

This Agreement will be posted on the CPS website.

### **CONSULTING SERVICES AGREEMENT**

This CONSULTING SERVICES AGREEMENT ("Agreement") is entered into as of the 21<sup>st</sup> day of May, 2014 ("Effective Date") 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 Southern Regional Education Board ("Consultant").

#### **RECITALS**

- A. The Board desires that Consultant render certain consulting 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 with the Effective Date of this Agreement and continuing through September 2, 2014 ("Term"), unless terminated sooner as provided herein.
- 3. **Scope of Services and Delivery of Materials:**
  - 3.1 **Scope of Services:** Consultant agrees to provide the consulting services set forth on 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.
  - 3.2 **Delivery of Materials:** If Consultant is also providing goods, supplies or other materials (collectively, "Materials") under this Agreement, then the following provisions shall apply:
    - A. **Purchase Orders:** Orders must be on the Board's Standard Purchase Order Form. The pre-printed terms and conditions found on the Board's Purchase Order shall apply to the extent that such terms supplement and are not inconsistent with the terms and conditions contained in this Agreement.
    - B. **Packaging and Shipment and 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 Board's Purchase Order or some other written notification) 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 Consultant shall advise carrier of this restriction. The Board may adjust the 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.

- C. In the absence of a governing provision under this Agreement or should any provision of this Agreement be construed by a court of competent jurisdiction as vague, the corresponding provision of the Uniform Commercial Code, Article 2, shall apply.
- D. **Survival:** The provisions of this Section 3 shall survive the expiration or termination of this Agreement.

- 4. **Compensation and Payment:** The total maximum compensation payable to Consultant under this Agreement during the Term shall not exceed **Seventy-Four Thousand, Five Hundred Eighty and 00/100 Dollars (\$74,580.00)**, inclusive of all reimbursable expenses, if any ("**Total Maximum Compensation**"). Payments under this Agreement shall not exceed the Total Maximum Compensation amount without a written amendment to this Agreement in accordance with Section 25 (Entire Agreement and Amendment). The Board shall pay Consultant for Services provided and Materials delivered by Consultant in accordance with the provisions of this Agreement.

All reimbursable expenses, if any, must be specifically identified in the Scope of Services. Except for reimbursable expenses specified in the Scope of Services, there shall be no additional reimbursement for expenses. All reimbursable expenses shall be in accordance with the maximum rates set forth in the Board's Policy on Reimbursement for Work-Related Expenses adopted on December 16, 2009 (09-1216-PO4) as amended from time to time. Consultant must submit original receipts and proof of payment that is acceptable to the Board for any and all claimed reimbursables at the time of invoicing. Canceled checks, debit, or credit card statement copies are considered as proof of payment. It is understood and agreed that the Board shall have the right to deny payment of any invoiced expense that is not substantiated by a paid receipt or some other proof of payment that is acceptable to the Board.

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

- 5.1 **Billing and Payment Procedures:** All monthly invoices must include: a valid purchase order number, itemized description of the Services rendered and/or Materials delivered during the previous month, 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 Strategic School Support Services  
125 South Clark Street, 2<sup>nd</sup> Floor  
Chicago, IL 60603  
Attn: Matthew Lyons, Deputy Chief

- 5.2 **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. **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 if 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.
7. **Adequate Staffing:** 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. Consultant must include among its staff the Key Personnel and positions, if any, as identified below. 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.
8. **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 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.
9. **Events of Default and Remedies.**
  - 9.1 Events of default ("Events of Default") include, but are not limited to, the following:
    - A. Any material misrepresentation by Consultant in the inducement or the performance of this Agreement.
    - B. Breach of any term, condition, representation or warranty made by Consultant in this Agreement.

