

**SERVICES AGREEMENT**

(The College Board)

This SERVICES AGREEMENT ("Agreement") is entered into by and between the Board of Education of the City of Chicago, a body politic and corporate, commonly known as the Chicago Public Schools (the "Board" or "CPS") and The College Board ("Consultant").

**RECITALS**

- A. The Board desires that Consultant render certain services more fully described herein; and
- B. Consultant has demonstrated expertise in providing such services, has represented that it has the requisite knowledge, skill, experience and other resources necessary to perform such services and is desirous of providing such services for the Board.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, the parties hereby agree as follows:

1. **Incorporation of Recitals:** The matters recited above are hereby incorporated into and made a part of this Agreement.
2. **Term:** This Agreement is for a term commencing on May 1, 2013 ("Effective Date") and continuing through April 30, 2014 ("Term"), unless terminated sooner as provided herein. The parties shall have three (3) options to renew this Agreement for a period of one (1) year each (each a "Renewal Term").
3. **Scope of Services:** Consultant agrees to provide the services set forth in **Exhibit A** ("Services"), in accordance with the terms and conditions of this Agreement. "Services" means, collectively, the services, deliverables, duties and responsibilities described in **Exhibit A** of this Agreement and any and all work necessary to complete them or carry them out fully and to the standard of performance required in this Agreement. The Board retains final authority with respect to all Services related decisions. The Board may, from time to time, request changes in the scope of Services. Any such changes, including any increase or decrease in Consultant's fees, shall be documented by a written amendment to this Agreement signed by both parties.
4. **Compensation and Payment:** The total maximum compensation payable to Consultant under this Agreement shall not exceed Nine Hundred Fifty One Thousand Seventy Six and 00/100 Dollars (\$951,076.00) ("**Total Maximum Compensation**"). Consultant is not entitled to any payment nor is the Board obligated to pay Consultant any amount solely by virtue of entering into this Agreement. In the event of early termination of this Agreement, the Board shall only be obligated to pay for Services rendered up to the date of termination. In no event shall the Board be liable for the cost of Services performed after the effective termination or expiration date of this Agreement. Consultant agrees to provide the Services at the prices set forth in **Exhibit A** and shall be paid in accordance with the Budget/Pricing/Payment in **Exhibit A**. If Consultant overcharges, in addition to all other remedies, the Board shall be entitled to a refund in the amount of the overcharge, plus interest at the rate of 3% per month from the date the overcharge was paid by the Board until the date refund is made. The Board has the right to offset any overcharge against any amounts due to Consultant under this or any other Agreement between Consultant and the Board. It is further understood and agreed that the Total Maximum Compensation in a 'not-to-exceed' amount and is not a guaranteed payment.

5. **Billing and Payment Procedures; Electronic Payments**

A. **Billing and Payment Procedures:** All invoices must include: a valid purchase order number, itemized description of the services rendered and/or materials delivered, date the services were rendered, date the materials were delivered, invoice date, and invoice amount. Invoices shall be submitted in a timely manner. The final invoice shall be submitted no later than ninety (90) days after the expiration or termination of this Agreement. If Consultant has more than one contract with the Board, separate invoices must be submitted for each contract. The Board shall process payments in its normal course of business after receipt of invoices and all supporting documentation necessary for the Board to verify the Services provided under this Agreement.

**Submit original invoices to:**

Chicago Public Schools  
Attn: Accounts Payable  
PO Box 661  
Chicago, IL 60690-0661

**Submit a copy to:**

Chicago Public Schools  
Office of Magnet, Gifted and Talented  
125 South Clark Street, 11<sup>th</sup> Floor  
Chicago, IL 60603  
Attn: Mark Klimesh

B. **Electronic Payments:** Consultant agrees that, at the Board's sole discretion, the Board may make payment electronically to Consultant for any and all amounts due to Consultant pursuant to this Agreement by means of the Board's procurement charge card account. Consultant recognizes that any charge to the Board's procurement charge card that is in excess of the open remaining amount as stipulated in the applicable Purchase Order, or any charge unaccompanied by the requisite documentation and data as required by the Board, shall be deemed invalid and disputed by the Board. Consultant further recognizes that, in the absence of any supporting documentation as may be required by the Board, payments associated with disputed charges shall be rescinded by the Board and deemed not owed by the Board. Consultant agrees to comply with the rules, procedures and documentation required for electronic payment via the Board's procurement charge card as established by the Board's Department of Procurement and Contracts.

6. **Packaging, Warranty and Inspection:** The following provisions shall apply if Consultant is providing any products as part of or in connection with the Services ("Products") The term "Services" as used in this Agreement shall be inclusive of any Products Consultant provides pursuant to this Agreement.

A. **Packaging and Shipment; Risk of Loss:** Consultant shall package and ship all Materials in a commercially reasonable manner. All shipments shall be F.O.B. destination (as indicated on the PO or some other notification from the Board) with freight and insurance prepaid. The Board may request that shipment be made to any location that the Board designates as a Chicago Public School or a CPS facility. Any and all deliveries made to a Chicago Public School shall occur between the hours of 8:00 a.m. – 2:30 p.m. and the Consultant shall advise carrier of this restriction. It is understood and agreed that the Board shall have no liability for any insurance charges not incorporated in the prices quoted, and that freight charges shall be limited to those specified in this Agreement. The Board may adjust Purchase Order shipping destination any time up to ten (10) business days prior to shipment. The risk of loss and damage to Materials ordered by the Board shall pass to the Board only after delivery to the destination designated by the Board. Time is of the essence to the delivery of all Materials ordered hereunder.

B. **Inspection and Out-Of-Box Failures:** The Board reserves the right to inspect all Products and to perform any test the Board deems necessary to adequately demonstrate that

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the Products meet all of the specifications, as more particularly described in Exhibit A. Products which do not conform to the specifications or that are otherwise damaged must either, at the Board's discretion, be retrieved by Consultant (at Consultant's expense) for replacement at no charge to the Board, or the Board may cancel that portion of the purchase order relating to the nonconforming Products at no charge to the Board. For any such returned Products, the Board shall either debit or offset from Consultant the cost of such Product plus freight, or receive a refund for such, at Board's discretion. The warranty period for any Product replaced pursuant to this Section shall be two (2) years from the date the replaced Product is received by the Board, unless otherwise indicated in the Specifications in Exhibit A.

