



DISTRICT SCHOOL BOARD OF PASCO COUNTY

Kurt S. Browning, Superintendent of Schools

7227 Land O' Lakes Boulevard • Land O' Lakes, Florida 34638

Purchasing Services

Nicole Westmoreland, MBA, Purchasing Agent
813/ 794-2221 Fax: 813/ 794-2111
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352/ 524-2221 e-mail: nwestmor@pasco.k12.fl.us

June 3, 2014

MEMORANDUM

TO: Honorable School Board Members

FROM: Nicole Westmoreland, MBA, Purchasing Agent *NW*

SUBJECT: Shmoop University Agreement
Contract #2014001828

In accordance with Florida Statutes 1002.415, 1002.37, and Senate Bill 1676, beginning with 2010 school year each school district must provide eligible K-12 students with the option of participating in a virtual instruction program. Please reference the attached memo from Ms. JoAnne Glenn, Principal for Pasco eSchool, for additional information. The agreement was approved by the District School Board's Attorney, Ms. Nancy Alfonso, on May 20, 2014.

At this time, we respectfully request that the Board approve the attached Shmoop University agreement. Annual fee is projected to be approximately \$75,000. The program will be funded through FTE earned by students enrolled and successful half credit completion. Services covered under this contract are considered educational services and therefore are exempt from the competitive pricing requirements as outlined in Department of Education 6A-1.012(11)(b).

Should you have any questions regarding this matter, please contact JoAnne Glenn or Debra Reaves, Purchasing Services, at your earliest convenience.

NW/dr

Attachments

Date/Time: May 28, 2014 11:39:00



DISTRICT SCHOOL BOARD OF PASCO COUNTY

Kurt S. Browning, Superintendent of Schools

7227 Land O' Lakes Boulevard • Land O' Lakes, Florida 34638

Pasco eSchool
JoAnne Glenn, Principal
813/346-1901 FAX: 813/346-1991
E-MAIL: jglenn@pasco.k12.fl.us

May 20, 2014

To: Nicole Westmoreland, Purchasing Agent

From: JoAnne Glenn, Principal for Pasco eSchool

Subject: Contract for School District Virtual Instruction Program (Shmoop)

In accordance with Florida Statute 1002.415, 1002.37 and Senate Bill 1676, beginning with the 2009-2010 school year, each school district shall provide eligible K-12 students within its boundaries the option of participating in a virtual instruction program. The program makes instruction available to students using online and distance learning technology in the nontraditional classroom.

To provide the students with a variety of learning opportunities and to provide required physical education instruction in accordance with Florida statutes, Pasco eSchool requests approval for a contract to offer virtual courses developed by the following provider:

- Shmoop

The cost, as outlined in the contract by the provider, is an annual fee for unlimited enrollments.

The annual cost of the fees paid to this vendor is projected to be up to \$75,000. The program will be funded through FTE earned by students enrolled in grades 6-12 by successful credit completion per half credit.



RECEIVED

5/21/2014 JK

Contract # 2014001828

Independent Contractor Agreement

This Agreement is hereby entered into between District School Board of Pasco County, hereafter referred to as "Pasco", and Shmoop University, Inc., PO Box 0935, Los Altos, CA 94023-0935, hereinafter referred to as "Contractor".

Whereas, Pasco is authorized to contract with entities for furnishing educational materials, if entities are specially trained and experience and competent to perform the special Services required; and

Whereas, Pasco is in need of such special services and advice, and

Whereas, Contractor is specially trained and experience and competent to perform the special Services required by the District,

Now, therefore the parties agree as follows:

Services to be provided by the Contractor in a satisfactory, competent, and professional manner:

- Provide site license to Shmoop current online courses, test preparation, and Common Core aligned teacher resources for all EPasco Educators and Students.
- Development of five courses aligned to Florida Standards in similar style as current Shmoop courses found at <http://www.shmoop.com/courses/>: Classical Literature(18 weeks), Contemporary Literature (18 weeks), Critical Thinking and Study Skills(18 weeks), Career Research and Decision Making (18 weeks), Literature in the Media – Honors (36 weeks).
- Allow teachers to have access to Shmoop's student gradebook data in the Canvas System. Teachers/Admins will be required to verify and sync their accounts to have Shmoop data submitted into their Canvas Gradebook when they create their classroom on Shmoop. Teachers will be able to see final scores, percentage correct, and number of takes when it is reported in Shmoop and their Canvas gradebook. Classrooms supported will be the following: Current online courses, current EOC prep, Contemporary Literature; Literature in the Media (Honors); Classical Literature; Critical Thinking and Study Skills; Career Research and Decision Making.

