

(ATTACHMENT 1) ACTION ON REQUEST TO WAIVE ADMINISTRATIVE POLICY 3.09(9)(e) ENTER IN A CONTRACT WITH FOLLET CONTENT SOLUTIONS, LLC AND MACKIN EDUCATIONAL RESOURCES FOR LIBRARY BOOKS AND LIBRARY MATERIALS

Contract Requisition Number: CR058217

Contract Number: B0001523

Vendor Number:V0000000361

**MILWAUKEE BOARD OF SCHOOL DIRECTORS
PROFESSIONAL SERVICES CONTRACT**

This Contract is being entered into this 1st day of January, 2023, by and between **Follett Content Solutions, LLC** (“Contractor”) and Milwaukee Board of School Directors (“MPS”). This Contract is the result of an open competitive procurement, specifically Request for Proposal (RFP) 1081.

1. SCOPE OF SERVICES

Contractor shall specifically perform the following tasks:

Contractor shall provide all services as requested by MPS and in accordance with the Scope of Services of RFP 1081 for qualified professional firms to provide library books and library materials to support approximately 160 school libraries for students in grades Pre-K -12.

Minimum Respondent Qualifications:

1. All providers must meet the following requirements, unless notated below with the word “OPTIONAL”. These requirements listed as minimum requirements must be reflected in the discount % quoted and, therefore, included at no additional charge.
2. **Customer Service**
 - 2.1. Provider will have a Toll free (800, 888, etc.) or local Milwaukee number.
 - 2.2. Provider will have a dedicated customer service representative or limited group of representatives familiar with the account resulting from an award by Milwaukee Public Schools.
 - 2.3. Provider will have a representative available for onsite visits as requested by district within seven business days of request for meeting.
 - 2.4. Returns:
 - 2.4.1. Provider agrees that less than perfect items will be returned for replacement at the expense of the vendor or refunded at full credit, whichever it is directed to do by the ordering location for that particular order.
 - 2.4.2. Provider agrees that shipping errors (e.g. a product ships that was not ordered) will be at the expense of the Provider.
 - 2.4.3. Provider agrees that items that are improperly processed will be returned for replacement and corrected at the expense of the Provider.
 - 2.4.4. Provider will replace defective and failing pre-bound/proprietary bound materials at no additional charge to MPS within 30 days.
 - 2.4.5. Credits for return of items must be issued to the District Library Media Office (“DLMO”), (located at 5225 W. Vliet St. Milwaukee, WI 53208) within 30 business days. All credits shall be returned in the form of a check to the DLMO, once a month, based on the purchase order(s). No credit memos shall be accepted.
 - 2.4.6. For any purchase or unauthorized purchase generated through MPS Punchout, credit must be issued on the same credit card as charged. No credit memos will be accepted for any order via MPS PunchOut.
 - 2.5. Successful vendor will provide two hard copies of detailed documentation included with the product delivery (for secretary and librarian). The documentation may be either detailed packing slips or invoice copies. This documentation will include line detail with library book title or item description, ISBN, its list price, net MPS unit price, line item total. It will also include an order total for the shipment. If using a copy of an invoice, it must be marked as “COPY” so as not to be confused by the school staff with the actual original invoice. The original invoice will be sent to the MPS address indicated for billing on the purchase order.
 - 2.6. No substitutions of titles, product, binding, or format will be acceptable without prior approval by requestor initiating the purchase order.

3. Delivery

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- 3.1. The price quoted must include all delivery charges. Delivery of all items must be F.O.B. to the MPS location receiving the goods with freight paid by the vendor. All deliveries must be made inside the receiving location of the building. Any separate line items for freight, shipping, processing, handling or like charges listed on an invoice will be deleted and NOT PAID.
- 3.2. Provider will have a minimum of 85% for average fill rate within a 30 calendar-day delivery period.
- 3.3. Fill or cancel in 60 days. Delivery is required no later than 60 calendar days after receipt of order. If out-of-stock or out-of-print items cannot be delivered in the 60-day time period, the ordering location must be notified about those specific items within 15 calendar days after receipt of order. The vendor must follow the direction of the ordering location as to whether the backorder should be filled or canceled.
- 3.4. Credit for cancelled or unfilled orders will be issued to the DLMO within 60 days, (located at 5225 W. Vliet St. Milwaukee, WI 53208). All credits shall be returned in the form of a check to the DLMO, once a month, based on the purchase order(s). No credit memos shall be accepted.
- 3.5. ALL orders are to be packed in Dewey order and the packing slip accompanying each shipment shall reflect Dewey orders as well.