C. **Warranty:** Consultant hereby warrants that all Products furnished hereunder shall be new and conform to the specifications in Exhibit A. The Products shall be of merchantable quality and in good working order, and shall be free from defects in material, workmanship and design for a period of three years from date of receipt of shipment unless otherwise stated in Exhibit A. The warranty shall further cover accidental damage repair or replacement of the Products for a period of three years. The Board shall have the option to require Consultant to repair or replace defective Products without charge or expense, or to reject any defective Products and obtain a full refund or credit for any payment therefore. Repaired Products, excluding out-of-box failures that are covered in Section C below, shall be warranted for a minimum period of six (6) months from completion of repairs or the remainder of the Product's original warranty, whichever is longer. Consultant shall be responsible for transportation charges for all warranty shipments. This warranty shall survive inspection, acceptance, payment and expiration or termination of this Agreement. Each warranty shall include, but is not limited to, the manufacturer's name, the school's name, the Product number, the length of the warranty, the manufacturer's contact person and the contact number. A letter containing all warranty information shall be provided when Consultant submits its invoice or the invoice will not be processed by the Board.

7. **Standards of Performance:** Consultant must perform all Services required of it under this Agreement with that degree of skill, care and diligence normally shown by a Consultant performing services of a scope, purpose and magnitude comparable with the nature of the Services to be provided under this Agreement. Consultant acknowledges that, in the course of providing Services hereunder, it is entrusted with or has access to valuable and confidential information and records of the Board, that with respect to that information, Consultant agrees to be held to the standard of care of a fiduciary. Any review, approval, acceptance of Services or deliverables or payment for any of the Services by the Board does not relieve Consultant of its responsibility for the professional skill and care and technical accuracy of its Services and deliverables. This provision in no way limits the Board's rights against the Consultant under this Agreement, at law or in equity.
8. **Personnel:** Consultant must assign and maintain during the term of this Agreement and any renewal of it, an adequate staff of competent personnel that is fully equipped, licensed as appropriate, available as needed, qualified and assigned to perform the Services. If the Board determines, in its sole discretion, that any employee, subcontractor or other person providing Services hereunder for the Consultant is not performing in accordance with the performance standards or other requirements of this Agreement, the Board shall have the right to direct the Consultant to remove that person from performing Services under this Agreement.
9. **Non-appropriation:** Expenditures not appropriated by the Board in its current fiscal year budget are deemed to be contingent liabilities only and are subject to appropriation in subsequent fiscal year budgets. In the event no funds or insufficient funds are appropriated and budgeted in any subsequent fiscal period by the Board for performance under this Agreement, the Board shall notify Consultant and this Agreement shall terminate on the earlier of the last day of the fiscal period for which sufficient appropriation was made or whenever the funds appropriated for payment under this Agreement are exhausted. Payments for Services completed to the date of

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notification shall be made to Consultant except that no payment shall be made or due to Consultant under this Agreement beyond those amounts appropriated and budgeted by the Board to fund payments under this Agreement.

10. **Events of Default and Remedies:**

A. Events of default ("Events of Default") include, but are not limited to, the following:

- i. Any material misrepresentation by Consultant in the inducement or the performance of this Agreement.
- ii. Breach of any term, condition, representation or warranty made by Consultant in this Agreement.
- iii. Failure of the Consultant to perform any of its obligations under this Agreement including, but not limited, to the following:
  - a. Action or failure to act which negatively affects the safety and/or welfare of students or Board staff;
  - b. Failure to perform the Services with sufficient personnel or material to ensure the timely performance of Services;
  - c. Failure to timely perform Services;
  - d. Failure to perform the Services in a manner reasonably satisfactory to the Board of the Board;
  - e. Failure to promptly re-perform Services that were rejected by the Board as incomplete or unsatisfactory within a reasonable time and at no cost to the Board; and
  - f. Discontinuance of the Services for reasons within Consultant's reasonable control.
- iv. Default by Consultant under any other agreement Consultant may have or may enter into with the Board.
- v. Assignment by Consultant for the benefit of creditors or consent by Consultant to the appointment of a trustee or receiver or the filing by or against Consultant of any petition or proceeding under any bankruptcy, insolvency or similar law.

B. **Remedies.** The occurrence of any Event of Default which Consultant fails to cure within fifteen (15) calendar days after receipt of notice given in accordance with the terms of this Agreement and specifying the Event of Default or which, if such Event of Default cannot be reasonably cured within fifteen (15) calendar days after notice, Consultant fails to commence and continue diligent efforts to cure in the sole opinion of the Board, may permit the Board to declare Consultant in default. Whether to declare Consultant in default is within the sole discretion of the Chief Procurement Officer. Written notification of an intention of the Chief Procurement Officer to terminate this Agreement, in whole or in part, shall be provided and shall be final and effective upon Consultant's receipt of such notice. Upon the giving of such notice as provided in this Agreement, the Board may invoke any or all of the following remedies:

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- i. The right to take over and complete the supply of Services or any part thereof, by contract or otherwise as agent for and at the cost of Consultant either directly or through others. Consultant shall be liable to the Board for any excess costs incurred by the Board. Any amount due Consultant under this Agreement or any other agreement Consultant may have with the Board may be offset against amounts claimed due by the Board;
- ii. The right to terminate this Agreement, in whole or in part, as to any or all of the Services yet to be supplied effective at a time specified by the Board;
- iii. The right to suspend the supply of Services during the fifteen (15) day cure period if the default results from Consultant's action or failure to act which affects the safety or welfare of students or Board staff;
- iv. The right to specific performance, an injunction or any other appropriate equitable remedy;
- v. The right to receive from Consultant any and all damages incurred as a result or in consequence of an Event of Default;
- vi. The right to money damages;
- vii. The right to withhold all or part of Consultant's compensation under this Agreement; and
- viii. The right to use an Event of Default as a basis to deem Consultant non-responsible in future contracts to be awarded by the Board.

The Board may elect not to declare Consultant in default or to terminate this Agreement. The parties acknowledge that this provision is solely for the benefit of the Board and that if the Board permits Consultant to continue to supply the Services despite one or more Events of Default, Consultant shall in no way be relieved of any responsibilities, duties or obligations under this Agreement nor shall the Board waive or relinquish any of its rights under this Agreement, at law, equity or statute.

The remedies under the terms of this Agreement are not intended to be exclusive of any other remedies provided, but each and every such remedy shall be cumulative and shall be in addition to any other remedies, existing now or hereafter, at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any Event of Default shall be construed as a waiver of any Event of Default or acquiescence thereto, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

If the Board's election to terminate this agreement for default under this Section is determined by a court of competent jurisdiction to have been wrongful, then in that case the termination is to be considered an early termination pursuant the Early Termination provision below.

C. Turnover of Documents and Records. Upon demand of the Board after termination of this Contract for any reason or the expiration of this Contract by its terms, Consultant shall turn over to the Board or its designee within five (5) days of demand, all materials, supplies, equipment owned or purchased by the Board, completed or partially completed work product or analyses, data, computer disks, documents and any other information relating in any way to this Contract or the performance or furnishing of Services, except that Consultant may keep a copy of such information for its own records.

