

Performance Fact, Inc.

Vendor/Customer Code	Address ID	Record Date	Transaction	AL Amount	Referenced Transaction	BFY	Fiscal Year	Department	Unit	Fund	Object
30573	B01	7/26/2024	PO,0755,2501528	\$ 28,280.00	RQS,0755,01762500017	2025	2025	0755	0176	030	5899
30573	B01	8/4/2023	PO,0755,00000785546	\$ 21,280.00	RQS,0755,01760053209	2024	2024	0755	0176	030	5899
30573	B01	9/26/2022	PO,0755,00000764153	\$ 21,280.00	RQS,0755,01760048059	2023	2023	0755	0176	030	5899
30573	B01	7/16/2021	PO,0755,00000741685	\$ 21,280.00	RQS,0755,01760043007	2022	2022	0755	0176	030	5899
30573	B01	7/28/2020	PO,0755,00000691211	\$ 21,280.00	RQS,0755,01760040008	2021	2021	0755	0176	030	5899

Vendor/Customer Code	Record Date	Transaction	AL Amount	Referenced Transaction	Vendor Invoice Number	BFY	Fiscal Year
30573	10/30/2024	PRC,0890,HLA00240656	\$ 14,140.00	PO,0755,2501528	1702	2025	2025
30573	8/26/2024	GAX,0890,24HL2500066	\$ 5,320.00	PO,0755,00000785546	1668	2025	2025
30573	1/22/2024	PRC,0890,SMA00208821	\$ 5,320.00	PO,0755,00000785546	1658	2024	2024
30573	11/1/2023	PRC,0890,SC000069507	\$ 10,640.00	PO,0755,00000785546	1645	2024	2024
30573	3/23/2023	PRC,0890,BT000048000	\$ 5,320.00	PO,0755,00000764153	1614	2023	2023
30573	1/13/2023	PRC,0890,HMA00203516	\$ 5,320.00	PO,0755,00000764153	1592	2023	2023
30573	10/25/2022	PRC,0890,HMA00203047	\$ 10,650.00	PO,0755,00000764153	1585	2023	2023
30573	6/28/2022	PRC,0890,HMA00202037	\$ 5,320.00	PO,0755,00000741685	1557	2022	2022
30573	3/23/2022	PRC,0890,HMA00201040	\$ 5,320.00	PO,0755,00000741685	1537	2022	2022
30573	2/23/2022	PRC,0890,HMA00200887	\$ 10,640.00	PO,0755,00000741685	1526	2022	2022
30573	6/15/2021	PRC,0890,HM000050830	\$ 21,280.00	PO,0755,00000691211	1456	2021	2021



Performance Fact, Inc.
333 HEGENBERGER RD
SUITE 204
OAKLAND, CA 94621
(510)568-7944
contact@performancefact.com
www.performancefact.com

INVOICE

BILL TO

African American Academic
Acceleration (A4) - Fresno
Unified School District
2309 Tulare
Fresno, CA 93721 USA

INVOICE # 1456

DATE 01/29/2021

DUE DATE 02/28/2021

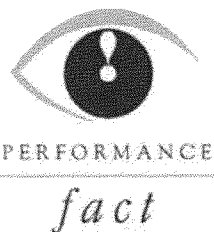
TERMS Net 30



DESCRIPTION	QTY	RATE	AMOUNT
Services - Implementation Strategic Plan	1	21,280.00	21,280.00

BALANCE DUE

\$21,280.00



Performance Fact, Inc.
4022 Balfour Ave
Oakland, CA 94610
(510)568-7944
contact@performancefact.com
www.performancefact.com

INVOICE

741685

BILL TO

African American Academic
Acceleration (A4) - Fresno
Unified School District
ATTN: Accounts Payable
2309 Tulare
Fresno, CA 93721 USA

INVOICE # 1526
DATE 02/07/2022
DUE DATE 03/09/2022
TERMS Net 30

RECEIVED
By Accounting at 8:51 am, Feb 23, 2022

ACTIVITY	QTY	RATE	AMOUNT
Services - Implementation Strategic Plan	1	10,640.00	10,640.00
Vital Signs consultation			

Invoice 1 of 3

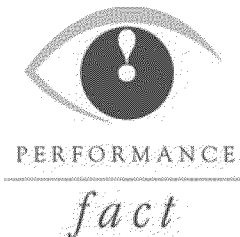
BALANCE DUE

\$10,640.00

Dates of Service:

September 22, 2021
October 4, 2021
November 21, 2021
December 9, 2021
January 21, 2022

Luis Ramirez



Performance Fact, Inc.
4022 Balfour Ave
Oakland, CA 94610
(510)568-7944
contact@performancefact.com
www.performancefact.com

INVOICE

BILL TO

African American Academic
Acceleration (A4) - Fresno
Unified School District
ATTN: Accounts Payable
2309 Tulare
Fresno, CA 93721 USA

INVOICE # 1537

DATE 03/07/2022

DUE DATE 04/06/2022

TERMS Net 30

ACTIVITY	QTY	RATE	AMOUNT
Services - Implementation Strategic Plan Vital Signs consultation	1	5,320.00	5,320.00

Invoice 2 of 3

BALANCE DUE

\$5,320.00

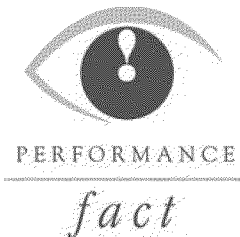
Luis Ramirez

Services rendered:

Attended Zoom meeting to finalize documents
to be completed/sent to Fresno

Completed and provided:

Final Strategic Plan
Annual Priorities document
K-2 Grade-level Survey
3-6 Grade-level Survey
7-8 Grade-level Survey
9-2 Grade-level Survey
Teacher Survey



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INVOICE

BILL TO

African American Academic
Acceleration (A4) - Fresno
Unified School District
ATTN: Accounts Payable
2309 Tulare
Fresno, CA 93721 USA

INVOICE # 1557

DATE 05/16/2022

DUE DATE 06/15/2022

TERMS Net 30

ACTIVITY	QTY	RATE	AMOUNT
Services - Implementation Strategic Plan Vital Signs consultation	1	5,320.00	5,320.00

Invoice 3 of 3

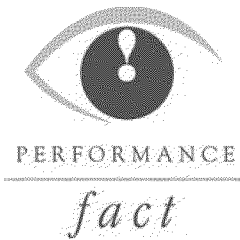
BALANCE DUE

\$5,320.00

Services rendered:

Zoom meeting to discuss Next Steps/Finalize 2020-2021 SY Work

Discussed upcoming school year, 2020-2021 completed work, reviewed
Vital signs/sign-off of services.



