

CONTRACT FOR PROFESSIONAL SERVICES

This Contract for Professional Services ("CONTRACT") sets forth YOUR and OUR respective responsibilities and obligations with regard to the PROFESSIONAL SERVICES to be provided by US to YOU. When "YOU" and "YOUR" are used in this CONTRACT, it means the SCHOOL ENTITY that is identified below. When "WE", "US", "PSBA" and "OUR" are used in this CONTRACT, it means the PENNSYLVANIA SCHOOL BOARDS ASSOCIATION, whose address is P.O. Box 2042, Mechanicsburg, PA 17055.

<u>Full Legal Name of School District (or other entity):</u> ERIE COUNTY TECHNICAL SCHOOL	<u>Term of CONTRACT:</u> As stated on "Appendix A" provided to and executed by PSBA and YOU.
<u>School District's (or other entity's) Physical Address:</u> 8500 OLIVER ROAD ERIE, PA 16509-4699	<u>PROFESSIONAL SERVICES to be Provided by PSBA and dates for PROFESSIONAL SERVICES to be provided:</u> As stated on "Appendix A" provided to and executed by PSBA and YOU.
<u>School District's (or other entity's) Mailing Address:</u> Same as above	

TERMS AND CONDITIONS

1. **CONTRACT.** This CONTRACT consists of the foregoing information, these TERMS AND CONDITIONS and Appendix A. These documents include all items necessary to describe the services and work to be provided by PSBA. The CONTRACT documents are complementary, and what is required by one shall be as binding as if required by all; performance by PSBA shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results. In the event that there is any alleged or real conflict between any term(s) contained in these TERMS AND CONDITIONS and any term(s) contained in the Appendix, these TERMS AND CONDITIONS shall control.

2. **PRICE.** As stated in Appendix "A."

3. **TIME OF PERFORMANCE.** As stated in Appendix "A."

4. **OWNERSHIP RIGHTS.** PSBA shall retain ownership rights over any submitted report, data, or material, and any software or modifications and any associated documentation that is designed or developed and delivered to YOU as part of the performance of the CONTRACT. Except for distribution within the school entity or as set forth in Appendix A, no part of PSBA materials may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording, or otherwise, nor shared with other school entities, without the prior written consent of the PSBA. .

5. **TRADE SECRETS.** The products and professional services provided by PSBA to YOU constitute trade secrets and confidential propriety information consistent with 65 P.S. § 67.708(b)(11).

6. **COMMERCIAL INFORMATION.** The materials and services provided by the PSBA represent commercial information that is privileged and confidential. The disclosure of the materials, oral presentations, policy reviews, or analysis expressed would cause substantial harm to the competitive position of PSBA. The materials should not be forwarded, reproduced, disseminated or transmitted in any form or by any means beyond any school district personnel without the express written consent and approval of the PSBA. The written material includes information, compilations, methods techniques and processes that provide value to the PSBA. This includes but is not limited to any board self-assessments, superintendent evaluations, labor relation opinions, policy examples, teambuilding material, guides, topic outlines, goal setting descriptions, board self assessments, workshop handouts, workshop presentations, seminar handouts, seminar presentations, electronic presentations, electronic communication, written communication, salary schedule analysis, fiscal health evaluations, collective bargaining fact-finding communication, arbitration support, negotiations support, financial support, budgetary support, sample job descriptions, training packets, reference guides, sample contracts, sample agreements, PSBA contracts, study results, graphs, photographs, subscription descriptions, applications, permissible/non-permissible reference, interview facilitation guidelines/procedures, evaluation tool materials and or any other written or otherwise material provided by the PSBA. The material derives independent economic value from not being generally known to and not be being readily ascertainable by proper means by other persons or entities who can obtain economic value from the disclosure or use of PSBA's materials. YOU should use all reasonable means under the circumstances to maintain the confidentiality of the materials. The material should not be forwarded, reproduced, disseminated or transmitted in any form or by any means to any person or entity without the express written consent of the PSBA.

