

Delaware Department of Education Contract

Delaware Leadership Project RFP#2015-21

This Agreement ("Agreement") is effective only upon the execution of a State of Delaware Purchase Order and will end on June 30, 2016, by and between the State of Delaware, Department of Education, hereafter referred to as DDOE, and Innovative Schools, hereafter referred to as VENDOR.

WHEREAS, DDOE desires to obtain certain services to obtain certain services to develop and implement an alternative-route to principal certification program; and

WHEREAS, Innovative Schools desires to provide such services to DDOE on the terms set forth below;

WHEREAS, DDOE and Innovative Schools represent and warrant that each party has full right, power and authority to enter into and perform under this Agreement;

FOR AND IN CONSIDERATION OF the premises and mutual agreements herein, DDOE and Innovative Schools agree as follows:

1. **Services.**

1.1 Innovative Schools shall perform for DDOE the services specified in the Appendices to this Agreement, attached hereto and made a part hereof.

1.2 Any conflict or inconsistency between the provisions of the following documents shall be resolved by giving precedence to such documents in the following order: (a) this Agreement (including any amendments or modifications thereto); (b) DDOE's request for proposals, attached hereto as Appendix C; and (c) Innovative Schools's response to the request for proposals, attached hereto as Appendix D. The aforementioned documents are specifically incorporated into this Agreement and made a part hereof.

1.3 DDOE may, at any time, by written order, make changes in the scope of this Agreement and in the services or work to be performed. No services for which additional compensation may be charged by Innovative Schools shall be furnished without the written authorization of DDOE. When DDOE desires any addition or deletion to the deliverables or a change in the Services to be provided under this Agreement, it shall notify Innovative Schools, who shall then submit to DDOE a "Change Order" for approval authorizing said change. The Change Order shall state whether the change shall cause an alteration in the price or the time required by Innovative Schools for any aspect of its performance under this Agreement. Pricing of changes shall be consistent with those established within this Agreement.

1.4 Innovative Schools will not be required to make changes to its scope of work

that result in Innovative Schools's costs exceeding the current unencumbered budgeted appropriations for the services. Any claim of either party for an adjustment under Section 1 of this Agreement shall be asserted in the manner specified in the writing that authorizes the adjustment.

2. Payment for Services and Expenses.

2.1 The term of the initial contract shall be from the execution of this agreement and a State of Delaware Purchase Order through June 30, 2016.

2.2 DDOE will pay Innovative Schools for the performance of services described in Appendix A, Statement of Work. The fee will be paid in accordance with the payment schedule attached hereto as part of Appendix B.

2.3 DDOE's obligation to pay Innovative Schools for the performance of services described in Appendix A, Statement of Work will not exceed the fixed fee amount of \$240,000. It is expressly understood that the work defined in the appendices to this Agreement must be completed by Innovative Schools and it shall be Innovative Schools's responsibility to ensure that hours and tasks are properly budgeted so that all services are completed for the agreed upon fixed fee. DDOE's total liability for all charges for services that may become due under this Agreement is limited to the total maximum expenditure(s) authorized in DDOE's purchase order(s) to \$240000.

2.4 Innovative Schools shall submit monthly invoices to DDOE in sufficient detail to support the services provided during the previous month. DDOE agrees to pay those invoices within thirty (30) days of receipt. In the event DDOE disputes a portion of an invoice, DDOE agrees to pay the undisputed portion of the invoice within thirty (30) days of receipt and to provide Innovative Schools a detailed statement of DDOE's position on the disputed portion of the invoice within thirty (30) days of receipt. DDOE's failure to pay any amount of an invoice that is not the subject of a good-faith dispute within thirty (30) days of receipt shall entitle Innovative Schools to charge interest on the overdue portion at no more than 1.0% per month or 12% per annum. All payments should be sent to Innovative Schools, 100 West 10th Street, Suite 403, Wilmington DE 19801.

2.5 Unless provided otherwise in an Appendix, all expenses incurred in the performance of the services are to be paid by Innovative Schools. If an Appendix specifically provides for expense reimbursement, Innovative Schools shall be reimbursed only for reasonable expenses incurred by Innovative Schools in the performance of the services, including, but not necessarily limited to, travel and lodging expenses, communications charges, and computer time and supplies.

2.6 DDOE is a sovereign entity, and shall not be liable for the payment of federal, state and local sales, use and excise taxes, including any interest and penalties from

any related deficiency, which may become due and payable as a consequence of this Agreement.

2.7 DDOE shall subtract from any payment made to Innovative Schools all damages, costs and expenses caused by Innovative Schools's negligence, resulting from or arising out of errors or omissions in Innovative Schools's work products, which have not been previously paid to Innovative Schools.

2.8 Invoices shall be submitted to:
Michelle Kriss
Administrative Secretary, Project Management Office (PMO)
Delaware Department of Education
John G. Townsend Building
401 Federal Street, Suite 2
Dover, DE 19901
Phone No. (302) 735-4120
Fax No. (302) 739-7768

3. Responsibilities of Innovative Schools.

3.1 Innovative Schools shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all services furnished by Innovative Schools, its subcontractors and its and their principals, officers, employees and agents under this Agreement. In performing the specified services, Innovative Schools shall follow practices consistent with generally accepted professional and technical standards. Innovative Schools shall be responsible for ensuring that all services, products and deliverables furnished pursuant to this Agreement comply with the standards promulgated by the Department of Technology and Information ("DTI") published at <http://dti.delaware.gov/>, and as modified from time to time by DTI during the term of this Agreement. If any service, product or deliverable furnished pursuant to this Agreement does not conform with DTI standards, Innovative Schools shall, at its expense and option either (1) replace it with a conforming equivalent or (2) modify it to conform with DTI standards. Innovative Schools shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to DDOE caused by Innovative Schools's failure to ensure compliance with DTI standards.

3.2 It shall be the duty of the Innovative Schools to assure that all products of its effort are technically sound and in conformance with all pertinent Federal, State and Local statutes, codes, ordinances, resolutions and other regulations. Innovative Schools will not produce a work product that violates or infringes on any copyright or patent rights. Innovative Schools shall, without additional compensation, correct or revise any errors or omissions in its work products.

3.3 Permitted or required approval by DDOE of any products or services

furnished by Innovative Schools shall not in any way relieve Innovative Schools of responsibility for the professional and technical accuracy and adequacy of its work. DDOE's review, approval, acceptance, or payment for any of Innovative Schools's services herein shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and Innovative Schools shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to DDOE caused by Innovative Schools's performance or failure to perform under this Agreement.

3.4 Innovative Schools shall appoint a Project Manager who will manage the performance of services. All of the services specified by this Agreement shall be performed by the Project Manager, or by Innovative Schools's associates and employees under the personal supervision of the Project Manager. The positions anticipated include:

Project	Team	Title	% of Project Involvement
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3.5 Designation of persons for each position is subject to review and approval by DDOE. Should the staff need to be diverted off the project for what are now unforeseeable circumstances, Innovative Schools will notify DDOE immediately and work out a transition plan that is acceptable to both parties, as well as agree to an acceptable replacement plan to fill or complete the work assigned to this project staff position. Replacement staff persons are subject to review and approval by DDOE. If Innovative Schools fails to make a required replacement within 30 days, DDOE may terminate this Agreement for default. Upon receipt of written notice from DDOE that an employee of Innovative Schools is unsuitable to DDOE for good cause, Innovative Schools shall remove such employee from the performance of services and substitute in his/her place a suitable employee.

3.6 Innovative Schools shall furnish to DDOE's designated representative copies of all correspondence to regulatory agencies for review prior to mailing such correspondence.

3.7 Innovative Schools agrees that its officers and employees will cooperate with DDOE in the performance of services under this Agreement and will be available for consultation with DDOE at such reasonable times with advance notice as to not conflict with their other responsibilities.

3.8 Innovative Schools has or will retain such employees as it may need to perform the services required by this Agreement. Such employees shall not be employed by the State of Delaware or any other political subdivision of the State.

3.9 Innovative Schools will not use DDOE's name, either express or implied, in any of its advertising or sales materials without DDOE's express written consent.

3.10 The rights and remedies of DDOE provided for in this Agreement are in addition to any other rights and remedies provided by law.

4. Time Schedule.

4.1 A project schedule is included in Appendix A.

4.2 Any delay of services or change in sequence of tasks must be approved in writing by DDOE.

4.3 In the event that Innovative Schools fails to complete the project or any phase thereof within the time specified in the Contract, or with such additional time as may be granted in writing by DDOE, or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in this Agreement or any extensions thereof, DDOE shall suspend the payments scheduled as set forth in Appendix A.

5. State Responsibilities.

5.1 In connection with Innovative Schools's provision of the Services, DDOE shall perform those tasks and fulfill those responsibilities specified in the appropriate Appendices.

5.2 DDOE agrees that its officers and employees will cooperate with Innovative Schools in the performance of services under this Agreement and will be available for consultation with Innovative Schools at such reasonable times with advance notice as to not conflict with their other responsibilities.

5.3 The services performed by Innovative Schools under this Agreement shall be subject to review for compliance with the terms of this Agreement by DDOE's designated representatives. DDOE representatives may delegate any or all responsibilities under the Agreement to appropriate staff members, and shall so inform Innovative Schools by written notice before the effective date of each such delegation.

5.4 The review comments of DDOE's designated representatives may be reported in writing as needed to Innovative Schools. It is understood that DDOE's representatives' review comments do not relieve Innovative Schools from the responsibility for the professional and technical accuracy of all work delivered under this Agreement.

5.5 DDOE shall, without charge, furnish to or make available for examination or use by Innovative Schools as it may request, any data which DDOE has available, including as examples only and not as a limitation:

- a. Copies of reports, surveys, records, and other pertinent documents;
- b. Copies of previously prepared reports, job specifications, surveys, records, ordinances, codes, regulations, other document, and information related to the services specified by this Agreement.

Innovative Schools shall return any original data provided by DDOE.

5.6 DDOE shall assist Innovative Schools in obtaining data on documents from public officers or agencies and from private citizens and business firms whenever such material is necessary for the completion of the services specified by this Agreement.

5.7 Innovative Schools will not be responsible for accuracy of information or data supplied by DDOE or other sources to the extent such information or data would be relied upon by a reasonably prudent contractor.

5.8 DDOE agrees not to use Innovative Schools's name, either express or implied, in any of its advertising or sales materials. Innovative Schools reserves the right to reuse the nonproprietary data and the analysis of industry-related information in its continuing analysis of the industries covered.

6. Work Product.

6.1 All materials, information, documents, and reports, whether finished, unfinished, or draft, developed, prepared, completed, or acquired by Innovative Schools for DDOE relating to the services to be performed hereunder shall become the property of DDOE and shall be delivered to DDOE's designated representative upon completion or termination of this Agreement, whichever comes first. Innovative Schools shall not be liable for damages, claims, and losses arising out of any reuse of any work products on any other project conducted by DDOE. DDOE shall have the right to reproduce all documentation supplied pursuant to this Agreement.

6.2 Innovative Schools retains all title and interest to the data it furnished and/or generated pursuant to this Agreement. Retention of such title and interest does not conflict with DDOE's rights to the materials, information and documents developed in performing the project. Upon final payment, DDOE shall have a perpetual, nontransferable, non-exclusive paid-up right and license to use, copy, modify and prepare derivative works of all materials in which Innovative Schools retains title, whether individually by Innovative Schools or jointly with DDOE. Any and all source code developed in connection with the services provided will be provided to DDOE, and the aforementioned right and license shall apply to source code. The parties will cooperate with each other and execute such other documents as may be reasonably deemed necessary to achieve the objectives of this Section.

6.3 In no event shall Innovative Schools be precluded from developing for itself, or for others, materials that are competitive with the Deliverables, irrespective of their similarity to the Deliverables. In addition, Innovative Schools shall be free to use its general knowledge, skills and experience, and any ideas, concepts, know-how, and techniques within the scope of its consulting practice that are used in the course of providing the services.

6.4 Notwithstanding anything to the contrary contained herein or in any attachment hereto, any and all intellectual property or other proprietary data owned by Innovative Schools prior to the effective date of this Agreement (“Preexisting Information”) shall remain the exclusive property of Innovative Schools even if such Preexisting Information is embedded or otherwise incorporated into materials or products first produced as a result of this Agreement or used to develop such materials or products. DDOE’s rights under this section shall not apply to any Preexisting Information or any component thereof regardless of form or media.

7. Confidential Information.

To the extent permissible under 29 *Del. C.* § 10001, et seq., the parties to this Agreement shall preserve in strict confidence any information, reports or documents obtained, assembled or prepared in connection with the performance of this Agreement.

8. Warranty.

8.1 Innovative Schools warrants that its services will be performed in a good and workmanlike manner. Innovative Schools agrees to re-perform any work not in compliance with this warranty brought to its attention within a reasonable time after that work is performed.

8.2 Third-party products within the scope of this Agreement are warranted solely under the terms and conditions of the licenses or other agreements by which such products are governed. With respect to all third-party products and services purchased by Innovative Schools for DDOE in connection with the provision of the Services, Innovative Schools shall pass through or assign to DDOE the rights Innovative Schools obtains from the manufacturers and/or vendors of such products and services (including warranty and indemnification rights), all to the extent that such rights are assignable.

9. Indemnification; Limitation of Liability.

9.1 Innovative Schools shall indemnify and hold harmless the State, its agents

and employees, from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees) directly arising out of (A) the negligence or other wrongful conduct of the Innovative Schools, its agents or employees, or (B) Innovative Schools's breach of any material provision of this Agreement not cured after due notice and opportunity to cure, provided as to (A) or (B) that (i) Innovative Schools shall have been notified promptly in writing by DDOE of any notice of such claim; and (ii) Innovative Schools shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise.

9.2 If DDOE promptly notifies Innovative Schools in writing of a third party claim against DDOE that any Deliverable infringes a copyright or a trade secret of any third party, Innovative Schools will defend such claim at its expense and will pay any costs or damages that may be finally awarded against DDOE. Innovative Schools will not indemnify DDOE, however, if the claim of infringement is caused by (1) DDOE's misuse or modification of the Deliverable; (2) DDOE's failure to use corrections or enhancements made available by Innovative Schools; (3) DDOE's use of the Deliverable in combination with any product or information not owned or developed by Innovative Schools; (4) DDOE's distribution, marketing or use for the benefit of third parties of the Deliverable or (5) information, direction, specification or materials provided by Client or any third party. If any Deliverable is, or in Innovative Schools's opinion is likely to be, held to be infringing, Innovative Schools shall at its expense and option either (a) procure the right for DDOE to continue using it, (b) replace it with a noninfringing equivalent, (c) modify it to make it noninfringing. The foregoing remedies constitute DDOE's sole and exclusive remedies and Innovative Schools's entire liability with respect to infringement.