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INVOICE

BILL TO

African American Academic
Acceleration (A4) - Fresno
Unified School District
ATTN: Accounts Payable
2309 Tulare
Fresno, CA 93721 USA

INVOICE # 1585**DATE 10/14/2022****DUE DATE 11/13/2022****TERMS Net 30**

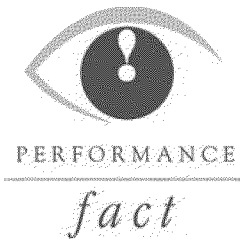
ACTIVITY	QTY	RATE	AMOUNT
Services - Implementation Strategic Plan Vital Signs consultation	1	10,650.00	10,650.00

Invoice 1 of 3

BALANCE DUE**\$10,650.00**

Implementation consultation:
Facilitation - July Retreat
Zoom planning sessions
Annual Action Plan documentation
Facilitation of Strategic Planning-Data Review (November 1, 2022)

Lisa Mitchell



Performance Fact, Inc.
 4022 Balfour Ave
 Oakland, CA 94610
 (510)568-7944
 contact@performancefact.com
 www.performancefact.com

INVOICE

BILL TO

African American Academic
 Acceleration (A4) - Fresno
 Unified School District
 ATTN: Accounts Payable
 2309 Tulare
 Fresno, CA 93721 USA

INVOICE # 1592

DATE 12/19/2022

DUE DATE 01/18/2023

TERMS Net 30

ACTIVITY	QTY	RATE	AMOUNT
Services - Implementation Strategic Plan Vital Signs consultation	1	5,320.00	5,320.00

Invoice 2 of 3

BALANCE DUE

Lisa Mitchell

\$5,320.00

Services rendered during this invoice time frame:

Preparation for Monthly Zoom sessions
 Facilitation-Monthly Zoom Implementation sessions
 Facilitation of Strategic Planning revision/adding additional
 camps to the Strategic Plan, provided/collaborated on language
 for Core Belief Number 3 in the Strategic plan

PRE BT 48000

P.O#764153



Performance Fact, Inc.
4022 Balfour Ave
Oakland, CA 94610
(510)568-7944
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www.performancefact.com

INVOICE

BILL TO

African American Academic
Acceleration (A4) - Fresno
Unified School District
ATTN: Accounts Payable
2309 Tulare
Fresno, CA 93721 USA

INVOICE # 1614

DATE 03/15/2023

DUE DATE 04/14/2023

TERMS Net 30

ACTIVITY	QTY	RATE	AMOUNT
Services - Implementation Strategic Plan Vital Signs consultation	1	5,320.00	5,320.00

Invoice 3 of 3

BALANCE DUE

\$5,320.00

Lisa Mitchell

Services included in this invoice:

Implementation consultation: Facilitation- Monthly February and
March Zoom Implementation sessions
Finalized revision of Core Belief #3
Updated Strategic Plan

INVOICE

Performance Fact, Inc.
4022 Balfour Ave
Oakland, CA 94610

contact@performancefact.com
(510)568-7944
www.performancefact.com



African American Academic Acceleration (A4) - Fresno Unified School District

Bill to
African American Academic Acceleration (A4) -
Fresno Unified School District
2309 Tulare
Fresno, CA 93721 USA

Invoice details
Invoice no.: 1645
Terms: Net 30
Invoice date: 10/05/2023
Due date: 11/04/2023

Product or service		Amount
1. Services - Implementation Strategic Plan	1 unit x \$10,640.00	\$10,640.00
Total		\$10,640.00

Note to customer

Invoice 1 of

Services: Retreat Planning Meeting
Onsite Retreat
September Monthly Meeting
Production-Updated Strategic Plan

INVOICE

PO# 785546

Performance Fact, Inc.

4022 Balfour Ave
Oakland, CA 94610

contact@performancefact.com

(510)568-7944

www.performancefact.com



PERFORMANCE

fact

AMS DocID: SMA00208821

African American Academic Acceleration (A4) - Fresno Unified School District

Bill to

African American Academic Acceleration (A4) -
Fresno Unified School District
2309 Tulare
Fresno, CA 93721 USA

Invoice details

Invoice no.: 1658

Terms: Net 30

Invoice date: 12/14/2023

Due date: 01/13/2024

#	Date	Product or service	SKU	Qty	Rate	Amount
1.		Services - Implementation Strategic Plan		1	\$5,320.00	\$5,320.00
					Total	\$5,320.00

Note to customer

Invoice 2 of 3

This invoice covers services for the following:

November Monthly Meeting

Meetings scheduled for January 12 and January 25

Lisa Mitchell

INVOICE

PO #785546
invoice #1668

5/31/2024

Lisa Mitchell

Performance Fact, Inc.
4022 Balfour Ave
Oakland, CA 94610

contact@performancefact.com
(510)568-7944
www.performancefact.com



African American Academic Acceleration (A4) - Fresno Unified School District

Bill to
African American Academic Acceleration (A4) -
Fresno Unified School District
2309 Tulare
Fresno, CA 93721 USA

Invoice details
Invoice no.: 1668
Terms: Net 30
Invoice date: 02/16/2024
Due date: 03/17/2024

#	Date	Product or service	SKU	Qty	Rate	Amount
1.		Services - Implementation Strategic Plan		1	\$5,320.00	\$5,320.00
					Total	\$5,320.00

Note to customer

Invoice 3 of 3

This invoice covers services for the following:
February through May Monthly meetings and April 18 Retreat

PO # 2501528

Lisa Mitchell

9/24/20224

INVOICE

Performance Fact, Inc.
4022 Balfour Ave
Oakland, CA 94610

kayej@performancefact.com
+1 (510) 568-7944
www.performancefact.com

J. Davis



PERFORMANCE

AMS DocID: HLA00240656

Bill to

African American Academic Acceleration
(A4) - Fresno Unified School District
2309 Tulare
Fresno, CA 93721 USA

