YTC Title 1, A and D Funding
(15-038-YSD)

THIS CONTRACT is entered into by and between the State of Montana, **Montana Department of Corrections** (Department), whose address and phone number are **5 S. Last Chance Gulch, Helena, MT 59601, (406) 444-3930** and **Great Falls Public Schools**, (Contractor), whose address and phone number are **1100 4th Street South, Great Falls, MT 59403, (406) 268-6000.**

1. EFFECTIVE DATE, DURATION, AND RENEWAL

1.1 Contract Term. The contract's initial term is upon contract execution through **September 30, 2016**, unless terminated earlier as provided in this contract. In no event is this contract binding on the Department unless the Department's authorized representative has signed it. The legal counsel signature approving legal content of the contract does not constitute an authorized signature.

1.2 Contract Renewal. The Department may renew this contract under its then-existing terms and conditions in one-year intervals, or any interval that is advantageous to the Department. This contract, including any renewals, may not exceed a total of seven (7) years.

2. SERVICES AND/OR SUPPLIES

Contractor shall provide the Department the following:

Supplies, materials, and resources funded by Title 1 Part A and Part D grant funds to provide support services to youth at the Montana Department of Corrections Youth Transition Center (YTC) in Great Falls, MT.

2.1 Student Tools
-Student computer with access to wireless internet
-Printer dedicated to student computer
-Technical support for computer and printer
-Access to the Montana Digital Library, accredited by Contractor
-Job preparation and application writing programs

2.2 Supplies
-Backpacks
-School supplies
-Printer paper
-Activity fees
-High school level, librarian generated reading list
-Recreational and sports equipment
-General Educational Development (GED) fees

2.3 Services
-Access to a tutoring pool of teachers providing services at YTC.
-Liaison from the Community Team to coordinate youth entry into the GED program
-Monitoring of youth progress through the use of Power School

3. CONSIDERATION/PAYMENT

3.1 Payment Schedule. In consideration of the **supplies and services** to be provided, the Contractor shall pay Department according to the following schedule:

Contractor will compensate Department up to **eight thousand dollars and 00/100 ($8,000.00) annually** upon provision of services and according to Department documented and submitted expenses.
Incurred costs will be billed to Contractor on a monthly basis. In the event insufficient Title 1 Part A and Part D grant funds are appropriated in any fiscal period (October 1-September 30), Contractor will immediately notify Department and any services being provided under this Contract will be suspended.

3.2 Reference to Contract. The contract number MUST appear on all invoices, packing lists, packages, and correspondence pertaining to the contract.

4. AGENCY ASSISTANCE

To the extent possible, Contractor shall use its own equipment in providing the goods/services set forth in Section 3. However, the parties recognize that services provided to Department may occur within the confines of a secure correctional facility necessitating the use of Department facilities and equipment including, but not limited to, access to inmate records, work space within a correctional facility, and phone service (e.g., Montana State Prison does not allow cellular or digital phones within the facility).

5. ACCESS AND RETENTION OF RECORDS

5.1 Access to Records. Contractor shall provide the Department, Legislative Auditor, or their authorized agent's access to any records necessary to determine contract compliance. The Department may terminate this contract under section 13, without incurring liability, for the Contractor's refusal to allow access as required by this section. (18-1-118, MCA.)

5.2 Retention Period. Contractor shall create and retain all records supporting the services rendered and supplies provided for a period of eight (8) years after either the completion date of this contract or termination of the contract.

6. ASSIGNMENT, TRANSFER, AND SUBCONTRACTING

Contractor may not assign, transfer, or subcontract any portion of this contract without the Department's prior written consent. (18-4-141, MCA) Contractor is responsible to the Department for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by Contractor. No contractual relationships exist between any subcontractor and the Department under this contract.