9.3 DDOE agrees that Innovative Schools's total liability to DDOE for any and all damages whatsoever arising out of or in any way related to this Agreement from any cause, including but not limited to contract liability or Innovative Schools negligence, errors, omissions, strict liability, breach of contract or breach of warranty shall not, in the aggregate, exceed fees paid to Innovative Schools.

In no event shall Innovative Schools be liable for special, indirect, incidental, economic, consequential or punitive damages, including but not limited to lost revenue, lost profits, replacement goods, loss of technology rights or services, loss of data, or interruption or loss of use of software or any portion thereof regardless of the legal theory under which such damages are sought, and even if Innovative Schools has been advised of the likelihood of such damages.

10. Employees.

10.1 Innovative Schools has and shall retain the right to exercise full control over the employment, direction, compensation and discharge of all persons employed by

Innovative Schools in the performance of the services hereunder; provided, however, that it will, subject to scheduling and staffing considerations, attempt to honor DDOE's request for specific individuals.

10.2 Except as the other party expressly authorizes in writing in advance, neither party shall solicit, offer work to, employ, or contract with, whether as a partner, employee or independent contractor, directly or indirectly, any of the other party's Personnel during their participation in the services or during the twelve (12) months thereafter. For purposes of this Section 10.2, "Personnel" includes any individual or company a party employs as a partner, employee or independent contractor and with which a party comes into direct contact in the course of the services.

10.3 Possession of a Security Clearance, as issued by the Delaware Department of Public Safety, may be required of any employee of Innovative Schools who will be assigned to this project.

11. Independent Contractor.

11.1 It is understood that in the performance of the services herein provided for, Innovative Schools shall be, and is, an independent contractor, and is not an agent or employee of DDOE and shall furnish such services in its own manner and method except as required by this Agreement. Innovative Schools shall be solely responsible for, and shall indemnify, defend and save DDOE harmless from all matters relating to the payment of its employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever.

11.2 Innovative Schools acknowledges that Innovative Schools and any subcontractors, agents or employees employed by Innovative Schools shall not, under any circumstances, be considered employees of DDOE, and that they shall not be entitled to any of the benefits or rights afforded employees of DDOE, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits. DDOE will not provide or pay for any liability or medical insurance, retirement contributions or any other benefits for or on behalf of DDOE or any of its officers, employees or other agents.

11.3 Innovative Schools shall be responsible for providing liability insurance for its personnel.

11.4 As an independent contractor, Innovative Schools has no authority to bind or commit DDOE. Nothing herein shall be deemed or construed to create a joint venture, partnership, fiduciary or agency relationship between the parties for any purpose.

12. Suspension.

12.1 DDOE may suspend performance by Innovative Schools under this Agreement for such period of time as DDOE, at its sole discretion, may prescribe by providing written notice to Innovative Schools at least 30 working days prior to the date on which DDOE wishes to suspend. Upon such suspension, DDOE shall pay Innovative Schools its compensation, based on the percentage of the project completed and earned until the effective date of suspension, less all previous payments. Innovative Schools shall not perform further work under this Agreement after the effective date of suspension. Innovative Schools shall not perform further work under this Agreement after the effective date of suspension until receipt of written notice from DDOE to resume performance.

12.2 In the event DDOE suspends performance by Innovative Schools for any cause other than the error or omission of the Innovative Schools, for an aggregate period in excess of 30 days, Innovative Schools shall be entitled to an equitable adjustment of the compensation payable to Innovative Schools under this Agreement to reimburse Innovative Schools for additional costs occasioned as a result of such suspension of performance by DDOE based on appropriated funds and approval by DDOE.

13. Termination.

13.1 This Agreement may be terminated in whole or in part by either party in the event of substantial failure of the other party to fulfill its obligations under this Agreement through no fault of the terminating party; but only after the other party is given:

- a. Not less than 30 calendar days written notice of intent to terminate; and
- b. An opportunity for consultation with the terminating party prior to termination.

13.2 This Agreement may be terminated in whole or in part by DDOE for its convenience, but only after Innovative Schools is given:

- a. Not less than 30 calendar days written notice of intent to terminate; and
- b. An opportunity for consultation with DDOE prior to termination.

13.3 If termination for default is effected by DDOE, DDOE will pay Innovative Schools that portion of the compensation which has been earned as of the effective date of termination but:

- a. No amount shall be allowed for anticipated profit on performed or

- unperformed services or other work, and
- b. Any payment due to Innovative Schools at the time of termination may be adjusted to the extent of any additional costs occasioned to DDOE by reason of Innovative Schools's default.
- c. Upon termination for default, DDOE may take over the work and prosecute the same to completion by agreement with another party or otherwise. In the event Innovative Schools shall cease conducting business, DDOE shall have the right to make an unsolicited offer of employment to any employees of Innovative Schools assigned to the performance of the Agreement, notwithstanding the provisions of Section 10.2.

13.4 If after termination for failure of Innovative Schools to fulfill contractual obligations it is determined that Innovative Schools has not so failed, the termination shall be deemed to have been effected for the convenience of DDOE.

13.5 The rights and remedies of DDOE and Innovative Schools provided in this section are in addition to any other rights and remedies provided by law or under this Agreement.

13.6 Gratuities.

13.6.1 DDOE may, by written notice to Innovative Schools, terminate this Agreement if it is found after notice and hearing by DDOE that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Innovative Schools or any agent or representative of Innovative Schools to any officer or employee of DDOE with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or making of any determinations with respect to the performance of this Agreement.

13.6.2 In the event this Agreement is terminated as provided in 13.6.1 hereof, DDOE shall be entitled to pursue the same remedies against Innovative Schools it could pursue in the event of a breach of this Agreement by Innovative Schools.

13.6.3 The rights and remedies of DDOE provided in Section 13.6 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

14. Severability.

If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not

affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

15. Assignment; Subcontracts.

15.1 Any attempt by Innovative Schools to assign or otherwise transfer any interest in this Agreement without the prior written consent of DDOE shall be void. Such consent shall not be unreasonably withheld.

15.2 Services specified by this Agreement shall not be subcontracted by Innovative Schools, without prior written approval of DDOE.

15.3 Approval by DDOE of Innovative Schools's request to subcontract or acceptance of or payment for subcontracted work by DDOE shall not in any way relieve Innovative Schools of responsibility for the professional and technical accuracy and adequacy of the work. All subcontractors shall adhere to all applicable provisions of this Agreement.

15.4 Innovative Schools shall be and remain liable for all damages to DDOE caused by negligent performance or non-performance of work under this Agreement by Innovative Schools, its subcontractor or its sub-subcontractor.

15.5 The compensation due shall not be affected by DDOE's approval of Innovative Schools's request to subcontract.

16. Force Majeure.

Neither party shall be liable for any delays or failures in performance due to circumstances beyond its reasonable control.

17. Non-Appropriation of Funds.

17.1 Validity and enforcement of this Agreement is subject to appropriations by the General Assembly of the specific funds necessary for contract performance. Should such funds not be so appropriated DDOE may immediately terminate this Agreement, and absent such action this Agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available, at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds.

17.2 Notwithstanding any other provisions of this Agreement, this Agreement shall terminate and DDOE's obligations under it shall be extinguished at the end of

the fiscal year in which the State of Delaware fails to appropriate monies for the ensuing fiscal year sufficient for the payment of all amounts which will then become due.

18. State of Delaware Business License.

Innovative Schools and all subcontractors represent that they are properly licensed and authorized to transact business in the State of Delaware as provided in 30 *Del. C.* § 2301.

19. Complete Agreement.

19.1 This agreement and its Appendices shall constitute the entire agreement between DDOE and Innovative Schools with respect to the subject matter of this Agreement and shall not be modified or changed without the express written consent of the parties. The provisions of this agreement supersede all prior oral and written quotations, communications, agreements and understandings of the parties with respect to the subject matter of this Agreement.

19.2 If the scope of any provision of this Agreement is too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the Agreement shall not thereby fail, but the scope of such provision shall be curtailed only to the extent necessary to conform to the law.

19.3 Innovative Schools may not order any product requiring a purchase order prior to DDOE's issuance of such order. Each Appendix, except as its terms otherwise expressly provide, shall be a complete statement of its subject matter and shall supplement and modify the terms and conditions of this Agreement for the purposes of that engagement only. No other agreements, representations, warranties or other matters, whether oral or written, shall be deemed to bind the parties hereto with respect to the subject matter hereof.

20. Miscellaneous Provisions.

20.1 In performance of this Agreement, Innovative Schools shall comply with all applicable federal, state and local laws, ordinances, codes and regulations. Innovative Schools shall solely bear the costs of permits and other relevant costs required in the performance of this Agreement.

20.2 Neither this Agreement nor any appendix may be modified or amended except by the mutual written agreement of the parties. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against which it is sought to be enforced.

20.3 The delay or failure by either party to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of that party's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

20.4 Innovative Schools covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Innovative Schools further covenants, to its knowledge and ability, that in the performance of said services no person having any such interest shall be employed.

20.5 Innovative Schools acknowledges that DDOE has an obligation to ensure that public funds are not used to subsidize private discrimination. Innovative Schools recognizes that if they refuse to hire or do business with an individual or company due to reasons of race, color, gender, ethnicity, disability, national origin, age, or any other protected status, DDOE may declare Innovative Schools in breach of the Agreement, terminate the Agreement, and designate Innovative Schools as non-responsible.

20.6 Innovative Schools warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, DDOE shall have the right to annul this contract without liability or at its discretion deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

20.7 This Agreement was drafted with the joint participation of both parties and shall be construed neither against nor in favor of either, but rather in accordance with the fair meaning thereof.

20.8 Innovative Schools shall maintain all public records, as defined by 29 Del. C. § 502(7), relating to this Agreement and its deliverables for the time and in the manner specified by the Delaware Division of Archives, pursuant to the Delaware Public Records Law, 29 Del. C. Ch. 5. During the term of this Agreement, authorized representatives of DDOE may inspect or audit Innovative Schools's performance and records pertaining to this Agreement at the Innovative Schools business office during normal business hours.

21. Insurance.

21.1 Innovative Schools shall maintain the following insurance during the term of this Agreement:

- A. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law, **and**
- B. Comprehensive General Liability - \$1,000,000.00 per person/\$3,000,000 per occurrence, **and**
- C. Medical/Professional Liability - \$1,000,000.00 per person/\$3,000,000 per occurrence; or
- D. Miscellaneous Errors and Omissions - \$1,000,000.00 per person/\$3,000,000 per occurrence, or
- E. Automotive Liability Insurance covering all automotive units used in the work with limits of not less than \$100,000 each person and \$300,000 each accident as to bodily injury and \$25,000 as to property damage to others.

21.2. Innovative Schools shall provide forty-five (45) days written notice of cancellation or material change of any policies.

21.3. Before any work is done pursuant to this Agreement, the Certificate of Insurance and/or copies of the insurance policies, referencing the contract number stated herein, shall be filed with the State. The certificate holder is as follows:

Delaware Department of Education
401 Federal Street, Suite 2
Dover, DE 19901

21.4. In no event shall the State of Delaware be named as an additional insured on any policy required under this agreement.

22. Assignment of Antitrust Claims.

As consideration for the award and execution of this contract by the State, Innovative Schools hereby grants, conveys, sells, assigns, and transfers to DDOE all of its right, title and interest in and to all known or unknown causes of action it presently has or may now or hereafter acquire under the antitrust laws of the United States and the State of Delaware, relating to the particular goods or services purchased or acquired by the State pursuant to this contract.

23. Surviving Clauses

The following clauses survive the termination of this Contract: Section 9.

24. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, except where Federal Law has precedence. Innovative Schools consents to jurisdiction venue in the State of Delaware.

25. Notices.

Any and all notices required by the provisions of this Agreement shall be in writing and shall be mailed, certified or registered mail, return receipt requested. All notices shall be sent to the following addresses:

CONTRACTOR: Innovative Schools,
Sean Gallagher
INNOVATIVE SCHOOLS
100 West 10th Street
Suite 403
Wilmington, DE 19801.

DDOE: David Blowman
Deputy Secretary
Delaware Department of Education
John G. Townsend Building
401 Federal Street, Suite 2
Dover, DE 19901
Phone No. (302) 735-4040
Fax No. (302) 739-7768

DOE Certificated Staff coordinating activity:

Shannon Holston

Next Page for Signatures.

IN WITNESS THEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date and year first above written.

Innovative Schools
Original on File

Delaware Department of Education
Original on File

(Official of Vendor)
Project Manager

David Blowman
Deputy Secretary Original on File

09/04/15
Date
Original on File

9/3/15
Date Initial Finance Director
Original on File

(Official of Vendor)
Principal Investigator

Branch Associate Secretary

09/04/15
Date

9/31/2015
Date Initial Work Group
Director Original on File

Appendix A: Statement of Work for Delaware Leadership Project (DLP)—

A. Logistics and Service Delivery

1. DLP shall conduct an extensive recruitment campaign in 2015-2016, to launch no later than November 2015 for a sixth cohort to begin training in 2016. **The recruitment campaign shall result in no less than eight candidates, with the initiative focused solely on serving the state's highest-need schools.** The cohort shall matriculate no later than May 5, 2016.
2. The cohort of candidates selected to begin the program in summer of 2016 shall hereafter be referred to as Cohort 6.
3. Candidates selected to participate in Cohort 6 shall have submitted an online application and had that application screened by at least two members of DLP staff or other participating applicant screeners. Applicant screeners shall be identified by October 24, 2015 and approved by DDOE.
4. Candidates must successfully meet the DLP candidate identification model (hereafter referred to as "Selection Model") which includes a full-day interview assessing applicants' defined DLP competencies/dimensions. Selectors shall be identified by December 31, 2015 and approved by DDOE.
5. All Candidates in the DLP complete a "Summer Intensive." The DLP Summer Intensive curriculum will focus on core knowledge, skills and behaviors critical of a school leader in a high-needs school environment. The modules employed during summer intensive shall include, but not be limited to:
 - a. High academic expectations for all students
 - b. Data-driven decision-making
 - c. Creating an environment that supports learning for students and adults in the building with a focus on student achievement
 - d. Aligning all resources in support of student learning
 - e. Developing a shared vision and acuity for strategically involving external stakeholders in contributing to the school's mission.
6. Each Candidate shall complete a school-year-long "Residency", beginning with the beginning of Summer Intensive, as an Assistant Principal and member of the residency school site's leadership team. School sites shall be reviewed by DDOE no later than June 1st of each year. During the residency, each Candidate will hone their leadership skills by strategically addressing school-based, instructional challenges. In addition, Candidates will attend 12 leadership development "Residency Weekends" throughout the year. These Residency Weekends will happen every 3 to 4 weeks, and will be comprised of:
 - Friday – a visit to a high-performing, high needs school in the morning with a focus on a particular leadership skill, and with a debrief of the visit in the afternoon
 - Saturday (am only) – practice of a specific set of teaching skills, and the explicit practice of coaching teachers on these skills

The training schedule shall be approved prior to the beginning of the academic year by DDOE.

