Request for Proposal ("RFP")
Automatic External Defibrillators
Release Date: October 18, 2017

RFP Number (#) 2017AED001
Due Date: October 30, 2017
1. Introduction and Background
The Cincinnati City School District, also known as Cincinnati Public Schools (hereinafter also referred to as “CPS”), serves about thirty-five thousand, two hundred (35,200) students in fifty-five (55) schools spread across a ninety-one (91) square mile district in southwest Ohio. CPS is greater Cincinnati’s largest school district and Ohio’s third largest. CPS ranks among the top two (2) percent of Ohio districts for students’ learning growth and offers families high-quality school choices and academic programs. The district’s innovative approach to education, its investment in effective and caring teachers, and vast array of collaborative partnerships have accelerated school performance to the highest level in decades – ensuring that students in preschool to 12th grade thrive and graduate prepared for successful lives in the 21st century.

The purpose of the RPF is to accept proposals for the replacement of 80 or more of the district’s current Automatic External Defibrillators (AEDs) with either the Philips HeartStart FRx Deibrillator w/8 year warranty or ZOLL AED Plus Fully Automatic.

All RFP questions/Clarification requests should be addressed to Cynthia Eghbalnia at Eghbalc@cpsboe.k12.oh.us or (513) 363-0107 and must be received, in writing, on or before Monday, October 23, 2017. No inquires will be responded to after that date. All responses to inquire will be made available by Wednesday, October 26, 2017 on the CPS website under doing business with CPS (the same location that the RFP is posted.)

Bids are due at 12:00 noon, Monday, October 30, 2017.

1.1 RFP Addenda

In the event that CPS makes modifications, clarifications, or additions to the Request For Proposal (“RFP”), information will be made available and posted to the CPS website.

1.2 Proposal Acceptance, Proposal Evaluation and Vendor Selection

CPS reserves the right to accept or reject any or all proposals, or any part thereof, and to waive any formalities.

CPS reserves the right not to accept the lowest priced proposal. Proposals that do not comply with the requirements stated within this RFP or which are submitted after the deadline are subject to disqualification.

CPS reserves the right to request additional information from vendors after the RFP deadline, should such action be in the best interest of CPS.

Following the deadline for RFP submittals: CPS, its Board, its employees, its agents, its representatives and its attorneys reserve the right to have further discussions related to price and services provided with any prospective vendor during the review process. CPS, its Board, employees, agents, representatives, and attorneys reserve the right to conduct these discussions with one or more respondents in order to arrive at a final selection.
If Vendor has operations (production, sales, administrative) physically located within the CPS district boundaries, the vendor should develop procurement and contracting strategies aimed at supporting the district’s Supplier Diversity Development Program. Strategies shall include sourcing methods, goals, reporting, and efforts to encourage local, small disadvantaged and minority business partnerships. Vendor shall use its best efforts to use such Business Enterprises.

All proposals and all supporting documentation submitted with the proposals shall become the property of CPS and will not be returned.

All proposals and supporting proposal documents become public information after award or rejection of all proposals and are available for inspection by the general public.

Responses to this RFP may be incorporated into the resulting contract at the discretion of CPS.

The respondent expressly understands that any data stored on any computer system owned by CPS shall remain the sole and exclusive property of CPS.

Expenses incurred by vendor in developing a response to this RFP are entirely the responsibility of the vendor and may not be charged to CPS.

Respondent shall make no public statement, explicitly or implicitly, indicating a vendor or potential vendor relationship with CPS unless agreed upon in writing by CPS.

CPS is using the Request for Proposal process to find the best value so price will not be the only factor in determining an award. The contract will be awarded to the responsive and responsible vendor based on this evaluation process and other such factors that the district, in its sole discretion, deems relevant, including, but not limited to, price negotiations.

CPS will consider the following criteria in evaluating this proposal:

<table>
<thead>
<tr>
<th>Evaluation Criteria</th>
<th>Maximum Point Value</th>
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<tbody>
<tr>
<td>The ability to satisfy requirement stated in the RFP</td>
<td>30%</td>
</tr>
<tr>
<td>Lowest price technically acceptable</td>
<td>30%</td>
</tr>
<tr>
<td>Experience and past performance of the vendor</td>
<td>10%</td>
</tr>
<tr>
<td>Value Added</td>
<td>10%</td>
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<tr>
<td>Local provider preferred</td>
<td>10%</td>
</tr>
<tr>
<td>Compliance with CPS Supplier Diversity Development</td>
<td>10%</td>
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</table>
Shall Respondent be awarded the RFP:

1. Respondent acknowledges and agrees to the requirements in any and all Exhibits, Attachments, and Policies to this RFP. If there are any Exhibits, Attachments, and Policies that Respondent is not willing to comply with or does not have the capability to accept or agree to, please address in the response to this RFP. Failure to specify any concerns, disagreements, and/or issues with any and all Exhibits, Attachments, and Policies to this RFP shall be deemed as an acceptance of the Exhibits, Attachments, and Policies by Respondent.