Invoice details

Invoice no.: 1702
Terms: Net 30
Invoice date: 09/11/2024
Due date: 10/11/2024

#	Date	Product or service	Description	Qty	Rate	Amount
1.		Services - Implementation Strategic Plan		1	\$14,140.00	\$14,140.00

Total

\$14,140.00

Note to customer

Invoice 1 of 3


This invoice covers services for the following:
February through May Monthly meetings and April 18 Retreat



www.fresnounified.org

PURCHASE ORDER

BILL TO
ACCOUNTS PAYABLE
Inquiries and Support:
Accounts.Payable@FresnoUnified.org
Remit Invoices:
Invoices@FresnoUnified.org

TRANSACTION
PURCHASE ORDER VERSION:
NUMBER

00000691211

**DIRECT
INQUIRIES
TO**

PURCHASING SERVICES
4498 NORTH BRAWLEY AVE. FRESNO, CA 93722
(559) 457-3588 - FAX: (559) 457-6040
Contact Name: Antonia Jorge

THIS NUMBER MUST APPEAR ON ALL PACKAGES,
PACKING LISTS, INVOICES, AND CORRESPONDENCE.

PAGE 1
DATE OF ORDER: 2020-07-28
DELIVERY DATE: 2021-06-30

VENDOR NO.
30573 B01


VENDOR TELEPHONE: 510-568-7944
VENDOR FAX:

VENDOR EMAIL ADDRESS:
MUTIU@PERFORMANCEFACT.COM

VENDOR CONTACT:
MUTIU FAGBAYI

VENDOR
PERFORMANCE FACT, INC
33 HEGENBERGER ROAD, SUITE 204
OAKLAND, CA 94621
BOE 06/17/20 A-4 (BUNDLED CONTRACTS)



SHIP TO
FRESNO UNIFIED SCHOOL DISTRICT
OFFICE OF THE SUPERINTENDENT
2309 TULARE STREET
FRESNO, CA 93721
SUP/ GLORIA JENKINS

LINE	COMMODITY NO.	DESCRIPTION			4th	3rd	2nd	1st
		QUANTITY	UNIT	UNIT COST	TOTAL COST			
1	111CA13 INDEPENDENT CONTRACTOR AGREEMENT	0.00		0.00			21,280.00	
THIS PURCHASE ORDER IS ISSUED IN ACCORDANCE WITH THE TERMS CONDITIONS AND PRICING OF CONTRACT TITLED: PERFORMANCE FACT, INC								
ACCEPTED AND DATED: 6/23/2020								
BOARD AGENDA: BOE 06/17/20 A-4 (BUNDLED CONTRACTS) #142								
SERVICE DESCRIPTION: IMPLEMENTATION, TRAINING, REPORTING ON ANNUAL ACTION PLAN & VIRTUAL SIGNS SCORECARD FOR A4 INITIATIVES.								
SERVICE LOCATION: A4 OFFICE								
EFFECTIVE DATES FOR THIS PURCHASE ORDER: 7/1/2020 - 6/30/2021								
RATE: \$21,280.00 / NOT TO EXCEED ORIGINAL CONTRACT AMOUNT OF \$21,280.00 AUTHORIZED								
APPROVER: Wendy McCulley								
PLEASE REFER QUESTIONS REGARDING THIS ORDER TO CONTACT PERSON: Gloria Jenkins								
PH: 559/457-3728								
RQS: 0755 01760040008								
FOB: Destination, Freight-Prepaid								
This is the last page								
ALL EXTENDED TOTAL COSTS REFLECT APPLICABLE CALIFORNIA SALES TAX/DISCOUNTS								
Authorized Signature  Executive Director of Purchasing				Vendor agrees to comply with District Terms & Conditions posted at http://go.fresnounified.org/StandardTermsAndConditions		Date		\$21,280.00



www.fresnounified.org

PURCHASE ORDER

B I L L T O	ACCOUNTS PAYABLE	TRANSACTION	NUMBER
	Inquiries and Support: Accounts.Payable@FresnoUnified.org Remit Invoices: Invoices@FresnoUnified.org	PURCHASE ORDER VERSION: 0755	 00000691211
DIRECT INQUIRIES TO	PURCHASING SERVICES 4498 NORTH BRAWLEY AVE. FRESNO, CA 93722 (559) 457-3588 - FAX: (559) 457-6040 Contact Name: Antonia Jorge	THIS NUMBER MUST APPEAR ON ALL PACKAGES, PACKING LISTS, INVOICES, AND CORRESPONDENCE. 	
VENDOR NO.	VENDOR TELEPHONE: 510-568-7944 VENDOR FAX:	PAGE 1	DATE OF ORDER: 2020-07-28 DELIVERY DATE: 2021-06-30
30573 B01		VENDOR EMAIL ADDRESS: MUTIUF@PERFORMANCEFACT.COM	VENDOR CONTACT: MUTIU FAGBAYI

**V
E
N
D
O
R**

PERFORMANCE FACT, INC
33 HEGENBERGER ROAD, SUITE 204

OAKLAND, CA 94621

BOE 06/17/20 A-4 (BUNDLED CONTRACTS)