7. Each Candidate involved in DLP will be compensated for their training cycle by the LEA that employs them, for the position they are employed in. A stipend provided by DLP may be

considered in the following circumstances:

- a. An amount not to exceed the Candidate's current teaching salary (if coming directly from a school or district site) if the Candidate earns under \$70,000 as a result of LEA-set salary when enrolling in the program and beginning the residency
- b. An amount not to exceed the program's budgetary abilities (\$70,000) in cases where the Candidate does not have a teacher salary equivalent and/or comes to the program from another field
- c. An amount not to exceed the program's budgetary abilities (\$70,000) in cases where the Candidate is placed into an administrative position in consultation with the participating LEA
- d. A "Graduation bonus" in a DLP-determined amount that *could be* provided to Candidates who successfully complete the program while earning under \$70,000, not to exceed the amount needed to complete a compensation of \$70,000. *Such equalization may be utilized as "delta bonus" to attract and retain high-performing Candidates.*

8. Each Candidate involved in DLP may be subject to stipend repayment and/or withholding in cases where the candidate does not complete program. This policy shall be approved by DDOE before any Candidate accepts an offer to join DLP.

9. Upon graduating from the school leadership preparation program, each DLP graduate shall actively and eagerly seek a school leadership position in one of Delaware's highest-need schools. **DLP shall be responsible for crafting a placement strategy that shall launch in December of a given year and run through September. Candidates not placed as of September 30th shall be considered for separation from the program in any given year.** The eligible high-need school list shall be reviewed and approved by DDOE.

B. Program Design and Relevant Deliverables and Milestones

DLP will include a residency-based program for its aspiring school leaders that will include, but not be limited to, an intensive summer training ("Summer Intensive"), an academic year-long residency ("Residency"), and a second summer of pre-service preparation ("Planning Summer"). The program's curriculum, originally designed based upon the NYCLA's standards and since refined by DLP leadership and DDOE, will offer participants the opportunity to develop the skills and knowledge necessary to become high-performing principals in high-need school environments. **The ultimate measure of their success will be increased student achievement, as measured by Delaware state assessments and other relevant national norm-referenced assessments.** The DLP will revise the curriculum annually based upon new Delaware initiatives, feedback from the Teacher & Leader Effectiveness Unit (TLEU), and the evolving role of the principal in Delaware. Annual feedback from the candidates, faculty and mentors from each cohort may also be taken into consideration when refining the program.

C. Marketing, Recruitment, Selection

Innovative Schools will conduct an extensive recruitment and selection process to identify applicants with the greatest likelihood of success as a principal of a high-need school. The "Selection Model" (further defined below) was developed in the first year of the program and revisions were made based on lessons learned from Cohort 1-3 and any new data on predictors of principal effectiveness in high-need schools.

Marketing deliverables and milestones include:

1. Recruitment plan finalized and approved by September 15, 2015 for Cohort 6

2. Recruitment materials for marketing efforts finalized by October 15, 2015 for Cohort 6, including a revamped website with leader profiles and photos (near complete)
3. Four Information sessions for interested applicants held before February 1, 2016 for Cohort 6, with at least two in surrounding states

DLP staff will schedule a meeting with DDOE upon the execution of this amendment to determine readiness for the recruitment launch of Cohort 6.

Selection deliverables and milestones include:

1. Individual and group interview protocols by November 15, 2015 (Cohort 6)
2. Revamped Selection Model that includes:
 - a. Competency-Based application questions, group interview protocol, individual interview questions and aligned selection rubrics
 - b. Multiple opportunities for quantitative and qualitative data collection during various stages of the process from application to offer/rejection

D. Program Assessment

Innovative Schools will continually improve the curriculum and overall program design of DLP. After each phase of delivery, Innovative Schools will assess the program phase's effectiveness. After each program phase, Innovative Schools will solicit feedback from participants on the program's effectiveness. Based on this critical input and on the individual learning needs of each cohort of participants, revision of the curriculum and design will occur for the following Cohort.

Program Assessment deliverables and milestones include:

1. Conduct participant satisfaction surveys and leadership self-assessment tools (ongoing)
2. Analyze participant feedback (ongoing)
3. Document facilitator assessment of effectiveness of each program phase for cohorts (ongoing)
4. Review participant feedback and facilitator assessments of participant learning needs at the end of each phase of the program to determine if curricular revisions are necessary (ongoing)
5. Identify findings at year-end, provide a summary document to the TLEU and use to inform next Cohort planning (annually)

E. Relationship with SEA and LEAs

The DDOE, in collaboration with Innovative Schools, previously issued a Memorandum of Understanding (MOU) to LEAs and school principals, outlining the commitments necessary to participate in the Program. If at any time a school does not adhere to the MOU, DDOE, in conjunction with LEA leadership, may remove the school from the program.

1. **For Cohort 6, participating LEAs in the 2016-2017 Residencies shall be determined no later than February 15, 2016. LEAs shall pledge and reserve one position/unit for the Cohort (and preferably for future cohorts as well). The final arrangement and cost-structure with LEAs must be approved by DDOE. The selection and invitation of Cohort 6 members is contingent upon LEA commitments for 2016-2017.**

F. Measures of the Success of the Program (Ongoing)

DDOE has considered and will continue to consider the following Measures of Success when evaluating the efficacy of this initiative, and reserves the right to obtain independent evaluation services at any time to evaluate program efficacy:

- a. Number of applications received:
 - i. Target Cohort 6: 150
- b. Percentage of selected candidates that successfully complete intensive training based upon DDOE-approved rubrics and assessments (not to include involuntary outplacements):
 - i. Target Cohort 6: 75%
- c. Percentage of selected candidates that successfully graduate program based upon DDOE-approved rubrics and assessments (not to include involuntary outplacements):
 - i. Target Cohort 6: 75%
- d. Percentage of candidates who are DPAS-II credentialed by the end of their planning summer:
 - i. Target Cohort 6: 100%
- e. Percentage of candidates who are offered a school leadership position in a high-need school by July 31st in the summer after their residency year (of those who complete the residency):
 - i. Target Cohort 5: 100%
 - ii. Target Cohort 6: 100%
- f. Percentage of participating LEAs who would prefer to hire a DLP graduate to another graduate (from overall client satisfaction survey):
 - i. Target: 90%
- g. Percentage of DLP principals/assistant principals whose schools demonstrate stronger growth trends on the state assessments in ELA and Mathematics than other school leaders in high-need schools (methodology to be determined by DDOE):
 - i. Target: 90%
- h. Retention of all DLP graduates as AP/Principals in Delaware's high-needs schools for the entirety of their three-year commitment
 - i. Target: 80%

G. Personnel

1. Innovative Schools Project Management Team

- i. Sean Gallagher, Executive Director of DLP, will be the single point of contract and have independent decision-making authority (reporting up to DDOE).
- ii. The Executive Director shall correspond with the Chief Officer of the Teacher & Leader Effectiveness Unit on a monthly basis between January 2016 and June 2016 to discuss project sustainability.
- iii. The Executive Director shall become the primary point of contact for DDOE and all LEA staff working with DLP. Innovative Schools will be responsible for creating and sharing quarterly reports on the program, based upon agreed upon reporting template and any other evidence gathered, with DDOE, PSB, and any other bodies deemed relevant by DDOE.

2. Communication Protocols & Status Reports
 - i. Status Reports
 1. Innovative Schools will provide quarterly status reports to DDOE's Project Manager (TLEU), as delineated by DDOE.
 2. Innovative Schools will provide quarterly reports to DDOE for delivery to the Professional Standards Board at the end of each quarter (every three months) beginning with the date of PSB approval for the program.
 - ii. Meetings
 1. DLP leadership and the TLEU Project Manager will meet bi-weekly for one hour to discuss project status, with DLP creating an agenda for discussion at each meeting.
 - a. Meetings will take place by phone or in-person as agreed upon by participants.
 - b. Semi-annual progress and performance review meetings will take place once per year in Dover and once per year in Wilmington. DDOE reserves the right to delineate the invitees for these semi-annual reviews.
 - c. Semi-annual review meetings will focus on the Measures of Success, the statement of work outlined above, as well as any adjustments that may need to be made to the program.

Appendix B: Payments and Deliverables

Total payment for this contract with Innovative Schools (*DLP*) will not exceed the amount of \$240,000 for the statement of work and deliverables outlined above *and* the deliverables denoted below. **Payments may be reduced if less than eight candidates are on-boarded, service delivery is interrupted or ineffective, or if deliverables are not of sufficient quality during implementation.**

Payment Schedule. Payments will occur under three separate threads of deliverables, with “requested documentation” denoting all documents requested by DDOE for the purposes of Race to the Top (RTTT) reporting or proof of initiative efficacy and sustainability.

Initiative Implementation: Cohorts 5 and 6 (primarily Cohort 5)

By **October 15, 2015** Innovative Schools/DLP will provide the DDOE with the following deliverables (including the deliverables denoted in Appendix A), with any additional requested documentation in support of the documents requested herein:

- 1 Scope and sequence of pre-service, in-service and residency training for Cohort 5
- 2 Cohort 5 school placement spreadsheet, including residency matches
- 3 Recruitment materials, including a revamped website

Payment for these deliverables, if approved by DDOE, shall be for \$80,000.

No later than **February 1, 2016** Innovative Schools will provide DDOE with the following deliverables (including the deliverables denoted in Appendix A), with any additional requested documentation by request:

- 1 Mid-Year Evaluations for members of Cohort 1, Cohort 2, Cohort 3, Cohort 4, and Cohort 5
- 2 Recruitment Summary for Cohort 6; Selection Model & Process for Cohort 6
- 3 LEA agreements for the 2016-17 school year

Payment for these deliverables, if approved by DDOE, shall be for \$100,000.

By **May 5, 2016** Innovative Schools will provide DDOE with the following deliverables (including the deliverables denoted in Appendix A), with any additional requested documentation by request:

- 1 Cohort 1 , 2, 3, 4, and 5 preliminary student achievement results in their respective buildings
- 2 Cohort 6 selection summary and interview packets with candidate information

Payment for these deliverables, if approved by DDOE, shall be for \$60,000.

On an ongoing basis, Innovative Schools/DLP agrees to provide a quarterly progress update to DDOE by the 15th of every third month, with progress towards program deliverables, metrics, and program growth/improvement/innovation clearly denoted for each section of the human capital continuum. **Quarterly reports are required in order for any of the above payments to be considered and processed.**

S16-19

**Delaware Department of Education
University of Delaware Contract**

Alternative Routes to Certification Program (ARTC)

This Agreement ("Agreement") is entered into as of September 8, 2015 ("Effective Date") and will end on June 30, 2016, by and between the State of Delaware, Department of Education, hereafter referred to as DDOE, and **University of Delaware**, hereafter referred to as UD.

WHEREAS, DDOE desires to obtain certain services to to provide a certification avenue for college graduates who have not been trained in teacher education to obtain certification in a secondary content area designated as an area of critical shortage through the Alternative Routes to Certification Program (ARTC);; and

WHEREAS, UD desires to provide such services to DDOE on the terms set forth below;

WHEREAS, DDOE and UD represent and warrant that each party has full right, power and authority to enter into and perform under this Agreement;

FOR AND IN CONSIDERATION OF the premises and mutual agreements herein, DDOE and UD agree as follows:

1. Services.

1.1 UD shall perform for DDOE the services specified in the Appendices to this Agreement, attached hereto and made a part hereof.

1.2 Any conflict or inconsistency between the provisions of the following documents shall be resolved by giving precedence to such documents in the following order: (a) this Agreement, including the Statement of Work (including any amendments or modifications thereto); (b) DDOE's request for proposals, attached hereto as Appendix C; and (c) UD's response to the request for proposals, attached hereto as Exhibit D. The aforementioned documents are specifically incorporated into this Agreement and made a part hereof.

1.3 DDOE may, at any time, by written order, make changes in the scope of this Agreement and in the services or work to be performed. No services for which additional compensation may be charged by UD shall be furnished without the written authorization of DDOE. When DDOE desires any addition or deletion to the deliverables or a change in the Services to be provided under this Agreement, it shall notify UD, who shall then submit to DDOE a "Change Order" for approval authorizing said change. The Change Order shall state whether the change shall cause an alteration in the price or the time required by UD for any aspect of its performance under this Agreement. Pricing of changes shall be consistent with

those established within this Agreement.

1.4 UD will not be required to make changes to its scope of work that result in UD's costs exceeding the current unencumbered budgeted appropriations for the services. Any claim of either party for an adjustment under Section 1 of this Agreement shall be asserted in the manner specified in the writing that authorizes the adjustment.

2. Payment for Services and Expenses.

2.1 The term of the initial contract shall be from September 8, 2015 through June 30, 2016.

2.2 DDOE will pay UD for the performance of services described in Appendix A, Statement of Work. The fee will be paid in accordance with the payment schedule attached hereto as part of Appendix B.

2.3 DDOE's obligation to pay UD for the performance of services described in Appendix A, Statement of Work will not exceed the fixed fee amount of \$261,000. It is expressly understood that the work defined in the appendices to this Agreement must be completed by UD and it shall be UD's responsibility to ensure that hours and tasks are properly budgeted so that all services are completed for the agreed upon fixed fee. DDOE's total liability for all charges for services that may become due under this Agreement is limited to the total maximum expenditure(s) authorized in DDOE's purchase order(s) to UD.

2.4 UD shall submit invoices in accordance with Statement of Work; Appendix A. DDOE agrees to pay those invoices within thirty (30) days of receipt. In the event DDOE disputes a portion of an invoice, DDOE agrees to pay the undisputed portion of the invoice within thirty (30) days of receipt and to provide UD a detailed statement of DDOE's position on the disputed portion of the invoice within thirty (30) days of receipt. DDOE's failure to pay any amount of an invoice that is not the subject of a good-faith dispute within thirty (30) days of receipt shall entitle UD to charge interest on the overdue portion at no more than 1.0% per month or 12% per annum. All payments should be sent to UD, 210 Hullahen Hall, Newark, DE 19716.

2.5 Unless provided otherwise in an Appendix, all expenses incurred in the performance of the services are to be paid by UD. If an Appendix specifically provides for expense reimbursement, UD shall be reimbursed only for reasonable expenses incurred by UD in the performance of the services, including, but not necessarily limited to, travel and lodging expenses, communications charges, and computer time and supplies.

