

AGREEMENT

THIS AGREEMENT made this 17th day of July, 2024, by and between Board of Education, Ogdensburg City School District (hereinafter referred to as the 'SCHOOL DISTRICT'), as the party of the first part, having its principal place of business located at 1100 State Street, Ogdensburg, New York 13669, and Ms. Melinda J. Bixby (hereinafter referred to as the 'CONSULTANT'), located at 441 Old State Road, Dekalb Junction, New York 13630. The SCHOOL DISTRICT and CONSULTANT are also each referred to individually as a "Party" and collectively as the "Parties."

WHEREAS, CONSULTANT is in the business of providing elementary math specialist services; and

NOW THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, the parties hereto mutually agree as follows:

1. **TERM OF AGREEMENT:** This Agreement shall become effective and be deemed to have been in effect on July 1, 2024 upon being approved by the SCHOOL DISTRICT's Board of Education and being signed by the duly authorized representatives of the SCHOOL DISTRICT and CONSULTANT, and shall remain in effect until June 30, 2025 unless it is terminated as provided for in Paragraph 8 below.
2. **SCOPE OF SERVICES:** CONSULTANT shall provide the SCHOOL DISTRICT with the Services as enumerated in the attached **Addendum "A"**, incorporated herein.
3. **PAYMENT SCHEDULE:**
 - a. The fee(s) for Services shall be as set forth as listed below:
SIX HUNDRED AND 00/100 DOLLARS (\$600.00) per day, for a minimum of 100 days during the 2024-25 fiscal year, in an aggregate amount not less than SIXTY THOUSAND AND 00/100 DOLLARS (\$60,000.00). Facilitation of Book Study in July-August 2024, at a total of ONE THOUSAND AND 00/100 DOLLARS (\$1,000.00). Reimbursement of Liability Insurance of not more than TWO THOUSAND EIGHT HUNDRED and 00/100 DOLLARS (\$2,800.00).
 - b. CONSULTANT shall submit to the SCHOOL DISTRICT monthly invoices reflecting the Services completed during the prior month. The SCHOOL DISTRICT shall pay CONSULTANT, based upon the invoice submitted, within 30 days of the receipt of such invoice, unless the SCHOOL DISTRICT disputes the invoice, in whole or in part, in which case the SCHOOL DISTRICT shall promptly notify CONSULTANT of the dispute.
 - c. CONSULTANT agrees that the fees set forth in this Agreement are the exclusive fees for all Services. CONSULTANT further agrees that it shall not solicit or accept

from any student, any student's family member, or any other entity, additional compensation or gratuity of any kind for Services rendered under this Agreement.

4. INDEPENDENT CONTRACTOR:

- a. The relationship of CONSULTANT to the SCHOOL DISTRICT is that of independent contractor. Any and all Services performed by the CONSULTANT and its officers, employees, agents representative and/or subcontractors under this Agreement shall be performed in such capacity. The SCHOOL DISTRICT will issue an IRS Form 1099 to CONSULTANT for amounts paid, and CONSULTANT will be responsible for paying taxes owed. Neither CONSULTANT nor its officers, employees, agents, representatives and/or subcontractors shall hold itself/themselves out as, or claim to be, officers or employees of the SCHOOL DISTRICT, or make any claim, demand, or application to, or for, any right or privilege applicable to an officer or employee of the SCHOOL DISTRICT, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, social security coverage, disability benefits, or retirement membership or credit. CONSULTANT shall not have, or hold itself out as having, the authority or power to bind or create liability for the SCHOOL DISTRICT by its acts or omissions.
- b. It is agreed by CONSULTANT and the SCHOOL DISTRICT that neither federal, state or local income taxes nor payroll taxes of any kind, including, but not limited to F.I.C.A. or F.U.T.A., will be withheld or paid by the SCHOOL DISTRICT on behalf of any of the CONSULTANT's officers, employees, agents, representatives and/or subcontractors. Said payments are to be made by CONSULTANT in compliance with all federal, state, and local laws, rules or regulations. CONSULTANT agrees to pay all applicable taxes, including income taxes, workers' compensation insurance, unemployment insurance payment, disability insurance payment, and/or any other payments that may be required under the laws, rules, or regulations of any government agency having jurisdiction over it or its relationship with the SCHOOL DISTRICT. CONSULTANT further agrees to indemnify and hold the SCHOOL DISTRICT harmless against any claim, cost, penalty, damage, or expense (including reasonable attorneys' fees) related to CONSULTANT's nonpayment and/or underpayment of any such taxes or payments.
- c. Subsection 4 (a) and (b) shall survive the expiration or termination of this Agreement.
- d. The SCHOOL DISTRICT acknowledges that it shall have no ability to control the manner, means, details, or methods by which CONSULTANT or its officers, employees, agents, representatives and/or subcontractors perform Services under this Agreement, except as provided herein, and as required by federal, state, or local laws, rules, and regulations.