11. Early Termination and Suspension of Services:

A. Early Termination: The Board may terminate this Agreement in whole or in part, without cause, at any time, by a notice in writing from the Board to Consultant in accordance with the notice provisions herein. The effective date of termination shall be thirty (30) calendar days from the date the notice is received or the date stated in the notice, whichever is later.

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After notice is received, Consultant must restrict its activities and those of its subcontractors, to winding down any reports, analyses, or other activities previously begun. No costs incurred after the effective date of the termination are allowed. Payment for any Services actually and satisfactorily performed before the effective date of the termination is on the same basis as set forth herein in the provision regarding compensation and payment.

Consultant must include in its contracts with subcontractors an early termination provision in form and substance equivalent to this early termination provision to prevent claims against the Board arising from termination of subcontracts after the early termination of this Agreement.

Consultant shall not be entitled to make any early termination claims against the Board resulting from any subcontractor's claims against Consultant or the Board to the extent inconsistent with this provision.

B. Suspension of Services: The Board may, upon fifteen (15) calendar day's written notice, request that Consultant suspend supplying Services in whole or part. Consultant shall promptly resume supplying Services upon written notice from the Board and upon such equitable extension of time as may be mutually agreed upon, in writing, by the Board and Consultant. Responsibility for any additional costs or expenses actually incurred by Consultant as a result of remobilization shall be determined by mutual agreement of the parties.

12. Assignment: This Agreement shall be binding on the parties and their respective successors and assigns, provided however, that neither party may assign this Agreement or any obligations imposed hereunder without the prior written consent of the other party.

13. Confidential Information, Dissemination of Information, Ownership, Survival. For purposes of this Section 13 and subsections A through K, the term "Work Product" shall exclude any and all (i) third party intellectual property and (ii) pre-existing Consultant intellectual property that is delivered to the Board as part of the Services to be provided by Consultant hereunder or are imbedded in any Work Product to be delivered to the Board by Consultant hereunder.

A. Confidential Information. In performance of Services and/or delivery of Materials to the Board, Consultant may have access to or receive certain information that is not generally known to others, such as employee, volunteer, student, or teacher data including, but not limited to name, address, student identification number, social security number, phone number, email address, gender, date of birth, ethnicity, race, foster care status, disabilities, school, grade, grade point average, standardized test scores, ISAT scores, assessment data, after school activities, highest grade completed, discipline history, criminal history, free or reduced lunch qualifications, housing status, income, household income or payroll information. ("Confidential Information"). Consultant shall not use or disclose any Confidential Information or any finished or unfinished, documents, screens, reports, writings, procedural manuals, forms, source code, object code, work flow charts, methods, processes, data, data studies, drawings, maps, files, records, computer printouts, designs, equipment descriptions, or other materials prepared or generated as a result of this Agreement ("Work Product") without the prior written consent of the Board. Consultant shall use at least the same standard of care in the protection of the Confidential Information of the Board as Consultant uses to protect its own confidential information, but in any event such Confidential Information shall be protected in at least a commercially reasonable manner.

B. Dissemination of Information: Consultant shall not disseminate any Confidential Information to a third party without the prior written consent of the Board. Consultant shall not issue publicity news releases or grant press interviews related to this Agreement, except as may be required by law or with the prior written consent of the Board. If Consultant is presented with a request for documents by any administrative agency or with a *subpoena duces tecum* regarding

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any Confidential Information or Work Product which may be in Consultant's possession, Consultant shall immediately give notice to the Board and its General Counsel with the understanding that the Board shall have the opportunity to contest such process by any means available to it prior to submission of any documents to a court or other third party. Consultant shall not be obligated to withhold delivery of documents beyond the time ordered by a court of law or administrative agency, unless the request for production or subpoena is quashed or withdrawn, or the time to produce is otherwise extended. Consultant shall cause its personnel, staff and subcontractors, if any, to undertake the same obligations regarding confidentiality and dissemination of information as agreed to by Consultant under this Agreement.

C. Ownership: Consultant agrees that, to the extent permitted by law, any and all Work Product shall exclusively be deemed "works for hire" within the meaning and purview of the United States Copyright Act, 17 U.S.C. 101§ *et seq.* To the extent any Work Product does not qualify as a "work for hire," Consultant irrevocably grants, assigns, and transfers to the Board all right, title, and interest in and to the Work Product in all media throughout the world in perpetuity and all intellectual property rights therein, free and clear of any liens, claims, or other encumbrances, to the fullest extent permitted by law. All intellectual property, Confidential Information, and Work Product shall at all times be and remain the property of the Board. Consultant shall execute all documents and perform all acts that the Board may request in order to assist the Board in perfecting or protecting its rights in and to the Work Product and all intellectual property rights relating to the Work Product.

D. Use of Confidential Information: Consultant warrants and represents that it shall not use the Confidential Information or Work Product for any purpose not specifically identified in Exhibit A, including, but not limited to any research project whether internal or external to Consultant. Any use of the Confidential Information or any Work Product not specifically contemplated in this Agreement shall be considered a material breach of this Agreement.

E. Third Party Confidential Information and Proprietary Information: Consultant agrees not to utilize, analyze, reverse engineer, or otherwise exploit any third party Confidential Information or proprietary information in performing the Services regardless of where Consultant obtained the third party Confidential Information or proprietary information (even if the third party Confidential Information or proprietary information was provided by the Board) unless Consultant has previously secured the appropriate authorization in writing from such third party. In accordance with the provisions of Section 16 of this Agreement, Consultant hereby agrees to indemnify and hold harmless the Board against any and all claims related to third party Confidential Information and proprietary information in connection with or arising out of the acts or omissions of Consultant or its Staff under this Agreement.

F. Destruction of Confidential Information: Consultant shall, upon the request of the Board, or if no request is made, upon the termination or expiration of this Agreement, cease using and destroy all Confidential Information furnished by the Board or collected by Consultant in performance under this Agreement. Consultant shall comply with the on demand to destroy all Confidential Information within ten (10) business days of demand. Consultant shall confirm by written affidavit to the Board that Consultant has complied with the Board's request to destroy such items.

G. Staff and Subcontractors: Consultant agrees to cause its personnel, staff and subcontractors, if any, to undertake the same obligations of confidentiality and ownership agreed to herein by Consultant.

H. Injunctive Relief. In the event of a breach or threatened breach of this Section, Consultant acknowledges and agrees that the Board would suffer irreparable injury not compensable by money damages and would not have an adequate remedy at law. Accordingly, Consultant agrees that the Board shall be entitled to immediate injunctive relief to prevent or

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curtail any such breach, threatened or actual. The foregoing shall be in addition and without prejudice to such rights that the Board may have in equity, by law or statute.