2. Respondent acknowledges and agrees to the District policies, which may be found online at: [https://community.cps-k12.org/sites/boardpolicies/default.aspx](https://community.cps-k12.org/sites/boardpolicies/default.aspx)

3. Respondent acknowledges and agrees to submit invoices no later than sixty (60) days after completion of Services. If Services are provided in separate milestones and/or Deliverables, Respondent agrees to submit invoices no later than sixty (60) days after completion of each milestone and/or Deliverable. Payment terms are Net 30 after receipt of a valid and verifiable invoice. CPS reserves the right to conduct a Supplier Performance Review if Invoices are submitted more than sixty (60) days after completion of Services.

4. Respondent will be required to conduct criminal background checks on all employees who will be working on school property and will not permit any employee to enter the premises of CPS who has been convicted of any offense listed in Ohio Revised Code §3319.39(B)(1). Respondent must provide written certification that no employee who enters CPS property has been convicted of, or pled guilty to, an offense listed in Ohio Revised Code §3319.39.

5. Should Respondent receive an award from CPS, Respondent acknowledges and agrees to the terms and conditions in Exhibit D, CPS’ Agreement. If there are any terms and conditions that Respondent is not willing or unable to comply with or does not have the capability to accept or agree to, please address in the response to this RFP.


7. Respondent acknowledges and agrees to the conditions in Exhibit B, Provisional Contractor Employment Goals.

8. Respondent acknowledges and agrees to the conditions in Exhibit C, Provisional Annual Contract Benchmarks in Construction for Economically Disadvantaged and Small Business Enterprises.

9. Respondent acknowledges that CPS is subject to the Ohio Public Records Act.
10. Respondent shall be responsible for identifying its employees who are participants in the School Employees Retirement System ("SERS"). Respondent shall be responsible for withholding and paying all SERS contributions, including both the employees’ and employers’ contributions, and all surcharges.

1.3 RFP Responses

Please provide (3) hard copies of your response, and one (1) virus free electronic copy (in MS Word format) either on cd or flash drive of your response to the RFP. Hard copies must be on 8 ½ x 11 paper, single-sided, three-hole punched and unbound.

CPS requires a uniform proposal format to make our evaluation as efficient and as fair as possible. Respondents must respond to ALL items provided in this RFP. All questions to this RFP shall be directed to (eghbalc@cps-k12.org).

Submit a cover letter on your letterhead, signed by the responsible official in your organization, certifying the accuracy of the information in the response, and that the proposal will remain valid for 90 days from the proposal due date.

Proposals must be sent or hand-deliver by 12:00 Noon, October 30, 2017 to:

CPS - Education Center
2651 Burnet Avenue
Purchasing Dept., 3rd Floor
Attn: Bradley Price, Buyer
Cincinnati, Ohio 45219-2551

Unnecessarily elaborate responses that do not adequately address the RFP are not desired. Elaborate brochures are not desired. Reproduced copies of standard manuals may not be substituted for the specific responses requested. Emphasis should be on completeness and clarity of the proposal. Failure to comply with the format guidelines may be considered indicative of the respondent’s unwillingness to support customer needs: **Those who do not respond in keeping with the format guidelines may be omitted from the evaluation process at the discretion of CPS.**

2. Statement of Work

2.1 Background
The AED equipment provided will conform to FDA approval and should meet current American Heart Association guidelines for basic and advanced life support, and having no safety system malfunctions or damage.
2.2 Scope
The scope of this work is to provide the replacement AEDs in a timely manner to the Central Office, with the potential for additional units purchased at quoted price as needed by the district, and provide local services as needed (outlined in Tasks).

2.3 Objectives
The objection of this contract will be to deliver for deployment the number of AEDs requested in working condition, and support the effort to deploy the units to various required locations, retrieve the existing units for swap value and/or disposal. Assistance in providing written and verbal communication to comply with AED ORC 3313-0021 is a plus.

2.4 Tasks
- Furnish the FDA approved AED equipment in accordance with Federal and State standards.
- The shipment of the first 80 units shall be provided within 2-4 weeks of Board Approval and PO award.
- Furnish copies of a medical authorization.
- Provide a written and promotional communication to assist with notification of staff on the AED accessibility and training needs.
- Provide technical support on the placement, deployment, update of units, as needed.
- Provide medical authorization / oversight (placement, use, and evaluation if/when a unit is used)

2.5 Deliverables
Inspect and provide the number of AED units as below in accordance with applicable Federal, State and local regulations. Provide pricing for both unit descriptions; CPS has yet to determine which unit (Philips or Zoll) will be purchased. Initial purchase will be 80 units or slightly more; additional units will be purchased on an as needed basis.

