

GENERAL SERVICE AGREEMENT

THIS GENERAL SERVICE AGREEMENT (the “Agreement”) dated this

_____ day of July, 2024

BETWEEN:

North Star Parent Teacher Association of 9301 Ventura NE, Albuquerque, NM 87122
(the "Client" aka “NSPTA")

—AND—

Open Source Kids of 8100 Wyoming Blvd NE, Suite M4-740, Albuquerque, NM 87113
(the "Contractor" aka "OSK")

BACKGROUND:

- The Client is of the opinion that the Contractor has the necessary qualifications, experience, and abilities to provide services to the Client.
- The Contractor is agreeable to providing such services to the Client on the terms and conditions set out in this Agreement.
- The Contractor has a memo of understanding (MOU) with the Albuquerque Public School District (APS) outlining requirements and parameters for providing services to APS. See appendix 1.
- This agreement is not intended in any way, written or implied, to override, nullify, or otherwise alter the the MOU between the Contractor and APS.
- This agreement lays out details of the services to be provided by the Contractor and the Client, the requirements by the Contractor of the Client needed to successfully complete the agreement, and the compensation to be provided for said services. While these services are also broadly spelled out in the MOU, this agreement may reiterate these details for convenience only.

IN CONSIDERATION OF the matters described above and of the mutual benefits and obligations set forth in this Agreement, the receipt and sufficiency of which consideration is hereby acknowledged, the Client and the Contractor (individually the "Party" and collectively the "Parties" to this Agreement) agree as follows:

Services Provided

1. The Client hereby agrees to engage the Contractor to provide the Client with the following services (the "Services"):
 - a. Provide an education program for computer science pullout allowing each class at grades K–5 to have an up to 50-minute computer science pullout once per week. The computer science program will be based on the New Mexico computer science standards or similar curriculum. It is understood that it will not be possible to implement all standards in a once-a-week class schedule.
 - b. The Client agrees not to require the Contractor to use any particular curriculum, equipment, computer hardware, computer software, methodology, philosophy, or pedagogy to accomplish the services described in this contract.
 - c. The Contractor will provide the equipment and organizational framework necessary for a makerspace to be used by grades K–5 with the details of the use to be determined by North Star Elementary School administration.
2. The Services will also include any other tasks which the Parties may agree on. The Contractor hereby agrees to provide such Services to the Client.

Contract Information

3. This is a two year contract.
4. The purpose of the two-year timeframe of this contract is to stabilize the compensation portion of the contract as to allow the Client and the Contractor to budget for the contract.
5. The specific terms of this contract can be renegotiated before June 1, 2025 for the 2025-2026 school year, except for the total compensation amounts.
6. Either party has the right to terminate the contract after the end of the 2024-2025 school year with no penalty of obligation.

7. The second year of this contract is void if the Contractor does not have an MOU in place with APS in a timeframe suitable for the execution of the second year of the contract.

Background Information

8. The Albuquerque Public Schools (“APS”) school dates for the 2024-2025 school year calendar lists August 7, 2023 as the first day of school and May 30, 2025 as the last day of school. See appendix 2.
9. For the purposes of this contract, the first day of school (the “First Day”) dates are those dates listed in the official APS 2024–2025 and 2025–2026 school year calendars.
10. For the purposes of this contract, the last day of school (the “Last Day”) dates are those dates listed in the official APS 2024–2025 and 2025–2026 school year calendars.
11. The APS 2024–2025 school year schedule provides for 180 synchronous instructional days (“SID”) and 2 asynchronous instructional days (“AID”) for students (generically, instructional days or “ID”).
12. This contract cannot describe the days of service for APS 2025–2026 school year, due to the lack of a available 2025–2026 school year APS calendar at the time of contract initiation. The number of ID for the 2025–2026 school year will be those provided in the official APS calendar that is applicable to North Star Elementary School.

Term of Agreement

13. The term of this Agreement (the “Term”) will begin on the date of this Agreement, with the Contractor starting to teach classes on the “First Day” of the 2024–2025 school year and will remain in full force and effect until the “Last Day” of the 2025–2026 school year, subject to earlier termination as provided in this Agreement.
14. The Contractor will provide instructional days equal to those spelled out in the official APS calendars.
15. The Contractor will provide for on-line activities for students to use during asynchronous instructional days (AID) as spelled out in the official APS calendars.
16. The Contractor will not provide every student the same number of instructional hours due to the uneven distribution of days of the week for school closures (e.g., holidays). This is consistent with student time in other pull-out classes.