4. Ordering tools & methods:

- 4.1. Provider will have online tools in the form of online catalogs to facilitate the ordering process. The DLMO will have access to an admin account that will allow for a bird's eye view of all orders placed by individual schools and allow for the sharing of lists among different schools across categories and core lists (Common Core State Standards-based, curricular based, Lexile based, and culturally relevant). This online site will also provide direct district access of all MARC records for all shipments in progress. MARC records will be available from vendor site for a minimum of 2 years. (See 4.2 for exact file nomenclature of MARC records). Only awarded Library Books and Library Materials as part of the resulting contract shall be listed on the online catalog page.
- 4.2. Provider will have online tools available to assist in collection management through the use of collection analysis.
- 4.3. Provider's system will have electronic ordering list compilation ("carts", "wish lists", etc.).
- 4.4. Provider's on-line catalog will have searches possible by all of the following:
 - WI Standards and new Wisconsin Common Core State Standards (adopted June 2010)
 - Review sources
 - Reading level
 - Reading Lexile (MetaMetrics, Inc.)
 - Grade, age, or interest level
 - Copyright
 - Title
 - Author
 - Subject
 - Keyword
 - ISBN
 - Series and sets
 - Material type (DDC #, fiction, biography, etc.)
 - Language
 - Publisher
 - Award Winner and Honor Lists
- 4.5. Provider will have an on-line service that indicates availability including Out of Print ("OP") and Out of Stock ("OS").
- 4.6. Vendor shall provide an online title matching feature when library collections are submitted electronically to help prevent the accidental ordering of duplicate titles.
- 4.7. Even though an online "Catalog" is acceptable as a source for product information and pricing, Provider will also have an ordering system capable of accepting purchase orders.
- 4.8. Provider's on-line system will display the list price and net MPS unit price.
- 4.9. Provider agrees that an MPS purchase order (either hard copy, fax, or, in future, via MPS PunchOut) must be received before shipping any product.
- 4.10. Invoices and/or packing slips will clearly indicate items that are OP or OS.
- 4.11. Processing has the ability to use a "Do Not Exceed limit" system which will prevent additional items submitted from being added to an order once the specified net dollar limit is reached. In addition, invoices

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and/or packing slips will clearly indicate the original items requested that exceeded the “Do Not Exceed limit” and could be ordered at a later date.

4.12. Provider will conduct on-site training sessions in the use of their online tools as requested by the DLMO and at no additional cost to MPS. The training is anticipated to be at the start of the contract and annually to facilitate the training of new staff.

4.13. OPTIONAL: Provider may have hard copy catalogs that are updated annually or supplementary catalogs highlighting new and popular educational titles that may be part of a compendium to be used as a supplemental source of product information.

5. Library Processing, Cataloging & Automation System

5.1. Cataloging:

5.1.1. Provider will follow MPS District MARC standards based on the 15th Edition of Abridged Dewey DDC and 22nd edition of the SEARS List of Subject Headings. MPS has some specific call number and cutter requirements. Cataloging Standards (**Exhibit 2**).

5.1.1.1. MARC records will comply with standard MARC21 and MicroLIF format. The vendor will supply MARC records that all contain the following: Specific copy information (purchase price and vendor) and barcode symbology Generic Code 39 (“3 of 9”) up to 14 characters.

5.1.2. Provider must be capable of providing Spanish subject headings for ordered Spanish and bilingual/Spanish materials.

5.1.3. All electronic services must be compatible with the latest Follett Destiny Library Manager version (now 19.5 or greater).

5.1.4. Provider will maintain customized cataloging profiles for each MPS location in addition to barcode labels provided to Provider by the MPS district.

5.2. Barcode and Automation System:

Provider will provide MARC record information electronically for the purchase order to the individual school site placing the order by CD, email, and online website. Additionally, for the purposes of tracking and quality control, the MARC records will be sent as files to a district e-mailbox using a file nomenclature that includes site name, a distinguishable invoice number, and shipping date. The MARC records files in this item number will match exactly to those stipulated in item 3.1. (See 3.1 for second access point for MARC records retrieval.)

5.3. Physical processing of book (or another library resource):

5.3.1. Provider will supply and attach a spine label and a clear label protector with layout in accordance with Cataloging Standards (**Exhibit 2**). These labels will be applied on the spine of the item ½-inch from the bottom preferred to be read vertically.

5.3.2. Provider will attach one barcode label, with numerical sequencing provided by MPS, and attach a clear label protector to this barcode label. These labels will be applied on the back cover of the book positioned on top right parallel to spine.