2.6 DDOE is a sovereign entity, and shall not be liable for the payment of federal,

state and local sales, use and excise taxes, including any interest and penalties from any related deficiency, which may become due and payable as a consequence of this Agreement.

2.7 DDOE shall subtract from any payment made to UD all damages, costs and expenses caused by UD's negligence, resulting from or arising out of errors or omissions in UD's work products, which have not been previously paid to UD.

2.8 Invoices shall be submitted to:

Angeline A. Rivello, Director
Teacher & Administrator Quality Development
35 Commerce Way, Suite #1
Dover, DE 19901

3. Responsibilities of UD.

3.1 UD shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all services furnished by UD, its subcontractors and its principals, officers, employees and agents under this Agreement. In performing the specified services, UD shall follow practices consistent with generally accepted professional and technical standards. UD shall be responsible for ensuring that all services, products and deliverables furnished pursuant to this Agreement comply with the standards promulgated by the Department of Technology and Information ("DTI") published at <http://dti.delaware.gov/>, and as modified from time to time by DTI during the term of this Agreement. If any service, product or deliverable furnished pursuant to this Agreement does not conform with DTI standards, UD shall, at its expense and option either (1) replace it with a conforming equivalent or (2) modify it to conform with DTI standards. UD shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to DDOE directly caused by UD's failure to ensure compliance with DTI standards.

3.2 It shall be the duty of the UD to assure that all products of its effort are technically sound and in conformance with all pertinent Federal, State and Local statutes, codes, ordinances, resolutions and other regulations. UD will not produce a work product that violates or infringes on any copyright or patent rights. If deficiencies in the services specified in the Statement of Work require revisions or corrections, UD and DDOE will work together in good faith to establish a remediation plan whereby vendor will correct any deficiencies.

3.3 Permitted or required approval by DDOE of any products or services furnished by UD shall not in any way relieve UD of responsibility for the professional and technical accuracy and adequacy of its work. DDOE's review, approval, acceptance, or payment for any of UD's services herein shall not be construed to operate as a waiver of any rights under this Agreement or of any cause

of action arising out of the performance of this Agreement, and UD shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to DDOE caused by UD's performance or failure to perform under this Agreement.

3.4 UD shall appoint Key Personnel and a Project Manager who will manage the performance of services. All of the services specified by this Agreement shall be performed by the Project Manager, or by UD's associates and employees under the personal supervision of the Project Manager.

Project	Team	Title	% of Project Involvement
Frank Livoy		Principal Investigator	100%

99 910 11/13

As mutually agreed by the parties, the individuals listed above shall be designated Key Personnel and be subject to Section 3.5 below.

3.5 Performance of Key Personnel assigned by UD will be monitored by DDOE, who will provide documented quarterly assessments of the progress of the work to UD to ensure that the work, as specified in the attached Statement of Work, is being performed according to DDOE standards. Upon a documented determination by DDOE that Key Personnel assigned by UD are ineffective in the performance of the work enumerated in the Statement of Work, the parties will communicate in good faith to reassign Key Personnel to perform other services and develop a mutually acceptable replacement plan. Should the parties mutually agree that Key Personnel need to be diverted off the project for what are now unforeseeable circumstances, the parties will work out a mutually agreeable transition plan to replace said personnel.

3.6 UD shall furnish to DDOE's designated representative copies of all correspondence to regulatory agencies for review prior to mailing such correspondence.

3.7 UD agrees that its officers and employees will cooperate with DDOE in the performance of services under this Agreement and will be available for consultation with DDOE at such reasonable times with advance notice as to not conflict with their other responsibilities.

3.8 UD has or will retain such employees as it may need to perform the services required by this Agreement.

3.9 UD will not use DDOE's name, either express or implied, in any of its advertising or sales materials without DDOE's express written consent.

3.10 The rights and remedies of DDOE provided for in this Agreement are in addition to any other rights and remedies provided by law.

4. Time Schedule.

4.1 A project schedule is included in Appendix A.

4.2 Any delay of services or change in sequence of tasks must be approved in writing by DDOE.

4.3 In the event that UD fails to complete the project or any phase thereof within the time specified in the Contract, or with such additional time as may be granted in writing by DDOE, or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in this Agreement or any extensions thereof, DDOE shall suspend the payments scheduled as set forth in Appendix A.

5. State Responsibilities.

5.1 In connection with UD's provision of the Services, DDOE shall perform those tasks and fulfill those responsibilities specified in the appropriate Appendices.

5.2 DDOE agrees that its officers and employees will cooperate with UD in the performance of services under this Agreement and will be available for consultation with UD at such reasonable times with advance notice as to not conflict with their other responsibilities.

5.3 The services performed by UD under this Agreement shall be subject to review for compliance with the terms of this Agreement by DDOE's designated representatives. DDOE representatives may delegate any or all responsibilities under the Agreement to appropriate staff members, and shall so inform UD by written notice before the effective date of each such delegation.

5.4 The review comments of DDOE's designated representatives may be reported in writing as needed to UD. It is understood that DDOE's representatives' review comments do not relieve UD from the responsibility for the professional and technical accuracy of all work delivered under this Agreement.

5.5 DDOE shall, without charge, furnish to or make available for examination or use by UD as it may request, any data which DDOE has available, including as examples only and not as a limitation:

- a. Copies of reports, surveys, records, and other pertinent documents;
- b. Copies of previously prepared reports, job specifications, surveys, records, ordinances, codes, regulations, other document, and information related to the services specified by this Agreement.

UD shall return any original data provided by DDOE.

5.6 DDOE shall assist UD in obtaining data on documents from public officers or agencies and from private citizens and business firms whenever such material is necessary for the completion of the services specified by this Agreement.

5.7 UD will not be responsible for accuracy of information or data supplied by DDOE or other sources to the extent such information or data would be relied upon by a reasonably prudent contractor.

5.8 DDOE agrees not to use UD's name, either express or implied, in any of its advertising or sales materials. UD reserves the right to reuse the nonproprietary data and the analysis of industry-related information in its continuing analysis of the industries covered.

6. Work Product.

6.1 All materials, information, documents, and reports, whether finished, unfinished, or draft, developed, prepared, completed, or acquired by UD for DDOE relating to the services to be performed hereunder shall become the property of DDOE and shall be delivered to DDOE's designated representative upon completion or termination of this Agreement, whichever comes first. UD shall not be liable for damages, claims, and losses arising out of any reuse of any work products on any other project conducted by DDOE. DDOE shall have the right to reproduce all documentation supplied pursuant to this Agreement.

6.2 UD retains all title and interest to the data it furnished and/or generated pursuant to this Agreement. Retention of such title and interest does not conflict with DDOE's rights to the materials, information and documents developed in performing the project. Upon final payment, DDOE shall have a perpetual, nontransferable, non-exclusive paid-up right and license to use, copy, modify and prepare derivative works of all materials in which UD retains title, whether individually by UD or jointly with DDOE. Any and all source code developed in connection with the services provided will be provided to DDOE, and the aforementioned right and license shall apply to source code. The parties will cooperate with each other and execute such other documents as may be reasonably deemed necessary to achieve the objectives of this Section.

6.3 In no event shall UD be precluded from developing for itself, or for others, materials that are competitive with the Deliverables, irrespective of their similarity to the Deliverables. In addition, UD shall be free to use its general knowledge, skills and experience, and any ideas, concepts, know-how, and techniques within the scope of its consulting practice that are used in the course of providing the services.

6.4 Notwithstanding anything to the contrary contained herein or in any

attachment hereto, any and all intellectual property or other proprietary data owned by UD prior to the effective date of this Agreement ("Preexisting Information") shall remain the exclusive property of UD even if such Preexisting Information is embedded or otherwise incorporated into materials or products first produced as a result of this Agreement or used to develop such materials or products. DDOE's rights under this section shall not apply to any Preexisting Information or any component thereof regardless of form or media.

7. Confidential Information.

To the extent permissible under 29 *Del. C.* § 10001, et seq., the parties to this Agreement shall preserve in strict confidence any information, reports or documents obtained, assembled or prepared in connection with the performance of this Agreement.

8. Warranty.

8.1 UD warrants that its services to be provided pursuant to the Statement of Work will be performed in a good and workmanlike manner. UD agrees to re-perform any work not in compliance with the Statement of Work brought to its attention within a reasonable time after that work is performed.

8.2 Third-party products within the scope of this Agreement are warranted solely under the terms and conditions of the licenses or other agreements by which such products are governed. With respect to all third-party products and services purchased by UD for DDOE in connection with the provision of the Services, UD shall pass through or assign to DDOE the rights UD obtains from the manufacturers and/or vendors of such products and services (including warranty and indemnification rights), all to the extent that such rights are assignable.

9. Indemnification; Limitation of Liability.

9.1 UD shall indemnify and hold harmless the State, its agents and employees, from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees) directly arising out of (A) the negligence or other wrongful conduct of the UD, its agents or employees, or (B) UD's breach of any material provision of this Agreement not cured after due notice and opportunity to cure, provided as to (A) or (B) that (i) UD shall have been notified promptly in writing by DDOE of any notice of such claim; and (ii) UD shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise.

9.2 If DDOE promptly notifies UD in writing of a third party claim against DDOE that any Deliverable infringes a copyright or a trade secret of any third party, UD

will defend such claim at its expense and will pay any costs or damages that may be finally awarded against DDOE. UD will not indemnify DDOE, however, if the claim of infringement is caused by (1) DDOE's misuse or modification of the Deliverable; (2) DDOE's failure to use corrections or enhancements made available by UD; (3) DDOE's use of the Deliverable in combination with any product or information not owned or developed by UD; (4) DDOE's distribution, marketing or use for the benefit of third parties of the Deliverable or (5) information, direction, specification or materials provided by Client or any third party. If any Deliverable is, or in UD's opinion is likely to be, held to be infringing, UD shall at its expense and option either (a) procure the right for DDOE to continue using it, (b) replace it with a noninfringing equivalent, (c) modify it to make it noninfringing. The foregoing remedies constitute DDOE's sole and exclusive remedies and UD's entire liability with respect to infringement.

9.3 DDOE agrees that UD' total liability to DDOE for any and all damages whatsoever arising out of or in any way related to this Agreement from any cause, including but not limited to contract liability or UD negligence, errors, omissions, strict liability, breach of contract or breach of warranty shall not, in the aggregate, exceed fees paid to UD.

In no event shall UD be liable for special, indirect, incidental, economic, consequential or punitive damages, including but not limited to lost revenue, lost profits, replacement goods, loss of technology rights or services, loss of data, or interruption or loss of use of software or any portion thereof regardless of the legal theory under which such damages are sought, and even if UD has been advised of the likelihood of such damages.

10. Employees.

10.1 UD has and shall retain the right to exercise full control over the employment, direction, compensation and discharge of all persons employed by UD in the performance of the services hereunder; provided, however, that it will, subject to scheduling and staffing considerations, attempt to honor DDOE's request for specific individuals.

10.2 Except as the other party expressly authorizes in writing in advance, neither party shall solicit, offer work to, employ, or contract with, whether as a partner, employee or independent contractor, directly or indirectly, any of the other party's involved, significant Personnel during their participation in the services or during the twelve (12) months thereafter. For purposes of this Section 10.2, "Personnel" includes any individual or company a party employs as a partner, employee or independent contractor and with which a party comes into direct contact in the course of the services contemplated in this Agreement.

10.3 Possession of a Security Clearance, as issued by the Delaware Department

of Safety and Homeland Security, may be required of any employee of UD who will be assigned to this project.

11. Independent Contractor.

11.1 It is understood that in the performance of the services herein provided for, UD shall be, and is, an independent contractor, and is not an agent or employee of DDOE and shall furnish such services in its own manner and method except as required by this Agreement. UD shall be solely responsible for, and shall indemnify, defend and save DDOE harmless from all matters relating to the payment of its employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever.

11.2 UD acknowledges that UD and any subcontractors, agents or employees employed by UD shall not, under any circumstances, be considered employees of DDOE, and that they shall not be entitled to any of the benefits or rights afforded employees of DDOE, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits. DDOE will not provide or pay for any liability or medical insurance, retirement contributions or any other benefits for or on behalf of DDOE or any of its officers, employees or other agents.

11.3 UD shall be responsible for providing liability insurance for its personnel.

11.4 As an independent contractor, UD has no authority to bind or commit DDOE. Nothing herein shall be deemed or construed to create a joint venture, partnership, fiduciary or agency relationship between the parties for any purpose.

12. Suspension.

12.1 DDOE may suspend performance by UD under this Agreement for such period of time as DDOE, at its sole discretion, may prescribe by providing written notice to UD at least 30 working days prior to the date on which DDOE wishes to suspend. Upon such suspension, DDOE shall pay UD its compensation, based on the percentage of the project completed and earned until the effective date of suspension, less all previous payments. UD shall not perform further work under this Agreement after the effective date of suspension. UD shall not perform further work under this Agreement after the effective date of suspension until receipt of written notice from DDOE to resume performance.

12.2 In the event DDOE suspends performance by UD for any cause other than the error or omission of the UD, for an aggregate period in excess of 30 days, UD shall be entitled to an equitable adjustment of the compensation payable to UD

under this Agreement to reimburse UD for additional costs occasioned as a result of such suspension of performance by DDOE based on appropriated funds and approval by DDOE.

13. Termination.

13.1 This Agreement may be terminated in whole or in part by either party in the event of substantial failure of the other party to fulfill its obligations under this Agreement through no fault of the terminating party; but only after the other party is given:

- a. Not less than 30 calendar days written notice of intent to terminate; and
- b. An opportunity for consultation with the terminating party prior to termination.

13.2 This Agreement may be terminated in whole or in part by DDOE for its convenience, but only after UD is given:

- a. Not less than 30 calendar days written notice of intent to terminate; and
- b. An opportunity for consultation with DDOE prior to termination.

13.3 If termination for default is effected by DDOE, DDOE will pay UD that portion of the compensation which has been earned as of the effective date of termination but:

- a. No amount shall be allowed for anticipated profit on performed or unperformed services or other work, and
- b. Any payment due to UD at the time of termination may be adjusted to the extent of any additional costs occasioned to DDOE by reason of UD's default.
- c. Upon termination for default, DDOE may take over the work and prosecute the same to completion by agreement with another party or otherwise. In the event UD shall cease conducting business, DDOE shall have the right to make an unsolicited offer of employment to any employees of UD assigned to the performance of the Agreement, notwithstanding the provisions of Section 10.2.