7. HOLD HARMLESS/INDEMNIFICATION

Contractor agrees to protect, defend, indemnify, and hold harmless the Department, its elected and appointed officials, agents and employees from and against all legal, equitable or administrative claims, causes of action, damages, losses and expenses, of any kind or character, including but not limited to attorneys' fees and the costs of defense, arising in favor of Contractor's employees or third parties on account of bodily injury, sickness, disease, death, personal injury, violation of an offender's constitutional or statutory rights, or to injury to or destruction of tangible property except for such claims, causes of action, damages, losses or expenses which are solely due to the fault or negligence of the party seeking indemnity.

Department agrees to protect, defend, indemnify, and hold harmless the Contractor, its elected and appointed officials, agents and employees from and against all legal, equitable or administrative claims, causes of action, damages, losses and expenses, of any kind or character, including but not limited to attorneys' fees and the costs of defense, arising in favor of Department's employees or third parties on account of bodily injury, sickness, disease, death, personal injury, violation of an offender's constitutional or statutory rights, or to injury

to or destruction of tangible property except for such claims, causes of action, damages, losses or expenses which are solely due to the fault or negligence of the party seeking indemnity.

8. REQUIRED INSURANCE

8.1 General Requirements. Contractor shall maintain for the duration of this contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by Contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

8.2 Primary Insurance. Contractor's insurance coverage shall be primary insurance with respect to the Department, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the Department, its officers, officials, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute with it.

The Department, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for liability arising out of activities performed by or on behalf of Contractor, including the insured's general supervision of Contractor, products, and completed operations, and the premises owned, leased, occupied, or used.

8.4 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be declared to and approved by the Department. At the request of the Department either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Department, its officers, officials, employees, or volunteers; or (2) at the expense of Contractor, Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

8.5 Certificate of Insurance/Endorsements. A certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required coverages has been received by the Department's Contracts Management Bureau, P.O. Box 201301, Helena, MT 59620. Contractor must notify the Department immediately of any material change in insurance coverage, such as changes in limits, coverages, change in status of policy, etc. The Department reserves the right to require complete copies of insurance policies at all times.

9. COMPLIANCE WITH WORKERS' COMPENSATION ACT

Contractor shall comply with the provisions of the Montana Workers' Compensation Act while performing work for the Department of Montana in accordance with 39-71-401, 39-71-405, and 39-71-417, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither Contractor nor its employees are Department employees. This insurance/exemption must be valid for the entire contract term and any renewal. Upon expiration, a renewal document must be sent to the Department's Contracts Management Bureau, P.O. Box 201301, Helena, MT 59620.

10. COMPLIANCE WITH LAWS

Contractor shall, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules, and regulations, including but not limited to, the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by Contractor subjects subcontractors to the same provision. In accordance with 49-3-207, MCA, Contractor agrees that the hiring of persons to perform

this contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing this contract.

11. DISABILITY ACCOMMODATIONS

The Department does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals who need aids, alternative document formats, or services for effective communications or other disability related accommodations in the programs and services offered are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

12. INTELLECTUAL PROPERTY/OWNERSHIP

12.1 Title and Ownership Rights. The Department retains title to and all ownership rights in all data and content, including but not limited to multimedia or images (graphics, audio, and video), text, and the like provided by the Department (the "Content"), but grants Contractor the right to access and use Content for the purpose of complying with its obligations under this contract and any applicable statement of work.

12.2 Ownership of Work Product. Contractor shall execute any documents or take any other actions as may reasonably be necessary, or as the Department may reasonably request, to perfect the Department's ownership of any Work Product.

12.3 Copy of Work Product. Contractor shall, at no cost to the Department, deliver to the Department, upon the Department's request during the term of this contract or at its expiration or termination, a current copy of all Work Product in the form and on the media in use as of the date of the Department's request, or such expiration or termination.