7. **CONFIDENTIAL INFORMATION.** "Confidential Information" means all information, materials, data, processes, procedures, methods, documentation, records, drawings, designs, specifications, test results, evaluations, and know-how supplied by, or at the direction of, either party to the other party in any form and whether or not marked or labeled as being confidential or proprietary, including without limitation, the material provided as part of professional services by PSBA to YOU. Before disclosing any Confidential Information under court order or operation of law, YOU shall provide PSBA with such reasonable notice as is possible so as to allow the opportunity to object to or limit such disclosure. The parties also agree that a violation of the covenants described in this paragraph may cause irreparable and substantial damage and that no adequate remedy may be available at law or in equity. As the result, any such violation may be enjoined through injunctive proceedings in addition to any other rights and remedies available at law or in equity. A party will promptly notify the other party if it becomes aware of any unauthorized use or disclosure of Confidential Information of the other party and will take such action as may be reasonably necessary and legally permissible to terminate or

remedy any unauthorized use or disclosure that results from any act or omission of the party or any of its employees, subcontractors or agents.

8. **POLICY REVIEW.** All PSBA policy development and review services, including any material offered as part of PSBA's policy development or review service, are protected by 65 P.S. § 67.708(b)(9). This professional service represents the draft of a regulation, statement of policy, management directive, ordinance, or amendment thereto prepared for an agency or school entity.

9. **ADMINISTRATIVE REGULATION.** All PSBA draft administrative regulations services, including any material offered as part of PSBA's Administrative Regulations Manual Development, are protected by 65 P.S. § 67.708(b)(9). This professional service represents the draft of a regulation, statement of policy, management directive, ordinance, or amendment thereto prepared for an agency or school entity.

10. **TERMINATION PROVISIONS.** PSBA and YOU each have the right to terminate this CONTRACT at any time and with or without cause, effective upon written notice to the other party. PSBA shall be paid for SERVICES satisfactorily completed prior to the effective date of the termination.

11. **FORCE MAJEURE.** Neither party shall be liable for any delay or failure to perform its obligations under this Agreement (other than obligations of payment) if such delay or failure arises from any cause(s) beyond the reasonable control of such party, including but not limited to third party labor disputes, third party strikes, other third party labor or industrial disturbances, act of God, floods, lightning, earthquakes, shortages of materials, rationing, utility or communication failures, casualty, war, acts of public enemy, riots, insurrections, embargoes, blockages, actions, restrictions, new or changed regulations or orders of any governmental agency or subdivision thereof.

12. **CHOICE OF LAW.** This CONTRACT shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania (without regard to any conflict of law provisions) and the decisions of the Pennsylvania courts.

13. **INTEGRATION.** The terms set forth in this CONTRACT constitute the entire agreement between the parties. No modifications, alterations, changes, or waiver to such terms shall be valid or binding unless accomplished by a written amendment signed by properly authorized representatives of both parties.

14. **LIMITATION OF LIABILITY.** PSBA's liability arising out of this agreement will be limited to refund of the price as stated in Appendix "A". In no event will PSBA be liable for any special, consequential, incidental or indirect damages (including without limitation loss of profit) whether or not PSBA has been advised of the possibility of such loss, however caused and on any theory of liability arising out of this CONTRACT. This exclusion applies to any liability that may arise out of third-party claims against YOU.

15. **SURVIVAL OF DESIGNATED PROVISIONS BEYOND TERMINATION OF CONTRACT.** Notwithstanding anything herein to the contrary, the following provisions of this CONTRACT shall survive termination of this CONTRACT:

- a. The Ownership Rights provisions in paragraph 4;
- b. The Trade Secrets provisions in paragraph 5;
- c. The Commercial Information provisions in paragraph 6;
- d. The Confidential Information provisions in paragraph 7;
- e. The Policy Review provisions in paragraph 8; and
- f. The Administrative Regulation provisions in paragraph 9.