5.3.3. Provider will attach one back-up barcode number strip label to the book title page near the item’s copyright information.

5.3.4. Provider will stamp each item with the school name on the front inside cover. MPS will provide a list of the specific names of schools to the selected vendors.

5.4. The Provider will monitor the barcoding so that no duplicate barcodes are generated and agrees to re-barcode, at no cost to the District, any books that bear duplicate barcodes. The supplier further agrees to furnish replacement electronic MARC records in a timely manner with the new barcode information when duplicate barcoding occurs. If the supplier makes an error with MPS-provided barcodes that results in those barcodes as being unusable, the supplier is responsible for reporting the incident to MPS and reimbursing MPS for the cost of those barcodes.

5.5. The selected vendor(s) must maintain a current specification guide/sheet for each site and provide it as requested.

5.6. OPTIONAL: Subcontracting of Library Processing is acceptable as long as use of subcontractor is approved by MPS. The primary vendor will be responsible for ensuring that any subcontractor(s) meets the

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requirements contained in this bid. Cost/discount quoted by the primary vendor will include the full cost of the item to MPS.

6. Products

- 6.1. All products/items must include library processing as indicated in Specification 4.
- 6.2. Print/book Bindings.
 - 6.2.1. Pre-bound/proprietary library bindings must have a lifetime replacement guarantee. MPS in its sole judgment will determine if a vendor's proprietary bound product meets the needs of MPS.
 - 6.2.2. Vendor must provide at a minimum the following bindings: trade hardcover, library/reinforced bindings, paperbacks, and pre-bound/proprietary bindings which have a lifetime replacement guarantee.
- 6.3. Vendor must provide at a minimum the following categories of products: print/book including board books, big books, DVDs, Blu-Ray Discs, Audio Books on CD, Music CDs, MP3 Format CDs, Spoken Word CDs, Interactive Books on CD, and Kits. If selected vendor(s) sells items not detailed in this list, those items must be approved by the MPS' DLMO and WI Common School Fund eligible before those items may be sold to MPS under this contract.
- 6.4. Vendor must provide materials under the following classifications: Fiction, Non-fiction, Biography, Autobiography, Collective Biography, Easy (Picture Books), Reference, Story Collection, Professional, AV, and Spoken Word (CDs).
- 6.5. Vendor must provide a minimum of 5% of their total products available for sale as Spanish and bilingual/Spanish.

7. Sales Protocols

- 7.1. Schools may order from any or all of the Providers awarded as a result of this RFP. Schools are encouraged to base the vendor selection for a particular order on prices and product availability.
- 7.2. Providers are prohibited from offering preview materials, links to unauthorized sales/product points and materials that are not listed as part of this blanket contract. Providers must contact the DLMO for approval to offer links to additional product points and materials not listed on the blanket contract.
- 7.3. Informational materials (print and electronic) on special promotions must be distributed to schools via the DLMO.
- 7.4. Schools are discouraged from taking valuable teaching time to meet with vendors (in person or on phone). All sales calls should be referred to the DLMO using contact information provided after award. Providers are only to visit schools where an invitation has been issued and an appointment made by the DLMO.
- 7.5. All schools have the right to refuse a vendor visit. If any Provider is aggressive and violates the protocols set forth in this RFP, the schools have been instructed to contact the DLMO.

8. Liquidated Damages and Remedies

Provider shall be liable to MPS for liquidated damages in the amount of \$10 per occurrence per item for overcharging MPS for specific items in the Market Basket; for failing to provide MPS with appropriate discounts per category; and for substituting titles, binding or format without prior notice and consent as indicated in item 1.5.

In no event shall liquidated damages exceed 5% of total district spend for the one year preceding the contract violations.

MPS will notify the Provider, in writing, of any claim for liquidated damages at least 30 days prior to billing for such amounts.

9. Other Requirements

- 9.1. If there are items marked as excluded from the RFP or if MPS determines to exclude items or categories from award, Provider(s) must have an ordering system capable of restricting said items from being ordered by MPS end users.
- 9.2. The Provider must allow MPS the option to short pay invoices in cases where items are invoiced but not received or where items are being returned because they are defective or shipped to MPS in error.

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- 9.3. Prices for the specific ISBN items in the Bid Table over the life of the contract are to be guaranteed to be whichever is lower of either the price listed in the “Discounted Unit Price F.O.B. Destination MPS” column or the “Category Products/Binding Discount%” applied to the current Publisher’s List Price.

9.4.