**S
H
I
P

T
O**

FRESNO UNIFIED SCHOOL DISTRICT
OFFICE OF THE SUPERINTENDENT
2309 TULARE STREET
FRESNO, CA 93721

SUP/ GLORIA JENKINS

DESCRIPTION					4th	3rd	2nd	1st
LINE	COMMODITY NO.	QUANTITY	UNIT	UNIT COST	TOTAL COST			
1	111CA13 INDEPENDENT CONTRACTOR AGREEMENT	0.00		0.00	\$21,280.00			
THIS PURCHASE ORDER IS ISSUED IN ACCORDANCE WITH THE TERMS CONDITIONS AND PRICING OF CONTRACT TITLED: PERFORMANCE FACT, INC								
ACCEPTED AND DATED: 6/23/2020								
BOARD AGENDA: BOE 06/17/20 A-4 (BUNDLED CONTRACTS) #142								
SERVICE DESCRIPTION: IMPLEMENTATION, TRAINING, REPORTING ON ANNUAL ACTION PLAN & VIRTUAL SIGNS SCORECARD FOR A4 INITIATIVES.								
SERVICE LOCATION: A4 OFFICE								
EFFECTIVE DATES FOR THIS PURCHASE ORDER: 7/1/2020 - 6/30/2021								
RATE: \$21,280.00 / NOT TO EXCEED ORIGINAL CONTRACT AMOUNT OF \$21,280.00 AUTHORIZED								
APPROVER: Wendy McCulley								
PLEASE REFER QUESTIONS REGARDING THIS ORDER TO CONTACT PERSON: Gloria Jenkins								
PH: 559/457-3728								
RQS: 0755 01760040008								
1		030 0176	0755	1110 1000	5899	\$21,280.00		



Fresno Unified School District Contract Routing Form

Completed independent contract agreement must be attached

Performance Fact, Inc.

Vendor Name

(510) 568-7944

Phone Number

From:

07/01/2020

Term (Duration)

FUSD Contract Administrator:

Wendy McCulley

Name

Budget (Fund-Unit-Dept. Activity Object)

Annual Cost \$ 21,280.00

(Contract will not be authorized to exceed this amount w/o BOE approval)

Fingerprint Requirements: All individuals providing services under this contract are in compliance with the requirements of the "Michelle Montoya" Act, as required therein.

Yes ☐

No ☐

Fingerprints verified &
cleared by site admin: _____ (initials)

Scope of Work Summary:

See attached for details

333 Hegenberger Road, ste 204, Oakland, CA 94621

Address

Mufu O. Fagbayi

Vendor Contact

Through:

06/30/2021

African American Academic Acceleration

(559) 457-3728

Site/ Dept

telephone number

6755

000-0176-11110-1000-5809

Date Item is to appear on Board of Education Agenda:

(Contracts of \$15,000.00 or more) 06/17/2020

Reviewed & approved by Cabinet Level Officer:

Signed

Date

Reviewed & approved by Executive Director, Risk Management:

Signed

Date

Please return signed contract to:

Gloria Jenkins

Name

African American Academic Acceleration

Department

457-3728

Telephone

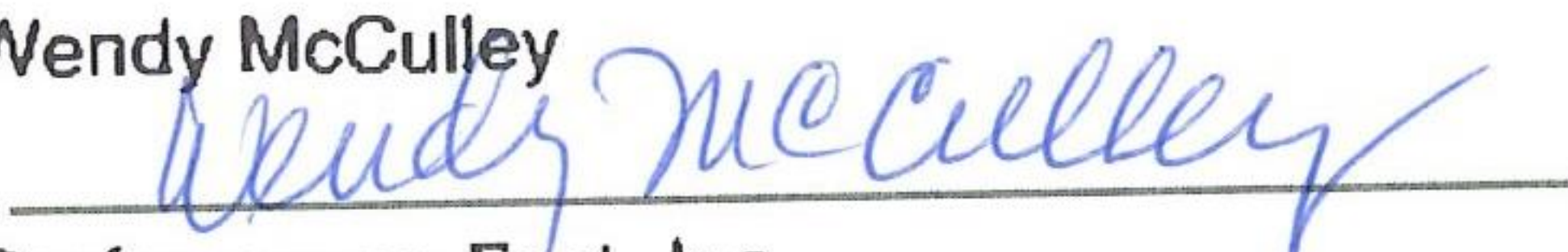
Fresno Unified School District Independent Contractor Services Agreement

Routing sheet must be completed and placed on top of contract agreement

GENERAL INFORMATION

School/Department Budget: 030-0176-0055-1110-1000-5899

District Contact Person: Wendy McCulley

Budget Manager Approval: 

Contractor's Vendor Name: Performance Fact, Inc.

Contractor's Contact Person: Mutiu O. Fagbayi

Contractor's Title: President/CEO

Contractor's Telephone Number: (510) 568-7944

Contractor's E-mail: mutiuf@performancefact.com

Contractor's Address: 333 Hegenberger Road, ste 204, Oakland, CA 94621

Contractor's Taxpayer ID# or SSN#: 16-1538321

This Independent Contractor Services Agreement is made and entered into effective 07/01/2020 (the "Effective Date")
by and between the Fresno Unified School District ("District") and Performance Fact, Inc. ("Contractor").