1. Term: Contractor shall commence providing Services under this Agreement on or about May 12, 2014, and will diligently perform as required and as follows.
 - a. Site license for current Shmoop current online courses, test preparation, and Common Core aligned teacher resources for all EPasco Educators and Students shall commence on May 12, 2014 and end on June 30, 2015.



- b. Two dates of onsite training to provided between May 12, 2014 and June 30, 2014.
 - c. Site license for the five new courses shall commence on September 1, 2014 and end on June 30, 2015.
 - d. Data syncing with the Canvas System will occur no later than September 1, 2014.
2. Compensation: Pasco agrees to pay the Contractor for Services satisfactorily rendered pursuant to this Agreement a total fee of \$40,000. Payment will be as follows:
 - a. \$20,000 paid on May 12, 2014 as remuneration for the site license for current Shmoop online courses and training
 - b. \$20,000 paid on September 1, 2014 as remuneration for the five new courses and data syncing.
3. Expenses: Pasco shall not be liable to Contractor for any costs or expenses paid or incurred by Contractor in performing service for Pasco.
4. Independent Contractor: Contractor, in the performance of this Agreement, shall be an independent contractor. Contractor understands and agrees that he/she and all of his/her employees shall not be considered officers, employees or agents of Pasco, and are not entitled to benefits of any kind or nature normally provided employees of Pasco and/or to which Pasco's employees are normally entitled, included, but not limited to, State Unemployment Compensation or Worker's Compensation. Contractor assumes the full responsibility for the acts and/or omissions of his/her employees or agents as they relate to the Service to be provided under this Agreement. Full and exclusive rights and ownership of the Services, including all deliverables, and all materials and information arising from this Agreement, and in any and all related letters, patents, trademarks, copyrights, trade secrets, confidential information, or any other proprietary rights, intangible property, or work product, that are produced, delivered, or created in connection with the Services under this Agreement shall vest in and hereby assigned to Consultant. Consultant shall retain all right, ownership, or title in the Services, including all deliverables and all materials or information arising from this Agreement, or any related letters, patents, trademarks, copyrights, trade secrets, confidential information or any other proprietary rights, intangible property, or work product. Pasco acknowledges that any copyrightable works prepared by Consultant under this Agreement shall be deemed copywritten by Consultant under the copyright laws, it being the intent of this Agreement to vest full and exclusive ownership rights to Consultant including, but not limited to the exclusive right to prepare derivative works.

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AND APPROVED:
NW 5.21.14

The Services and all such rights belong to Consultant for whatever use it desires.

5. Taxes: Contractor acknowledges and agrees that it is the sole responsibility of Contractor to report its income as compensation received from Pasco and to make the requisite tax filings and payments to the appropriate federal, state or local tax authority. No part of Contractor's compensation shall be subject to withholding by Pasco for the payment of social security, unemployment or disability insurance or any other similar state or federal tax obligation.
6. Materials: Contractor shall furnish, at his or her expense, all labor, materials, equipment, supplies, and other items necessary to complete the Services to be provided pursuant to this Agreement.
7. Confidentiality: Contractor shall hold in trust for Pasco, and shall not disclose to any person, any confidential information. Confidential information is information related to Pasco's research, development, trade secrets, and business affairs; but does not include information which is generally known or easily ascertainable by nonparties through available public documentation.
8. Termination: Pasco may at any time, with our might reason, terminate this Agreement or compensate Contractor only for Services satisfactorily rendered to the date of termination. Written notice by Pasco shall be sufficient to stop further performance of Services by Contractor. Notice shall be deemed given when received by the Contractor or not later than fives (5) days after the day of mailing, whichever is sooner.
9. Hold Harmless: Contractor agrees to indemnify, hold harmless, and release Pasco, and all its officers, agents, volunteers, and employees from and against any and all loss, damages, injury, liability, suits, and proceedings arising out of the performance of this Agreement to the extent caused by the negligence of the Contractor's officers, agents, volunteers, or employees.
10. Limitation of Liability: Except as otherwise provided in this Agreement, Pasco's and Consultant's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Except as otherwise provided in this Agreement, Contractor's liability to Pasco for any claim of damages arising out of this Contract shall be limited to direct damages and shall not exceed the total amount paid to Contractor for the performance under this Contract. Notwithstanding any other provision of this Agreement, neither party shall be liable, regardless of whether any claim is based on contract or tort, for any special,