13.4 If after termination for failure of UD to fulfill contractual obligations it is determined that UD has not so failed, the termination shall be deemed to have been effected for the convenience of DDOE.

13.5 The rights and remedies of DDOE and UD provided in this section are in addition to any other rights and remedies provided by law or under this Agreement.

13.6 Gratuities.

13.6.1 DDOE may, by written notice to UD, terminate this Agreement if it is found after notice and hearing by DDOE that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by UD or any agent or representative of UD to any officer or employee of DDOE with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or making of any determinations with respect to the performance of this Agreement.

13.6.2 In the event this Agreement is terminated as provided in 13.6.1 hereof, DDOE shall be entitled to pursue the same remedies against UD it could pursue in the event of a breach of this Agreement by UD.

13.6.3 The rights and remedies of DDOE provided in Section 13.6 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

14. Severability.

If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

15. Assignment; Subcontracts.

15.1 Any attempt by UD to assign or otherwise transfer any interest in this Agreement without the prior written consent of DDOE shall be void. Such consent shall not be unreasonably withheld.

15.2 Services specified by this Agreement shall not be subcontracted by UD, without prior written approval of DDOE.

15.3 Approval by DDOE of UD's request to subcontract or acceptance of or payment for subcontracted work by DDOE shall not in any way relieve UD of responsibility for the professional and technical accuracy and adequacy of the work. All subcontractors shall adhere to all applicable provisions of this Agreement.

15.4 UD shall be and remain liable for all damages to DDOE caused by negligent performance or non-performance of work under this Agreement by UD, its subcontractor or its sub-subcontractor.

15.5 The compensation due shall not be affected by DDOE's approval of the UD's request to subcontract.

16. Force Majeure.

Neither party shall be liable for any delays or failures in performance due to circumstances beyond its reasonable control.

17. Non-Appropriation of Funds.

17.1 Validity and enforcement of this Agreement is subject to appropriations by the General Assembly of the specific funds necessary for contract performance. Should such funds not be so appropriated DDOE may immediately terminate this Agreement, and absent such action this Agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available, at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds.

17.2 Notwithstanding any other provisions of this Agreement, this Agreement shall terminate and DDOE's obligations under it shall be extinguished at the end of the fiscal year in which the State of Delaware fails to appropriate monies for the ensuing fiscal year sufficient for the payment of all amounts which will then become due.

18. State of Delaware Business License.

UD and all subcontractors represent that they are properly licensed and authorized to transact business in the State of Delaware as provided in 30 *Del. C.* § 2301.

19. Complete Agreement.

19.1 This agreement and its Appendices shall constitute the entire agreement between DDOE and UD with respect to the subject matter of this Agreement and shall not be modified or changed without the express written consent of the parties. The provisions of this agreement supersede all prior oral and written quotations, communications, agreements and understandings of the parties with respect to the subject matter of this Agreement.

19.2 If the scope of any provision of this Agreement is too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent

and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the Agreement shall not thereby fail, but the scope of such provision shall be curtailed only to the extent necessary to conform to the law.

19.3 UD may not order any product requiring a purchase order prior to DDOE's issuance of such order. Each Appendix, except as its terms otherwise expressly provide, shall be a complete statement of its subject matter and shall supplement and modify the terms and conditions of this Agreement for the purposes of that engagement only. No other agreements, representations, warranties or other matters, whether oral or written, shall be deemed to bind the parties hereto with respect to the subject matter hereof.

20. Miscellaneous Provisions.

20.1 In performance of this Agreement, UD shall comply with all applicable federal, state and local laws, ordinances, codes and regulations. UD shall solely bear the costs of permits and other relevant costs required in the performance of this Agreement.

20.2 Neither this Agreement nor any appendix may be modified or amended except by the mutual written agreement of the parties. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against which it is sought to be enforced.

20.3 The delay or failure by either party to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of that party's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

20.4 UD covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. UD further covenants, to its knowledge and ability, that in the performance of said services no person having any such interest shall be employed.

20.5 UD acknowledges that DDOE has an obligation to ensure that public funds are not used to subsidize private discrimination. UD recognizes that if they refuse to hire or do business with an individual or company due to reasons of race, color, gender, ethnicity, disability, national origin, age, or any other protected status, DDOE may declare UD in breach of the Agreement, terminate the Agreement, and designate UD as non-responsible.

20.6 UD warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation

of this warranty, DDOE shall have the right to annul this contract without liability or at its discretion deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

20.7 This Agreement was drafted with the joint participation of both parties and shall be construed neither against nor in favor of either, but rather in accordance with the fair meaning thereof.

20.8 UD shall maintain all public records, as defined by 29 Del. C. § 502(7), relating to this Agreement and its deliverables for the time and in the manner specified by the Delaware Division of Archives, pursuant to the Delaware Public Records Law, 29 Del. C. Ch. 5. During the term of this Agreement, upon reasonable notice, authorized representatives of DDOE may inspect or audit UD's performance and records pertaining to this Agreement at the UD business office during normal business hours.

21. Insurance.

21.1 UD shall maintain the following insurance during the term of this Agreement:

- A. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law, **and**
- B. Comprehensive General Liability - \$1,000,000.00 per person/\$3,000,000 per occurrence, **and**
- C. Medical/Professional Liability - \$1,000,000.00 per person/\$3,000,000 per occurrence; or
- D. Miscellaneous Errors and Omissions - \$1,000,000.00 per person/\$3,000,000 per occurrence, or
- E. Automotive Liability Insurance covering all automotive units used in the work with limits of not less than \$100,000 each person and \$300,000 each accident as to bodily injury and \$25,000 as to property damage to others.

21.2 UD shall provide forty-five (45) days written notice of cancellation or material change of any policies.

21.3 Before any work is done pursuant to this Agreement, the Certificate of Insurance and/or copies of the insurance policies, referencing the contract number stated herein, shall be filed with the State. The certificate holder is as follows:

Delaware Department of Education
401 Federal Street, Suite 2
Dover, DE 19901

21.4. In no event shall the State of Delaware be named as an additional insured on any policy required under this agreement.

22. Assignment of Antitrust Claims.

As consideration for the award and execution of this contract by the State, UD hereby grants, conveys, sells, assigns, and transfers to DDOE all of its right, title and interest in and to all known or unknown causes of action it presently has or may now or hereafter acquire under the antitrust laws of the United States and the State of Delaware, relating to the particular goods or services purchased or acquired by the State pursuant to this contract.

23. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, except where Federal Law has precedence. UD consents to jurisdiction venue in the State of Delaware.

24. Notices.

Any and all notices required by the provisions of this Agreement shall be in writing and shall be mailed, certified or registered mail, return receipt requested. All notices shall be sent to the following addresses:

CONTRACTOR: Kate Sanford, Ph.D.
Contract and Grant Specialist
210 Hullahen Hall
Newark, DE 19716
Phone No. (302) 831-7274
Fax No. (302) 831-2828
ksanford@udel.edu

DDOE: David Blowman
Deputy Secretary
Delaware Department of Education
John G. Townsend Building
401 Federal Street, Suite 2
Dover, DE 19901

Phone No. (302) 735-4040

Fax No. (302) 739-7768

DOE Certificated Staff coordinating activity:

Shannon Holston

IN WITNESS THEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date and year first above written.

University of Delaware
Original on File

Authorized Official

9/3/15

Date

Original on File

Delaware Department of Education
Original on File

David Blowman
Deputy Secretary

Original on File

9/2/15

Date

Original on File

Finance Director

Initials

Principal Investigator

9/3/15

Date

Branch Associate Secretary

Original on File

8/31/2015

Date

Workgroup Director

Initials

APPENDIX A

The following data will be provided to DDOE to measure the success of the 2015-2016 contract, but the data will not be tied to payment on the 2015-2016 contract. Payment will be made upon receipt of deliverables, as outlined in Appendix B.

Measures of Success for UD ARTC (2015-16)

1. Recruitment:

- UD ARTC will increase the number of applicants who submit transcripts and other qualifying documentation (Praxis Core scores, SAT/GRE/ACT scores, etc.) by at least 10% over the next year in order to increase the pool of highly qualified potentials. (*We will gather a base line from past years by Sep. 1, 2015 to determine what 10% will be.*)

2. Placement:

- At least 40 UD ARTC potentials will get hired as new Teachers of Record for the 2015-2016 school year.
- At least 40% of those hired will serve in high needs schools as defined by the DE DOE.

3. Retention:

- By October 30, 2016*, at least 80% of ARTC teachers hired during the 2015-16 school year will be retained or rehired in another Delaware public or parochial school for their second year of teaching. [*Because staffing in Delaware schools experiences sudden shifts and spikes, it would be inaccurate to measure ARTC retention by number of teachers retained as of June 30 or even Sep. 1.]

Each ARTC teacher not retained will complete a survey or interview to report the reason(s) for not being retained. UD ARTC will report that data to the DE DOE.

- At least 80% of ARTC teachers who were hired in 2010 – 2011 will remain teaching in Delaware public or parochial schools in 2015 – 2016.

4. Candidate performance:

- At least 75% of ARTC teachers will receive ratings of “Effective” or “Highly Effective” on their DPAS II summative evaluations while completing their certification requirements.
- No more than 15% will receive “Needs Improvement” ratings.
- No more than 10% will receive “Ineffective” ratings.

5. Student achievement:

- At least 10% of ARTC teachers will exceed expectations on component V of DPAS II summative evaluations while completing their certification requirements.

- At least 60% will meet expectations on component V of DPAS II summative evaluations while completing their certification requirements.

6. Client satisfaction:

- At least 90% of LEAs* who employ ARTC teachers will report satisfaction with ARTC by indicating on a survey or questionnaire that they would hire an ARTC teacher again.

7. Participant Satisfaction:

- At least 75% of ARTC participants will indicate overall satisfaction with the ARTC pathway in an anonymous yearly survey of candidates.

[* Public school districts, charter schools or qualifying Catholic Diocesan schools]

SCHEDULE OF SERVICES

Quarter: ALL

- Content on Quarterly Report to DE DOE
 - # of potentials seen
 - # of documents reviewed
 - Identify # of potentials qualified
 - # admitted
 - High needs, non-high needs, by county (district & charter)
 - Identify # by subject and grade level
 - Identify status on Praxis II
 - % completed, % not completed *if any still need Praxis Core
 - Course completion & grades on all 5 pathways
 - % on schedule, % behind schedule
- Other Services
 - Paper Screening :selection process for new candidates – must meet all 4 requirements
 - % bachelor's degree, % 30 credits, % 3.0 gpa, % Praxis Core
 - Coach feedback
 - Participants to attend ½ day Workshops, first Saturday in Nov15, Dec15, Feb16, Mar16
 - Recruiting
 - Contact & visit college departments
 - Job Fairs – DE Congress and Delegation
 - Contact veteran support groups (Joint Forces, Troop to Teachers & Dover AFB)
 - Public service announcements (radio, newspaper, flyers)
 - Grow your own (attend DASPA & DOE meetings)
 - Social Media (Facebook, twitter, u-tube, foursquare, Instagram)

Quarter: One

- Add to DE DOE report
 - # participated in summer training
 - % completed training &
 - % not completed training
- Retention for subsequent years

Quarter: Four

- Add to DE DOE report
 - edTPA status if applicable
 - participant satisfaction survey
 - LEA satisfaction survey
 - DPAS II evaluation
- Retention for subsequent years
- Collect completion certification Requirements
 - Courses
 - Praxis II/ACTFL
 - DPASII Summative

Appendix B: Payments and Deliverables

Total payment for this Agreement with UD ARTC will not exceed the amount \$261,000.00 for the term of September 1, 2015 to June 30, 2016.

Payment by DDOE. DDOE agrees to compensate UD ARTC a maximum of \$261,000.00 for the services described in this Contract

Payment Schedule. Invoices in the amount of \$65,250 each will be submitted on September 1, 2015; November 1, 2015; February 1, 2016; May 1, 2016 following the submission of the following quarterly reports.

UD ARTC agrees to send a quarterly update to the DDOE with the following deliverables:

1. Quarterly 1 Report

- a. # of potential candidates' credentials reviewed
- b. Identify # of potentials qualified
- c. # hired
 - i. High needs, non-high needs, by county (district & charter)
 - ii. Identify # by subject and grade level
- d. # participated in summer training
 - i. % completed training & % not completed training
- e. Retention for subsequent years
- f. Identify status on Praxis II
 - i. % completed, % not completed *if any still need Praxis Core
- g. Course completion & grades on all 5 pathways
 - i. % on schedule, % behind schedule

2. Quarterly 2 Report

- a. # of potentials credentials reviewed
- b. Identify # of potentials qualified
- c. # hired
 - i. High needs, non-high needs, by county (district & charter)
 - ii. Identify # by subject and grade level
- d. Identify status on Praxis II
 - i. % completed, % not completed *if any still need Praxis Core
- e. Course completion & grades on all 5 pathways
 - i. % on schedule, % behind schedule

3. Quarterly 3 Report

- a. # of potentials credentials reviewed
- b. Identify # of potentials qualified
- c. # hired
 - i. High needs, non-high needs, by county (district & charter)
 - ii. Identify # by subject and grade level
- d. Identify status on Praxis II
 - i. % completed, % not completed *if any still need Praxis Core
- e. Course completion & grades on all 5 pathways
 - i. % on schedule, % behind schedule

4. Quarterly 4 Report

- a. # of potentials credentials reviewed
- b. Identify # of potentials qualified
- c. # hired
 - i. High needs, non-high needs, by county (district & charter)
 - ii. Identify # by subject and grade level
- d. Retention for subsequent years
- e. Identify status on Praxis II
 - i. % completed, % not completed *if any still need Praxis Core
- f. Course completion & grades on all 5 pathways
 - i. % on schedule, % behind schedule
- g. edTPA status if applicable
- h. participant satisfaction survey
- i. LEA's satisfaction survey
- j. DPAS II evaluation

Delaware Department of Education Contract

RFP#DOE-2015-21

This Agreement ("Agreement") is effective only upon the execution of a State of Delaware Purchase Order and will end on 7/31, 2016, by and between the State of Delaware, Department of Education, hereafter referred to as DDOE, and Teach For America, hereafter referred to as VENDOR.

WHEREAS, DDOE desires to obtain certain services to to develop and or accelerate educator preparation coursework programs for aspiring educators.; and

WHEREAS, Teach For America desires to provide such services to DDOE on the terms set forth below;

WHEREAS, DDOE and Teach For America represent and warrant that each party has full right, power and authority to enter into and perform under this Agreement;

FOR AND IN CONSIDERATION OF the premises and mutual agreements herein, DDOE and Teach For America agree as follows:

1. Services.

1.1 Teach For America shall perform for DDOE the services specified in the Appendices to this Agreement, attached hereto and made a part hereof.