16. **AUTHORITY.** All persons signing this CONTRACT on behalf of PSBA and YOU hereby personally covenant and warrant that they are authorized to enter into this CONTRACT by the governing body of PSBA and YOUR governing board.

17. **CONTEXT.** Reference in this CONTRACT to the singular shall be meant to include reference to the plural and vice versa. Reference in this CONTRACT to the masculine gender shall be meant to include the female and neuter and vice versa.

18. **HEADINGS.** The headings of any Section or Paragraph hereof are for reference purposes only and shall not in any way affect the meaning or interpretation thereof.

19. **SEVERABILITY.** All agreements and covenants herein contained are severable. In the event that any provision of this CONTRACT should be held to be unenforceable, the validity and enforceability of the remaining provisions hereof shall not be affected thereby. Any court construing this CONTRACT is expressly granted the authority to revise any invalid or unenforceable provision hereof in order to render same enforceable.

Erie County Technical School

Pennsylvania School Boards Association

By: _____

By: *Hauklyn S. Smeltzer*

Title: Board Chairperson

Title: Director of Policy Services

Date: _____

Date: January 6, 2011

By: _____

Title: Board Secretary

Date: _____

APPENDIX A

December 14, 2010

Mr. Paul D. Fritz
Business Manager/Board Secretary
Erie County Technical School
8500 Oliver Road
Erie, PA 16509-4699

Dear Mr. Fritz,

Thank you for your inquiry into PSBA's Policy on the Web program. This letter details the benefits of the Policy on the Web Program, which includes online maintenance and search capability. Participation in this program will save your school time, money and staff resources.

The Erie County Technical School's online policy manual would be housed on the PSBA server. The online manual can be accessed in two ways. The most efficient method is to use the URL address to place a link directly on the school's web site. This way it appears as though everything is processed directly through the school. Access is also available to educational secretaries, administrators and Joint Operating Committee members through PSBA's web site.

The main page, table of contents page and subject index are customized with the same header that appears on your local web site and a link containing a local school contact is provided.

One of the key features of PSBA's Policy on the Web service is the powerful search engine provided in the online manual. The manual will be searchable by key word or phrase, policy number or name, section title, table or index. Users can easily maneuver throughout the policy by clicking on the highlighted search results within each policy document.

Another benefit of this service is the online policy maintenance. After the initial posting of the school's adopted policies, PSBA will continue to process any policy revisions received from the school and **simultaneously** update those particular policies on the web. This ensures that the online policy manual will be maintained with the most up-to-date edition and will be in accord with the policy manuals located at the school.

We recognize that online policy manuals need to be updated in a prompt manner. Members of PSBA's Policy on the Web program enjoy priority processing of all new and revised policies.

P. Fritz, Bus. Mngr.
Dec. 14, 2010
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It is extremely important to maintain the security and integrity of your policies. Policies posted through the Policy on the Web program are in PDF format and cannot be revised or deleted by anyone except PSBA staff. The online manual is updated only when new or revised policies are received at PSBA from the official school contact.

I have enclosed a CD-ROM containing a PowerPoint presentation. The CD-ROM also contains a link to Bethlehem Area School District's online policy manual. While viewing the CD-ROM, simply copy the link that is provided on the slide entitled, "Let's Take A Test Drive", and paste the link into your Internet web browser, and you will be able to maneuver around the online policy manual.

The cost of posting the policy manual to the web is \$2500, including one free year of online policy maintenance. Payment for the service is divided into two separate installments of \$1250 each over two fiscal years. At the start of the second year, an annual fee of \$400 is charged for server utilization and maintenance of the online policy manual.

If your school would like to participate in the Policy on the Web Program, please forward to my attention written approval of the service; the name, position and e-mail address of the designated person to be linked as a contact on the web page; and an electronic copy of your school's logo.

I appreciate your interest in this online service, if you have any questions please feel free to contact me at heather.masshardt@psba.org or 717-506-2450, ext. 3401.

Sincerely,

Heather A. Masshardt
Policy Consultant