MPS will determine whether proposals have met the minimum proposal requirements set forth below. Only those proposals passing all of the minimum proposal requirements, unless waived, will be passed on for evaluation according to the criteria.

RFP 1081 (including all exhibits and addenda) and Contractor’s Responses to RFP 1081, are incorporated herein by reference. All minimum respondent qualifications of the RFP are material terms of this Contract with which Contractor must comply.

Pricing shall be discounted as mentioned below:

- 7% additional discount off publisher list price - Audio Compact Disc (A-CD)
- 7% additional discount off publisher list price - AIO (All-in-one Audio Visual Format)
- 0% additional discount off publisher list price - Big Book (BIGBK)
- 10% additional discount off publisher list price - Board
- 7% additional discount off publisher list price - Digital Video Disk (DVD)
- 30% additional discount off publisher list price - Library Reinforced (L/R)
- 0% additional discount off publisher list price - MP3-CD
- 0% additional discount off publisher list price - Music CD
- 30% additional discount off publisher list price - PreBound/ Proprietary Bound (PB)
- 20% additional discount off publisher list price - Paperback Trade (PBK)
- 10-30% additional discount off publisher list price (depending on what binding they are published in) - Professional (Prof)
- 25% additional discount off publisher list price - Trade- Hardcover (T-HC)
- 7% additional discount off publisher list price - Spoken Books on CD
- 7% additional discount off publisher list price - Kits

Processing Options

\$0.75/ book - 3M Security Strips

N/A - Spanish Subject Headings

For MARC record production

\$0.13/book - Accelerated Reader Label (There is an additional \$0.71 charge per book to attach the label. If the AR label is included in a Book Automation package, the total is \$0.95/book. This included MARC record, small or large book information label, barcode label with protector, spine label, and mylar cover for books with dust jackets.)

\$2.99/book - KAPCO Easy Covers

(on paperbacks- attached)

Contractor shall provide, at its own expense, all personnel, supplies, and equipment required to perform the services under this Contract.

2. TERM

This Contract shall be in effect January 1, 2023 through December 31, 2025 (the “Initial Term”), with the option to extend for up to two additional one-year terms to run from January 1, 2026 through December 31, 2026 and January 1, 2027 through December 31, 2027 upon mutual consent of the parties and Board approval. MPS will base its renewal decisions on the following performance metrics to be rated by MPS personnel. Contractor must attain a minimum score of 90 points to be eligible for contract renewal; however, 90 points does not guarantee renewal.

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<u>Performance Metrics</u>	<u>Points</u>
Provision of items within the specified timeframe	25
Quality of items furnished	25
Ability to meet the demand of request	20
Client satisfaction per survey data	10
Accuracy of invoicing for MPS District Orders	10
Reporting of product usages and inventory recommendations	10
Total:	100

No work shall commence before a Contractor receives a fully executed Contract and has been given approval to proceed. Any work performed by the Contractor prior to obtaining a fully-executed Contract with approval to proceed shall not be compensated pursuant to this Contract. Any continuation of the Contract beyond this term must be set forth in writing and signed by the original signatories to the Contract.

3. COMPENSATION

Total compensation under this Contract shall not exceed \$800,000.00 in the Initial Term.

MPS reserves the right to determine in its sole discretion whether services have been adequately and fully delivered; to withhold payment until services are fully and adequately delivered; or to disallow a pro rata share of payments for services not fully and adequately delivered.

Milwaukee Public Schools does not pay in advance for services. No payment shall be made until a properly submitted invoice is approved. Invoices shall be submitted to:

Milwaukee Public Schools
 ATTN: Renee Laird-Adelon-District Library Media Specialist
 5225 W Vliet Street
 Milwaukee, WI 53208

A properly submitted invoice must include a detailed description of the dates and times worked, and the tasks performed. As a matter of practice, MPS attempts to pay all invoices in 30 days. It is mutually agreed that State Prompt pay law does not apply to this Contract.

Unless otherwise specified, MPS shall not pay invoices submitted more than 60 days after actual work. In the case of grant funding, no payments shall be made after grant close out. Final invoices must be marked as such.

4. QUANTITIES

The quantities of the deliverables will be as identified by MPS. MPS reserves the right to increase or decrease quantities as required by student enrollment and class need. There is no guarantee of the quantity of deliverables that will be purchased pursuant to this Contract.

5. DELIVERY

For the initial purchase, MPS’s Chief Academic Office will provide Vendor with quantities and locations. Vendor shall then drop ship the deliverables directly to the locations at no additional charge. Subsequent orders throughout the term of the Contract will be made directly by individual schools and will also include shipping at no additional charge.