12.4 Ownership of Contractor Pre-Existing Materials. Contractor retains ownership of all literary or other works of authorship (such as software programs and code, documentation, reports, and similar works), information, data, intellectual property, techniques, subroutines, algorithms, methods or related rights and derivatives that Contractor owns at the time this contract is executed or otherwise developed or acquired independent of this contract and employed by Contractor in connection with the services provided to the Department (the "Contractor Pre-existing Materials"). Contractor Pre-existing Materials are not Work Product. Contractor shall provide full disclosure of any Contractor Pre-Existing Materials to the Department before its use and to prove its ownership. If, however, Contractor fails to disclose to the Department such Contractor Pre-Existing Materials, Contractor shall grant the Department a nonexclusive, worldwide, paid-up license to use any Contractor Pre-Existing Materials embedded in the Work Product to the extent such Contractor Pre-Existing Materials are necessary for the Department to receive the intended benefit under this contract. Such license shall remain in effect for so long as such Pre-Existing Materials remain embedded in the Work Product. Except as otherwise provided for in **Section 12.2** or as may be expressly agreed in any statement of work, Contractor shall retain title to and ownership of any hardware it provides under this contract.

13. CONTRACT TERMINATION

13.1 Termination for Cause with Notice to Cure Requirement. The Department may terminate this contract in whole or in part for Contractor's failure to materially perform any of the services, duties, terms, or conditions contained in this contract after giving Contractor written notice of the stated failure. The written notice must demand performance of the stated failure within a specified period of time of not less than 30 days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

13.2 Termination for Cause with Notice to Cure Requirement. Contractor may terminate this contract for the Department's failure to perform any of its duties under this contract after giving the Department written notice of the failure. The written notice must demand performance of the stated failure within a specified period of time of not less than **30 days**. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

14. EVENT OF BREACH – REMEDIES

14.1 Event of Breach by Contractor. Any one or more of the following Contractor acts or omissions constitute an event of material breach under this contract:

- products or services furnished fail to conform to any requirement;
- failure to submit any report required by this contract;
- failure to perform any of the other terms and conditions of this contract, including but not limited to beginning work under this contract without prior Department approval; or
- voluntary or involuntary bankruptcy or receivership.

14.2 Event of Breach by Department. The Department's failure to perform any material terms or conditions of this contract constitutes an event of breach.

14.3 Actions in Event of Breach.

Upon Contractor's material breach, the Department may:

- terminate this contract under Section 18.1 and pursue any of its remedies under this contract, at law, or in equity; or
- treat this contract as materially breached and pursue any of its remedies under this contract, at law, or in equity.

Upon the Department's material breach, Contractor may:

- terminate this contract under Section 18.2 and pursue any of its remedies under this contract, at law, or in equity; or
- treat this contract as materially breached and, except as the remedy is limited in this contract, pursue any of its remedies under this contract, at law, or in equity.

15. FORCE MAJEURE

Neither party is responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the nonperforming party, so long as such party uses its best efforts to remedy such failure or delays. A party affected by a force majeure condition shall provide written notice to the other party within a reasonable time of the onset of the condition. In no event, however, shall the notice be provided later than five working days after the onset. If the notice is not provided within the five day period, then a party may not claim a force majeure event. A force majeure condition suspends a party's obligations under this contract, unless the parties mutually agree that the obligation is excused because of the condition.

16. WAIVER OF BREACH

Either party's failure to enforce any contract provisions after any event of breach is not a waiver of its right to enforce the provisions and exercise appropriate remedies if the breach occurs again. Neither party may assert the defense of waiver in these situations.

17. CONFORMANCE WITH CONTRACT

No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the contract shall be granted without the Department's Contracts Management Bureau's prior written consent. Product or services provided that do not conform to the contract terms, conditions, and specifications may be rejected and returned at Contractor's expense.

18. LIAISONS AND SERVICE OF NOTICES

18.1 Contract Liaisons. All project management and coordination on the Department's behalf must be through a single point of contact designated as the Department's liaison. Contractor shall designate a liaison that will provide the single point of contact for management and coordination of Contractor's work. All work performed under this contract must be coordinated between the Department's liaison and Contractor's liaison.