I. Freedom of Information Act: Consultant acknowledges that this Agreement and all documents submitted to the Board related to this contract award are a matter of public record and are subject to the Illinois Freedom of Information Act (5 ILCS 140/1) and any other comparable state and federal laws and that this Agreement is subject to reporting requirements under 105 ILCS 5/10-20.44. Consultant further acknowledges that this Agreement shall be posted on the Board's Internet website at [www.cps.edu](http://www.cps.edu).

J. Publication of Research Results: With the prior written approval of the Board, Consultant may publish aggregated data results that do not include any individually identifiable data. Prior to the publication of any data or results from research performed under this Agreement, the Board shall have the right to review, comment, and redact any portion of the publication prior to public dissemination. Any redactions by the Board shall be final and Consultant agrees that the publication of any material not previously authorized in writing by the Board, including material redacted by the Board, shall be considered a material breach of this Agreement.

K. Survival: The provisions of this Section shall survive the termination or expiration of this Agreement.

14. Representations and Warranties of Consultant: Consultant represents and warrants that the following shall be true and correct as of the effective date of this Agreement and shall continue to be true and correct during the Term of this Agreement.

A. Licensed Professionals. Consultant is appropriately licensed under Illinois law to perform Services required under this Agreement and shall perform no Services for which a professional license is required by law and for which Consultant, its employees, agents, or subcontractors, as applicable, are not appropriately licensed.

B. Compliance with Laws. Consultant is and shall remain in compliance with all applicable federal, state, county, and municipal, statutes, laws, ordinances, and regulations relating to this Agreement and the performance of Services in effect now or later and as amended from time to time, including but not limited to the Prevailing Wage Act, 820 ILCS 130/1 et seq., the Drug-Free Workplace Act, the Illinois Student Records Act, the Family Educational Rights and Privacy Act ("FERPA"), the Protection of Pupil Rights Act, the Health Insurance Portability and Accountability Act of 1996, as set forth in Title 45, Parts 160 and 164 of the Code of Federal Regulations ("HIPAA"), and any others relating to non-discrimination. Further, Consultant is and shall remain in compliance with all Board policies and rules, as may be amended. Board policies and rules are available at <http://www.cps.edu/>.

C. Good Standing. Consultant is not in default and has not been deemed by the Board to be in default under any other Agreement with the Board during the five (5) year period immediately preceding the effective date of this Agreement.

D. Authorization. In the event Consultant is an entity other than a sole proprietorship, Consultant represents that it has taken all action necessary for the approval and execution of this Agreement, and execution by the person signing on behalf of Consultant is duly authorized by Consultant and has been made with complete and full authority to commit Consultant to all terms and conditions of this Agreement which shall constitute valid, binding obligations of Consultant. A signature delivered by facsimile or electronic means will be considered binding for both parties.



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E. Financially Solvent. Consultant warrants that it is financially solvent, is able to pay all debts as they mature and is possessed of sufficient working capital to complete all Services and perform all obligations under this Agreement.

F. Gratuities. No payment, gratuity or offer of employment was made by or to Consultant in relation to this Agreement or as an inducement for award of this Agreement.

G. Contractor's Disclosure Form. The disclosures in the Contractor Disclosure Form, previously submitted by Consultant, are true and correct. Consultant shall promptly notify Board in writing of any material change in information set forth therein, including but not limited to change in ownership or control, and any such change shall be subject to Board approval which shall not be unreasonably withheld.

H. Background Investigations and Criminal Background Investigations: Consultant represents and warrants that, at its own cost and expense, it shall have a complete fingerprint-based criminal history records check ("Records Check") conducted on any and all employees, agents and subcontractors ("Staff") who may have direct, daily contact with CPS students under this Agreement in accordance with the Illinois School Code (§105 ILCS 5/34-18.5); the *Sex Offender and Child Murderer Community Notification Law*, created under Illinois Public Act 94-219, eff. August 2005; and the *Child Murderer Violent Offender Against Youth Notification Law*, created under Public Act 94-945. Such complete Records Check consists of the following:

- fingerprint-based checks through the Illinois State Police (ISP) and the FBI,
- check of the Illinois Sex Offender Registry (IL-SOR), and
- check of the Violent Offender Against Youth Registry (see below).

The purpose of the Records Check is to confirm that none of these persons have been convicted of any of the criminal or drug offenses enumerated in subsection (c) of §105 ILCS 5/34-18.5 or any offenses enumerated under the *Sex Offender and Child Murderer Community Notification Law*, or the *Child Murderer Violent Offender Against Youth Notification Law*, or have been convicted within the past seven (7) years of any other felony under the laws of Illinois or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in the State of Illinois, would have been punishable as a felony under the laws of Illinois.

Consultant understands and agrees that it shall not allow any of its employees or subcontractors to have direct regular contact with a CPS student until a Records Check has been conducted for such person and the results of the Records Check satisfies the requirements of §105 ILCS 34-18.5 and the requirements of the Acts and Laws referenced in the preceding paragraph, as amended from time to time.

If Consultant is an individual, Consultant represents and warrants that Consultant is in compliance with Section 5/34-18.5 of the Illinois School Code as from time to time amended, and has never been convicted of the offenses enumerated therein. Further, Consultant agrees to submit to the above procedure regarding background investigations and to fully cooperate and provide the Board with all necessary information in order for the Board to perform all such above checks on Consultant, all at Consultant's expense.

It is understood and agreed that Consultant's non-compliance with this Section will constitute a material breach of this Contract, and the Board also will have the right to withhold payments due hereunder until Consultant remedies such non-compliance to the Board's reasonable satisfaction, or take any other action or remedy available under this Contract or by law.

I. Research Activities and Data Requests. Consultant acknowledges and agrees that in the event Consultant seeks to conduct research activities in the Chicago Public Schools or use CPS student data for research purposes in connection with this Agreement, Consultant shall comply with the Board's Research Study and Data Policy (10-0728-PO9) adopted on July 28, 2010, as

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such policy may be amended from time to time. Consultant acknowledges and agrees that it may not begin any research activities or obtain data for research purposes without the prior written consent of the Chief Performance Officer of the Office of Performance Management or his/her designee. Consultant shall cause its personnel, staff and subcontractors, if any, to undertake the same obligations agreed to by Consultant under this Section.

J. **Prohibited Acts.** Within the three (3) years prior to the effective date of this Agreement, Consultant or any of its members if a joint venture or a limited liability company, or any of its or their respective officers, directors, shareholders, members, managers, other officials, agents or employees (i) have not been convicted of bribery or attempting to bribe a public officer or employee of any public entity and (ii) have not been convicted of agreeing or colluding among contractors or prospective contractors in restraint of trade, including bid-rigging or bid-rotating, as those terms are defined under the Illinois Criminal Code.

15. **Independent Contractor:** It is understood and agreed that the relationship of Consultant to the Board is and shall continue to be that of an independent contractor and neither Consultant nor any of Consultant's employees shall be entitled to receive Board employee benefits. As an independent contractor, Consultant agrees to be responsible for the payment of all taxes and withholdings specified by law which may be due in regard to compensation paid by the Board. Consultant agrees that neither Consultant nor its employees, staff or subcontractors shall represent themselves as employees or agents of the Board. Consultant shall provide the Board with a valid taxpayer identification number as defined by the United States Internal Revenue Code, including but not limited to, a social security number or federal employer identification number.

16. **Indemnification:** Consultant agrees to defend, indemnify and hold harmless the Board, its members, employees, agents, officers and officials from and against liabilities, losses, penalties, damages and expenses, including costs and attorney fees, arising out of all claims, liens, damages, obligations, actions, suits, judgments or settlements, or causes of action, of every kind, nature and character arising or alleged to arise out of the negligent or willful acts or omissions of the Consultant, its officials, agents and employees and subcontractors in the performance of this Agreement. This includes, but is not limited to, the unauthorized use of any trade secrets, U.S. patent or copyright infringement.

Consultant shall, at its own cost and expense, appear, defend and pay all attorney fees and other costs and expenses arising hereunder. In addition, if any judgment shall be rendered against the Board in any such action, the Consultant shall, at its own expense, satisfy and discharge such obligation of the Board. The Board shall have the right, at its own expense, to participate in the defense of any suit, without relieving the Consultant of any of its obligations hereunder. The Board retains final approval of any and all settlements or legal strategies which involve the interest of the Board.

However, if Consultant, after receiving notice of any such proceeding, fails to immediately begin the defense of such claim or action, the Board may (without further notice to Consultant) retain counsel and undertake the defense, compromise, or settlement of such claim or action at the expense of Consultant, subject to the right of Consultant to assume the defense of such claim or action at any time prior to settlement, compromise or final determination thereof. The cost and expense of counsel retained by the Board in these circumstances shall be borne by Consultant and Consultant shall be bound by, and shall pay the amount of, any settlement, compromise, final determination or judgment reached while the Board was represented by counsel retained by the Board pursuant to this paragraph, or while Consultant was conducting the defense.

To the extent permissible by law, Consultant waives any limits to the amount of its obligations to defend, indemnify, hold harmless, or contribute to any sums due under any losses, including any

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claim by any employee of Consultant that may be subject to the Workers Compensation Act, 820 ILCS 305/1 et seq. or any other related law or judicial decision (such as *Kotecki v. Cyclops Welding Corporation*, 146 Ill. 2nd 155 (1991)). The Board, however, does not waive any limitations it may have on its liability under the Illinois Workers Compensation Act, the Illinois Pension Code, any other statute or judicial decision

EXCEPT WITH RESPECT TO THE UNAUTHORIZED USE OF ANY TRADE SECRETS, PATENT OR U.S. PATENT OR COPYRIGHT INFRINGEMENT, CONSULTANT HEREBY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. CONSULTANT DOES NOT WARRANT THE OPERATION OF THE DELIVERABLES TO BE UNINTERRUPTED NOR DOES CONSULTANT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE RESULTS OBTAINED FROM USE OF THE DELIVERABLES.

To the extent permitted by law, and notwithstanding any other provision of this Agreement and except for third party claims for trademark, patent or copyright infringement, the total liability, in the aggregate, of Consultant and Consultant's officers, trustees, partners, employees, agents and the Consultant's subcontractors and consultants, and any of them, to CPS and anyone claiming by, through or under CPS, for any and all claims, losses, costs or damages whatsoever arising out of, resulting from or in any way related to this Agreement or the work performed by the Consultant pursuant to this Agreement from any cause or causes, included but not limited to the negligence, professional errors or omissions, strict liability or breach of contract or warranty, express or implied of the Consultant or the Consultant's officers, trustees, partners, employees, agents, subcontractors or consultants or any of them, shall not exceed the total value of Services furnished by the Consultant under this Agreement as of the date of such claim, loss, cost or damage occurred.

IN NO EVENT SHALL EITHER PARTY, THEIR AFFILIATES OR THEIR SUBCONTRACTORS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES (INCLUDING, BUT NOT LIMITED TO, ANY DAMAGES FOR LOSS OF PROFITS OR SAVINGS, LOSS OF USE, BUSINESS INTERRUPTION OR THE LIKE), EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

The indemnities set forth herein shall survive the expiration or termination of this Agreement.

17. **Non-Liability of Board Officials:** Consultant agrees that no Board member, employee, agent, officer or official shall be personally charged by Consultant, its members if a joint venture, or any subcontractors with any liability or expense under this Agreement or be held personally liable under this Agreement to Consultant, its members if a joint venture, or any subcontractors.
18. **Board Not Subject to Taxes:** The federal excise tax does not apply to the Board by virtue of Exemption Certificate No. 36-600584, and the State of Illinois sales tax does not apply to the Board by virtue of Exemption No. E9997-7109. The compensation set in the Schedule of Compensation is inclusive of all other taxes that may be levied or based on this Agreement, including without limitation sales, use, nonresident, value-added, excise, and similar taxes levied or imposed on the Services to be provided under this Agreement, but excluding taxes levied or imposed on the income or business privileges of the Consultant. The Consultant shall be responsible for any taxes levied or imposed upon the income or business privileges of the Consultant.
19. **Insurance:** Consultant, at its own expense, shall procure and maintain insurance covering all operations under this Agreement, whether performed by Consultant or by subcontractors. All

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insurers shall be licensed by the State of Illinois and rated A-VII or better by A.M. Best or a comparable rating service. Consultant shall submit to the Board satisfactory evidence of insurance coverage and upon request, shall promptly provide a certified copy of any applicable policy of insurance. Minimum insurance requirements include the coverage set forth below and any additional coverage which may be specified by the Board:

A. **Workers' Compensation and Employers' Liability Insurance.** Workers' Compensation Insurance affording workers' compensation benefits for all employees as required by law and Employers' Liability Insurance covering all employees who are to provide Services under this Agreement with limits of not less than Five Hundred Thousand Dollars (\$500,000.00) per occurrence. The workers' compensation policy must contain a waiver of subrogation clause.

B. **Commercial General Liability Insurance (Primary and Umbrella).** Commercial General Liability Insurance or equivalent with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the aggregate for bodily injury, personal injury and property damage liability. Coverage shall include, but not be limited to: all operations, contractual liability, independent contractors, products/completed operations (for a minimum of two (2) years following completion), and defense.

C. **Automobile Liability Insurance.** Automobile Liability Insurance when any motor vehicle (whether owned, non-owned or hired) is used in connection with Services to be performed, with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence for bodily injury and property damage.

D. **Umbrella/Excess Liability Insurance.** Umbrella or Excess Liability Insurance with limits not less than Two Million Dollars (\$2,000,000.00) per occurrence, which will provide additional limits for employers' general and automobile liability insurance and shall cover the Board and its employees, subject to that of the primary coverage.

E. **Additional Insured.** Consultant shall have its General and Automobile Liability Insurance policies endorsed to provide that "the Board of Education of the City of Chicago, a body politic and corporate, and its members, employees and agents, and any other entity as may be designated by the Board are named as additional insured on a primary basis without recourse or right of contribution from the Board".

The insurance company, or its representative, shall submit an insurance certificate evidencing all coverage as required hereunder and indicating the Additional Insured status as required above. The Board will not pay Consultant for any Services if satisfactory proof of insurance is not provided by Consultant prior to the performance of any Services. The Certificate must provide thirty (30) days prior written notice of material change, cancellation, or non-renewal be given to:

Risk Management  
Board of Education of the City of Chicago  
125 S. Clark Street, 7th Floor  
Chicago, Illinois 60603

Any failure of the Board to demand or receive proof of insurance coverage shall not constitute a waiver of Consultant's obligation to obtain the required insurance. The receipt of any certificate does not constitute agreement by the Board that the insurance requirements in this Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. Consultant's failure to carry or document required insurance shall constitute a breach of the Consultant's Agreement with the Board. In the event Consultant fails to fulfill the insurance requirements of this Agreement, the Board reserves the right to stop the Services until proper evidence of insurance is provided, or this Agreement may be terminated.

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Any deductibles or self-insured retentions on referenced insurance coverage must be borne by Consultant. Any insurance or self-insurance programs maintained by the Board of Education do not contribute with insurance provided by the Consultant under this Agreement.

All subcontractors are subject to the same insurance requirements of Consultant unless otherwise specified in this Agreement. The Consultant shall require any subcontractors under this Agreement to maintain comparable insurance naming the Consultant, the Board inclusive of its members, employees and agents, and any other entity designated by the Board, as Additional Insureds. The Consultant will maintain a file of subcontractor's insurance certificates evidencing compliance with these requirements.

The coverages and limits furnished by Consultant in no way limit the Consultant's liabilities and responsibilities specified within this Agreement or by law. The required insurance is not limited by any limitations expressed in the indemnification language in this Agreement, if any, or any limitation that might be placed on the indemnity in this Agreement given as a matter of law.

The Consultant agrees that Insurers waive their rights of subrogation against the Board.

Consultant must register with the insurance certificate monitoring company designated by the Board and must maintain a current insurance certificate on file during the entire time of providing services to the Board. The initial certificate monitoring company designated by Board is identified below. Consultant must register and pay the annual monitoring fee to the insurance certificate monitoring company prior to performing services for the Board. The initial annual monitoring fee is currently Twelve 00/100 Dollars (\$12.00) per year, but is subject to change.

Each year, Consultant will be notified 30 to 45 days prior to the expiration date of their required insurance coverage (highlighted on their latest submitted insurance certificate on file) that they must submit an updated insurance certificate with the insurance certificate monitoring company. Insurance certificate submissions and related annual fees are required to be made online at the dedicated website established by the certificate monitoring company identified below. Questions on submissions and payment options should be directed to the certificate monitoring company.

**Certificate Monitoring Company:**

Topiary Communications Inc.  
676 N. LaSalle - Suite 230  
Chicago, IL 60654  
Phone - (312) 494-5709  
Email - [dans@topiarycomm.net](mailto:dans@topiarycomm.net)

**Website for online registration, insurance certificate submissions and annual fee payments: URL - <http://www.cpsConsultantcert.com>.**

20. **Audit and Document Retention:** Consultant shall permit and cooperate in good faith in any audits by the Board, including its Department of Procurement and Contracts, or its agents for compliance by the Consultant with this Agreement. Consultant shall furnish the Board with such information, supporting documentation and reports as may be requested relative to the progress, execution and costs of the Services and compliance with applicable MBE/WBE requirements. Failure of the Consultant to comply in full and cooperate with the requests of the Board or its agents shall give the Board, in addition to all other rights and remedies hereunder, the right to charge the Consultant for the cost of such audit. Consultant shall maintain all records, correspondence, invoices, financial documents or information, receipts, vouchers, memoranda and other data relating to Consultant's Services under this Contract. All records referenced above shall be retained for five (5) years after the termination or expiration of this Contract and shall be subject to inspection and audit by the Board. Consultant shall require all of its

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subcontractors to maintain the above-described records and allow the Board the same right to inspect and audit said records as set forth herein.

21. **M/WBE Program:** Consultant acknowledges that it is familiar with the requirements of the Board's Remedial Program for Minority and Women Owned Business Enterprise Participation in Goods and Services Agreements and agrees to comply with the provisions of such program.
22. **Notices:** All notices required under this Agreement shall be in writing and sent to the addresses and persons set forth below, or to such other addresses as may be designated by a party in writing. All notices shall be deemed received when (i) delivered personally, or (ii) sent by confirmed telex or facsimile (followed by the actual document), or (iii) one day after deposit with a commercial express courier specifying next day delivery, with written verification of receipt. Refusal to accept delivery has the same effect as receipt.

**IF TO THE BOARD:** Office of Magnet, Gifted and Talented  
125 South Clark Street, 11th Floor  
Chicago, IL 60603  
Attn: Kyle Westbrook

Copy to: General Counsel  
125 South Clark Street, Suite 700  
Chicago, IL 60603  
Fax: (773) 553-1701

**IF TO CONSULTANT:** The College Board  
8700 West Bryn Mawr Ave., Suite 900N  
Chicago, IL 60631  
Attn: Jennifer McDonnell

23. **Right of Entry:** Consultant and any of its officers, employees, subcontractors or agents, performing Services hereunder shall be permitted to enter upon Board property in connection with the performance of the Services hereunder, subject to the terms and conditions contained herein and those rules established by the Board and the subject school principal. Consultant shall provide advance notice to the Board whenever applicable, of any such intended entry. Consent to enter upon a site given by the Board shall not create, nor be deemed to imply, the creation of any additional responsibilities on the part of the Board. Consultant shall use, and shall cause each of its officers, employees and agents to use, the highest degree of care when entering upon any property owned by the Board in connection with the Services. Any and all claims, suits or judgments, costs, or expenses, including reasonable attorney fees, arising from, by reason of, or in connection with any such entries shall be treated in accordance with the applicable terms and conditions of this Agreement, including without limitation, the indemnification provisions contained in this Agreement.
24. **Non-Discrimination:** It shall be an unlawful employment practice for Consultant or any of its subcontractors to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to compensation, or other terms, conditions, or privileges of employment, because of such individual's race, color, ancestry, religion, sex, sexual orientation, age, disability, marital status, parental status, military discharge status or national origin; or to limit, segregate, or classify employees or applicants for employment in any way that would deprive or tend to deprive any individual from equal employment opportunities or otherwise adversely affect an individual's status as an employee because of such individual's race, color, ancestry, religion, sex, sexual orientation, age, disability, marital status, parental status, military discharge status or national origin. Consultant shall particularly remain in compliance at all times with: the Civil Rights Act of 1964, 42 U.S.C.A. §2000a, *et. seq.*, as amended; the Age

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Discrimination in Employment Act, 29 U.S.C.A. §621, *et. seq.*; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C.A. §701, *et. seq.*; as amended; the Americans with Disabilities Act, 42 U.S.C.A. §12101, *et. seq.*; the Individuals with Disabilities Education Act, 20 U.S.C.A. §1400 *et. seq.*, as amended; the Illinois Human Rights Act, 775 ILCS 5/1-101, *et. seq.* as amended; the Illinois School Code, 105 ILCS 5/1-1 *et. seq.*; the Illinois Public Works Employment Discrimination Act, 775 ILCS 10/0.01 *et. seq.*; and the Chicago Human Rights Ordinance, ch. 2-160 of the Municipal Code of Chicago, and all other applicable federal statutes, regulations and other laws.

25. **Entire Agreement and Amendment:** This Agreement, including all exhibits attached to it and incorporated into it, constitutes the entire agreement of the parties with respect to the matters contained herein. All attached exhibits are incorporated into and made a part of this Agreement. No modification of or amendment to this Agreement shall be effective unless such modification or amendment is in writing and signed by both parties hereto. Any prior agreements or representations, either written or oral, relating to the subject matter of this Agreement are of no force or effect.
26. **Governing Law:** This Agreement shall be governed as to performance and interpretation in accordance with the laws of the State of Illinois. Consultant irrevocably submits itself to the original jurisdiction of those courts located in the County of Cook, State of Illinois, with regard to any controversy arising out, or relating to, or in any way concerning the execution or performance of this Agreement. Consultant agrees that service of process on the Consultant may be made, at the option of the Board, by either registered or certified mail addressed to the office identified in Section 22 above, by registered or certified mail addressed to the office actually maintained by the Consultant, or by personal delivery on any officer, director, or managing or general agent of the Consultant. If any action is brought by the Consultant against the Board concerning this Agreement, the action shall only be brought in those courts located within the County of Cook, State of Illinois.
27. **Continuing Obligation to Perform:** In the event of any dispute between Consultant and Board, Consultant shall expeditiously and diligently proceed with the performance of all its obligations under this Agreement with a reservation of all rights and remedies it may have under or pursuant to this Agreement at law or in equity.
28. **Conflict of Interest:** This Agreement is not legally binding on the Board if entered into in violation of the provisions of 105 ILCS 5/34-21.3, which restricts the employment of, or the letting of contracts to, former Board members within a one year period following expiration or other termination of their office.
29. **Indebtedness:** The Consultant agrees to comply with the Board's Indebtedness Policy adopted June 26, 1996 (96-0626-PO3), as amended from time to time, which policy is hereby incorporated by reference into and made a part of this Agreement as fully set forth herein.
30. **Ethics:** No officer, agent or employee of the Board is or shall be employed by the Consultant or has or shall have a financial interest, directly, or indirectly, in this Agreement or the compensation to be paid hereunder except as may be permitted in writing by the Board's Ethics Policy adopted May 25, 2011 (11-0525-PO2), as amended from time to time, which policy is hereby incorporated by reference into and made a part of this Agreement as fully set forth herein.
31. **Inspector General:** Each party to this Agreement hereby acknowledges that in accordance with 105 ILCS 5/34-13.1, the Inspector General of the Board of Education of the City of Chicago has the authority to conduct certain investigations and that the Inspector General shall have access to all information and personnel necessary to conduct those investigations.
32. **Waiver:** No delay or omission by the Board to exercise any right hereunder shall be construed

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as a waiver of any such right and the Board reserves the right to exercise any such right from time to time as often and as may be deemed expedient.


33. **Force Majeure.** Neither party shall incur any liability for any failure to perform or delay in performing, any of its obligations contained in this Agreement, where such failure or delay is caused by fire, flood, natural disaster, act of God, riots, wars, act of government, strikes or labor disputes, or any other act or condition beyond the reasonable control of the party in question.
34. **Counterparts and Facsimiles.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one instrument. A signature delivered by facsimile or electronic means shall be considered binding for both parties.
35. **Board Approval.** The execution of this Agreement will be subject to approval by the members of the Chicago Board of Education.

[Signature page to follow]



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

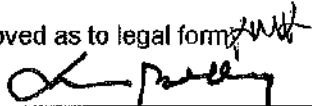
**BOARD OF EDUCATION OF THE  
CITY OF CHICAGO**

By:   
David J. Vitale, Board President

Attest:   
Estela G. Beltran, Secretary


Date: 5/7/13

Board Report No.: 13-0424-PR2 - 1

Approved as to legal form   
James L. Bebley, General Counsel

**THE COLLEGE BOARD**

By: Trevor Packer

Signature: 

Title: Senior Vice President

Date: 4/25/13

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**Attachments:**

**Exhibit A- Scope of Services**

**EXHIBIT A  
SCOPE OF SERVICES**

**Name of Project:** College Board AP exams, materials, and professional development

**CPS Project Manager:** Mark Klimesh **Phone:** 773/553/5153 **E-Mail:** msklimesh@cps.edu

**Consultant's Project Manager:** Jennifer McDonnell **Phone:** 847.653.4519 **E-Mail:** jmcdonnell@collegeboard.org

**Term:** May 1, 2013 until April 30, 2014

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This Scope of Services will be conducted pursuant to the terms and conditions of that Services Agreement ("Agreement") by and between The College Board ("Consultant") and The Board of Education of the City of Chicago (the "Board"), commonly known as The Chicago Public Schools ("CPS"). Defined terms used in this Scope of Services will have the same meanings as those ascribed to such terms in the Agreement.

**1. SCOPE OF SERVICES:**

Consultant will provide the following services ("Services") and materials ("Materials") to the Board's schools and the Board's Office of Magnet, Gifted and Talented: (A) Advanced Placement ("AP") student examinations, grading and reporting of assessment, (B) practice examinations, (C) instructional materials, and (D) professional development.