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6. PROFESSIONAL DEVELOPMENT

Vendor shall provide, at no additional cost to MPS, the amount of face-to-face professional development identified in its Response to the RFP necessary for all relevant MPS staff to effectively use the adopted materials.

7. BAR CODING AND PHYSICAL PROCESSING OF LIBRARY BOOKS

Vendor shall provide bar coding and physical processing of all purchased Library Books throughout the term of the Contract at no additional cost to MPS. Bar-coding must meet the following specifications: (1) electronic textbook records must be compatible with the District's library book management database (Destiny); (2) electronic records must be provided via CD, email, or online website; (3) barcode labels must be provided by Vendor and attached to textbooks free of charge according to information given by MPS; (4) barcode symbology must be compatible with the District's library book database and according to information given by MPS; (5) individual school customized textbook processing options must be complied with; (6) customized school processing profiles and barcode ranges must be maintained on file by Vendor; (7) upon request, Vendor must provide MPS ownership property labels in each library book; and (8) electronic library records in Spanish, if offered by Vendor, must be provided free of charge.

8. NON APPROPRIATION OF FUNDS

This Contract is contingent upon the appropriation of sufficient funds by appropriate MPS officials. If funds are not appropriated, Contractor agrees to take back any commodities furnished under the Contract, terminate any services supplied to MPS under the Contract, and relieve MPS of any further obligations under the Contract.

9. NON-DISCRIMINATION

In the performance of work under this Contract, Contractor shall not discriminate in any way against any employee or applicant for employment on the basis of a person's sex, race, age, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, disability, or socio-economic status. This prohibition includes but is not limited to employment; promotions, demotions and transfers; recruitment; advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships. Contractor is required to include a similar provision in all subcontracts to this Contract.

If MPS determines Contractor has violated this non-discrimination policy, MPS may terminate this Contract without liability for undelivered services or materials. MPS may also deem the Contractor ineligible to participate in future contracts with MPS.

10. INDEMNITY

Notwithstanding any references to the contrary, Contractor assumes full liability for all of its acts or omissions in the performance of this Contract, as well as the acts or omissions of its subcontractors. Contractor shall indemnify and hold harmless MPS, its agents, officers and employees against all liabilities, losses, judgments, decrees, costs, and expenses that may be claimed against MPS as a result of granting of this Contract to said Contractor, or that may result from the carelessness or neglect of said Contractor, its agents, or employees. If judgment is recovered against MPS in suits of law or equity for any reason involving the carelessness, negligence, or acts or omissions of the Contractor or persons, firms or corporations carrying out the provisions of the Contract for the Contractor, the Contractor assumes full liability for such judgment, not only as to any monetary award, but also as to the costs, attorneys' fees or other expenses resulting therefrom.

In accordance with applicable laws, MPS shall be responsible for defending and paying judgments on behalf of its officers, employees and agents while acting within the scope of their employment or agency for any claims that may arise out of MPS's negligence for acts, policies, or directives that affect the activities covered by this Contract.

11. BACKGROUND CHECKS

Contractor will conduct, at Contractor's expense, a criminal information records background check, (hereinafter referred to as "background check"), through the Wisconsin Department of Justice and other appropriate states' agencies, on all current and potential administrators, board members, officers, and employees who have, or who are anticipated to have, "direct, unsupervised contact" with MPS students in the performance of this Contract.

An out of state background check should be completed in the state(s) in which the individual resided for at least six months within the last two years and was eighteen years or older at the time.

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Contractor will submit to MPS’s Department of Employment Relations (DER), (via mail to Milwaukee Public Schools Background Checks, Attn: Department of Employment Relations, Room 116, 5225 West Vliet Street, Milwaukee, WI 53208, or via email at 564@milwaukee.k12.wi.us), all completed background checks. Such records will be reviewed and MPS will notify Contractor of any individual(s) who, based on MPS standards, are unfit and should not have contact with MPS students. All determinations made by MPS with regards to whether an individual is fit to provide services pursuant to this Contract are made in MPS’s sole discretion.

The following will each be a material failure to comply with the terms of this Contract and cause for immediate termination of this Contract by MPS: failure to perform background checks as outlined in this Section 7; failure to submit background checks to MPS as outlined in this Section 7; allowing services to be provided by an individual who has not be subjected to a background check; and allowing services to be performed by an individual who has been determined to be unfit by MPS as outlined in this Section 7.