<table>
<thead>
<tr>
<th>Description</th>
<th>Number</th>
<th>Cost</th>
<th>Comment</th>
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<tbody>
<tr>
<td>#861304 Philips FRx AED, 8-year warranty 4-year battery, to include</td>
<td>80</td>
<td></td>
<td></td>
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<tr>
<td>- Medical prescription</td>
<td></td>
<td></td>
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<tr>
<td>- 989803139261 Philips FRx AED Pads</td>
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<td></td>
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<tr>
<td>- 989803139251 Philips FRx Carry Case</td>
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<tr>
<td>- 989803139311 Philips Infant/Child Key</td>
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<tr>
<td>- AED/CPR First Response Kit with pocket mask</td>
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<tr>
<td>- AED Inspection tag</td>
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rev. Purchasing 11/2/2016 v. 2.1.4
To be ordered as needed, through 6/30/18

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Description – Zoll Plus

To be provided upon award of contract and PO approval

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<th>Description</th>
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<th>Cost</th>
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<tr>
<td>#Zoll AED Plus Fully Automatic with AED Cover</td>
<td></td>
<td>80</td>
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<td>Includes:</td>
<td></td>
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<tr>
<td>- Medical Prescription</td>
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<tr>
<td>- 7-Year Warranty</td>
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<td></td>
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<tr>
<td>- CPR-D pads</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>- CPR Responder Kit (gloves, face shield, wipes, razor)</td>
<td></td>
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<tr>
<td>- 10-pack Batteries</td>
<td></td>
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<tr>
<td>- Carry Case</td>
<td></td>
<td></td>
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<tr>
<td>- Demonstration &amp; Setup CD</td>
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Zoll AED Pediatric Pads                                                     | 80     | 80   |                                |

To be ordered as needed, through 6/30/18

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<tr>
<td>Zoll AED Pediatric Pads</td>
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<td>------------------------</td>
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<td></td>
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<tr>
<td>Zoll replacement battery (10 – pack)</td>
<td>each</td>
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2.6 Place of Performance
AED delivery shall be provided directly to the CPS Education Center, unless otherwise agreed upon.

2.7 Period of Performance/Timeline
This contract commitment resulting from this RFP will be for one (1) full year, with up to two (2) annual renewals.

2.8 Vendor Information
A. Provide your organization’s name and headquarters address, as well as the contact name, title, phone number and email address of the person completing this proposal. List all additional offices located within a 60-mile radius of Cincinnati corporation limits, and indicate primary services provided at each location.

B. Indicate number of years in business and years at present local address location.

C. Detail any previous Cincinnati Public Schools contracts and/or relationships and contacts.

D. Indicate if your organization is a minority-owned, woman-owned and/or small/disadvantaged business enterprise. If applicable, describe details of any creative partnership(s) with minority-owned, woman-owned and/or small/disadvantaged business enterprises that your organization will be utilizing in developing a response to this RFP. If applicable, describe your organization’s history of partnering with such enterprises to provide services.

E. Provide a minimum of three customer references. References should be equal to or larger than CPS in terms of customer size, complexity and environment type (school districts preferred). CPS should not be used as a reference in this area. You must include the organization name, contact name, phone number, fax number and email address for each reference provided. CPS will be contacting these references.

F. Describe specific capabilities and characteristics your organization has that set it apart from the competition.

G. Value Add (if applicable) What value would you provide by being awarded this contract, ex: would additional services be provided to the district, community outreach, etc.
WHEREAS, the Board of Education of Cincinnati Public Schools desires to provide all citizens or lawfully admitted permanent residents equal and fair opportunities to participate on a level playing field in employment and development opportunities sponsored by the Cincinnati Public Schools, including the Facilities Master Plan to rebuild or renovate all schools over the next ten years; and

WHEREAS, discrimination based on race, color, gender, national origin, and other factors as referenced in “Equal Employment Opportunity and Affirmative Action Policy” (4001) is prohibited by various federal and state laws, and by policy of the Cincinnati Public Schools Board of Education; and

WHEREAS, Cincinnati Public Schools recognizes its obligation concerning its employment and contracting practices, and the employment and contracting practices of its contractors and their subcontractors, to ensure that applicants, employees, bidders, and contractors are not discriminated against on the basis of race, color, gender, national origin, and other factors; and

WHEREAS, Cincinnati Public Schools wishes to ensure that its contractors and their subcontractors recruit, train, hire and promote all personnel in an equitable fashion and that economically disadvantaged and small business enterprises are afforded an equitable opportunity to share in all forms of contract opportunities;

NOW THEREFORE BE IT RESOLVED, That Cincinnati Public Schools shall encourage all of its contractors and their subcontractors to embrace goals shown in Exhibit A, to take affirmative action to achieve and maintain levels of minority and female employment, reasonably attainable by means of applying good faith efforts, subject to administrative updates annually or more frequently based on factual availability determinations; and

FURTHER BE IT RESOLVED, That Cincinnati Public Schools shall assure that economically disadvantaged and small business enterprises have the maximum practicable opportunity to participate in construction contracting opportunities by establishing provisional benchmarks for their participation, as shown in Exhibit B, reasonably attainable by means of applying good faith efforts, subject to administrative updates annually or more frequently based on factual availability determinations and that every effort will be made to attain the highest percentage of the ranges; and