**A. Exams:** Consultant shall provide and deliver to individual CPS high schools the number of AP exams ordered by each school for the May 2013 exam. Orders will be delivered in accordance to timeline outlined in the AP coordinator's manual however, Consultant shall deliver the exams to each CPS high school that placed any such order no later than May 1, 2013. Shipping and handling will be included in the price of the exams. The Consultant shall provide approximately 26,000 exams. Consultant shall provide each school's AP coordinator, AP teachers, and designated school administrator access to the AP Online Score Reports website by the first week of August, 2013. Consultant will provide each student with his/her score results for all AP exams taken in electronic form no later than July 20, 2013. Consultant will provide CPS district representative, Mark Klimesh, the following data, plus any new data pieces added to the AP Online Score Report:

- District Summary by School
- District Summary by Student Demographics
- District Summary with Comparable Groups
- School Summary by Student Demographics
- School Summary with Comparable Groups
- Current Year Score Summary - Aggregated for Districts
- Current Year Score Summary
- Five-Year School Score Summary
- AP Equity and Excellence
- School Scholar Roster
- District Score Roster
- School Score Roster
- Subject Score Roster - Aggregated for Districts
- Subject Score Roster

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- AP Instructional Planning Report - Aggregated for Districts
- AP Instructional Planning Report
- AP Instructional Planning Report - By Section
- College and University Totals - Aggregated for Districts
- College and University Totals
- Student Data file

Additional fees for AP exam scoring, processing, or unused exams will be charged to the individual school(s) in accordance to the list of fees detailed in the Budget/Payment/Pricing Section below.

Consultant will make the aforementioned AP participation and performance data available for CPS high school students enrolled in schools participating under this Agreement through AP Online Score Reports. If the CPS requests data for non-public school students, the CPS must also submit a letter from the non-public school, stating its approval and authorization to the Consultant to release the data to the CPS.

When accessing the AP Online Score Reports, CPS shall comply with the terms of use of the online site. CPS may provide the AP Online Score Reports to the state or federal agency that has funded any of exams furnished under this Agreement. CPS is prohibited from using the AP Online Score Reports and any data within the reports for any other purpose without the express written consent of the College Board.

Notwithstanding any provision to the contrary: i) the CPS acknowledges and agrees that the AP Online Score Reports, AP examination, and all items (questions) contained therein, including all copies thereof, all examination materials, is at all times exclusively owned by the Consultant, who is the exclusive owner of all rights therein, in and to the AP examination, including, without limitation, all copyrights, trademarks, trade secrets, patents, and other similar proprietary rights, and all renewals and extensions thereof. Nothing in this Agreement should be interpreted to indicate that the Consultant is passing its proprietary rights in and to the AP examination to the CPS except for the license that has been granted; ii) the parties acknowledge and agree that Consultant may use the AP exam in accordance with its normal course of business absent any permission from CPS; and iii) the Consultant shall protect the AP scores in accordance with this Agreement.

**B. Practice Exams:** Consultant shall provide individual schools with the correct number of practice exams that are ordered by individual schools. Schools will order practice exams during the months of November 2013 – March 2014. Consultant will deliver practice exams to the school and invoice the individual school.

**C. Instructional Materials:** Consultant will provide individual schools with reference materials, teacher guides, curriculum modules, vertical team guides, and science lab materials, or other materials that said school has ordered. Schools will order materials throughout the school year. Consultant will invoice the individual school for instructional materials and said school will pay directly to the Consultant. Materials ordered by the Office of Magnet, Gifted and Talented will be paid for by the Office of Magnet, Gifted and Talented upon receipt of a sufficient invoice from the Consultant.

**D. Professional Development:** Consultant shall provide professional development (PD) for teachers and Counselors, AP coordinators, and school administrators. Consultant shall provide a maximum of 20 full-day (6.5 hours) sessions throughout the 2013-14 school year with the first set of sessions in August 2013. PD topics will be agreed upon by the individual school or Office of Magnet, Gifted and Talented and the Consultant. All PD sessions will not exceed 30 participants per session. PD sessions will take place in CPS occupied buildings. These sessions could include PD requests by

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individual schools, paid for by the school or PD sessions requested by the Office of Magnet, Gifted and Talented and paid for by the Office of Magnet, Gifted and Talented. Consultant shall provide a College Board endorsed instructor to lead each PD. Consultant shall provide one set of materials per registered attendee per PD session. The list of materials for each session / workshop will be agreed upon by the Consultant and Office of Magnet, Gifted and Talented prior to the PD session.

**2. BUDGET/ PRICING/PAYMENT:**

Consultant shall be paid upon receipt of a sufficient invoice for Services rendered and/or Materials ordered and delivered. Consultant shall submit monthly invoices to the individual CPS school(s) for the Services rendered and/or Materials delivered to that school for the preceding month. If Services and/or Materials are not rendered in a given month then the Consultant shall not submit an invoice for that month. Consultant shall submit monthly invoices to the CPS Project Manager for Services rendered and/or Materials ordered by and delivered to the Office of Magnet, Gifted and Talented. The total maximum compensation payable to Consultant shall not exceed Nine Hundred Fifty One Thousand Seventy Six and 00/100 Dollars (\$951,076.00).

Activity	Cost calculations	Cost
AP exam fees for May 2013 exams to be paid by each individual school	-Cost of \$81 per exam for 7,020 exams (27% of exams)  -Unused AP exams 462 exams x \$13/exam -Late payment fee 30 schools x:\$200/school -Alternate or late exams 200 exams x \$40/exam - Late exam orders 10 schools x \$50/order	\$568,620  \$ 6,006 \$ 6,000 \$ 8,000 \$ 500
Professional Development 2013-14	20 sessions x \$4,900 = \$98,000	\$ 98,000
Practice exams for May 2014 exams	60 schools x 4 AP courses x 4 exam packets x \$35 = \$28,000	\$ 28,000
Teaching materials- lab sciences	50 biology & 40 chemistry lab manuals x \$35 = \$3,150	\$ 3,150
Reference materials, teacher guides, curriculum modules, vertical team guides,	Learning guides \$18/course Vertical Team handbook \$48/course Curriculum modules \$18/course Teacher guides \$30/course	Total not to exceed \$ 20,000
Exam fees to be paid by the Office of Magnet, Gifted and Talented	21,280 exams x \$10	\$ 212,800
	<b>Total not to exceed</b>	<b>\$ 951,076</b>

**3. OUTCOMES:** Consultant's Services may contribute to: 1) teachers with appropriate AP content knowledge, teaching methodology and strategies through professional development to increase student access in AP courses; 2) an increase in the number of low-income students who take a rigorous college preparatory course such as AP; and 3) an increase in the number of students who earn a "qualifying" score on AP exams.