CONTRACT REVIEWED
AND APPROVED:

NW 5.21.14

consequential, indirect or incidental damages, including but not limited to, lost profits or revenue, arising out of or in connection with this Agreement or the Services performed in connection with this Agreement.

11. Assignment: The obligations of the Contractor pursuant to this Agreement shall not be assigned by the Contractor.
12. Compliance with Applicable Laws: The Service completed herein must meet the approval of Pasco and shall be subject to Pasco's general right of inspection to secure the satisfactory completion thereof. Contractor agrees to comply with all federal, state, and local laws, rules, regulations and ordinances that are now or may in the future become applicable to Contractor. Contractor's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.
13. Permits/Licenses: Contractor and all Contractor's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing to this Agreement.
14. Entire Agreement/Amendment: This Agreement and any exhibits attached hereto constitute the entire agreement among the parties to it and supersedes any prior or contemporaneous understanding or agreement with respect to the Services contemplated, and may be amended only by a written amendment executed by both parties to the Agreement.
15. Nondiscrimination in Employment: Contractor agrees that it will not engage in unlawful discrimination in employment of persons because of race, color, religious creed, national origin, ancestry, physical handicap, medical condition, marital status, or sex of such persons.
16. Non-Waiver: The failure of Pasco or Contractor to seek redress for violation of, or to insist upon, the strict performance of any term or condition of this Agreement, shall not be deemed a waiver by that party for such term or condition, or prevent a subsequent similar act from constituting a violation of such term or condition.
17. Administrator of Agreement: This Agreement shall be administered on behalf of, and any notice desired or required to be sent to a party hereunder shall be addressed to:
 - a. For Pasco: _____
 - b. For Contractor: Ellen Siminoff
18. Notice: All notices or demands to be given under this Agreement by either party to the other, shall be in writing and given either by: a) personal



service or b) by US Mail, mailed either by registered or certified mail, return receipt requested, with postage prepaid to the addresses provided.

19. Severability: If any term, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect and shall not be affected, impaired or invalidated in any way.

20. Governing Law: The terms and conditions of this Agreement shall be governed by the laws of the State of Florida.

21. Warranty of Authority: Each of the parties signing this Agreement warrants to the other that he or she has the full authority of the entity on behalf of which his or his signature is made.

This Agreement is entered into on the _____ day of May, 2014.

Pasco

Contractor

By: _____


By: _____

Name: _____

Name: _____

Title: _____

Title: _____


Signature _____ Date 5-21-14

Nicole Westmoreland, MBA, Purchasing Agent
District School Board of Pasco County

Debra Sue Reaves

From: NMAlfonso@aol.com
Sent: Tuesday, May 20, 2014 10:49 AM
To: Debra Sue Reaves
Subject: Re: Shmoop University, Inc

Debra:

I have reviewed the agreement and do not have any objection as to legal form and content.

Please let me know if I can be of further assistance.

Nancy McClain Alfonso, Esquire
McClain, Alfonso & Meeker, P.A.
38416 Fifth Avenue
Zephyrhills, Florida 33542
(813) 782-8700
(813) 788-0441 Fax
www.McClainAlfonso.com

e-mail: NMAlfonso@aol.com
e-service: EServe@McClainAlfonso.com
e-service: SMeeke@McClainAlfonso.com

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