms the basis for such suspicion. (Colorado Revised Statutes defining abuse and neglect are found at C.R.S. Section 19-1-103.)

Contractor agrees to inform the District immediately if it has knowledge that would lead a reasonable person to conclude that one of its employees poses an unusual potential for physical, emotional or psychological harm to any student, employee or patron of the District.

19. Equal Opportunity: In connection with the performance of any work under the bid/proposal, the respondent shall agree not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, creed, color, national origin,

ancestry, age, sex or disability, and further agrees to insert the foregoing provisions in all subcontracts hereunder.

20. Time is of the Essence. Contractor agrees that time is of the essence in completing the terms of this Agreement.

This Agreement is made this _____ day of _____, 20__.

CONTRACTOR:

By: _____
Name: _____
Title: _____
Date: _____

AURORA PUBLIC SCHOOLS

By: _____
Name: _____
Title: _____
Date: _____