FURTHER BE IT RESOLVED, That Cincinnati Public Schools shall utilize relevant and factual data to determine the availability of economically disadvantaged and small business enterprises and minority and female employees in our relevant geographic area versus our utilization levels; and
BE IT FINALLY RESOLVED, That the Cincinnati Board of Education directs the Superintendent and the Treasurer, in conjunction with the Supplier Diversity Office, to administer the implementation of this resolution in accordance with the Cincinnati Public Schools’ Equal Opportunity Program.
Exhibit B

To the Cincinnati Public Schools
Resolution on Equal and Fair Opportunity
In Contract Employment and Business Opportunities

Provisional Contractor Employment Goals
for Minorities and Women*

<table>
<thead>
<tr>
<th>Trade</th>
<th>Goal</th>
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<tbody>
<tr>
<td>All Construction Trades</td>
<td>20 percent, based on Board Resolution April 28, 2003 to be reasonably attained by means of applying good faith efforts.</td>
</tr>
<tr>
<td>All Other Occupations</td>
<td>Targets, to be determined by CPS administration, reasonably attainable by means of applying good faith efforts.</td>
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*Note: The Cincinnati Public Schools will update the above goals periodically, based on factual availability determinations. These employment goals will be used as a partial basis in determining Bidder’s responsibility, except that the failure of Bidder to comply with this requirement shall not be the sole basis of the rejection of a Bidder as not responsible.

1 Construction trade categories include the following: Asbestos workers, boilermakers, carpenters, elevator construction, floor layers, glaziers, lathers, marble, tile & terrazzo workers & helpers, millwrights, operating engineers, painters, pipe fitters, plasterers, plumbers, sheet metal workers, other trades.
Exhibit C

To the Cincinnati Public Schools
Resolution on Equal and Fair Opportunity
In Contract Employment and Business Opportunities

Provisional Annual Contract Benchmarks in Construction for Economically Disadvantaged and Small Business Enterprises

Business Category                                                      Goal/Benchmark Ranges
Construction—Economically Disadvantaged and Small Business Enterprise 25-30 percent
Construction—Minority Business Enterprises                             20-25 percent
Construction—Women Business Enterprises                                4-9 percent

Goal/Benchmark Ranges
Business Category                                                  Contracts Valued
Contracts Valued
Less Than $25K  More than $25K
Professional Services                                          50%  30%
Goods and Services                                            50%  30%
Nonprofessional Services                                      50%  30%

The Cincinnati Public Schools will update the above goals periodically, based on factual availability determinations.

Note: CPS relies on the SBA definition of socially and economically disadvantaged business. Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias within American society because of their identities as members of groups and without regard to their individual qualities. Please see 13 CFR 124,103 for further definition.

Note: CPS will attempt to achieve these goals at both the prime and subcontractor level. CPS will utilize good faith efforts to evaluate the activity of CPS procurement agents and prime contractors. Evidence of good faith efforts is outlined below:

1) The purchasing agent or contractor has attended any pre-bid conference which was scheduled for this project.
2) The purchasing agent or contractor selected portions of the work which are commercially feasible and which reasonably could be expected to be performed by SMWBs in order to increase the likelihood of meeting the SMWB goals, (i.e., breaking contracts into economically feasible units to facilitate SMWB participation).

3) The purchasing agent or contractor has advertised in general circulation, trade associations, and minority and women owned business-focused media concerning the prime and subcontracting opportunities.

4) The purchasing agent or contractor provided written, timely notice to a reasonable number of identified SMWBs that their interest in this contract was being solicited.

5) The purchasing agent or contractor provided interested SMWBs with adequate information about plans, specifications and requirements of the contract opportunity in a timely manner.

6) The purchasing agent or contractor has followed up the initial solicitations of interest by contacting SMWBs to determine with certainty whether the SMWBs were interested in providing a quote, bid or proposal, to associate with contractor either as a joint venture partner or similar business associations, sub-consultant or subcontractor to provide goods and services needed by Cincinnati Public Schools.

7) The purchasing agent or contractor negotiated in good faith with interested SMWBs and did not reject SMWBs as unqualified without sound reasons, based on thorough exploration of SMWB capabilities.

8) The purchasing agent or contractor made efforts to assist interested SMWBs in obtaining bonding, lines of credit, or insurance required by Cincinnati Public Schools or the contractor.

9) The purchasing agent or contractor has effectively used the services of the available minority and women’s community organizations; SMWB contractors’ groups; local, state, and federal MFBI assistance offices; and other organizations that provide assistance in recruitment and placement of SMWBs.