1.2 Any conflict or inconsistency between the provisions of the following documents shall be resolved by giving precedence to such documents in the following order: (a) this Agreement (including any amendments or modifications thereto); (b) DDOE's request for proposals, attached hereto as Appendix C; and (c) Teach For America's response to the request for proposals, attached hereto as Appendix D. The aforementioned documents are specifically incorporated into this Agreement and made a part hereof.

1.3 DDOE may, at any time, by written order, make changes in the scope of this Agreement and in the services or work to be performed. No services for which additional compensation may be charged by Teach For America shall be furnished without the written authorization of DDOE. When DDOE desires any addition or deletion to the deliverables or a change in the Services to be provided under this Agreement, it shall notify Teach For America, who shall then submit to DDOE a "Change Order" for approval authorizing said change. The Change Order shall state whether the change shall cause an alteration in the price or the time required by Teach For America for any aspect of its performance under this Agreement. Pricing of changes shall be consistent with those established within this Agreement.

1.4 Teach For America will not be required to make changes to its scope of work

that result in Teach For America's costs exceeding the current unencumbered budgeted appropriations for the services. Any claim of either party for an adjustment under Section 1 of this Agreement shall be asserted in the manner specified in the writing that authorizes the adjustment.

2. Payment for Services and Expenses.

2.1 The term of the initial contract shall be from the execution of this agreement and a State of Delaware Purchase Order through 7/31, 2016.

2.2 DDOE will pay Teach For America for the performance of services described in Appendix A, Statement of Work. The fee will be paid in accordance with the payment schedule attached hereto as part of Appendix B.

2.3 DDOE's obligation to pay Teach For America for the performance of services described in Appendix A, Statement of Work will not exceed the fixed fee amount of \$298,000. It is expressly understood that the work defined in the appendices to this Agreement must be completed by Teach For America and it shall be Teach For America's responsibility to ensure that hours and tasks are properly budgeted so that all services are completed for the agreed upon fixed fee. DDOE's total liability for all charges for services that may become due under this Agreement is limited to the total maximum expenditure(s) authorized in DDOE's purchase order(s) to \$298,000.

2.4 Teach For America shall submit monthly invoices to DDOE in sufficient detail to support the services provided during the previous month. DDOE agrees to pay those invoices within thirty (30) days of receipt. In the event DDOE disputes a portion of an invoice, DDOE agrees to pay the undisputed portion of the invoice within thirty (30) days of receipt and to provide Teach For America a detailed statement of DDOE's position on the disputed portion of the invoice within thirty (30) days of receipt. DDOE's failure to pay any amount of an invoice that is not the subject of a good-faith dispute within thirty (30) days of receipt shall entitle Teach For America to charge interest on the overdue portion at no more than 1.0% per month or 12% per annum. All payments should be sent to Teach For America, 100 West 10th Street, Suite 500, Wilmington, DE 19801.

2.5 Unless provided otherwise in an Appendix, all expenses incurred in the performance of the services are to be paid by Teach For America. If an Appendix specifically provides for expense reimbursement, Teach For America shall be reimbursed only for reasonable expenses incurred by Teach For America in the performance of the services, including, but not necessarily limited to, travel and lodging expenses, communications charges, and computer time and supplies.

2.6 DDOE is a sovereign entity, and shall not be liable for the payment of federal, state and local sales, use and excise taxes, including any interest and penalties from

any related deficiency, which may become due and payable as a consequence of this Agreement.

2.7 DDOE shall subtract from any payment made to Teach For America all damages, costs and expenses caused by Teach For America's negligence, resulting from or arising out of errors or omissions in Teach For America's work products, which have not been previously paid to Teach For America.

2.8 Invoices shall be submitted to: Michelle Kriss

3. Responsibilities of Teach For America.

3.1 Teach For America shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all services furnished by Teach For America, its subcontractors and its and their principals, officers, employees and agents under this Agreement. In performing the specified services, Teach For America shall follow practices consistent with generally accepted professional and technical standards. Teach For America shall be responsible for ensuring that all services, products and deliverables furnished pursuant to this Agreement comply with the standards promulgated by the Department of Technology and Information ("DTI") published at <http://dti.delaware.gov/>, and as modified from time to time by DTI during the term of this Agreement. If any service, product or deliverable furnished pursuant to this Agreement does not conform with DTI standards, Teach For America shall, at its expense and option either (1) replace it with a conforming equivalent or (2) modify it to conform with DTI standards. Teach For America shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to DDOE caused by Teach For America's failure to ensure compliance with DTI standards.

3.2 It shall be the duty of the Teach For America to assure that all products of its effort are technically sound and in conformance with all pertinent Federal, State and Local statutes, codes, ordinances, resolutions and other regulations. Teach For America will not produce a work product that violates or infringes on any copyright or patent rights. Teach For America shall, without additional compensation, correct or revise any errors or omissions in its work products.

3.3 Permitted or required approval by DDOE of any products or services furnished by Teach For America shall not in any way relieve Teach For America of responsibility for the professional and technical accuracy and adequacy of its work. DDOE's review, approval, acceptance, or payment for any of Teach For America's services herein shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and Teach For America shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to DDOE caused by Teach For America's performance or failure to perform under this

Agreement.

3.4 Teach For America shall appoint a Project Manager who will manage the performance of services. All of the services specified by this Agreement shall be performed by the Project Manager, or by Teach For America's associates and employees under the personal supervision of the Project Manager. The positions anticipated include:

Project	Team	Title	% of Project Involvement
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3.5 Designation of persons for each position is subject to review and approval by DDOE. Should the staff need to be diverted off the project for what are now unforeseeable circumstances, Teach For America will notify DDOE immediately and work out a transition plan that is acceptable to both parties, as well as agree to an acceptable replacement plan to fill or complete the work assigned to this project staff position. Replacement staff persons are subject to review and approval by DDOE. If Teach For America fails to make a required replacement within 30 days, DDOE may terminate this Agreement for default. Upon receipt of written notice from DDOE that an employee of Teach For America is unsuitable to DDOE for good cause, Teach For America shall remove such employee from the performance of services and substitute in his/her place a suitable employee.

3.6 Teach For America shall furnish to DDOE's designated representative copies of all correspondence to regulatory agencies for review prior to mailing such correspondence.

3.7 Teach For America agrees that its officers and employees will cooperate with DDOE in the performance of services under this Agreement and will be available for consultation with DDOE at such reasonable times with advance notice as to not conflict with their other responsibilities.

3.8 Teach For America has or will retain such employees as it may need to perform the services required by this Agreement. Such employees shall not be employed by the State of Delaware or any other political subdivision of the State.

3.9 Teach For America will not use DDOE's name, either express or implied, in any of its advertising or sales materials without DDOE's express written consent.

3.10 The rights and remedies of DDOE provided for in this Agreement are in addition to any other rights and remedies provided by law.

4. Time Schedule.

4.1 A project schedule is included in Appendix A.

4.2 Any delay of services or change in sequence of tasks must be approved in writing by DDOE.

4.3 In the event that Teach For America fails to complete the project or any phase thereof within the time specified in the Contract, or with such additional time as may be granted in writing by DDOE, or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in this Agreement or any extensions thereof, DDOE shall suspend the payments scheduled as set forth in Appendix B.

5. State Responsibilities.

5.1 In connection with Teach For America's provision of the Services, DDOE shall perform those tasks and fulfill those responsibilities specified in the appropriate Appendices.

5.2 DDOE agrees that its officers and employees will cooperate with Teach For America in the performance of services under this Agreement and will be available for consultation with Teach For America at such reasonable times with advance notice as to not conflict with their other responsibilities.

5.3 The services performed by Teach For America under this Agreement shall be subject to review for compliance with the terms of this Agreement by DDOE's designated representatives. DDOE representatives may delegate any or all responsibilities under the Agreement to appropriate staff members, and shall so inform Teach For America by written notice before the effective date of each such delegation.

5.4 The review comments of DDOE's designated representatives may be reported in writing as needed to Teach For America. It is understood that DDOE's representatives' review comments do not relieve Teach For America from the responsibility for the professional and technical accuracy of all work delivered under this Agreement.

5.5 DDOE shall, without charge, furnish to or make available for examination or use by Teach For America as it may request, any data which DDOE has available, including as examples only and not as a limitation:

- a. Copies of reports, surveys, records, and other pertinent documents;
- b. Copies of previously prepared reports, job specifications, surveys, records, ordinances, codes, regulations, other document, and information related to the services specified by this Agreement.

Teach For America shall return any original data provided by DDOE.

5.6 DDOE shall assist Teach For America in obtaining data on documents from public officers or agencies and from private citizens and business firms whenever such material is necessary for the completion of the services specified by this Agreement.

5.7 Teach For America will not be responsible for accuracy of information or data supplied by DDOE or other sources to the extent such information or data would be relied upon by a reasonably prudent contractor.

5.8 DDOE agrees not to use Teach For America's name, either express or implied, in any of its advertising or sales materials. Teach For America reserves the right to reuse the nonproprietary data and the analysis of industry-related information in its continuing analysis of the industries covered.

6. Work Product.

6.1 All materials, information, documents, and reports, whether finished, unfinished, or draft, developed, prepared, completed, or acquired by Teach For America for DDOE relating to the services to be performed hereunder shall become the property of DDOE and shall be delivered to DDOE's designated representative upon completion or termination of this Agreement, whichever comes first. Teach For America shall not be liable for damages, claims, and losses arising out of any reuse of any work products on any other project conducted by DDOE. DDOE shall have the right to reproduce all documentation supplied pursuant to this Agreement.

6.2 Teach For America retains all title and interest to the data it furnished and/or generated pursuant to this Agreement. Retention of such title and interest does not conflict with DDOE's rights to the materials, information and documents developed in performing the project. Upon final payment, DDOE shall have a perpetual, nontransferable, non-exclusive paid-up right and license to use, copy, modify and prepare derivative works of all materials in which Teach For America retains title, whether individually by Teach For America or jointly with DDOE. Any and all source code developed in connection with the services provided will be provided to DDOE, and the aforementioned right and license shall apply to source code. The parties will cooperate with each other and execute such other documents as may be reasonably deemed necessary to achieve the objectives of this Section.

6.3 In no event shall Teach For America be precluded from developing for itself, or for others, materials that are competitive with the Deliverables, irrespective of their similarity to the Deliverables. In addition, Teach For America shall be free to use its general knowledge, skills and experience, and any ideas, concepts, know-how, and techniques within the scope of its consulting practice that are used in the course of providing the services.

6.4 Notwithstanding anything to the contrary contained herein or in any attachment hereto, any and all intellectual property or other proprietary data owned by Teach For America prior to the effective date of this Agreement ("Preexisting Information") shall remain the exclusive property of Teach For America even if such Preexisting Information is embedded or otherwise incorporated into materials or products first produced as a result of this Agreement or used to develop such materials or products. DDOE's rights under this section shall not apply to any Preexisting Information or any component thereof regardless of form or media.

7. Confidential Information.

To the extent permissible under 29 *Del. C.* § 10001, et seq., the parties to this Agreement shall preserve in strict confidence any information, reports or documents obtained, assembled or prepared in connection with the performance of this Agreement.

8. Warranty.

8.1 Teach For America warrants that its services will be performed in a good and workmanlike manner. Teach For America agrees to re-perform any work not in compliance with this warranty brought to its attention within a reasonable time after that work is performed.

8.2 Third-party products within the scope of this Agreement are warranted solely under the terms and conditions of the licenses or other agreements by which such products are governed. With respect to all third-party products and services purchased by Teach For America for DDOE in connection with the provision of the Services, Teach For America shall pass through or assign to DDOE the rights Teach For America obtains from the manufacturers and/or vendors of such products and services (including warranty and indemnification rights), all to the extent that such rights are assignable.

9. Indemnification; Limitation of Liability.

9.1 Teach For America shall indemnify and hold harmless the State, its agents and employees, from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees) directly arising out of (A) the negligence or other wrongful conduct of the Teach For America, its agents or employees, or (B) Teach For America's breach of any material provision of this Agreement not cured after due notice and opportunity to cure, provided as to (A) or (B) that (i) Teach For America shall have been notified promptly in writing by DDOE of any notice of such claim; and (ii) Teach For America shall have the sole control of the defense of any action on such claim and all negotiations for its

settlement or compromise.

9.2 If DDOE promptly notifies Teach For America in writing of a third party claim against DDOE that any Deliverable infringes a copyright or a trade secret of any third party, Teach For America will defend such claim at its expense and will pay any costs or damages that may be finally awarded against DDOE. Teach For America will not indemnify DDOE, however, if the claim of infringement is caused by (1) DDOE's misuse or modification of the Deliverable; (2) DDOE's failure to use corrections or enhancements made available by Teach For America; (3) DDOE's use of the Deliverable in combination with any product or information not owned or developed by Teach For America; (4) DDOE's distribution, marketing or use for the benefit of third parties of the Deliverable or (5) information, direction, specification or materials provided by Client or any third party. If any Deliverable is, or in Teach For America's opinion is likely to be, held to be infringing, Teach For America shall at its expense and option either (a) procure the right for DDOE to continue using it, (b) replace it with a noninfringing equivalent, (c) modify it to make it noninfringing. The foregoing remedies constitute DDOE's sole and exclusive remedies and Teach For America's entire liability with respect to infringement.

9.3 DDOE agrees that Teach For America's total liability to DDOE for any and all damages whatsoever arising out of or in any way related to this Agreement from any cause, including but not limited to contract liability or Teach For America negligence, errors, omissions, strict liability, breach of contract or breach of warranty shall not, in the aggregate, exceed fees paid to Teach For America.

In no event shall Teach For America be liable for special, indirect, incidental, economic, consequential or punitive damages, including but not limited to lost revenue, lost profits, replacement goods, loss of technology rights or services, loss of data, or interruption or loss of use of software or any portion thereof regardless of the legal theory under which such damages are sought, and even if Teach For America has been advised of the likelihood of such damages.

10. Employees.

10.1 Teach For America has and shall retain the right to exercise full control over the employment, direction, compensation and discharge of all persons employed by Teach For America in the performance of the services hereunder; provided, however, that it will, subject to scheduling and staffing considerations, attempt to honor DDOE's request for specific individuals.

10.2 Except as the other party expressly authorizes in writing in advance, neither party shall solicit, offer work to, employ, or contract with, whether as a partner, employee or independent contractor, directly or indirectly, any of the other party's Personnel during their participation in the services or during the twelve (12) months

thereafter. For purposes of this Section 10.2, "Personnel" includes any individual or company a party employs as a partner, employee or independent contractor and with which a party comes into direct contact in the course of the services.