12. INSURANCE AND PROOF OF FINANCIAL RESPONSIBILITY

Contractor understands and agrees that financial responsibility for claims or damages to any person, or to Contractor’s employees and agents, shall rest with the Contractor. Contractor and its subcontractors shall effect and maintain any insurance coverage, including, but not limited to, Workers’ Compensation, Employers’ Liability, General Liability, Contractual Liability, Automobile Liability and Umbrella Liability to support such financial obligations. The indemnification obligation, however, shall not be reduced in any way by existence or non-existence, limitation, amount or type of damages, compensation, or benefits payable under Workers’ Compensation laws or other insurance provisions.

The minimum limits of insurance required of the Contractor by MPS shall be:

Workers’ Compensation	Statutory Limits
Employers’ Liability	\$100,000 per occurrence
General Liability	\$1,000,000 per occurrence/\$2,000,000 aggregate
Auto Liability	\$1,000,000 per occurrence
Umbrella (excess) Liability	\$1,000,000 per occurrence

The Milwaukee Board of School Directors shall be named as an additional insured under Contractor’s and subcontractors’ general liability insurance and umbrella liability insurance. Evidence of all required insurances of Contractor shall be submitted electronically to MPS via its third party vendor, EXIGIS Risk Management Services. Waivers and exceptions to the above limits will be in the sole discretion of MPS and shall be recorded in the EXIGIS system, which records are incorporated into this Contract by reference. The certificate of insurance or policies of insurance evidencing all coverages shall include a statement that MPS shall be afforded a thirty (30) day written notice of cancellation, non-renewal or material change by any of Contractor’s insurers providing the coverages required by MPS for the duration of this Contract.

13. SHIPPING /TAXES

If goods are provided pursuant to this Contract, please note that MPS is exempt from Federal Excise and Wisconsin Sales Taxes. All vendor quotes, bids and invoices must include delivery FOB destination to the MPS location receiving the goods and freight must be prepaid. This means any freight, shipping, processing, handling or like charges must be part of a unit price. Any separate line items for freight, shipping, processing, handling or like charges listed on an invoice will be deleted and NOT PAID.

All textbook purchases shall be governed by the terms and conditions in the Milwaukee Board of School Directors’ Textbook Contract, which provides that textbooks shipped to MPS or its schools must be done at no additional charge to MPS or its schools.

MPS reserves the right to reject any items that do not conform to the bid, quote or Purchase Order. All return freight charges associated with the rejected materials shall be borne by the vendor.

14. IRREPARABLE HARM

It is mutually agreed the breach of this Contract on Contractor’s part shall result in irreparable and continuing damage to MPS for which money damages may not provide adequate relief. Therefore, the breach of this Contract on Contractor’s part shall entitle MPS to both preliminary and permanent injunctive relief and money damages insofar as they can be determined under the circumstances.

15. TERMINATION BY CONTRACTOR

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Contractor may, at its option, terminate this Contract upon the failure of MPS to pay any amount, which may become due hereunder for a period of sixty (60) days following submission of appropriate billing and supporting documentation. Upon said termination, Contractor shall be paid the compensation due for all services rendered through the date of termination including any retainage.

16. TERMINATION BY MPS - BREACH BY CONTRACTOR

If Contractor fails to fulfill its obligations under this Contract in a timely or proper manner, or violates any of its provisions, MPS shall thereupon have the right to terminate it by giving five (5) days written notice before the effective date of termination of the Contract, specifying the alleged violations, and effective date of termination. The Contract shall not be terminated if, upon receipt of the notice, Contractor promptly cures the alleged violation with five (5) days. In the event of termination, MPS will only be liable for services rendered through the date of termination and not for the uncompleted portion, or for any materials or services purchased or paid for by Contractor for use in completing the Contract.

17. TERMINATION BY MPS

MPS further reserves the right to terminate this Contract at any time for any reason by giving Contractor written notice by Registered or Certified Mail of such termination. MPS will attempt to give Contractor 20 days' notice, but reserves the right to give immediate notice. In the event of said termination, Contractor shall reduce its activities hereunder, as mutually agreed to, upon receipt of said notice. Upon said termination, Contractor shall be paid for all services rendered through the date of termination, including any retainage. This section also applies should the Milwaukee Board of School Directors fail to appropriate additional monies required for the completion of the Contract.

18. INDEPENDENT CONTRACTOR

Contractor agrees and stipulates that in performing this Contract, it is acting as an Independent Contractor, and that no relationship of employer and employee, partnership or joint venture is created by this Contract. Contractor has exclusive control over work hours, location, and other details of such services, and MPS's sole interest is to ensure that said service shall be performed and rendered in a competent, safe, efficient, timely and satisfactory manner in accordance with the terms of this Contract.