17. The Contractor will provide ONLY non-teaching, non-pullout, computer support assistance to North Star staff during the first week of school for the purpose of assigning and delivering devices to students. The Contractor will also use these days to provide introductory computer lessons to 2nd grade students, since they will be receiving Chromebook devices for the first time.
18. The Contractor reserves the right to instruct students in an asynchronous fashion or in-class instead of in a pullout format. The main rationale for this includes, but is not limited to, allowing for combo lessons with other subjects and allowing flexibility in delivery of project-based learning. Decisions to teach in this manner will be coordinated with the North Star principal and grade-level teachers in a manner determined to provide the best balance between student educational experience and classroom-teacher planning time.
19. In the event of APS adding additional dates to account for missed snow days, the Term will automatically extend to the last day of school.
20. The dates and number of days of teaching laid out in this Agreement may be shortened or decreased at the discretion of the North Star Elementary School principal, as necessary based on school desires and/or needs of the principal, without change to the Term as laid herein.
21. Changes by APS or the State of New Mexico to the 2024–2025 or 2025–2026 academic calendar for reasons other than those stated above or due to snow day makeup, do not constitute changes to the Term of this Agreement.
22. The Term shall be extended only with the written consent and approval of the Parties.

Performance

23. The Parties agree to do everything reasonably practicable to ensure that the terms of this Agreement take effect.

Currency

24. Except as otherwise provided in this Agreement, all monetary amounts referred to in this Agreement are in USD (US Dollars).

Compensation

25. The Contractor will charge (the “Compensation”) the Client for the Services at the per school-year base-rate of \$65,000 for the 2024–2025 school year and \$67,500.00 for the 2025–2026 school year.
26. The Client will provide \$10,000 to the Contractor upon signing of the contract.
27. If the Contractor terminates the contract before December 31, 2024 for the first year and before December 31, 2025 for the second year, the Contractor agrees to repay this amount on a *pro rata* basis of \$1500 per month (August through December) or fraction thereof. If NSPTA terminates the contract or if APS terminates the MOU at any time, OSK is not obligated to repay this amount.
28. The Client will be invoiced for 1/10 of the remainder of the total Compensation by the Contractor (i.e., \$5,500/month the first year and \$5,750/month the second year) by the 7th day of each teaching month starting after the first month (i.e., September 7, 2024 and continuing through June 7, 2025).
29. This agreement assumes twenty-five (25) or less classes per week will be taught. If more than 25 classes per week are required to be taught, the per school-year base-rate will increase by an additional \$2500/ class. This additional fee will be paid monthly in equal amounts from the first month the extra class(es) begins and will be included in the monthly invoice.
30. The Client will deliver payment to the the Contractor at North Star Elementary School on the 1st day of each month independent of invoice delivery date. If the first day (1st) falls on a weekend or holiday, the payment will be due on the next school day.
31. If payment is made later than the seventh (7th) day of the following month, or, if the seventh day (7th) falls on a weekend or holiday, the payment is made later than the first school day after the 7th day, the payment will be considered late. This clause is true regardless of the delivery date of the invoice.
32. The Contractor will be entitled to up to 3 non-teaching days for personal use (i.e., sickness, injury, family care, etc.) without decrease in compensation.
33. Compensation will decrease \$300.00/day for days missed in excess of 3 days. Days missed due to required quarantine time or restrictions by North Star administration or APS for the safety of the students are not counted as missed days.
34. In the event that this Agreement is terminated by the Client prior to completion of the Services but where the Services have been partially performed, the Contractor will be entitled to full payment of the contract

provided that there has been no breach of contract on the part of the Contractor. If the agreement is terminated by the Contractor, the Contractor will be compensated *pro rata* for the services provided per this agreement.

35. The Contractor will not be reimbursed for any expenses incurred in providing the Services of this Agreement.

Penalties for Late Payment

36. Any late payments will trigger a fee of 5.00% per 7 days past due, or part thereof, on the amount still owed. Late payment fees will be added to the amount still owed and will constitute the new payment due.

Trade Secrets

37. Trade secrets (the “Trade Secrets”) include but are not limited to any data or information, technique or process, tool or mechanism, formula or compound, pattern or test results relating to the business of the Client, which are secret and proprietary to the Client, and which give the business a competitive advantage where the release of that Trade Secret could be reasonable expected to cause harm to the Client.
38. The Contractor agrees that they will not disclose, divulge, reveal, report or use, for any purpose, any Trade Secrets which the Contractor has obtained, except as authorized by the Client or as required by law. The obligations of confidentiality will apply during the term of this Agreement and will survive indefinitely upon termination of this Agreement.

Ownership of Intellectual Property

39. All intellectual property and related material (the “Intellectual Property”) that is developed or produced under this Agreement, will be the property of the Contractor. The Client is granted a non-exclusive limited-use license of this Intellectual Property for the duration of the contract.
40. Title, copyright, intellectual property rights and distribution rights of the Intellectual Property remain exclusively with the Contractor.

Return of Property

41. Upon the expiry or termination of this Agreement, the Contractor will return to the Client any property, documentation, records, or confidential information which is the property of the Client.
42. Upon the expiry or termination of this Agreement, the Client will return to the Contractor any property, documentation, records, or confidential information which is the property of the Contractor.

Capacity/Contractor

43. In providing the Services under this Agreement, it is expressly agreed that the Contractor is acting as a contractor and not as an employee. The Contractor and the Client acknowledge that this Agreement does not create a partnership or joint venture between them and is exclusively a contract for service. The Client is not required to pay, or make any contributions to, any social security, local, state or federal tax, unemployment compensation, workers' compensation, insurance premium, profit-sharing, pension or any other employee benefit for the Contractor during the Term. The Contractor is responsible for paying, and complying with reporting requirements for, all local, state and federal taxes, related to payments made to the Contractor under this Agreement.

Notice

44. All notices, requests, demands or other communications required or permitted by the terms of this Agreement will be given in writing and delivered to the Parties at the following addresses:
 - a. North Star Parent Teacher Association, 9301 Ventura NE, Albuquerque, NM 87122
 - b. Open Source Kids, Inc, 8100 Wyoming Blvd NE, Suite M4-740, Albuquerque, NM 87113or to such other address as either Party may from time to time notify the other and will be deemed to be properly delivered (a) immediately upon being served personally, (b) two days after being deposited with the postal service if served by registered mail, or (c) the following day after being deposited with an overnight courier.
37. The Contractor and Client may submit correspondence and invoices via electronic communications, such as text messaging and email, at the official addresses and phone numbers or at those provided by other means. Communications receive electronically are equivalent to written correspondence as described above.

Indemnification

- 38. For the purposes of this contract, the personnel used by the Contractor to fulfill this contract will be considered volunteers with respect to the school. All Contractor personnel will adhere to all APS and North Star rules for unsupervised volunteers.
- 39. Except to the extent paid in settlement from any applicable insurance policies, and to the extent permitted by applicable State of New Mexico law, each Party agrees to indemnify and hold harmless the other Party, and its respective directors, board members, shareholders, affiliates, officers, agents, employees, volunteers, and permitted successors and assigns against any and all claims, losses, damages, liabilities, penalties, punitive damages, expenses, reasonable legal fees and costs of any kind or amount whatsoever, which result from or arise out of any act or omission of the indemnifying party, its respective directors, board members, shareholders, affiliates, officers, agents, employees, volunteers, and permitted successors and assigns that occurs in connection with this Agreement. This includes any accident, injury, or illness caused to students, teachers or other people on the premises, and any and all liability from fire, destruction, or damage caused to the building or the building contents.
- 40. The Contractor is required to add the Client as additionally insured with the insurance company of their choice and provide the Client with documentation confirming such proof.
- 41. The Contractor will not hold NSES or NSPTA liable for equipment damaged by normal use by students. The Contractor will insure its own equipment.

Additional Clauses

- 42. There is an assumption that North Star Elementary School (“NSES”) will provide the following items:
 - a. The Contractor will be provided with the exclusive use of the North Star technology lab (Room 120) (i.e., the “classroom”) for teaching. No other computer equipment will be permanently placed in the room on student desks or OSK tables for use by other teachers, clubs, or activities, including, but not limited to, after-school activities.
 - b. Neither the NSPTA nor NSES/APS will mandate what equipment must be used by the Contractor to teach classes.

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- c. If a classroom other than the North Star technology lab (Room 120) is provided for class, it shall be equipped with equipment and services comparable to those in room 120, including 29 electrical outlets (including pathway covers for wires), 29 ethernet ports, and 29 desks/tables.
 - d. The Contractor classroom will contain a ViewSonic-brand, touch-screen, teaching board and pen identical to that used by the majority teachers at NSES during the 2024–2025 school year.
 - e. The Contractor classroom will contain one, 30-port iPad charging cart for the exclusive use by the Contractor.
 - f. The Contractor classroom will have Wi-Fi internet access that the Contractor will be able to log into.
 - g. The Contractor will be able to use any standard teacher supplies and equipment in the standard ways agreed upon for reasonable teacher school use. Examples of this include, but are not limited to, workroom copiers, lamination machines, die-cut punches, office paper, papers available in the workroom, communal office supplies, etc.
 - h. The Contractor will be provided with at least one key to the technology room and any room required to complete the above stated work. This key will be available for OSK teachers to take from the school property.
 - i. The Contractor will be provided with key or key-card access to the outer school doors.
 - j. The Contractor will be required to follow all NSES and APS procedures with said key and/or key-card.
 - k. The Contractor will have access to the school and to the classroom during the same days and for the same hours as NSES APS teachers.
 - l.
 - m. The Contractor will be provided with an APS email account for each teacher provided by OSK. These accounts must have the appropriate system level privileges to utilize APS teaching resources.
 - n. The Contractor will have access to APS Google Classrooms for each teacher account. This account shall have all of the system rights and privileges accorded to APS teachers.
43. On weeks when NSES is using the classroom for testing or other purposes, the Contractor will have access to another space with the same electrical, ethernet, and desk requirements to continue running its program. In the event that another space at the school is not available for the Contractor to use, the Contractor will not be required to teach classes during that time.

44. The Contractor reserves the right to change the curriculum at any time and in any way the Contractor sees fit to accomplish the requirements of this agreement.
45. Force Majeure: Neither party will be liable for failure or delay to perform obligations under this agreement, which have become practicably impossible because of circumstances beyond the reasonable control of the applicable party. Such circumstances include without limitation natural disasters or acts of God; acts of terrorism; labor disputes or stoppages; war; government acts or orders; epidemics, pandemics, or outbreak of communicable disease; quarantines; national or regional emergencies; or any other cause, whether similar in kind to the foregoing or otherwise, beyond the party's reasonable control. Written notice of a party's failure or delay in performance due to force majeure must be given to the other party no later than five (5) business days following the force majeure event commencing, which notice shall describe the force majeure event and the actions taken to minimize the impact thereof. All delivery dates under this agreement affected by force majeure shall be tolled for the duration of such force majeure. The parties hereby agree, when feasible, not to cancel but reschedule the pertinent obligations and deliverables for mutually agreed dates as soon as practicable after the force majeure condition ceases to exist as directed and recommend by the North Star Principal and APS.

Modification of Agreement

46. Any amendment or modification of this Agreement or additional obligation assumed by either Party in connection with this Agreement will only be binding if evidenced in writing signed by each Party or an authorized representative of each Party.

Time is of the Essence

47. Time is of the essence in this Agreement. No extension or variation of this Agreement will operate as a waiver of this provision.

Assignment

48. The Contractor will not voluntarily, or by operation of law, assign or otherwise transfer its obligations under this Agreement without the prior written consent of the Client.

Entire Agreement

49. It is agreed that there is no representation, warranty, collateral agreement or condition affecting this Agreement except as expressly provided in this Agreement.

Inurement

50. This Agreement will inure to the benefit of and be binding on the Parties and their respective heirs, executors, administrators and permitted successors and assigns.

Titles/Headings

51. Titles, headings, numbers, and letters are inserted for the convenience of the Parties only and are not to be considered when interpreting this Agreement.

Gender

52. Words in the singular mean and include the plural and vice versa. Words in the masculine mean and include the feminine and vice versa. Words like “they” and “them” used to denote singular persons, are to be interpreted as such and in a manner consistent with current cultural accommodations.

Governing Law

53. This Agreement will be governed by and construed in accordance with the laws of the State of New Mexico.

Severability

54. In the event that any of the provisions of this Agreement are held to be invalid or unenforceable in whole or in part, all other provisions will nevertheless continue to be valid and enforceable with the invalid or unenforceable parts severed from the remainder of this Agreement.

Waiver

55. The waiver by either Party of a breach, default, delay, or omission of any of the provisions of this Agreement by the other Party will not be construed as a waiver of any subsequent breach of the same or other provisions.

Digital Signatures

56. Any digital means may be used by the Parties to constitute a legally-binding signature.

IN WITNESS WHEREOF the Parties have duly affixed their signatures under hand and seal on this _____ day of July, 2024.

North Star Parent Teacher Association (NSPTA)

Open Source Kids, Inc (OSK)

Wendy McMurtry, President on Behalf of NSPTA

Anthony Lupinetti, President of Board, OSK

_____(Signed)

_____(Signed)

_____(Date)

_____(Date)

North Star Elementary School (optional)

Misty Smith, Principal

_____(Signed)

_____(Date)

Appendix 1: Memo of Understanding between OSK and APS

Appendix 2: 2024-2025 School Year Traditional Calendar