10.3 Possession of a Security Clearance, as issued by the Delaware Department of Public Safety, may be required of any employee of Teach For America who will be assigned to this project.

11. Independent Contractor.

11.1 It is understood that in the performance of the services herein provided for, Teach For America shall be, and is, an independent contractor, and is not an agent or employee of DDOE and shall furnish such services in its own manner and method except as required by this Agreement. Teach For America shall be solely responsible for, and shall indemnify, defend and save DDOE harmless from all matters relating to the payment of its employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever.

11.2 Teach For America acknowledges that Teach For America and any subcontractors, agents or employees employed by Teach For America shall not, under any circumstances, be considered employees of DDOE, and that they shall not be entitled to any of the benefits or rights afforded employees of DDOE, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits. DDOE will not provide or pay for any liability or medical insurance, retirement contributions or any other benefits for or on behalf of DDOE or any of its officers, employees or other agents.

11.3 Teach For America shall be responsible for providing liability insurance for its personnel.

11.4 As an independent contractor, Teach For America has no authority to bind or commit DDOE. Nothing herein shall be deemed or construed to create a joint venture, partnership, fiduciary or agency relationship between the parties for any purpose.

12. Suspension.

12.1 DDOE may suspend performance by Teach For America under this Agreement for such period of time as DDOE, at its sole discretion, may prescribe by providing written notice to Teach For America at least 30 working days prior to the date on which DDOE wishes to suspend. Upon such suspension, DDOE shall pay Teach For America its compensation, based on the percentage of the project completed and earned until the effective date of suspension, less all previous

payments. Teach For America shall not perform further work under this Agreement after the effective date of suspension. Teach For America shall not perform further work under this Agreement after the effective date of suspension until receipt of written notice from DDOE to resume performance.

12.2 In the event DDOE suspends performance by Teach For America for any cause other than the error or omission of the Teach For America, for an aggregate period in excess of 30 days, Teach For America shall be entitled to an equitable adjustment of the compensation payable to Teach For America under this Agreement to reimburse Teach For America for additional costs occasioned as a result of such suspension of performance by DDOE based on appropriated funds and approval by DDOE.

13. Termination.

13.1 This Agreement may be terminated in whole or in part by either party in the event of substantial failure of the other party to fulfill its obligations under this Agreement through no fault of the terminating party; but only after the other party is given:

- a. Not less than 30 calendar days written notice of intent to terminate; and
- b. An opportunity for consultation with the terminating party prior to termination.

13.2 This Agreement may be terminated in whole or in part by DDOE for its convenience, but only after Teach For America is given:

- a. Not less than 30 calendar days written notice of intent to terminate; and
- b. An opportunity for consultation with DDOE prior to termination.

13.3 If termination for default is effected by DDOE, DDOE will pay Teach For America that portion of the compensation which has been earned as of the effective date of termination but:

- a. No amount shall be allowed for anticipated profit on performed or unperformed services or other work, and
- b. Any payment due to Teach For America at the time of termination may be adjusted to the extent of any additional costs occasioned to DDOE by reason of Teach For America's default.
- c. Upon termination for default, DDOE may take over the work and prosecute the same to completion by agreement with another party or otherwise. In the event Teach For America shall cease conducting business, DDOE shall have the right to make an

unsolicited offer of employment to any employees of Teach For America assigned to the performance of the Agreement, notwithstanding the provisions of Section 10.2.

13.4 If after termination for failure of Teach For America to fulfill contractual obligations it is determined that Teach For America has not so failed, the termination shall be deemed to have been effected for the convenience of DDOE.

13.5 The rights and remedies of DDOE and Teach For America provided in this section are in addition to any other rights and remedies provided by law or under this Agreement.

13.6 Gratuities.

13.6.1 DDOE may, by written notice to Teach For America, terminate this Agreement if it is found after notice and hearing by DDOE that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Teach For America or any agent or representative of Teach For America to any officer or employee of DDOE with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or making of any determinations with respect to the performance of this Agreement.

13.6.2 In the event this Agreement is terminated as provided in 13.6.1 hereof, DDOE shall be entitled to pursue the same remedies against Teach For America it could pursue in the event of a breach of this Agreement by Teach For America.

13.6.3 The rights and remedies of DDOE provided in Section 13.6 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

14. Severability.

If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

15. Assignment; Subcontracts.

15.1 Any attempt by Teach For America to assign or otherwise transfer any interest in this Agreement without the prior written consent of DDOE shall be void. Such consent shall not be unreasonably withheld.

15.2 Services specified by this Agreement shall not be subcontracted by Teach For America, without prior written approval of DDOE.

15.3 Approval by DDOE of Teach For America's request to subcontract or acceptance of or payment for subcontracted work by DDOE shall not in any way relieve Teach For America of responsibility for the professional and technical accuracy and adequacy of the work. All subcontractors shall adhere to all applicable provisions of this Agreement.

15.4 Teach For America shall be and remain liable for all damages to DDOE caused by negligent performance or non-performance of work under this Agreement by Teach For America, its subcontractor or its sub-subcontractor.

15.5 The compensation due shall not be affected by DDOE's approval of Teach For America's request to subcontract.

16. Force Majeure.

Neither party shall be liable for any delays or failures in performance due to circumstances beyond its reasonable control.

17. Non-Appropriation of Funds.

17.1 Validity and enforcement of this Agreement is subject to appropriations by the General Assembly of the specific funds necessary for contract performance. Should such funds not be so appropriated DDOE may immediately terminate this Agreement, and absent such action this Agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available, at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds.

17.2 Notwithstanding any other provisions of this Agreement, this Agreement shall terminate and DDOE's obligations under it shall be extinguished at the end of the fiscal year in which the State of Delaware fails to appropriate monies for the ensuing fiscal year sufficient for the payment of all amounts which will then become due.

18. State of Delaware Business License.

Teach For America and all subcontractors represent that they are properly licensed and authorized to transact business in the State of Delaware as provided in 30 *Del.*

C. § 2301.

19. Complete Agreement.

19.1 This agreement and its Appendices shall constitute the entire agreement between DDOE and Teach For America with respect to the subject matter of this Agreement and shall not be modified or changed without the express written consent of the parties. The provisions of this agreement supersede all prior oral and written quotations, communications, agreements and understandings of the parties with respect to the subject matter of this Agreement.

19.2 If the scope of any provision of this Agreement is too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the Agreement shall not thereby fail, but the scope of such provision shall be curtailed only to the extent necessary to conform to the law.

19.3 Teach For America may not order any product requiring a purchase order prior to DDOE's issuance of such order. Each Appendix, except as its terms otherwise expressly provide, shall be a complete statement of its subject matter and shall supplement and modify the terms and conditions of this Agreement for the purposes of that engagement only. No other agreements, representations, warranties or other matters, whether oral or written, shall be deemed to bind the parties hereto with respect to the subject matter hereof.

20. Miscellaneous Provisions.

20.1 In performance of this Agreement, Teach For America shall comply with all applicable federal, state and local laws, ordinances, codes and regulations. Teach For America shall solely bear the costs of permits and other relevant costs required in the performance of this Agreement.

20.2 Neither this Agreement nor any appendix may be modified or amended except by the mutual written agreement of the parties. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against which it is sought to be enforced.

20.3 The delay or failure by either party to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of that party's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

20.4 Teach For America covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, which would conflict in any manner or

degree with the performance of services required to be performed under this Agreement. Teach For America further covenants, to its knowledge and ability, that in the performance of said services no person having any such interest shall be employed.

20.5 Teach For America acknowledges that DDOE has an obligation to ensure that public funds are not used to subsidize private discrimination. Teach For America recognizes that if they refuse to hire or do business with an individual or company due to reasons of race, color, gender, ethnicity, disability, national origin, age, or any other protected status, DDOE may declare Teach For America in breach of the Agreement, terminate the Agreement, and designate Teach For America as non-responsible.

20.6 Teach For America warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, DDOE shall have the right to annul this contract without liability or at its discretion deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

20.7 This Agreement was drafted with the joint participation of both parties and shall be construed neither against nor in favor of either, but rather in accordance with the fair meaning thereof.

20.8 Teach For America shall maintain all public records, as defined by 29 *Del. C.* § 502(7), relating to this Agreement and its deliverables for the time and in the manner specified by the Delaware Division of Archives, pursuant to the Delaware Public Records Law, 29 *Del. C.* Ch. 5. During the term of this Agreement, authorized representatives of DDOE may inspect or audit Teach For America's performance and records pertaining to this Agreement at the Teach For America business office during normal business hours.

21. Insurance.

21.1 Teach For America shall maintain the following insurance during the term of this Agreement:

- A. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law, and
- B. Comprehensive General Liability - \$1,000,000.00 per person/\$3,000,000 per occurrence, and
- C. Medical/Professional Liability - \$1,000,000.00 per person/\$3,000,000 per occurrence; or

- D. Miscellaneous Errors and Omissions - \$1,000,000.00 per person/\$3,000,000 per occurrence, or
- E. Automotive Liability Insurance covering all automotive units used in the work with limits of not less than \$100,000 each person and \$300,000 each accident as to bodily injury and \$25,000 as to property damage to others.

21.2. Teach For America shall provide forty-five (45) days written notice of cancellation or material change of any policies.

21.3. Before any work is done pursuant to this Agreement, the Certificate of Insurance and/or copies of the insurance policies, referencing the contract number stated herein, shall be filed with the State. The certificate holder is as follows:

Delaware Department of Education
401 Federal Street, Suite 2
Dover, DE 19901

21.4. In no event shall the State of Delaware be named as an additional insured on any policy required under this agreement.

22. Assignment of Antitrust Claims.

As consideration for the award and execution of this contract by the State, Teach For America hereby grants, conveys, sells, assigns, and transfers to DDOE all of its right, title and interest in and to all known or unknown causes of action it presently has or may now or hereafter acquire under the antitrust laws of the United States and the State of Delaware, relating to the particular goods or services purchased or acquired by the State pursuant to this contract.

23. Surviving Clauses

The following clauses survive the termination of this Contract: Section 9.

24. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, except where Federal Law has precedence. Teach For America consents to jurisdiction venue in the State of Delaware.

25. Notices.

Any and all notices required by the provisions of this Agreement shall be in writing and shall be mailed, certified or registered mail, return receipt requested. All notices

shall be sent to the following addresses:

CONTRACTOR: Teach For America, 100 West 10th Street, Suite 500,
Wilmington, DE 19801

DDOE: David Blowman
Deputy Secretary
Delaware Department of Education
John G. Townsend Building
401 Federal Street, Suite 2
Dover, DE 19901
Phone No. (302) 735-4040
Fax No. (302) 739-7768

DOE Certificated Staff coordinating activity:

Next Page for Signatures.

IN WITNESS THEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date and year first above written.

Teach For America
Original on File

(Official of Vendor)
Project Manager

9/22/15

Date
Original on File

(Official of Vendor)
Principal Investigator

Date

Delaware Department of Education
Original on File

David Bowman
Deputy Secretary Original on File

9/22/15
Date Initial Finance Director
Original on File

Branch Associate Secretary
Original on File

9/8/2015
Date Initial Work Group
Director

Appendix A: Statement of Work for TFA Logistics and Service Delivery

A. Summary: Teach For America (TFA) will recruit, select, place, train and provide ongoing support and professional development to a minimum of thirty-eight and a maximum of seventy novice teachers in Delaware from September 2015 to September 2016 as part of a broader effort to establish a pipeline of additional talent and leadership in Delaware public schools and the state.

1. The annual number of teachers ("corps size") will be determined by Delaware Department of Education (DDOE) in partnership with Teach For America and the state's local education agencies (LEAs) and charter schools. Incoming corps member should have a GPA above 3.0 and meet all state legislative and regulatory requirements for licensure and certification. Below is the annual breakdown of minimum and maximum corps size, based upon regional capacity and demand. Corps size may be amended based upon mutual agreement between DDOE and TFA:

a. 2015-2016 school year (as determined by June 2015): 20-33 teachers ("2015 Corps"). With an additional 10-15 teachers recruited for the "2016 Corps" within the duration of this contract amendment.

b. Each teacher will provide a minimum of two years (THREE YEARS HIGHLY PREFERRED and measured) of service in a Delaware district or charter school. A metric for completion of the two year commitment and for teacher retention beyond the two years will be established—see Measures of Success. Teach For America will place teachers in LEAs where Teach For America teachers currently serve, focusing on close partnerships within New Castle and Sussex Counties and, as a result of this amendment, expand its efforts to place teachers in 1-2 additional LEAs with high-need schools:

i. Additional districts and schools will be determined by Teach For America in partnership with district and school leaders and in partnership with DDOE focusing on concentrated and accelerated impact. TFA teachers from the 2016 corps must be placed in Sussex County.

ii. The number of teachers per district and the number of teachers per school will be determined by Teach For America in partnership with district and school leaders and in consultation with DDOE. Whenever possible, multiple Teach For America teachers will be placed in cohorts at the

same school. DDOE will support such "clustering" efforts in consultation with LEAs.

- iii. Additional support and leadership development services and programming will be established for corps members who fulfill their "two year commitment" and begin a third year of teaching in Delaware's highest-need schools. TFA will explicitly message its desire for corps members to serve for 3+ years in Delaware, and to take on roles of teacher leadership, school leadership, and policy leadership after five years of successful classroom instruction (per PSB Regulations). TFA shall partner with other local and national organizations in providing this ongoing intensive support to Delaware educators who are "alumni" of TFA but wish to build and grow a lifelong career in education in Delaware.

2. The ability for Teach For America to achieve the scale as stated in Section A is contingent upon meeting the following criteria:

- a. Securing contracts with district and school leaders: Securing placement opportunities for TFA teachers is part of the vendor's responsibility in building a diversified and sustainable funding base and in generating a sufficient supply of high-quality teachers for high-need schools in Delaware.
- b. Securing remaining funding for operating expenses.

B. Program Overview: Elements of Teach For America's program include, but are not limited to: recruitment, selection, placement, pre-service training, and ongoing support and professional development. Below is a summary of each of these elements followed by detailed explanations.

- a. Recruitment at 800 of the nation's colleges and universities to cultivate talented and diverse graduating seniors with strong academic backgrounds and proven leadership abilities that are in alignment with studies on effective teaching in high poverty contexts. Additionally, Teach For America recruits talented individuals who have not recently graduated from college.
- b. Starting in 2016, Teach For America- Delaware will partner with the Relay Graduate School of Education (RGSE) to transform the corps member pre-service program and move beyond the five-week stand-alone training model. Summer institute will be the

first full pre-service teacher training program in Delaware. Integrating Teach For America's pre-service training with the Relay Master of Arts in Teaching will ensure a seamless delivery of a cohesive training program from Day One, throughout two years. This training methodology will reduce unnecessary overlap in trainings and eliminate the confusion corps members face when navigating different materials and terminology from institute instructors, Teacher Leadership Development coaches, higher education professors, and district and school partners.