10) The purchasing agent or contractor has effectively used the services of SMWBs in the past.
CINCINNATI CITY SCHOOL DISTRICT
SERVICES CONTRACT

Agreement Number (#) ________________

This Contract is between _______________ and their directors, officers, employees, guides, agents, independent contractors, subcontractors, representatives, successors, and assigns (all of whom are hereinafter collectively referred to as the “Provider”), with its principal place of business at _______________ and the Cincinnati City School District (“CPS”) with its principal place of business at 2651 Burnet Avenue, Cincinnati, Ohio 45219. The effective date on this Contract is _______________ (“Effective Date”).

I. PURPOSE

a. The CPS administrator responsible for administration of this Contract is _______________.

b. The purpose of this Contract is to provide _______________.

c. During the term of this Contract, CPS engages the Provider for the following services:

   1. LIST OF SERVICES TO BE PROVIDED BY THE PROVIDER

d. During the term of this Contract, CPS engages the Provider for the following deliverables:

   1. LIST OF DELIVERABLES TO BE PROVIDED BY THE PROVIDER

II. TERM AND TERMINATION

a. This Contract shall commence as of the Effective Date set forth above, and shall continue until _______________ (the “Term”), unless sooner terminated. This Contract may be extended for successive one (1) year terms thereafter (each a “Renewal Term”) with the mutual written agreement of the parties. For purposes of this Contract, “Term” shall include the initial Term and any Renewal Terms.

b. The parties understand and agree that the Contract requires the approval of the Board of Education and/or the CPS Treasurer each school year. Without such approval, the Contract is null and void.
c. Conditions for default include non-payment, failure to perform duties of the Contract, and violations of state and/or federal law. In the event either party is in material default of its obligations under this Contract, the party not in default shall have the right to terminate this Contract if the defaulting party fails to cure such default within five (5) days of receiving written notice of the default.

d. CPS may terminate this Contract, with thirty (30) days prior written notice with or without cause; or upon non-appropriation of funds without penalties incurred.

e. CPS may at any time modify, reject or cancel any and all Services hereunder (whether arrangements, commitments, plans, schedules or work in progress or otherwise) relating to any Services covered under the scope of this Agreement, Statement of Work, or Work Order without cause with thirty (30) days written notice.

III. RELATIONSHIP OF PARTIES

a. The parties agree that the Provider shall perform all work and services described as an independent contractor, and not as an employee of CPS. The Provider shall have exclusive control of and the exclusive right to control the details of the services and work performed. The Provider and its employees are not eligible for any benefits not described in this Contract (health or dental insurance, life insurance, etc.). The Provider shall be responsible for workers’ compensation, unemployment, wages and benefits for Provider’s employees.

b. Each party is an independent Contractor and not an agent, partner or joint venturer with the other party for any purpose. Neither party shall have any right, power, or authority to act or create any obligations, expressed or implied, on behalf of the other.

c. Provider is required to disclose in writing any relationship or affinity with CPS, authorizing official, or member of the evaluation committee. Failure to properly disclose such a relationship may result in termination of the contract and may jeopardize Provider’s future business with CPS. Provider will certify that it is not owned in whole or in part by a creditor or employee or official of CPS or a spouse, parent, grandparent, child, grandchild, sibling of or any person related by blood or marriage to an employee or official of CPS. This prohibition shall not apply where Provider is a publicly traded corporation in which the CPS employee or other listed relative has an ownership interest of less than 5% of the public corporation’s outstanding stock or is a creditor due to holding less than 5% of the public corporation’s outstanding debt.

d. Provider represents that it has no other agreement or relationship or commitment to any person or entity that conflicts with Provider’s obligations to CPS under this Contract, including, but not limited to, any agreement to assign inventions, trademarks, copyrights, ideas or other intellectual property to another person or entity.

IV. COMPENSATION AND INVOICING

a. CPS agrees to pay the Provider up to $__________ total for services provided to CPS. To receive compensation, the Provider must submit periodic invoices (invoice must include the purchase order
number) describing any services provided or goods delivered per direction from the CPS administrator responsible for this Contract. Services cannot begin until a purchase order is issued.

b. Provider shall submit invoices no later than sixty (60) days after completion of Services. If Services are provided in separate milestones and/or Deliverables, Provider shall submit invoices no later than sixty (60) days after completion of each milestone and/or Deliverable. Payment terms are Net 30 after receipt of a valid and verifiable invoice. CPS reserves the right to conduct a Supplier Performance Review if Invoices are submitted more than sixty (60) days after completion of Services. Provider shall invoice CPS with a correct invoice referencing a valid CPS Purchase Order issued for the purpose(s) outlined in this Contract or appropriate Statement of Work or Work Order.

c. Unless otherwise specifically set forth in this Contract, Statement of Work, or Work Order, Provider shall bear all of its own expenses arising from the performance of its obligations under this Agreement. If pursuant to this Contract to reimburse certain expenses of Provider, Provider must provide sufficient documentation to substantiate such expenses (as determined by CPS), and such expenses shall not include any mark-up by Provider unless specifically authorized under this Contract.