- e. Nothing in this Agreement shall restrict CONSULTANT from providing Services or otherwise engaging in business with any other person and/or entity. Furthermore, CONSULTANT affirmatively states that it is in the business of providing Services and provides Services to other entities.
5. **SCHOOL GROUNDS & RULES:** It is understood and agreed that while on school grounds, CONSULTANT, its employees and/or agents shall obey all SCHOOL DISTRICT rules and regulations and must follow all reasonable directives of SCHOOL DISTRICT'S administrators and employees.
6. **TERMINATION:** This Agreement may be terminated may be terminated at any time by either Party with or without cause upon written notice to the other Party.
7. **FINGERPRINTING:** Both parties specifically acknowledge that the services provided under this Agreement do not involve or require any direct contact between CONSULTANT and/or CONSULTANT's representatives and students of the District under the age of 21.
8. **INSURANCE PROVISION:**
- a. Notwithstanding any terms, conditions or provisions, in any other writing between the parties, the CONSULTANT hereby agrees to effectuate the naming of the SCHOOL DISTRICT as an additional insured on the CONSULTANT's insurance policies, with the exception of workers' compensation and professional liability. If the policy is written on a claims-made basis, the retroactive date must precede the date of the contract.
- b. The policy naming the SCHOOL DISTRICT as an additional insured shall:
- Purchase an insurance policy from an A.M. Best rated A- or higher insurer, licensed in New York.
 - State that the CONSULTANT's coverage shall be primary and non-contributory coverage for the SCHOOL DISTRICT, its Board, employees and volunteers.
 - The SCHOOL DISTRICT shall be listed as an additional insured by using endorsement CG 2026 or equivalent. A completed copy of the endorsement must be attached to the certificate of insurance.
 - The certificate of insurance must describe the specific services provided by the CONSULTANT (e.g., physical therapy, psychological services) that are covered by the commercial general liability policy and the umbrella policy.

- At the SCHOOL DISTRICT's request, the CONSULTANT shall provide a copy of the declaration page of the liability and umbrella policies with a list of endorsements and forms. If so requested, the CONSULTANT will provide a copy of the policy endorsements and forms.

c. Required Insurance:

- **Commercial General Liability Insurance**
\$1,000,000 per occurrence/ \$2,000,000 aggregate
- **Professional Errors and Omissions Insurance**
\$2,000,000 per occurrence/ \$2,000,000 aggregate for the professional acts of the consultant performed under the contract for the School District. If written on a "claims-made" basis, the retroactive date must pre-date the inception of the contract or agreement. Coverage shall remain in effect for two years following the completion of work
- **Workers Compensation and N.Y.S. Disability**
Statutory Workers' Compensation, Employers' Liability and N.Y.S. Disability Benefits Insurance for all employees.
- **Umbrella/Excess Insurance**
\$3 million each occurrence and aggregate. Umbrella/Excess coverage shall be on a follow-form basis over the required Auto Liability, General Liability, and Professional Liability coverages.

d. CONSULTANT acknowledges that failure to obtain the insurance required hereunder shall constitute a material breach of this Agreement. CONSULTANT is to provide the SCHOOL DISTRICT with a certificate of insurance, evidencing the above requirements have been met, prior to the commencement of work hereunder. The failure of the SCHOOL DISTRICT to object to the contents of the certificate or the absence of same shall not be deemed a waiver of any and all rights held by the SCHOOL DISTRICT.

e. The SCHOOL DISTRICT is a member/owner of the NY Schools Insurance Reciprocal (NYSIR). The consultant further acknowledges that the procurement of such insurance as required herein is intended to benefit not only the SCHOOL DISTRICT but also the NYSIR, as the school's insurer.

9. **DEFENSE AND INDEMNIFICATION:** The CONSULTANT shall defend with competent counsel, indemnify, and hold harmless the SCHOOL DISTRICT, including the SCHOOL DISTRICT's Board of Education, directors, officers, employees, representatives, and agents, with respect to all claims, liabilities, injuries, losses, expenses (including reasonable attorney's fees and litigation costs), and/or damages, as a result of,

or arising from or in connection with the CONSULTANT's performance and/or non-performance under this Agreement.

The SCHOOL DISTRICT shall indemnify and hold harmless the CONSULTANT, including its directors, officers, agents and employees, from all claims, suits, judgments and demands arising from the indemnifying party's negligent and/or intentional acts and omissions in the performance of the duties prescribed in this Agreement.