- c. Matching corps members to positions in Delaware's highest-need public schools.
- d. Provision of ongoing regional support, including: One-on-one coaching and mentoring of teachers by full-time teacher coaches who themselves have been effective classroom teachers in low-income communities; tailored professional development and training targeting key elements of practice and pedagogy as diagnosed by principals, teacher coaches, and other experts; Enrollment in Relay Graduate School of Education.
- e. Alumni development through Teach For America's alumni network and connection to and development of leadership opportunities through Teach For America's local and national networks. TFA shall establish this leadership work stream as high-priority and allocate resources to ensuring that the majority of Delaware's TFA corps members remain in the state beyond their two-year commitment and have clear pathways to additional professional development, teacher-leadership, and school leadership when doing so.

1. Recruitment

- a. Teach For America recruits top talent from more than 800 schools nationwide, also focusing on local and regional schools such as University of Delaware, Delaware State University, and Wilmington University. A team of full-time recruiters network with faculty, staff, and students to identify prospective corps members. Teach For America raises awareness on campuses by sending e-mails to mailing lists, holding general information sessions, and conducting presentations to student groups and in classes, many of which the Delaware staff lead. After 25 years of recruitment, numbers show that 13% enter the corps intending

to stay in education while 67% leave the corps staying in education.

- b. Teach For America looks beyond college campuses for talented prospective teachers. The organization advertises online, collaborates with national and regional organizations to reach their members, and partners with professional services firms and other top employers. The organization also promotes grassroots recruiting efforts through current corps members and alumni.

2. Selection

- a. Teach For America conducts ongoing research to understand the key skills and mindsets that drive teacher effectiveness. This research has resulted in a selection model that enables Teach For America to admit applicants who have a great likelihood of success in low-income environments. Teach For America screens individual applicants for a proven track record of achievement in school, work, and/or extracurricular activities. While looking for evidence of perseverance in the face of challenges, strong critical thinking and organizational skills, the ability to influence and motivate others, high expectations for students and families in low-income communities, and a desire to work relentlessly.
- b. Teach For America uses a three-stage evaluation process to assess applicants. Each stage features different activities to measure the competencies required:
 - i. Applicants complete an online application that includes a letter of intent and a resume.
 - ii. Applicants who move to the next stage are either invited to a phone interview or an in-person interview.
- c. All final stage candidates attend a daylong interview where they are asked to conduct a sample teaching session for other candidates; participate in a series of discussions and written exercises based on case studies and issues in education; and engage in a personal interview.
- d. Teach For America's senior admissions staff reviews all selection decisions, safeguarding against "false positives" and "false negatives."

3. Hiring and Placement

- a. Teach For America teachers will meet the requirements to be deemed fully licensed teachers under the relevant and applicable provisions of Delaware state law.**
 - i. Teach For America teachers will hold a bachelor's degree from a regionally accredited college or university.**
 - ii. Teach For America teachers will complete all pre-service requirements, which include corps members teaching summer school in a student-teaching environment, in accordance with state law and regulation.**
 - iii. Teach For America teachers will achieve a passing score on the Praxis CORE, or an equivalent accepted by DDOE, prior to hire by a Delaware LEA. TFA teachers will also pass an examination of content knowledge, such as Praxis II, for the area in which they are originally assigned to teach prior to August 31st of any given academic year. Teachers who have not met both testing requirements will not be fully supported or "counted" by DDOE. Teachers not placed in PreK-12 public schools will also not be "counted" for the purposes of this contract.**
- b. Teach For America will manage the hiring and placement of teachers in partner districts and charter schools (LEAs). The TFA-Delaware regional team will build partnerships with schools and districts to understand their culture and unique hiring needs and facilitate matching of our teachers based on our understanding of their interests and qualifications (notably those of the hiring manager or school leader).**
 - iv. Teachers will attend interviews with school leaders or other district or building staff that are responsible for making the hiring decisions for their schools.**

- v. Teach For America teachers will be asked to accept the first offer they receive. Teach For America expects corps members to be highly-flexible regarding job placement, with a willingness and desire to teach in whatever district, school or content area they are needed and ultimately placed in.

4. Pre-Service Training

- a. Summer institute will span 6 weeks, including induction, 4 weeks of summer school instruction, and 1 week of content and standards based training. Teach For America and Relay Graduate School of Education (RGSE) will partner with a Delaware LEA. Each party will manage different aspects of planning/design, operations and corps members training.
 - b. During pre-service training, candidates will be provided with numerous rehearsal “at-bats” through modeling, public practice and scrimmages. Candidates will observe highly effective teachers through video review and reflect upon best practices. They will receive frequent feedback and coaching from the Relay Dean and faculty, including authentic assessment of the mock lessons, lesson plans, and behavior management plans they develop. Pre-service training prepares candidates to start their fall teaching placements on sound footing and lays the foundation for Relay coursework which continues seamlessly throughout the school year.
 - c. Regional orientation – a series of group and individual professional development – will allow corps members to continue building skills, hone content-specific pedagogy needs, and deepen their understanding of their local standards. By the conclusion of regional orientation after institute, teachers will produce meaningful transformational goals for their students, long-term plans that align with goals, tools for assessing progress against plans, and a daily, period-by-period plan for the first several weeks of school.
5. Ongoing Support Teach For America’s regional team and RGSE will provide ongoing support and professional development throughout the two-year commitment. Support will be a fluid extension of summer institute.
- a. Teach For America Support: While Relay will assume primary responsibility for pedagogical and content training, Teach For

America's Teacher Leadership Development team will play a pivotal role in the development of corps members, primarily through an emphasis in diversity, equity, and inclusion as well as deliberately antiracist education. Strategies include:

- i. **Observation and coaching from Managers of Teacher Leadership development (MTLDs):** Each Delaware corps member is assigned a MTLD who has experience as an effective teacher in a school serving low-income students. Teachers work with their MTLD to evaluate student outcomes, identify the causes of gaps in student performance, and seek and implement solutions from an array of possible resources.
 - ii. **Regional learning experiences:** Teachers meet regularly as a full corps and in content or grade level specific learning teams led by experienced teachers, including Teach For America alumni and second-year corps members. At these meetings, teachers discuss ongoing challenges, share best practices, and work together on professional development.
 - b. **RGSE, through their Master of Arts In Teaching degree, will train corps members in best pedagogical practices, as well as content and grade band expertise. After completing summer institute, corps members will continue their graduate studies at Relay. Relay's program is rooted in practice and is focused on concrete techniques that can be applied in graduate students' classrooms the very next day. RGSE organizes its curriculum around four elements with a focus on Student Growth and Achievement that, when taken together, suggest a framework for what it takes to prepare teachers who are leading their K-12 students to dramatic growth in academics and in character. Relay's programs focus on four Elements of Effective Instruction: Self and Other People, Classroom Culture, Teaching Cycle, and Content.**
6. **Alumni Development:** Teach For America supports alumni career development through a series of efforts that include school leadership and teacher-leadership initiatives. The focus is based upon alumni interest and potential to have a direct and significant impact on student achievement as well as a direct reflection of the need in our community for excellent teachers and leaders.

- a. **Lead For Delaware – Teach For America’s proposed leadership development program.** This program, led by Teach For America in collaboration with partner organizations and Delaware public schools, will recruit, develop and retain 25 diverse school leaders in the next 5 years. LFD alumni will exhibit bold, effective leadership that results in immediate, demonstrated improvements in school culture, teaching and learning
- i. **Candidates will require:**
 - 4 years of teaching experience
 - A Master’s degree from a regionally accredited college or university.
 - A minimum GPA of 3.0
 - ii. **Components of the program include, but are not limited to:**
 - An international leadership journey
 - Harvard Data Wise Leadership Institute
 - NAATE Case Study Fellowship
 - Online courses from Wilmington University
 - Excellent school visits
 - Modules from TNTP
 - Mentorship from master teachers and leaders
- b. **Alumni Course:** A spring course designed for new alumni, focused on building one of the “critical competencies” for turnaround teachers based on research conducted by Public Impact, an organization focused on teacher leadership and school improvement, including:
- Research on successful teachers in high-poverty schools in the US
 - Competency studies of successful teachers in the UK
 - Cross-sector research on successful organization turnarounds
- c. **Fellowships:** In order to enable alumni to develop their leadership skills, we have established a fellowship program. Alumni work on

projects they are passionate about with financial and operational support from Teach For America. Projects include writing new curriculum, analyzing logistical needs of schools, and planning education and diversity events.

B. Operations and Personnel: Program Operations for Teach For America's Delaware regional office are based out of Wilmington, Delaware. Teach For America receives operational support from the organization's national office in New York.

1. **Personnel:** The Delaware regional team consists of an Executive Director, a program team "Managers of Teacher Leadership Development," and an operations team. There are a total of 7 staff members.
 - a. Executive Director of Teach For America's Delaware regional team works closely with local leaders and supporters to manage expansion into schools and districts and increase the local funding base while providing oversight and direction to regional staff to ensure corps member effectiveness.
 - b. Managing Director of Teacher Leadership Development manages all aspects of teacher preparation, and acts as the liaison between Teach For America and Relay Graduate School of Education. The Managing Director also manages all Managers of Teacher Leadership Development.
 - c. Managers of Teacher Leadership Development provide support and ongoing professional development to Teach For America – Delaware teachers. After the summer institute where teachers receive initial training, Managers of Teacher Leadership Development observe, evaluate, and train teachers during their two years in the training program to help them excel in the classroom.
 - d. Senior Managing Director of School Leadership is responsible for the planning, design and execution of Teach For America's Delaware principal certification program, Lead For Delaware, as well as all alumni learning and development.
 - e. The Delaware regional team also includes staff members who manage operations including contracts, grants, office space, fundraising, marketing, certification, community and district partnerships, and other assistance as needed.

2. Additional elements of Teach For America's program, including recruitment, selection, technology, and some parts of program design are executed by teams that operate from New York.

C. Measures of Success: In order to appropriately evaluate the effectiveness of Teach For America in Delaware, DDOE will set several programmatic measures of success. Progress on each metric should be reported on a quarterly basis. These measures will be used to drive the work of the Teach For America-Delaware initiative, and are considered relevant beyond the scope of the contract when DDOE considers further engagements with TFA-DE.

1. Selection: A target for the percentage of corps members who take and pass all required exams prior to the first day of school in the content they were assigned
 - a. 100% each year
2. Retention: A target for the % of teachers will begin their second year of teaching AND a separate target for the % of teachers who complete their two year commitment (neither including those involuntarily outplaced by TFA);
 - a. 95% begin their second year
 - b. 85% complete their two-year commitment
3. Alumni: A target for the % of Teach For America-Delaware alumni who begin working full-time or part-time in Delaware beyond their two-year commitment AND a separate target for the % of teachers who continue serving (for a third year) in Delaware's high-need schools:
 - a. 70% each year
 - b. 60% each year
4. Alumni: A target for the number of Teach For America-Delaware alumni enrolled full-time or part-time in a teacher-leadership and/or school leadership program to serve Delaware's high-need schools long-term:
 - a. 4 by September 2015
 - b. 10 by May 2016
 - c. 16 by May 2017
5. Student Achievement: To what extent will students in TFA classrooms emerge on a path of expanded opportunities due to major academic and professional growth: As measured by state standardized assessments or the grade level equivalent, students make more than typical academic growth, narrowing the gap between corps member classrooms vs. high performing classrooms around the state. DDOE and TFA shall both

develop such a model to evaluate the efficacy of corps members, sharing those results.

6. **Student Achievement Metric:**
 - 55% of ELA/Math teachers in grades 3-10 rated "Exceeds" on Measure A of the state's DPAS-II Component V
7. **Corps Satisfaction:** A target for the % of Teach For America corps members who respond positively to an agreed-upon "Corps Strength Index" as nationally-normed by TFA;
 - a. **Corps Strength Index**
 - i. Teach For America commits to achieve newly defined Breakthrough results. This includes raising the average CSI to 50%
 1. Please see these Breakthrough results attached
 - ii. % change fall to spring (to be set by September 30, 2015)
 - iii. % change End of Year to End of Year (to be set September 30, 2015)
8. **Client Satisfaction:** A target for the percentage of partner LEAs who, if presented with the option, would hire a TFA corps member again
 - a. Greater than 75% as measured in spring of 2016
9. **Client Satisfaction:** A target for the percentage of partner school leaders who, if presented with the option, would hire a TFA corps member again
 - a. Greater than 75% as measured in spring of 2016

DDOE reserves the right to conduct independent surveys of TFA teachers, providing fair notice to TFA staff as needed. DDOE reserves the right to conduct research at any time, whether it be via DDOE officials or an externally contracted service provider.

Amendments to measures of success will be mutually agreed upon by DDOE and Teach For America. Consistent with other contractual agreements with teacher preparation pipelines, DDOE reserves the right of final sign-off on all program measures of success.

Evaluations of the initiative based on measures of success may be conducted by DDOE or an external party. DDOE's requests for data from Teach For America will be met in a timely matter in order to appropriately evaluate efficacy and drive program improvement.

Appendix B: Payments and Deliverables

Total payment for this Agreement with Teach For America (TFA-Delaware Region) will not exceed the amount \$298,000 for the term of September 15, 2015 to July 31, 2016.

Payment Schedule. Quarterly payments (October, December, February, May) will occur under three categories of deliverables, with "requested documentation" denoting all documents requested by DDOE.

By October 30, 2015, TFA will provide the DDOE with the following deliverables:

1. Scope and sequence of training 2015-2016
2. Corps member school placement spreadsheet including teaching alum
3. Biographical information on 2015 corps
4. Relay enrollment and course description

By December 15, 2015 TFA will provide DDOE with the following deliverables:

1. Lead For Delaware recruitment plan and programmatic schedule
2. A summary of First Eight Weeks progress

By February 29, 2016 TFA will provide DDOE with the following deliverables:

1. A summary of alum engagement
2. Recruitment and hiring progress

By May 15, 2016, TFA will provide DDOE with the following deliverables:

1. Benchmark Achieved based on accepted and rigorous assessments
2. A summary of alum engagement
3. Recruitment and hiring progress of 2016 corps
4. Pre-service and induction launch schedule
5. Lead For Delaware cohort 2 member roster

As denoted above, payment for these monthly and categorical deliverables, if approved by DDOE, will be made on a quarterly basis for the amount of \$74,500 to Teach For America on the 30th day of October 2015, December 2015, (29th day) February 2016, and May 2016.