- C. Failure of the Consultant to perform any of its obligations under this Agreement including, but not limited, to the following:
- (i) Action or failure to act which negatively affects the safety and/or welfare of students or Board staff;
  - (ii) Failure to perform the Services with sufficient personnel or material to ensure the timely performance of Services;
  - (iii) Failure to timely perform Services;
  - (iv) Failure to perform the Services in a manner reasonably satisfactory to the Chief Procurement Officer of the Board;
  - (v) 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;
  - (vi) Discontinuance of the Services for reasons within Consultant's reasonable control; and
- D. Default by Consultant under any other agreement Consultant may have or may enter into with the Board.
- E. 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.

9.2. Remedies. The occurrence of any event of default permits the Board, at the Board's sole option, to declare Consultant in default. The Board's Chief Procurement Officer ("Chief Procurement Officer") may in her/his sole discretion give Consultant an opportunity to cure the default within a certain period of time ("Cure Period"), which period of time must not exceed 30 days unless extended by the Chief Procurement Officer. Whether to declare Consultant in default is within the sole discretion of the Chief Procurement Officer.

The Chief Procurement Officer shall give Consultant written notice of the default either in the form of a cure notice ("Cure Notice") or, if no opportunity to cure shall be granted, a default notice ("Default Notice"). If the Chief Procurement Officer gives Default Notice, she/he shall also indicate any present intent she/he may have to terminate this Agreement. It is understood and agreed that any such decision to terminate the Agreement in whole or in part is final and effective upon giving the notice. If the Chief Procurement Officer decides not to terminate, this decision shall not preclude him or her from later deciding to terminate the Agreement in a later notice, which shall be final and effective upon the giving of the notice or on the date set forth in the notice, whichever is later. The Chief Procurement Officer may give a Default Notice if Consultant fails to effect a cure within the Cure Period given in the applicable Cure Notice. When a Default Notice with intent to terminate is given as provided in this Section, Consultant must discontinue all Services, unless otherwise directed in the notice, and must deliver to the Board all materials prepared or created in the performance of this Agreement, whether completed or in-process. Following the giving of notice hereunder and the expiration of any Cure Period, if no adequate cure is made, the Board may invoke any or all of the following remedies:

- A. Take over and complete the Services or any part thereof, either directly or through others, as agent for and at the cost of Consultant. In such event, 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 in exercising this remedy.
- B. Terminate this Agreement in whole or in part, as to any or all of the Services yet to be performed, effective at a time specified by the Board.
- C. Suspend Services during the designated Cure Period if the default results from an action or failure to act by Consultant which affects the safety and/or welfare of students or Board staff.
- D. Seek specific performance, an injunction or any other appropriate equitable remedy.
- E. Receive from Consultant any and all damages incurred as a result or in consequence of an Event of Default.
- F. Money damages.
- G. Withhold all or part of Consultant's compensation under this Agreement that are due or future payments that may become due under this Agreement.
- H. Deem Consultant non-responsible in future contracts to be awarded by the Board, pursuant to the Board's Debarment Policy on Non-Responsible Persons in Procurement Transactions (96-0522-PO2), as may be amended from time to time.

If the Board considers it to be in its best interest, it may elect not to declare Consultant in default or it may elect not to terminate this Agreement. The parties acknowledge that if the Board permits Consultant to continue to provide the Services despite one or more Events of Default, Consultant is not relieved of any responsibilities, duties or obligations under this Agreement, nor shall the Board be deemed to have waived or relinquished any of the rights it has to declare an Event of Default in the future.

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 the occurrence of 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 as described in Section 10 below (Early Termination).

10. **Early Termination.** In addition to termination under Section 8 (Non-appropriation) and 9.2 (Remedies) of this Agreement, the Board may terminate this Agreement at any time by a notice to the Consultant in accordance with the provisions of Section 20 (Notices). The effective date of termination shall be the date the notice is received by Consultant or the date stated in the notice, whichever is later.

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 in Section 4 above (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.

11. **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.

12. **Confidential Information, Dissemination of Information, Ownership, Survival.**

12.1 **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 which may include teacher or student data including, but not limited to name, address, student identification 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, student after school activities 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.