Nothing in this Agreement shall obligate or authorize either the SCHOOL DISTRICT or the CONSULTANT to indemnify or hold harmless the other party for the other party's acts or omissions.

Each party shall give the other party immediate written notice of any claim, suit or demand which may be subject to this subdivision.

This subdivision shall survive the termination of this Agreement.

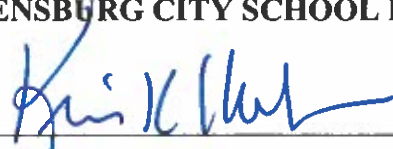
10. **SIGNING OF ACKNOWLEDGEMENT:** CONSULTANT agrees to complete and sign an Acknowledgement Form with regard to the New York State Education Department Waiver for the New York State Public Retirement System with respect to each owner of CONSULTANT and each principal employee of CONSULTANT. A schedule of such persons is attached as **Addendum "B."**
11. **NOTICES:** All notices and communications under this Agreement shall be in writing and shall be given by personal delivery, overnight delivery service, or certified mail, return receipt requested. Overnight delivery and mailed notices and communications shall be sent to the other Party at its respective address as set forth above, or at such other addresses as the Parties may designate by notice from time to time.
12. **ASSIGNMENT OF CONTRACT:** CONSULTANT shall not assign, transfer or convey any of its respective rights or obligations under this Agreement without the prior written consent of SCHOOL DISTRICT.
13. **DISCRIMINATION:** Services provided pursuant to this Agreement shall be provided without regard to race, creed, color, sex, sexual orientation, national origin, religion, age or disability.
14. **GOVERNING LAW:** This Agreement shall be governed by, interpreted and enforced in accordance with the laws of the State of New York without regard to conflicts or choice of law provisions that would defer to the substantive laws of another jurisdiction. Each of the parties hereto consents to the jurisdiction of any state court located within the County of St. Lawrence, New York, or federal court in Federal District Court for the Northern District of New York located in the County of St. Lawrence, New York, and irrevocably agrees that all actions or proceedings relating to this Agreement must be litigated in such courts, and each of the parties waives any objection which it may have based on improper venue or *forum non conveniens* to the conduct of and proceeding in any such court.


15. **WAIVER:** The failure of any Party to insist on the strict performance of any provision of this Agreement or to exercise any right under this Agreement shall not constitute a waiver of such provisions or right. A waiver is effective only if in writing and signed and delivered by the waiving Party.
16. **ENTIRE AGREEMENT; AMENDMENT:** This Agreement represents the entire understanding of the Parties with respect to its subject matter, and it supersedes all prior agreements, understandings, or representations, whether oral or written, by either Party. This Agreement may only be amended by a further written document by the Parties and ratified by the Board of Education.
17. **SEVERABILITY:** If any term, provision, covenant or condition of this Agreement, or the application thereof to any person, place or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such term, provision, covenant or condition as applied to other persons, places and circumstances shall remain in full force and effect.
18. **AGREEMENT CONSTRUCTION:** This Agreement has been arrived at mutually and is not to be construed against any party hereto as being the drafter hereof or causing the same to be drafted.

SIGNATURE PAGE TO FOLLOW


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

OGDENSBURG CITY SCHOOL DISTRICT

By: 
Name: Kevin Kendall
Title: Superintendent of School
Date: 7/19/24

By: 
Name: Ronald Johnson
Title: Board President
Date: _____

DR. MELINDA J. BIXBY

By: 
Name: Melinda J. Bixby

Addendum “A”
Scope of Services

Responsibilities of this position include supporting the District’s elementary math curriculum and instructional initiatives. Particular attention will be given to supporting implementation of the elementary math curriculum as well as the development of teacher and interventionist pedagogical knowledge and instructional practices.

Essential Duties:

- Assists in developing, implementing, and assessing the District’s elementary math curriculum as aligned with the New York State Next Generation Math Standards;
- Assists with the selection of instructional materials and equipment and with the implementation of innovative practices in mathematics within the District’s elementary schools and classrooms;
- Oversees elementary initiatives and is responsible for coaching, supporting, and guiding elementary teachers in mathematics;
- Participates in the planning and delivery of professional development to promote best practices in the instruction and assessment of elementary mathematics;
- Assists with monitoring student assessment results and provides assistance to improve student performance as needed within the district’s elementary schools and classrooms;
- Attends instructional leadership and grade-level team meetings;
- Remains abreast of professional development literature, participates in professional organizations, attends (as appropriate) workshops related to best practices, and effectively disseminates information to others;
- Initiates and maintains effective liaison to maintain a current knowledge of developments and research in the profession.