Contractor has the sole obligation to provide for and pay any contribution or taxes required by federal, state or local authorities imposed on or measured by income. Contractor specifically covenant not to file any complaint, charge, or claim with any local, state or federal agency or court in which Contractor claims to be or to have been an employee of MPS during the period of time covered by this Contract and that if any such agency or court assumes jurisdiction of any complaint, charge or claim against MPS on Contractor's behalf, Contractor will request such agency or court to dismiss such matter. MPS shall not be charged any obligation or responsibility whatsoever of extending any fringe benefits which may be extended to MPS employees, including any insurance, or pension plans.

Contractor further agrees that MPS is not to be charged with the obligation or responsibility of extending any fringe benefits such as hospital, medical and life insurance, or pension plans which may be extended to employees of MPS from time-to-time and further agree to indemnify and hold harmless MPS and all its employees, officers and agents from any liability for personal injuries, including death, or for damage to or loss of personal property, which might occur as a result of the performance of the services provided for under this Contract.

19. ASSIGNMENT LIMITATION

Neither party shall assign its obligations hereunder without the prior written consent of the other. However, either party shall have the right to assign this Contract, without the prior written consent of the other party, to a successor entity in the event of merger, corporate reorganization, or a sale of all or substantially all of such party's assets. This Contract shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns.

20. PROHIBITED PRACTICES

- A. Contractor during the period of this Contract shall not hire, retain or use for compensation any member, officer, or employee of MPS to perform services under this Contract, or any other person who, to the knowledge of Contractor, has a conflict of interest.
- B. Contractor hereby attests it is familiar with MPS's Code of Ethics, providing in pertinent part, "[a]n employee of Milwaukee Public Schools may not accept any gift or gratuity in excess of \$25.00 annually from any person, persons, group or any firm

(ATTACHMENT 1) ACTION ON REQUEST TO WAIVE ADMINISTRATIVE POLICY 3.09(9)(e) ENTER IN A CONTRACT WITH FOLLET CONTENT SOLUTIONS, LLC AND MACKIN EDUCATIONAL RESOURCES FOR LIBRARY BOOKS AND LIBRARY MATERIALS

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Vendor Number: V0000000361

which does business with or is attempting to do business with MPS.”

- C. No person may enter into this Contract for services that the MPS employee would otherwise perform as an employee.
- D. No current or former MPS employee may perform services on a professional services contract without the prior written consent of the MPS Chief Human Capital Officer or his/her designee.
- E. If the Contract is for apparel for \$5,000.00 or more, the Contractor agrees to provide only items manufactured by responsible manufacturers. Contractor is required to include a similar provision in all subcontracts to this Contract.

21. LIVING WAGE REQUIREMENT

Contractor shall comply with, and ensure its subcontractors performing work under this Contract comply with, Milwaukee Board of School Directors’ Administrative Policy 3.09(17), which requires that employees be paid a “living wage.”

22. NOTICES

Notices to either party provided for in this Contract shall be sufficient if sent by Certified or Registered mail, postage prepaid, addressed to the signatories on this Contract, or to their designees.

23. WAIVER

The waiver or failure of either Party to exercise in any respect any rights provided for in this Contract shall not be deemed a waiver of any further right under this Contract.

24. INTEGRATION / SEVERABILITY

This Contract and its exhibits and addenda, if any, constitute the entire Contract among the Parties with respect to the subject matter hereof and supersede all prior proposals, negotiations, conversations, discussions and Contracts among the Parties concerning the subject matter hereof. No amendment or modification of any provision of this Contract shall be effective unless the same shall be in writing and signed by both Parties.

The District shall not be bound by any terms and conditions included in of Contractor’s packaging, service catalog, brochure, technical data sheet or other document which attempts to impose any conditions at variance with or in addition to the terms and conditions contained herein.

If any term or provision of this Contract should be declared invalid by a court of competent jurisdiction or by operation of law, the remaining terms and provisions of this Contract shall be interpreted as if such invalid Contracts or covenants were not contained herein.

25. CHOICE OF LAW & FORUM

The state courts of Wisconsin shall be the sole forum for all disputes arising of this Contract. The validity, construction, enforcement and effect of this Contract shall be governed solely by the laws of the State of Wisconsin.

26. TIMING

Time is of the essence in this Contract.