12.2 **Transmitting and Storing Confidential Information:** Consultant shall:

- A. When mailing physical copies of Confidential Information, send the Confidential Information in a tamper-proof, labeled container, with a tracking number and a delivery confirmation receipt;
- B. Only mail Confidential Information on electronic media, such as CDs, DVDs, electronic tape, etc., if the Confidential Information is encrypted. Encryption must utilize the Advanced Encryption Standard ("AES") algorithm with a key of 256 bits or greater ("**Encrypt**"). The Confidential Information shall only be mailed in accordance with the provisions of Section 12.2.A above;
- C. Encrypt all Confidential Information prior to transmitting it electronically. Consultant shall not transmit any unencrypted Confidential Information via email, blackberry, blackjack, instant messages or any other unencrypted protocols;
- D. Not send any password or other information sufficient to allow decryption of Confidential Information with the Encrypted Confidential Information;

- E. Keep all physical copies (paper or other physical representations) of Confidential Information under lock and key, or otherwise have sufficient physical access control measures to prevent unauthorized access. Consultant shall not leave Confidential Information unsecured and unattended at any time;
- F. Encrypt any Confidential Information stored on electronic media, such as CDs, DVDs, tape, flash drives, etc. Further, such electronic media shall be kept locked, or otherwise have sufficient physical access control measures to prevent unauthorized access. Consultant shall not leave Confidential Information in any electronic format unsecured and unattended at any time;
- G. Consultant shall password protect any laptop or computer that contains Confidential Information. Additionally, any laptop or computer that contains Confidential Information shall have its full hard drive Encrypted. Consultant shall not leave any laptop or computer unattended without enabling a screen-lock or otherwise blocking access to the laptop or computer. Consultant shall ensure that no password or other information sufficient to access a laptop or computer containing Confidential Information is attached or located near the laptop or computer at any time.

12.3 Dissemination of Information. Consultant shall not disseminate any information obtained in performance or delivery of Services and/or Materials for the Board to a third party without the prior written consent of the Board. Consultant shall not issue publicity news releases or grant press interviews during or after the performance or delivery of the Services and/or Materials, 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 any Confidential Information and/or Work Product which may be in Consultant's possession as a result of Services and/or Materials provided under this Agreement, 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.

12.4 Ownership. All Confidential Information shall at all times be and remain the property of the Board. 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. All Work Product shall be delivered to the Board upon demand at any time and in any event, shall be promptly delivered to the Board upon expiration or termination of this Agreement within three (3) business days of demand. If any of the above items are lost or damaged while in Consultant's possession, such items shall be restored or replaced at Consultant's expense.

12.5 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.

12.6 Destruction of Confidential Information: Consultant shall, 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 destroy all Confidential Information within ten (10) business days of termination or expiration of the Agreement. Consultant shall confirm by written affidavit to the Board that Consultant has complied with the requirement of this provision to destroy such items.

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

12.8 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 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.

12.9 Freedom of Information Act. Consultant acknowledges that this Agreement and all documents submitted to the Board related to this Agreement 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).

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

13. 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.

13.1 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.

13.2 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 Drug-Free Workplace Act, the Illinois School Student Records Act, the Family Educational Rights and Privacy Act, the Protection of Pupil Rights Amendment and any others relating to non-discrimination. Further, Consultant is and shall remain in compliance with all Board policies and rules. Board policies and rules are available at <http://www.cps.edu/>.

13.3 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.

13.4 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.

13.5 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.

13.6 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.

13.7 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.

13.8 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 GPS student data for research purposes in connection with this Agreement, Consultant shall comply with the Board's Research Study and Data Policy adopted on July 28, 2010, as 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 Board's Director of Research or her designee.

13.9 Prohibited Acts. Within the three (3) years prior to and as of 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.

13.10 Debarment and Suspension. Consultant certifies that it, each of its joint venture members if a joint venture, and each of its subcontractors, if any, is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency or any unit of State or local government. Consultant acknowledges that in performing the Services for the Board, Consultant shall not utilize any firms that have been debarred from doing business with the Board under the Board's Debarment Policy, 08-1217-PO1, as amended from time to time.