V. CONFIDENTIALITY

a. The parties acknowledge that CPS is subject to the Family Educational Rights and Privacy Act ("FERPA"). Provider is prohibited from disclosing without authorization any student information and any other CPS proprietary information that the Provider may become aware of as a part of the engagement with CPS. The parties acknowledge that CPS is subject to the Ohio Public Records Act.

b. Provider agrees that it shall: (i) take reasonable measures to protect any CPS information by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized use, dissemination or publication of CPS information as the Provider uses to protect its own confidential information of a like nature; (ii) limit disclosure to those person’s within Provider’s organization with a need to know and who have previously agreed in writing, prior to receipt of CPS information either as a condition of their employment or in order to obtain CPS information, to obligations similar to the provisions hereof; (iii) not copy, reverse engineer, disassemble, create any works from, or decompile any prototypes, software or other tangible objects which embody CPS information and/or which are provided to the party hereunder; and (iv) comply with, and obtain all authorizations required by, all applicable export control laws or regulations. CPS information shall not be reproduced in any form except as required to accomplish the purposes and intent of this Contract. Any reproduction of CPS information shall be the property of CPS and shall contain any and all notices of confidentiality contained on the original.

c. Exceptions. The parties agree that the foregoing shall not apply to any information that Provider can evidence: (i) is or becomes publicly known and made generally available through no improper action or inaction of Provider; (ii) was already in its possession or known by it prior to disclosure by CPS to Provider; (iii) is independently developed by Provider without use of or reference to any CPS information; or (iv) was rightfully disclosed to it by a third party, Provider rightfully obtains from
a third party. Provider may make disclosures required by law or court order provided that Provider:
(a) uses diligent efforts to limit disclosure and to obtain confidential treatment or a protective order; 
(b) has given prompt advance notice to CPS of such required disclosure; and (c) has allowed CPS 
to participate in the proceedings.

d. CPS will retain all right, title and interest to CPS information. The parties acknowledge that a 
violation of the Provider’s obligations with respect to CPS information may cause irreparable harm 
to CPS for which a remedy at law would be inadequate. Therefore, in addition to any and all 
remedies available at law, CPS shall be entitled to seek an injunction or other equitable remedies in 
all legal proceedings in the event of any threatened or actual violation of any or all of the provisions 
hereof.

VI. BACKGROUND CHECKS

a. To the extent the Provider works or interacts directly with students, Provider is required to submit 
criminal background checks pursuant to CPS Board Policy and Ohio law. Details about background 
checks may be obtained from the CPS’s Office of Safety and Security Services, District Form 8475-
1. The cost of background checks shall be the responsibility of the Provider.

VII. INDEMNIFICATION

a. Provider will protect, defend, indemnify and hold harmless CPS, its Board members, its employees, 
its agents, its representatives, its attorneys, against loss, claim, liability in tort or by statute imposed, 
charge, cost or expense, including without limitation, attorneys’ fees which may be incurred in 
connection with, or in any manner of any damage or loss arising from disclosure of proprietary 
information, claims alleging infringement of intellectual property rights, breach of any section of this 
Contract, negligence, or willful misconduct by Provider. Provider will protect, defend, indemnify, and 
hold CPS, its Board members, its employees, its agents, its representatives, its attorneys, 
harmless from and against any damage, cost, or liability, including attorneys’ fees and costs, 
resulting from claims by third parties for injury or damage to persons or property arising from the 
acts or omissions of Provider, its officers, employees, agents, representatives, or subcontractors in 
providing products or services under the terms and conditions of this Contract.

b. The Provider’s obligation to defend, indemnify, and hold the Indemnities harmless is separate from 
and additional to its obligations under the Insurance Provisions set forth in the Scope of Services 
section of the contract.

c. In any suit filed or claim or demand made, the Provider shall at its own cost and expense, appear, 
defend, and pay all attorney’s fees and other costs and expenses, including those incurred by or on 
behalf of the Indemnities and shall pay all attorney’s fees, costs and expenses any Indemnity incurs in 
enforcing any rights provided under this contract, including but not limited to this Indemnification 
section and the Insurance section. In addition, if any judgment shall be rendered against (or 
settlement made by or on behalf of) any Indemnity in any such action or claim, the Provider shall, at 
its own expense, satisfy and discharge such judgment or settlement of the Indemnities.

d. The Board shall have the right at its own expense, to participate in the defense of any suit or the 
handling of any claim, without relieving the Provider of any of its obligations hereunder. The Board
VIII. LIMITATIONS OF LIABILITY

a. THE LIABILITY OF CPS FOR DAMAGES ARISING OUT OF ANY BREACH OF THIS AGREEMENT SHALL BE LIMITED TO FEES ACTUALLY PAID TO PROVIDER UNDER THIS CONTRACT. CPS SHALL NOT HAVE ANY LIABILITY WHATSOEVER FOR INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS) OF PROVIDER OR ANY THIRD PARTY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