27. CERTIFICATION REGARDING DEBARMENT OR SUSPENSION

Contractor certifies that neither Contractor or its principals; its subcontractors or their principals; the sub-recipients (if applicable) or their principals are suspended, debarred, proposed for debarment, voluntarily excluded from covered transactions, or otherwise disqualified by any federal department or agency from doing business with the Federal Government pursuant to Executive Orders 12549 and 12689. Contractor specifically covenants that neither the Contractor or its principals, its sub-contractors or their principals, or the sub-recipients (if applicable) or their principals are included on the Excluded Parties List System (“EPLS”) maintained by the General Services Administration (“GSA”).

28. FORCE MAJEURE

MPS will not be liable to pay Contractor for any work that the Contractor is unable to perform due to act of God, riot, war, civil unrest, flood, earthquake, outbreak of contagious disease or other cause beyond MPS’s reasonable control (including any mechanical, electronic, or communications failure, but excluding failure caused by a party’s financial condition or negligence).

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29. STUDENT DATA

Contractor acknowledges that student data is protected by both federal and state law. *See* Wis. Stat. § 118.125; 20 U.S.C. § 1232g(b); 34 C.F.R. § 99.1 *et seq.* If MPS determines that Contractor has disclosed any student record information in violation of either federal or state law, without prejudice to any other rights or remedies the MPS may have, MPS shall be entitled to immediately terminate this and every other existing Contract without further liability. Moreover, MPS may bar Contractor from future MPS contracts for varying periods up to and including permanent debarment.

30. NON-DISCLOSURE

Absent prior written consent of the person listed in Section 3 or his/her designee, Contractor shall not: (1) disclose, publish, or disseminate any information, not a matter of public record, that is received by reason of this Contract, regardless of whether the Contractor is or is not under contract at the time of the disclosure; or (2) disclose, publish, or disseminate any information developed for MPS under this Contract. Contractor agrees to take all reasonable precautions to prevent any unauthorized use, disclosure, publication, or dissemination of the same information.

All information and any derivatives thereof, whether created by MPS or Contractor under this Contract remains the property of MPS and no license or other rights to such information is granted or implied hereby. For purposes of this Contract, “derivatives” shall mean: (i) for copyrightable or copyrighted material, any translation, abridgment, revision, or other form in which an existing work may be recast, transformed, or adapted; and (ii) for patentable or patented material, any improvement thereon.

Within ten business days of the earlier of receipt of MPS’ written or oral request, or final payment, Contractor will return all documents, records, and copies thereof it obtained during the development of the work product covered by this Contract.

31. MPS LOGO/PUBLICITY

No Contractor shall use the MPS Logo in its literature or issue a press release about the subject of this Contract without prior written notice to and written approval of MPS’s Executive Director of Communications & Outreach.

32. ORDER OF PRIORITY

Should Contractor and MPS sign Contractor’s Contract in addition to this Contract, the terms set forth in this Contract shall govern in the event of a conflict.

33. PUBLIC RECORDS

Both parties understand that the Board is bound by the Wisconsin Public Records Law, and as such, all of the terms of this Contract are subject to and conditioned on the provisions of Wis. Stat. § 19.21, *et seq.* Contractor acknowledges that it is obligated to assist the Board in retaining and producing records that are subject to Wisconsin Public Records Law, and that the failure to do so shall constitute a material breach of this Contract, and that the Contractor must defend and hold the Board harmless from liability under the law. Except as otherwise authorized, those records shall be maintained for a period of seven years after receipt of final payment under this Contract.

34. CONTRACT COMPLIANCE REQUIREMENT

The HUB requirement on this Contract is 10%. The student engagement requirement of this Contract is 400 hours. The Career Education requirement for this Contract is 10 hours. Failure to achieve these requirements may result in the application of some or all of the sanctions set forth in Administrative Policy 3.10, which is hereby incorporated by reference.

IN WITNESS WHEREOF, the parties here to have executed this Contract on the day, month and year first above written.

CONTRACTOR (V0000000361)

FOLLETT CONTENT SOLUTIONS, LLC

MILWAUKEE BOARD OF SCHOOL DIRECTORS

By: _____
Authorized Representative

By: _____
Janine Adamczyk
Director of Procurement & Risk Management

Date: _____

Date: _____

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Follett Content Solutions, LLC
1340 Ridgeview Drive
McHenry, Illinois 14202
(815) 759-1700

By: _____
Keith P. Posley, Ed.D.
Superintendent of Schools

Date: _____

SSN / FEIN: [REDACTED]

Budget Code: 000-0-0-000-BL-ECTS

By: _____
Robert E. Peterson, President
Milwaukee Board of School Directors

Date: _____

Reviewed by Insurance Compliance:

By: _____ Date: _____