1. Contractor Services Contractor agrees to provide

See attached for details

2. Contractor Qualifications. Contractor represents that it has in effect all licenses, permissions and has otherwise all legal qualifications to perform this Agreement.
3. Term. This Agreement shall begin on 07/01/2020 , and shall terminate on 06/30/2021 . There shall be no extension of the term of the Agreement without express written consent from all parties.
4. Payment. District agrees to pay Contractor at following rate of \$ 21,280.00 per annual . Checks will be made payable to Performance Fact, Inc. . Payment shall be limited to amount written in this paragraph, unless specifically indicated in Paragraph 5. District agrees to pay Contractor within thirty (30) days of receipt of detailed invoice.
5. Incidental Expenses. ☐ Yes (see below) ☒ No, Vendor initial here MVF
- | | | |
|----|--|---|
| a. | Lodging | Actual cost of single occupancy. Not to exceed \$100 per night. *Receipt Required. |
| b. | Meals | Reimbursement limited to actual cost up to the following rates:
Breakfast \$12.20; Lunch \$18.30; Dinner \$30.50. *Receipt Required. |
| c. | Travel | Actual cost by common carrier. Private car expenses will be reimbursed at the current standard business IRS mileage rate. |
| d. | Supplies | As negotiated with school/department contracting for service. |
| e. | Total Estimated Cost (Sum of paragraphs 4 and 5a - d): | \$ 21,280.00 |
| f. | Other | |
6. Employment. Are you a current FUSD employee? ☐ Yes ☒ No
7. CalPERS & CalSTRS. Are you a CalPERS or CalSTRS retiree? ☐ Yes ☒ No
8. California Residency. Contractor is a resident of the State of California: ☒ Yes ☐ No
9. Conflict of Interest. Contractor does not have, nor does the Contractor anticipate having, any interest in real property, investments, business interest in or income from sources which would provide Contractor, his/her spouse or minor child(ren) with personal financial gain as a result of any recommendation, advice or any other action taken by Contractor during the rendition of services under this Agreement.
10. Termination of Agreement. Either District or Contractor may terminate this Agreement at any time for any reason upon written notice. In the event of early termination, Contractor shall be paid for satisfactory work performed to the date of termination. The District may then proceed with the work in any manner the District deems proper.
11. Indemnity. The Contractor shall defend, indemnify, and hold harmless the District and its agents, employees, Board of Trustees, members of the Board of Trustees, from and against claims, damages, losses, and expenses (including, but not limited to attorney's fees and costs including fees of consultants) arising out of or resulting from: performance of the contract (including, but not limited to) the Contractor's use of the site; the Contractor's completion of the duties under the contract; injury to or death of persons or damage to property or delay or damage to the District, its agents, employees, Board of Trustees, members of the Board of Trustees, for any act, omission, negligence, or willful misconduct of the Contractor or their respective agents, subcontractors, employees, material or equipment suppliers, invitees, or licensees. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity, which would otherwise exist as to a party, person, or entity described in this paragraph.
12. Insurance. Without limiting Contractor's indemnification, it is agreed that Contractor shall secure and maintain in force during the term of this Agreement a Commercial General Liability policy (Contractual liability included) utilizing an occurrence policy form, with limits of not less than one million (\$1,000,000) dollars per occurrence, two million (\$2,000,000) dollars annual aggregate limit. Business Automobile Liability Insurance shall be maintained for owned, scheduled, non-owned or hired automobiles with a combined single limit not less than one million (\$1,000,000) dollars per occurrence. The District shall be named as an additional insured on the policies by separate endorsement. A Certificate of Insurance and Endorsements shall be attached to the Agreement as proof of insurance. The Contractor's policy shall provide that it is primary such that insurance maintained by the District, if any, shall be excess and not co-primary. Contractor shall produce the policy for District, upon request.
13. Independent Contractor Status. While engaged in carrying out the terms and conditions of the contract, the Contractor is an independent contractor, and not an officer, employee, agent, partner, or joint venture of the District.

14. Workers' Compensation Insurance. Contractor agrees to provide all necessary workers' compensation insurance for Contractor's employees, if any, at Contractor's own cost and expense.
15. Taxes. Contractor agrees that Contractor has no entitlement to any future work from the District or to any employment or fringe benefits from the District. Payments to the Contractor pursuant to this Agreement will be reported to Federal and State taxing authorities as required. District will not withhold any money from compensation payable to Contractor. In particular, District will not withhold FICA (Social Security); state or federal unemployment insurance contributions, state or federal income tax or disability insurance. Contractor is independently responsible for the payment of all applicable taxes.
16. Assignment. The Contractor shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of the District.
17. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Contractor and the District and their respective successors and assigns.
18. Severability. If any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
19. Amendments. The terms of the Contract Documents shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written agreement signed by both parties.
20. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California and venue shall be in the appropriate Superior Court in Fresno, California.
21. Written Notice. Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the company or to an officer of the corporation for whom it was intended, or if delivered to or sent by registered or certified mail to the last business address known to the person who gives the notice.

District:

Edward Collins
Purchasing Department
Fresno Unified School District
4498 N. Brawley Avenue
Fresno, CA 93722

c: Andrew De La Torre
Benefits & Risk Management
Fresno Unified School District
2309 Tulare Street
Fresno, CA 93721

Contractor:

Name: Performance Fact, Inc.
Address: 333 Hegenberger Road, ste 204,
Oakland, CA 94621

22. Non-Discrimination. It is the policy of the District that there shall be no discrimination against any of Contractor's prospective or active employees because of race, color, ancestry, national origin, sex or religious creed. Therefore, the Contractor agrees to comply with applicable federal and California laws.
23. Compliance with Law. Each and every provision of law and clause required by law to be inserted into this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein. Contractor agrees that it shall comply with all legal requirements for the performance of its duties under this Agreement and that failure to do so shall constitute material breach.
24. Entire Agreement. This Agreement is intended by the Parties as the final expression of their Agreement with respect to such terms as are included herein and as the complete and exclusive statement of its terms and may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement, nor explained or supplemented by evidence of consistent additional terms.
25. Execution of Other Documents. The parties to this Agreement shall cooperate fully in the execution of any and all other documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.
26. Execution in Counterparts. This Agreement may be executed in counterparts such that the signatures may appear on separate signature pages. A copy, or an original, with all signatures appended together, shall be deemed a fully executed Agreement.
27. Board Approval. For contracts in excess of \$15,000.00, the effectiveness of this Agreement is contingent upon the approval of the Fresno Unified School District Board of Education.

Executed at Fresno, California, on the date and year first written above.

DISTRICT

Fresno Unified School District



Ruth F. Quinto, Deputy Superintendent / CFO

06/23/2020

Date

CONTRACTOR

Performance Fact, Inc.



Mutiu O. Fagbayi, President/CEO

4/14/2020

Date

Approved As To Form:



*Andrew De La Torre, Executive Director
Benefits and Risk Management*

5.6.2020

Date



PERFORMANCE *fact*, INC.

Developing leaders. Transforming Practices. Inspiring Results.

2020-2021 Scope of Professional Services
African American Academic Acceleration Initiative
Fresno Unified School District
Fresno, CA

Wendy McCulley
Executive Director

**DISCIPLINED IMPLEMENTATION
& LEADERSHIP FOR RESULTS**

Submitted by:
Performance Fact, Inc.
Mutiu O. Fagbayi, President/CEO

24 February 2020

Getting things done well demands discipline!

A results-focused plan is the first step toward accomplishing a goal. However, without disciplined implementation, the plan will founder and may not live up to its promise. After you “plan the work”, then you must “work the plan” to achieve desired outcomes.

However, success does not happen by accident; high-performing teams, schools and education systems do not come about “by chance”. Consistent performance is the outcome of a disciplined approach to executing the essential functions of a school system, a school, or a team. Those functions include: setting the goal, aligning resources to the goal, motivating personal and organizational commitment to the goal, building capabilities, communicating progress, nurturing continuous improvement and innovation, and instituting incentives and accountability for performance.