IX. INSURANCE

a. Provider will maintain a comprehensive insurance program. An updated Certificate of Insurance reflecting the type of coverage and amount must be maintained on file with CPS. Provider must maintain comprehensive liability insurance of $1,000,000 with a $1,000,000 limit per occurrence. If providing professional services, Provider must maintain professional liability (errors and omissions) insurance of $1,000,000 with a $1,000,000 limit per occurrence. CPS must be notified in writing thirty (30) days in advance of any changes in Provider’s insurance. If changes occur, a new certificate must be supplied to CPS. CPS reserves the right to approve all deductible and levels of self-insurance retention. It is Provider’s responsibility to insure that any subcontractors maintain the levels of insurance coverage indicated herein. Provider will maintain a comprehensive insurance program including general business liability insurance with coverage that is appropriate to the level of risk associated with the products and services provided. If providing professional services, Provider must maintain professional liability (errors and omissions) insurance that is appropriate to the level of risk. An updated Certificate of Insurance reflecting the type of coverage and amount must be maintained on file with CPS. CPS must be notified in writing thirty (30) days in advance of any changes in Provider’s insurance. If changes occur, a new certificate must be supplied to CPS. CPS reserves the right to approve all deductible and levels of self-insurance retention. Provider will add the District Board of Education and CPS as additional insured entities on Provider’s policy. It is Provider’s responsibility to insure that any subcontractors maintain appropriate levels of insurance described herein.

X. CPS POLICIES

a. Provider acknowledges and agrees to comply with all CPS policies. All District policies may be found online at: https://community.cps-k12.org/sites/boardpolicies/default.aspx

XI. ADVERTISING

a. Provider shall not use any CPS names, logos, information, or trademarks in any advertising, publicity, marketing, displays, promotions, or similar materials unless approved in writing by CPS.

XII. NON-EXCLUSIVE RELATIONSHIP
a. This Contract is not exclusive, and Provider acknowledges that: (i) CPS has no obligation to provide Provider any minimum level of work or compensation under this Agreement; and (ii) CPS may obtain services or materials from third parties that may be similar to the Services or Deliverables, without any obligation or liability to Provider.

XIII. MOST FAVORED CUSTOMER

a. If any other customer of Provider obtains aggregate pricing and/or rebate terms with respect to any Services which are more favorable (taking into account all credits, discounts, rebates, adjustments, bonuses, allowances, or any other incentives offered) than those terms provided to CPS at any time during the term of this Contract, Provider shall retroactively adjust the pricing and/or rebate terms under the appropriate CPS agreement for each such Service to conform to the more favorable terms and Provider shall promptly pay CPS any amount owing CPS there from. CPS shall have the right to conduct periodic reviews of Provider’s books and records with respect to such Services to conform to Provider’s compliance with the provisions in this Section.

XIV. CONTRACT COMPLIANCE

a. CPS has the right to audit Provider’s performance under the Contract at any time, for any or no reason.

b. CPS at its expense, and upon reasonable notice and during business hours, send to Provider, and Provider will permit, CPS’s personnel or authorized representatives to observe Provider’s performance of its obligations pursuant to this Agreement.

XV. DISPUTE RESOLUTION

a. The parties agree to attempt in good faith to resolve any and all disputes or disagreements in mediation. The parties shall mutually agree to a mediator. Mediation will take place in Hamilton County, Ohio. The parties agree to equally share the mediator cost(s) and each shall bear responsibility for their own costs, including attorney fees. In the event mediation fails, any action that arises under this Contract shall be resolved or brought or filed in the courts of Hamilton County, Ohio. This Contract shall be governed in accordance with the laws of the State of Ohio.

XVI. NON ASSIGNMENT

a. Provider shall not assign this contract or any rights or obligations hereunder without the prior written consent of CPS, and any attempted unpermitted assignment shall be null and void and without further effect; provided, however, that, upon the sale or transfer of all or substantially all of the assets of Provider, or upon the merger by Provider into or the combination with another corporation or other business entity, or upon the liquidation or dissolution of Provider, this contract will inure to the benefit of and be binding upon the person, firm or corporation purchasing such assets, or the corporation surviving such merger or consolidation, or the shareholder effecting such liquidation or dissolution, as the case may be. After any such transaction, Provider in this contract shall refer to the entity which conducts the business now conducted by Provider. The provisions of this contract shall be binding upon and inure to the benefit of CPS and upon and to the benefit of the permitted successors and assigns of the parties hereto. If CPS consents to any subcontract or delegation, then Provider will cause and ensure that all such third parties will be bound to the terms of this
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Contract. Notwithstanding the existence or terms of any subcontract or delegation, Provider will remain responsible for the full performance of the Services.

XVII. COUNTERPARTS; ELECTRONIC SIGNATURES

a. This agreement may be signed in one or more counterparts, which together will form a single agreement. This Contract may be signed electronically.