14. 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.

15. **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 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 *Kotacki v. Cyclops Welding Corporation*, 146 Ill. 2<sup>nd</sup> 165 (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.

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

16. **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 the Agreement or be held personally liable under this Agreement to Consultant, its members if a joint venture, or any subcontractors.
17. **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 Agreement 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.
18. **Insurance.**

18.1 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 insurers shall be licensed by the State of Illinois and rated A-VII or better by A.M. Best or a comparable rating service and policies shall not contain non-standard exclusions. Consultant shall submit to the Board satisfactory evidence of insurance coverage prior to the supply of any Services and upon request, shall promptly provide a certified copy of any applicable policy of insurance. Minimum insurance requirements are:

18.2 Workers' Compensation and Employers' Liability Insurance. Workers' Compensation Insurance affording workers' compensation benefits for all employees as required by Illinois 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 and 00/100 Dollars (\$500,000.00) per occurrence for accident and disease. The workers' compensation policy shall contain a waiver of subrogation clause.

18.3 Commercial General Liability Insurance. Commercial General Liability Insurance or equivalent with limits of not less than Three Hundred Thousand and 00/100 Dollars (\$300,000.00) per occurrence and 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.

18.4 Automobile Liability Insurance. Automobile Liability Insurance when any motor vehicle (whether owned, non-owned or hired) is used in connection with any Services to be performed under this Agreement, with limits of not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence for bodily injury and property damage.

18.5 Additional Insured: Consultant shall have its General Liability Insurance 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 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 South Clark Street, 7<sup>th</sup> Floor  
Chicago IL 60603

The Board will not pay Consultant for any Services if satisfactory proof of insurance is not provided before the supply of any Services. The Board reserves the right to modify, delete, alter, or change insurance requirements at any time.

Consultant shall require any subcontractors under this Agreement to maintain insurance at the same levels described above and naming Consultant, the Board inclusive of its members, employees and agents, and any other entity designated by the Board as additional insureds. Consultant will maintain a file of subcontractor's insurance certificates evidencing compliance with these requirements.

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 requirements under this Agreement. Consultant's failure to carry or document required insurance shall constitute a breach of Consultant's agreement with the Board. In the event Consultant fails to fulfill the insurance requirements of this Agreement, the Board retains the right to stop the supply of Services until proper evidence of insurance is provided, or the Board may terminate this Agreement.

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 Consultant under this Agreement.

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

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 for the duration of the Term of this Agreement. The initial certificate monitoring company designated by the Board is identified below. Consultant must register and pay the annual monitoring fee to the insurance certificate monitoring company prior to performing the Services hereunder for the Board. The annual monitoring fee is currently Twelve and 00/100 Dollars (\$12.00) per year, but is subject to change.

Consultant shall 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 it 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 listed below.

**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)

19. **Audit and Document Retention:** Consultant shall furnish the Board with such information as may be requested relative to the progress, execution and costs of the Services. Consultant shall maintain all records, correspondence, receipts, vouchers, memoranda and other data relating to Consultant's Services provided under this Agreement. All records referenced above shall be retained for five (5) years after completion of the Services and shall be subject to inspection and audit by the Board, which shall include the right to copy such records. Consultant shall include in all subcontractor agreements for Services, provisions requiring subcontractors to maintain the above-described records and allowing the Board the same right to inspect and audit said records as set forth herein.
20. **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:** Chicago Public Schools  
Office of Strategic School Support Services  
125 South Clark Street, 2<sup>nd</sup> Floor  
Chicago, Illinois 60603  
Fax: (773) 553-5081  
Attn: Matthew Lyons, Deputy Chief  
Email: [malyns1@cps.edu](mailto:malyns1@cps.edu)

Copy to: James L. Bebley, General Counsel  
Chicago Public Schools  
Law Department  
125 South Clark Street, Suite 700  
Chicago, Illinois 60603  
Fax: (773) 553-1701