Making all these pieces come together to produce desired results for the team, school, or organization is a **core leadership responsibility**. Furthermore, “making them stick” through organizational or environmental changes, community ‘upheavals’ or multiple generations of leadership requires paying careful and sustained attention to the original intentions of the plan. **Dreams don’t work unless you do!**

This Proposal outlines professional services that Performance Fact, Inc. will provide to the Fresno USD’s **African American Academic Acceleration (A4) Initiative** during the 2020/2021 school year. Its central aim is to support the Executive Director and the A4 Team with tools, targeted assistance, and coaching to facilitate disciplined implementation of the **A4 Strategic Plan**.

2020/2021 Scope of Professional Services: **FUSD's A4 Initiative**

	Key Deliverables
Start of the SY <i>Chart the course</i> 1 day on-site 1 equivalent day virtual	<ul style="list-style-type: none"> Facilitate articulation of the annual performance objectives and development of the consolidated Annual Action Plan for the school year. Facilitate design and development of the Vital Signs Scorecard (Dashboard of key performance indicators), aligned to the A4 Strategic Plan. Compile milestones of progress (using the online CPR Card tool to monitor implementation of the Annual Action Plan). Conduct orientation and training for A4 team regarding core implementation tools and resources, including the CPR Card, Vital Signs Scorecard, Data Summit process.
Every Week <i>Monitor & adjust</i>	N/A _ No ongoing Performance Fact involvement
Every Month <i>Learn & collaborate</i>	N/A _ No ongoing Performance Fact involvement
Every 6-12 Weeks <i>Reflect & Plan</i> 1 day on-site 2 equivalent days virtual	<ul style="list-style-type: none"> (At start of each trimester) Identify priorities for the cycle and develop/update action plan (by program, by team member). (At end of each trimester) Collaboratively with the A4 team, compile data relating to effectiveness of implementation of programs and services, as well as outcomes for students. (At end of each trimester) Conduct a Data Summit (i.e., evidence-based community conversations about student learning and professional/programmatic practices); compile key findings, and identify priorities for the next trimester.
Mid-Year/End-of-Year <i>Evaluate & celebrate</i> 1 equivalent day virtual	<ul style="list-style-type: none"> (End-of-year) Collaboratively with A4 team, prepare evidence-based end-of-year report vis-à-vis the priorities outlined in the Annual Action Plan. (End-of-year) Facilitate development of the Annual Action Plan for the next school year.
Online Eye on the Goal Tools	<ul style="list-style-type: none"> Provide access to Online Eye on the Goal tools, including 4-Lens Analysis of Student Data, CPR Card, Vital Signs Scorecard, Data Summit/Cycle of Inquiry protocols; etc.
Sub-total	\$28,280
<i>Less Discount</i>	\$ 7,000
CONTRACT TOTAL	\$21,280



www.fresnounified.org

PURCHASE ORDER

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ACCOUNTS PAYABLE
Inquiries and Support:
Accounts.Payable@FresnoUnified.org
Remit Invoices:
Invoices@FresnoUnified.org

TRANSACTION

NUMBER

PURCHASE ORDER VERSION:



00000741685

DIRECT
INQUIRIES
TO

PURCHASING SERVICES

4498 NORTH BRAWLEY AVE. FRESNO, CA 93722
(559) 457-3588 - FAX: (559) 457-6040

Contact Name: Antonia Jorge

THIS NUMBER MUST APPEAR ON ALL PACKAGES,
PACKING LISTS, INVOICES, AND CORRESPONDENCE.



PAGE

1

DATE OF ORDER:

2021-07-16

DELIVERY DATE:

2022-06-30

VENDOR NO.

30573 B01

VENDOR TELEPHONE: 510-568-7944

VENDOR FAX:

VENDOR EMAIL ADDRESS:

MUTIU@PERFORMANCEFACT.COM

VENDOR CONTACT:

MUTIU FAGBAYI

V
E
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PERFORMANCE FACT, INC
333 HEGENBERGER ROAD, SUITE 204

OAKLAND, CA 94621

BOE 06/16/21 B-44 (BUNDLED CONTRACTS)

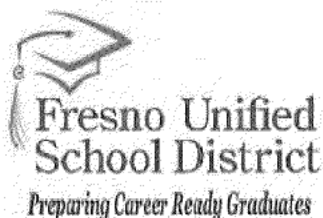
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FRESNO UNIFIED SCHOOL DISTRICT
OFFICE OF THE SUPERINTENDENT
2309 TULARE STREET
FRESNO, CA 93721

SUPERINTENDENT / GLORIA JENKINS

LINE	COMMODITY NO.	DESCRIPTION	UNIT	UNIT COST	4th	3rd	2nd	1st
					TOTAL COST			
1	11ICA13	0.00		0.00				\$21,280.00
		INDEPENDENT CONTRACTOR AGREEMENT						
		REQUIRED ATTACHMENTS: 1. SIGNED AGREEMENT 2. SIGNED AGENDA ITEM (IF OVER \$15,000) THIS PURCHASE ORDER IS ISSUED IN ACCORDANCE WITH THE TERMS CONDITIONS AND PRICING OF CONTRACT TITLED: PERFORMANCE FACT, INC						
		ACCEPTED AND DATED: 6/28/21						
		SERVICE DESCRIPTION: CENTRAL AIM IS TO SUPPORT EXECUTIVE DIRECTOR AND THE A4 TEAM WITH TOOLS, TARGETED ASSISTANCE, AND COACHING TO FACILITATE DISCIPLINED MPLEMENTATION OF THE A4 STRATEGIC PLAN						
		BOARD AGENDA: BOE 06/16/21 B-44 (BUNDLED CONTRACTS) #169						
		EFFECTIVE DATES FOR THIS PURCHASE ORDER: 7/1/2021 - 6/30/2022						
		RATE: \$21,280.00 / NOT TO EXCEED ORIGINAL CONTRACT AMOUNT OF \$21,280.00						
		AUTHORIZED APPROVER: Luis Ramirez or Tonisha Hargrove						
		PLEASE REFER QUESTIONS REGARDING THIS ORDER TO CONTACT PERSON: Gloria Jenkins						
		PH: 559-457-3728						
		RQS: 0755 01760043007						
		FOB: Destination, Freight-Prepaid						
		This is the last page						
		ALL EXTENDED TOTAL COSTS REFLECT APPLICABLE CALIFORNIA SALES TAX/DISCOUNTS						
Authorized Signature			Vendor agrees to comply with District Terms & Conditions posted at http://go.fresnounified.org/StandardTermsAndConditions		Date		\$21,280.00	



Fresno Unified School District Contract Routing Form

Completed independent contract agreement must be attached

Performance Fact, Inc.