XVIII. WARRANTIES

a. Provider shall supervise, inspect and direct the work under the Contract completely and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the work in accordance with the Contract. Provider shall be solely responsible for the means, methods, techniques, sequences and procedures to complete the Contract requirements. Provider shall be responsible to see that the completed work complies accurately with the Contract. If required by CPS, Provider shall promptly, as directed, either correct all defective work, whether or not fabricated, installed or completed, or, if the Work has been rejected by CPS, remove it from the location and replace it with Work that is not defective. Provider shall pay all claims, costs, losses and damages caused by or resulting from such correction or removal (including, but not limited to, all costs of repair or replacement of work of others).

b. Provider shall comply with all Federal, State, County, District, and Municipal Laws, Ordinances, Rules, Regulations, and Codes, relating to or applicable to work under the Contract and shall furnish certification of compliance at completion of the work upon request of the CPS.

c. Provider shall perform all work under the Contract and furnish all materials and equipment, equipment, labor, transportation, superintendence, testing, facilities, services, means, methods, techniques, insurance, bonding and utilities, except as otherwise specified in the Contract, necessary or proper to perform and complete all work required by and in accordance with the Contract and pay all applicable taxes incidental to performing said work and furnishing such items.

d. Provider is the lawful owner or licensee of all programs and Provider Property used by it in the performance of the Services contemplated hereunder; such programs and/or Provider Property have been lawfully developed or acquired by the Provider and Provider has the right to permit CPS access to or use of such programs and/or Provider Property.

XIV. MISCELLANEOUS

a. Provider shall be responsible for identifying its employees who are participants in the School Employees Retirement System (“SERS”). Provider shall be responsible for withholding and paying all SERS contributions, including both the employees’ and employers’ contributions, and all surcharges.

b. The parties have read this Contract and agree to be bound by its terms, and further agree that it constitutes the complete and entire Contract of the parties and supersedes all previous communications, verbal or written, and all other communications between them relating to the subject matter. No representations or statements of any kind made by either party, which are not
expressly stated in this Contract, shall be binding on the party. No provision in either party’s purchase orders or in any other business forms used by either party will supersede the terms and conditions of this Contract, and no supplement, modification or amendment of this Contract shall be binding, unless executed in writing by an authorized representative of each party to this Contract.

c. Should any provision or application of this Contract be found invalid or unenforceable by a court of competent jurisdiction, the remainder of the provisions of this Contract shall not be affected and shall continue enforceable to the fullest extent permitted by law.

d. In the event that either Provider or CPS is unable to perform or is precluded from performing its obligations under this Contract due to any unforeseen circumstances beyond the reasonable control of the party precluded from performing, including, but not limited to, fire, riot or civil commotion, act of government or governmental instrumentality (whether federal, state or local), war, failure of performance by a common carrier, failure in whole or in part of technical facilities or any other cause beyond the reasonable control of said party (a “Force Majeure Event”), then such inability to perform shall not be deemed to be a default hereunder; provided, however, that the party declaring a force majeure event shall make all reasonable efforts to continue to meet its obligations throughout the duration of the force majeure condition; and provided, further, that the party declaring force majeure shall notify the other party promptly when the force majeure condition begins, the nature of the force majeure condition, and when such condition has terminated. The suspension of any obligations shall only last during the time the force majeure condition continues (and such reasonable time thereafter to allow said party to respond to such condition). In the event of Provider’s failure to perform its obligations hereunder due to Force Majeure Event, Provider will promptly consult with CPS regarding an alternative plan acceptable to CPS to provide total support for its requirements as stated in this Contract. Full implementation of the alternative plan acceptable to CPS shall be completed at Provider’s earliest opportunity, not to exceed five (5) days from the occurrence of such Force Majeure Event. If the alternative plan is not acceptable to CPS, CPS reserves the right to use other services, including those of another provider, to complete the project under such circumstances.

e. The headings contained in this Contract are for the purpose of convenience or reference only and are not intended to limit or affect any terms or conditions. The parties agree to the terms and conditions of this Contract as of the Effective Date. Each party represents and warrants to the other that (a) it has the right, power and authority to execute, deliver and perform this Contract (and shall have all right, power and authority to execute, deliver and perform any Statement of Work, or Work Order hereunder), and has taken all action necessary to authorize it to enter into and perform this Contract (and shall have taken all action necessary to authorize it to enter into and perform any Statement of Work and Work Order hereunder), including without limitation, in the case of Provider (if a limited liability company), in compliance with any and all requirements of the operating agreement of such limited liability company, (b) the signatory for such party has full right, power and authority to bind such party to all of the terms and conditions of this Contract (and to any Statement of Work or Work Order hereunder), and (c) this Contract (and each Statement of Work and Work Order) constitutes a valid, legal and binding obligation of such party.

-SIGNATURE LINES FOLLOW ON NEXT PAGE-
SIGNATURES

Cincinnati City School District

Signature: ______________
Jennifer M. Wagner
Treasurer/CFO

Date: ______________

Provider

Signature: ______________

Name:

Title:

Date: ______________