**IF TO CONSULTANT:** Southern Regional Education Board  
592 10<sup>th</sup> Street, N.W.  
Atlanta, Georgia 30318  
Fax: (404) 872-1477  
Attn: Scott Warren  
Email: [scott.warren@sreb.org](mailto:scott.warren@sreb.org)

21. **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.
22. **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 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 IL Human Rights Act, 775 ILCS 5/1-101, *et. seq.* as amended; the IL School Code, 105 ILCS 5/1-1 *et. seq.*; the IL Public Works Employment Discrimination Act, 775 ILCS 10/0.01 *et. seq.*; and the Chicago Human Rights Ordinance, ch. 2-180 of the Municipal Code of Chicago, and all other applicable federal statutes, regulations and other laws.

23. **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.

24. **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.

25. **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.

26. **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.

27. **Indebtedness:** The Consultant agrees to comply with the Board's Indebtedness Policy adopted June 28, 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.

28. **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.

29. **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.

30. **Waiver:** No delay or omission by the Board to exercise any right hereunder shall be construed 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.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.


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

By:  <sup>NPR</sup>  
Sébastien de Longeaux  
Chief Procurement Officer

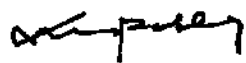
**SOUTHERN REGIONAL EDUCATION BOARD**

By:   
Name: JAMES E. BOTTOMS  
Title: Senior Vice President

NPRC Tracking No. 14-0402-PRC1

Attest:   
By: \_\_\_\_\_  
Name: ROBERT WARREN  
Title: Director, State Industries

Approved as to Legal Form:

  
James L. Bebley, General Counsel

**Attachments:**

**Exhibit A- Scope of Services**

This Agreement will be posted on the CPS website.

**EXHIBIT A**

**SCOPE OF SERVICES**

**Southern Regional Education Board**

CPS Project Manager: Matthew Lyons Phone: 773-553-3269 E-Mail: matlyons1@cps.edu

Consultant's Project Manager: Scott Warren Phone: 404-879-5613 E-Mail: scott.warren@sreb.org

Period of Performance: Effective Date until September 2, 2014

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This Scope of Services shall be conducted pursuant to the terms and conditions of the Consulting Services Agreement ("**Agreement**") between Southern Regional Education Board ("**Consultant**") and the Board of Education of the City of Chicago, commonly known as Chicago Public Schools (the "**Board**" or "**CPS**"). Defined terms used in this Scope of Services shall have the same meaning as those ascribed to such terms in the Agreement.

**I. BACKGROUND AND GOALS**

The Board's Office of Strategic School Support Services ("**OS4**") is seeking support from Consultant for a redesign of Kelvyn Park High School ("**KPHS**"). KPHS remains on probation for its 19<sup>th</sup> consecutive year, will transition off of the federal School Improvement Grant (SIG) in SY15, and will also expand in SY15 to include Grades 7 and 8 for the first time.

OS4 is seeking assistance from SREB to develop a new school model for KPHS that includes:

1. Small learning communities (SLC) for 7<sup>th</sup> and 8<sup>th</sup> graders that groups students based upon diagnostic formative assessments rather than age and incorporates both traditional and non-traditional academic learning experiences, like service learning, arts integration into curriculum, and career exploration;
2. A 9<sup>th</sup> grade academy which offers "catch-up courses" in English and Mathematics (i.e., double-dose courses) and transitional support during the summer coming into 9<sup>th</sup> grade, as well as career exploratory coursework and advanced placement (AP) preparation work; and
3. Career academies incorporating grades 10-12 organized around a career preparation strand in which interdisciplinary teams of teachers engage in regular collaborative planning focused on integrating rigorous core academic work into career and technical education (CTE) courses while preparing students to take and pass at least one AP course as well as receive a professional certificate.