Ken McGuire, Director, Youth Transition Center, is the Department's liaison.
4212 3rd Ave South
Great Falls, MT 59404
(406) 452-1792 Office
(406) 799-1105 Cell
(406) 452-8745 Fax
E-mail: kmguire@mt.gov

Brian Patrick, Director of Business Operations, is Contractor's liaison.
1100 4th Street South
Great Falls, MT 59403
(406) 268-6050 Office
E-mail: brian Patrick@gfps.k12.mt.us

18.2 Notifications. The Department's liaison and Contractor's liaison may be changed by written notice to the other party. Written notices, requests, or complaints must first be directed to the liaison. Notice may be provided by personal service, mail, or facsimile. If notice is provided by personal service or facsimile, the notice is effective upon receipt; if notice is provided by mail, the notice is effective within three business days of mailing. A signed and dated acknowledgement of the notice is required of both parties.

19. MEETINGS

19.1 Technical or Contractual Problems. Contractor shall meet with the Department's personnel, or designated representatives, to resolve technical or contractual problems occurring during the contract term or to discuss the progress made by Contractor and the Department in the performance of their respective obligations, at no additional cost to the Department. The Department may request the meetings as problems arise and will be coordinated by the Department. The Department shall provide Contractor a minimum of three full working days notice of meeting date, time, and location. Face-to-face meetings are desired; however, at Contractor's option and expense, a conference call meeting may be substituted. Contractor's consistent failure to participate in problem resolution meetings, Contractor missing or rescheduling two consecutive meetings, or Contractor's failure to make a good faith effort to resolve problems may result in termination of the contract.

19.2 Failure to Notify. If Contractor fails to specify in writing any problem or circumstance that materially affects the costs of its delivery of services or products, including a material breach by the Department, about which Contractor knew or reasonably should have known with respect to the period during the term covered by Contractor's status report, Contractor shall not be entitled to rely upon such problem or circumstance as a purported justification for an increase in the price for the agreed upon scope.

19.3 Department's Failure or Delay. For a problem or circumstance identified in Contractor's status report in which Contractor claims was the result of the Department's failure or delay in discharging any Department obligation, the Department shall review same and determine if such problem or circumstance was in fact the result of such failure or delay. If the Department agrees as to the cause of such problem or circumstance, then the parties shall extend any deadlines or due dates affected thereby, and provide for any additional charges by Contractor. This is Contractor's sole remedy. If the Department does not agree as to the cause of such problem or circumstance, the parties shall each attempt to resolve the problem or circumstance in a manner satisfactory to both parties.

20. CHOICE OF LAW AND VENUE

Montana law governs this contract. The parties agree that any litigation concerning this bid, proposal, or this contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees.

21. TAX EXEMPTION

The Department of Montana is exempt from Federal Excise Taxes (#81-0302402).

22. AUTHORITY

This contract is issued under authority of Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.

23. SEVERABILITY CLAUSE

A declaration by any court or any other binding legal source that any provision of the contract is illegal and void shall not affect the legality and enforceability of any other provision of the contract, unless the provisions are mutually and materially dependent.

24. SCOPE, ENTIRE AGREEMENT, AND AMENDMENT

24.1 Contract. This contract consists of seven **(8)** numbered pages and any Attachments as required, In the case of dispute or ambiguity arising between or among the documents, the order of precedence of document interpretation is the same.

24.2 Entire Agreement. These documents are the entire agreement of the parties. They supersede all prior agreements, representations, and understandings. Any amendment or modification must be in a written agreement signed by the parties.

25. WAIVER

The Department's waiver of any Contractor obligation or responsibility in a specific situation is not a waiver in a future similar situation or is not a waiver of any other Contractor obligation or responsibility.

26. EXECUTION

The parties through their authorized agents have executed this contract on the dates set out below.

DEPARTMENT OF MONTANA
Montana Department of Corrections
5 S. Last Chance Gulch
Helena, MT 59601

BY: _____
Cindy McKenzie, Administrator
Youth Services Division

_____
(Signature)

DATE: 9-9-15

GREAT FALLS PUBLIC SCHOOLS
1100 4th Street South
Great Falls, MT 59403

BY: _____
Tammy Lacey, Superintendent

_____
(Signature)

DATE: 9-11-15

Approved as to Legal Content:

_____ 9/3/15
Legal Counsel (Date)

Approved as to Form: