

CONTRACT BETWEEN
THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA
AND KATHERYN W. GEMBERLING

THIS CONTRACT entered into this 19th day April 2006, by and between THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA (hereinafter referred to as the “BOARD”), which is the governing body of the School District of Palm Beach County, Florida, and KATHERYN W. GEMBERLING (hereinafter referred to as “CONSULTANT”),

1. **CONTRACT.** This Contract shall commence on July 1, 2006 and shall remain effective until June 30, 2007, with an option to extend as agreed to by both parties.

2. **PROFESSIONAL SERVICES AND RESPONSIBILITIES OF THE CONSULTANT.** CONSULTANT shall serve as an independent contractor for the BOARD, servicing in the following areas: Serve as senior advisor to the Superintendent on instructional issues and assume primary responsibility for the Educational Data Warehouse (EDW).

Provide support to improve student achievement:

Support incorporation of District Academic Business Plan, AAA Plan, Educational Technology Plan, etc. into single, coherent, focused District Strategic Plan

Provide consultation services to Area Leadership to enhance quality monitoring

Support Department of C&I to develop and provide oversight for District-wide focused course of studies

Support creation and implementation of parent resources to communicate standard course of studies classroom syllabus for enhanced parent engagement

Assist establishment of effective transition academies from middle to high school

Support high school transition teams and academies

Train principals and assistant principals in data-driven leadership

Train Learning Team facilitators in use of EDW and data-feedback process

Provide support to incorporate on-line assessment and district common assessments

Refine use of ROI model to determine best practices and use of resources

Implement EDW:

Provide input to strategic planning for district-wide focus on data-driven decision making through development of a comprehensive data warehouse

Design and facilitate use of school/district management matrices to monitor student progress and program implementation

Design and facilitate use of analytic reporting solutions to determine impact of independent variables in contributing to student learning

Design and facilitate use of management dashboards and scorecards that incorporate easily interpreted information for data driven leadership

Design and facilitate expanded use of new Report Net software

Support rollout of EDW to classroom teachers. This is a massive undertaking that will require coordinated implementation of the system navigation, data analysis and applications for instructional interventions.

Continue to refine navigation design to provide faster access to priority reports to help reduce potential information overload

Serve on EDW Steering Committee

Serve on district Security Committee

Design and conduct professional development focused on using EDW data to determine appropriate instructional strategies and resources

- a. Evaluation of Services – the services provided by the CONSULTANT will be measured by the CONSULTANT’S deliverable components of the EDW, including the increase of school-based users and the number and flexibility of reports available to users. This product will be directly aligned with the School District of Palm Beach County Goals, Objectives and Key Results reporting. Support provided to improve student achievement will be evaluated by the Chief Academic Officer or her designee.
- b. Consultant shall not evaluate the performance of the personnel in the Information Technology Department.

3. **INDEPENDENT CONTRACTOR.** The parties understand and agree that the services to be provided by CONSULTANT will be performed exclusively by CONSULTANT and that the relationship between the BOARD and CONSULTANT will not be that of an employer and employee. The BOARD shall at all times be obligated to the CONSULTANT for payment of fees under the conditions outlined below.

4. **BOARD SUPPORT.** The parties understand agree that the BOARD will provide a cellular telephone and personnel to assist CONSULTANT in the discharge of CONSULTANT'S duties.

5. **COMPENSATION.** For services performed by the CONSULTANT as outlined in this Contract through June 30, 2007, the BOARD agrees to pay the CONSULTANT an hourly rate of \$90.50, not to exceed \$117,650 (1,300 hours), plus reimbursement for travel required in order to perform the duties of the position, as limited by Section 112.061 Fla.Stat., and described in Exhibit "A", which is attached hereto and incorporated within;
 - a. The CONSULTANT will be paid for services on a bi-monthly basis.

 - b. Because the CONSULTANT is not BOARD's employee, CONSULTANT is responsible for paying all required State and Federal taxes. More specifically, BOARD will not withhold FICA (Social Security) from CONSULTANT's payments; BOARD will not make State or Federal unemployment insurance contributions on behalf of CONSULTANT; BOARD will not withhold State or Federal income tax from payments made to CONSULTANT; BOARD will not make disability insurance contributions on behalf of CONSULTANT; and BOARD will not obtain Workers' Compensation Insurance on behalf of CONSULTANT.

6. **MAXIMUM FEES TO BE PAID TO CONSULTANT.** CONSULTANT shall not earn more than \$117,650 annually. CONSULTANT's maximum payments shall be \$9,804 per month subject to terms set forth below.
 - a. "Accrual" – If the services provided by CONSULTANT in a given month generate payments of less than \$9,804, CONSULTANT may accrue the differential. So, for example, if

CONSULTANT earns \$6,000 in month of July, she can accrue the ability to earn an additional \$3,804 in a subsequent month or to divide the accrued \$3,804 among subsequent months.

- b. "Banking" hours – CONSULTANT may perform services that would entitle her to earn sums in excess of \$9,804 in a given month, request payment for only \$9,804 in that month, then request payment for the difference during a month when she otherwise would receive payment of less than \$9,804, provided however that the annual fees paid do not exceed \$117,650 annually. So, for example, if (i) the CONSULTANT provides 118.33 hours of service in July, receives payment of \$9,804 for the services rendered in July, and "banks" the entitlement to receive \$905 payment for the extra ten (10) hours worked and (ii) CONSULTANT provides only 98.33 hours of service in September, CONSULTANT may receive payment of \$9,804 in September for the 98.33 hours of service rendered in September and the ten (10) extra hours of service rendered in July.

7. **BOARD'S RESPONSIBILITIES.** The BOARD shall assist CONSULTANT by placing at CONSULTANT'S disposal all information available to BOARD, which is pertinent to CONSULTANT'S duties. BOARD shall arrange for access to and make all provisions for CONSULTANT to enter upon District property as required for CONSULTANT to perform her services.

8. **RECORDS.** CONSULTANT shall keep such records and accounts as may be necessary in order to complete the Contract and to obtain reimbursement for any expenses for which CONSULTANT expects to be reimbursed. CONSULTANT shall keep all books and records, which are considered public records in accordance with Chapter 119. Fla. Stat.

9. **TERMS AND CONDITIONS.**

- a. Termination – The Board, reserves the right to terminate this Contract at any time and for any reason, upon giving thirty (30) days notice to the other party. If said Contract should be terminated for convenience as provided herein, the Board will be relieved of all obligations under said Contract. The Board will only be required to pay the amount of the contract actually performed to the date of termination.

- b. The CONSULTANT shall have the option to terminate the Contract upon written notice to the Superintendent or his designee. Such notice must be received at least ninety (90) days prior to the effective date of termination, unless CONSULTANT has been appointed to a governmental position that requires her services in less than ninety (90) days prior to the effective date of termination. Earlier termination dates may be established by mutual consent of both parties.
- c. This contract cannot be assigned, nor can any one other than CONSULTANT perform the services required under this Contract.
- d. Conflict of Interest – The CONSULTANT represents that she presently has no interest and shall acquire no interest, either direct or indirect, which will conflict in any way with the performance of services required hereunder as provided for either in Section 112.311, Fla.Stat. Similarly, CONSULTANT represents that she shall not employ any person having a conflict of interest to assist her in the performance of the services to be provided pursuant to this Contract. The CONSULTANT shall promptly notify the BOARD in writing of all potential conflicts of interest owing to any perspective business association, interest or other circumstance that may influence or appear to influence the CONSULTANT’s judgment or the quality of services provided by CONSULTANT pursuant to this Contract. Such written notification shall identify the perspective, the business association, interest or circumstances, and the nature of the work that the CONSULTANT might undertake. Said notification shall request an opinion of the BOARD as to whether the association, interest or circumstances would, in the opinion of the BOARD, constitute a conflict of interest. The BOARD agrees to notify the CONSULTANT of its opinion within twenty (20) days of its receipt of notification by the CONSULTANT. If, in the opinion of the BOARD, the perspective business association, interest or circumstances would not constitute a conflict of interest, the BOARD shall so state in the notification and the CONSULTANT shall have the option of entering into said association, interest or circumstances as she deems appropriate.
- e. BOARD shall provide CONSULTANT with the “Hourglass” software used by the District so that the CONSULTANT can readily keep track of and account for the hours spent performing her

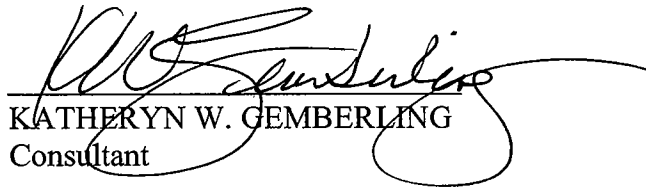
duties under this Contract. The CONSULTANT may provide the services provided under this Contract on the District premises or at another site. However, CONSULTANT acknowledges that certain services can efficaciously be provided only on District premises.

f. CONSULTANT shall report to the Superintendent of Schools.

g. Entire Contract – This Contract, including all exhibits hereto, constitutes the entire Contract between the BOARD and the CONSULTANT with respect to the subject matter hereof, and it supersedes all other oral or written understandings or contracts relating to the subject matter hereof. This Contract may not be amended except in writing signed by both parties.

10. **SEVERABILITY.** In the event that any term, part or provision of this Contract is found to be illegal or unenforceable by a court of competent jurisdiction, the validity of the remaining portions and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term, part or provision held to be invalid.
11. **LAW AND VENUE.** This Contract shall be governed by and construed in accordance with the laws of the State of Florida, and venue shall be in Palm Beach County, Florida.
12. **STRICT PERFORMANCE.** The failure of either party to insist on strict performance of any covenant or condition herein shall not be construed as a waiver of such covenants or conditions in any instance.

IN WITNESS WHEREOF, THIS contract has been executed on the _____ day of _____, 2006.

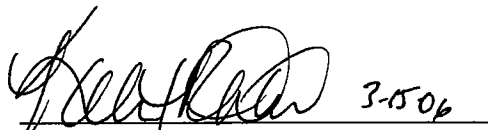

KATHERYN W. GEMBERLING
Consultant

SCHOOL BOARD OF PALM BEACH COUNTY,
FLORIDA

By: _____
THOMAS M. LYNCH
Chairman of the Board

Reviewed and Approved by:

Attest:


KALINTHIA DILLARD
Associate Counsel

ARTHUR C. JOHNSON, Ph.D
Superintendent of Schools

ADDENDUM, Concerning Student Information, to the Contract
("the Contract") dated 4/20/06, between The School Board of Palm Beach and
Katheryn Gemberling [vendor/partner].

Pursuant to School Board Policy 5.50, receipt of which is acknowledged by the vendor's/partner's signature below, the School District hereby designates Kathy Gemberling [vendor/partner] ("the Party") as an "other school official" for purposes of receiving limited personally-identifiable student information under FLA. STAT. § 1002.22(3)(d)2 because the School District recognizes the Party has legitimate educational interests in receiving this information in order to carry out the Party's responsibilities for the school or District under the Contract. (All other terms of the Contract remain the same.)

As a condition precedent to receiving confidential student information, the Party warrants and agrees that the Party:

- will limit the use of, or access to, confidential student information to the limited scope of information actually needed to complete the services under contract. The District has determined that the Party has a legitimate educational interest in receiving only the following fields of student data [for example: name, grade-level, school attending, etc.; add more spaces as necessary to cover the minimum scope of data actually deemed needed]: name, grade-level, school attending, test scores; and
- will limit the access to student information to its employees and/or agents who actually have a legitimate educational interest in the information (i.e., they legitimately need to access the information in order to carry out their responsibilities under the Contract); and
- shall avoid, and shall instruct applicable employees/agents to avoid, accessing personally-identifiable student information except for the legitimate purposes recognized under this Addendum, and shall require that all employees/agents accessing the data must be trained in, and sign an acknowledgement regarding, the confidentiality requirements; and
- will comply with the requirements of Fla. Admin. Code Rule 6A-1.0955(6)(g), that student information shall not be disclosed by the Party in any form to any party other than appropriate school officials or the Party's employees/agents to the extent allowed herein (even if the document is first redacted to remove personally-identifiable information), without the prior written consent of the adult student or the parent/guardian, as appropriate; and
- shall maintain any confidential student information in secure data processing facilities or in securely locked cabinets, and the Party shall monitor the security and safekeeping of the confidential data; and
- will dispose of all information disclosed to it by the School District (and any copies thereof), after the purpose for which the information is disclosed has been served, or five years after the receipt of the information (whichever is sooner), by shredding paper documents finely enough to prevent possible recovery of information, and by totally erasing and over-writing (or physically destroying) any electronic media such as computer files, tapes, or diskettes, or physically destroyed.

The parties acknowledge that the terms contained in this Addendum supersede any inconsistent terms in the Contract.

IN WITNESS WHEREOF, the parties hereto have executed this Addendum:

[Legal name of the Party]
By: [Signature]
[person having authority to enter legally-binding agreements on behalf of the Party]
Date: 3/21/06

The School Board of Palm Beach County
By: _____
Date: _____