Vendor Name

(510) 568-7944

Phone Number

From: July 1, 2021

Term (Duration)

FUSD Contract Administrator:

Wendy McCulley

Name

Budget (Fund-Unit-Dept.-Activity-Object)

Annual Cost \$ 21,280.00

(Contract will not be authorized to exceed this amount w/o BOE approval)

Fingerprint Requirements: All individuals providing services under this contract are in compliance with the requirements of the "Michelle Montoya" Act, as required therein.

Yes ☐

No ☐

Scope of Work Summary:

Central aim is to support the Executive Director and the A4 Team with tools, targeted assistance, and coaching to facilitate disciplined implementation of the A4 Strategic Plan.

333 Hegenberger Road, ste 204, Oakland, CA 94621

Address

Muti O. Fagbayi

Vendor Contact

Through: June 30, 2022

African American Academic Acceleration 559-457-3728

Site/ Dept

Telephone number

Date Item is to appear on Board of Education Agenda:

06/16/21

Agenda Item #

(Contracts of \$15,000.00 or more)

Reviewed & approved by Cabinet Level Officer:

Signed

4/19/2021

Date

Reviewed & approved by Executive Director, Risk Management:

Signed

5/8/2021

Date

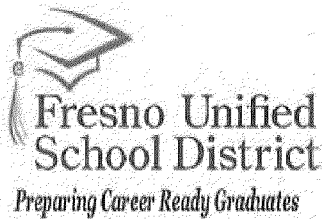
Please return signed contract to:

Gloria Jenkins

Name

African American Academic Acceleration

Department



Fresno Unified School District

Independent Contractor Services Agreement

GENERAL INFORMATION African American Academic Acceleration

School/Department Budget: 030-0176-0755-1110-1000-5899

District Contact Person: Wendy McCulley

Budget Manager Approval: Wendy McCulley

Contractor's Vendor Name: Performance Fact, Inc.

Contractor's Contact Person: Mutiu O. Fagbayi

Contractor's Title: President/CEO

Contractor's Telephone
Number: (510) 568-7944

Contractor's E-mail: mutiuf@performancefact.com

Contractor's Address: 333 Hegenberger Road, ste 204, Oakland, CA 94621

Contractor's Taxpayer ID# or
SSN#: 16-1538321

This Independent Contractor Services Agreement is made and entered into effective 07/01/21 (the "Effective Date") by and between the Fresno Unified School District ("District") and ("Contractor").

1. Contractor Services. Contractor agrees to provide _____

Central aim is to support the Executive Director and the A4 Team with tools, targeted assistance, and coaching to facilitate disciplined implementation of the A4 Strategic Plan.

2. Contractor Qualifications. Contractor represents that it has in effect all licenses, permissions and has otherwise all legal qualifications to perform this Agreement.
3. Term. This Agreement shall begin on 07/01/21, and shall terminate on 06/30/22. There shall be no extension of the term of the agreement without express written consent from all parties.
4. Payment. District agrees to pay Contractor at following rate of \$ 21,280.00 per contract, ^{and attached proposal} not to exceed \$ 21,280.00. Checks will be made payable to Performance Fact, Inc. Payment shall be limited to amount written in this paragraph, unless specifically indicated in Paragraph 5. District agrees to pay Contractor within thirty (30) days of receipt of detailed invoice.
5. Incidental Expenses. ☐ Yes (See below) ☒ No, Vendor initial here mof
- Lodging _____ Actual cost of single occupancy. Not to exceed \$100 per night. *Receipt Required.
 - Meals _____ Reimbursement limited to actual cost up to the following rates: Breakfast \$12.20, Lunch \$18.30, Dinner \$30.50. *Receipt Required.
 - Travel _____ Actual cost by common carrier. Private car expenses will be reimbursed at the current standard business IRS mileage rate.
 - Supplies _____ As negotiated with school/department contracting for service.
 - Total Estimated Cost (Sum of paragraphs 4 and 5a – d): \$ 21,280.00
 - Other _____
6. Employment. Are you a current FUSD employee? ☐ Yes ☒ No
7. CalPERS & CalSTRS. Are you a CalPERS or CalSTRS retiree? ☐ Yes ☒ No
8. California Residency. Contractor is a resident of the state of California: ☒ Yes ☐ No
9. Report Fraud, Waste and Abuse. By calling the Anti-Fraud Hotline, (559) 325-3200, or by completing the fraud, waste or abuse reporting form online at: <http://www.ppcpas.com/fresno-unified-fraud-alert>. The anti-fraud waste or abuse reporting hotline is available to report alleged fraud in the district. The responsibility for monitoring the hotline rests with the internal auditor for Fresno Unified School District, Price, Page & Company. A report may be made anonymously.
10. Conflict of Interest. In consideration of the Districts Conflict of Interest Code, Contractor affirms they do not have, nor does the Contractor anticipate having any interest in real property, investments, business interest in or income from sources which would provide Contractor, his/her spouse or minor child(ren) with personal financial gain as a result of any recommendation, advice or any other action taken by Contractor during the rendition of services under this Agreement.
- Contractor's initials mof District's initials WMA
11. Anti-discrimination. Fresno Unified School District prohibits discrimination, harassment, intimidation, and bullying based on actual or perceived race, color, ethnicity, national origin, immigration status, ancestry, age, creed, religion, political affiliation, gender, gender identity, gender expression, genetic information, mental or physical disability, sex, sexual orientation, marital status, pregnancy or parental status, medical information, military veteran status, or association with a person or a group with one or more of these actual or perceived characteristics or any other basis protected by law or regulation, in its educational program(s) or employment. If you believe you, or your student, have been subjected to discrimination, harassment, intimidation, or bullying you should contact your school site principal and/or the District's Chief Compliance and Title IX Officer Paul Idsvoog, by phone at 559-457-3730, by email at Paul.Idsvoog@fresnounified.org, or in person at 2309 Tulare Street Fresno, CA 93721.
12. Termination of Agreement. Either District or Contractor may terminate this Agreement at any time for any reason upon thirty (30) days prior written notice. In the event of early termination, Contractor shall be paid for satisfactory work

performed to the date of termination. The District may then proceed with the work in any manner the District deems proper.