**II. SERVICES AND DELIVERABLES**

Under this Agreement, Consultant shall perform the following Services and Deliverables:

**DEFINING A VISION FOR SUCCESS ACROSS THE MIDDLE AND HIGH SCHOOL GRADES**

1. *Site Development Workshop*
  - Goal is to build understanding of the High Schools That Work (HSTW) Framework and ownership over school improvement efforts.
  - Workshop will provide leaders and staff a process through which to analyze current school aggregate and student-specific data and determine gaps in student achievement and student experiences.
  - Create focus teams to develop plans to close the gaps and achieve the vision for the school.
2. *Consultant's 2014 HSTW Summer Staff Development Conference*
  - The CPS KPHS team will attend this conference in Nashville, TN. CPS shall pay for the registration fees for its attendees.



- Goal is to learn how other schools have developed and implemented the proposed school structure

**PLANNING AND CREATING EFFECTIVE STUDENT TRANSITION PRACTICES**

3. *Plan for effective use of facilities under redesigned school format*
  - Complete a review of the facility with district leaders and effectively plan the redesign of the facility
4. *Coach school leaders in development of effective 9<sup>th</sup> grade transition practices*
  - Assist school leaders in refining their 9<sup>th</sup> grade design with aim of (a) dramatically reducing failure rates, (b) improving achievement, and (c) changing how and what the students are being taught. This design work may include assigning some of the best teachers to 9<sup>th</sup> grade, particularly those who have a history of educating all students successfully.
5. *Create a Transition Program for incoming 7<sup>th</sup> grade students*
  - Includes working with teachers and school leaders to develop specific shared practices and strategies to inform parents and students about the school

**PLANNING AND CREATING THE ACADEMY DESIGN**

6. *Refine the Kelvyn Park Academy Design*
  - Using data points (many of which must be collected for the first time), refine the academy design. Data points may include career interest survey data, workforce data for high-wage, high-demand, high-growth fields, student/parent interests, community business input, as well as current programs and staff qualifications. Data shall be collected by CPS staff and/or Consultant.
  - Goal is to develop appropriate staff and student "teaming" for 7<sup>th</sup> and 8<sup>th</sup> grades, 9<sup>th</sup> grade, and 10<sup>th</sup>-12<sup>th</sup> grade career focuses, to work in collaboration across core and non-core content areas.
7. *Engage school and teacher leaders in creating an implementation timeline and develop leadership capacity for each career academy ("Academy")*
  - Coaching and technical assistance for development of academies, including planning, design, implementation timeline support for each academy leader and the Principal.
8. *Determine and develop multiple pathways to be implemented within each Academy*
  - Create at least three pathway options within each Academy and fully develop each program of study.
  - One pathway would have an academic focus while two would be career-focused.
  - In each pathway, the work includes developing a program of study that blends a coherent sequence of both college-ready academic courses and technical offerings with multiple entry and exit options for students whose interests change.

**III. BUDGET**

<u>Work Product / Services</u>	<u>Details</u>	<u>Cost</u>
1. Site Development Workshop	4 days on-site	\$7,000
2. HSTW Summer Development Conference	8 registrations	\$2,000
3. Effective Use of Facilities	2 days on-site	\$3,600
4. Develop 9 <sup>th</sup> Grade Transition Practices	6 days PD on-site	\$10,800
5. Transition Program for 7 <sup>th</sup> Graders	6 days PD on-site	\$10,800
6. Refining the Academy Design	6 days PD on-site	\$10,800
7. Implementation Timeline and Development of Leadership Capacity	6 days PD on-site	\$10,800
8. Multiple Pathways Development	4 days PD on-site	\$7,200
Add'l Webinar Training & Support	12 half-day sessions	\$4,800
	<i>Administrative Costs (10%)</i>	\$6,780
<b>TOTAL</b>		<b>\$74,580</b>

All invoices should be delivered to CPS Accounts Payable and to Matthew Lyons (at [malyns1@cps.edu](mailto:malyns1@cps.edu)) upon delivery of the referenced services and should include on-site PD dates per work product above.