Notwithstanding the expiration or termination of this Agreement for any reason (a) any provision of this Agreement that imposes or contemplates continuing obligations on a Party shall survive the expiration or termination of this Agreement, including without limitation, the rights and duties under Paragraphs 12, 13, 15, and 17; and (b) all undisputed fees due and payable hereunder through the termination date in accordance with Paragraphs 4 and 5.

13. Confidential Information

- a. For the purposes of this Agreement "Confidential Information" includes any written or oral information or data, disclosed by either Party to the other, which may include, without limitation, information relating to technical, financial, personnel, personal employee information, the network, corporate, administration, plan design, benefits or contractual affairs of either Party or a third party that has been identified as confidential or that by the nature of the circumstances surrounding disclosure ought reasonably to be treated as confidential.
- b. Contractor hereby agrees that it shall not disclose Confidential Information, and any materials, discussions, or other communications concerning Confidential Information to any person or entity, except to its own employees, contractor personnel, and to its attorneys, accountants, consultants and other professional advisors having a "need to know," and who are themselves bound by similar nondisclosure restrictions (collectively, "Representatives"). If Contractor becomes aware of any disclosure or use not in compliance with this Agreement, Contractor shall notify the Committee in writing within three (3) business days. Contractor shall use at least the same degree of care in safeguarding Confidential Information as it uses in safeguarding its own confidential information. Representatives shall be bound to comply with all terms of this Paragraph 13.B. Upon the request of the Committee Contractor shall provide a written acknowledgement from each of its Representatives that said Representative is bound by the terms of this Paragraph 13.B.
- c. Contractor's obligation under this Agreement to not disclose Confidential Information shall not apply to information that: (a) becomes generally available to the public other than as the result of unauthorized disclosure by Contractor or a third party; (b) is independently developed by Contractor without the aid, application or use of Confidential Information; or (c) was received by Contractor on a non-confidential basis prior to receipt from the District or from a third-party lawfully possessing and lawfully entitled to disclose such information.
- d. Disclosure of Confidential Information shall not be precluded if such disclosure is: (a) required pursuant to a valid court order; or (b) in the opinion of legal counsel for Contractor, is otherwise required by law, provided that in either circumstance:
 - i. Contractor shall furnish the District with a copy of the demand, summons, subpoena or other legal process to compel such disclosure;
 - ii. Contractor shall give the District reasonable prior notice of its intention to disclose Confidential Information in order to allow the Committee an opportunity to seek appropriate protection; and
 - iii. Contractor shall take all reasonable steps including, without limitation, the pursuit of a protective order, to restrict the disclosure of Confidential Information to the greatest extent possible.
- e. All Confidential Information provided by the District to Contractor is and shall forever remain the sole and exclusive property of the Committee and District. By granting access to Confidential Information, the District does not grant any express or implied right to Contractor to use, publish or disclose any Confidential Information. After its review of the Confidential Information Contractor will return to the District all Confidential Information disclosed to it (including copies or summaries of Confidential Information), or with the District's permission destroy the Confidential Information and certify in writing that it has been destroyed.

14. Injunctive Relief. Each Party acknowledges that a breach or threatened breach of this Agreement may cause immediate and irreparable harm to the District and that, to protect against such harm, the District may seek from a court of competent jurisdiction the issuance of a restraining order or injunction to prohibit any threatened disclosure

or misuse of the District's Confidential Information. Such an action for a restraining order or injunction is in addition to and does not limit all other remedies provided by law or in equity or by agreement between the Parties.

15. Indemnification and Hold Harmless. To the fullest extent allowed by law, the Contractor shall defend, indemnify and hold District, its agents, employees, Board of Trustees, members of the Board of Trustees, officials, officers, volunteers, and representatives ("Indemnitees") free and harmless from any and all claims, demands, negligence (including the active or passive negligence of Indemnitees, regardless of whether sole or otherwise, as allowed by law), causes of action, costs, expenses, liabilities, losses, damages or injuries, fines, penalties in law or equity, regardless of whether the allegations are false, fraudulent, or groundless, to property or persons, including wrongful death, (collectively "Loss") to the extent arising out of or incident to: 1) the performance or breach of any of the terms and conditions of the contract (including but not limited to) the Contractor's use of the site; or 2) any acts, omissions, negligence, in connection with the performance of Services or otherwise arising from this Contract ("Indemnification"); or 3) the willful misconduct of the Contractor or their respective agents, subcontractors, employees, material or equipment suppliers, invitees, or licensees. The Contractor's Indemnification includes, but is not limited to, the payment of all damages and attorney's fees, fines, penalties and other related costs and expenses.

a. The Contractor's defense obligations (with counsel approved by District), shall arise immediately upon tender of any of the Indemnitees, and the defense shall be paid at Contractor's own cost, expense and risk, for any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against any of the Indemnitees, notwithstanding whether liability is, can be or has yet been established.

b. The Contractor shall pay and satisfy any judgment, award or decree that may be rendered against any of the Indemnitees, in any such suit, action or other legal proceeding. The Contractor shall reimburse Indemnitees, and each of them, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided.

c. Acceptance of insurance certificates and endorsements required under the contract does not relieve the Contractor from liability under this indemnification and hold harmless clause. The requirements of this Section (Indemnification and Hold Harmless) shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

16. Insurance. Without limiting "Contractor" indemnification, it is agreed that "Contractor" shall secure and maintain in force during the term of this Agreement a Commercial General Liability policy (Contractual liability included) utilizing an occurrence policy form, with limits of not less than one million (\$1,000,000) dollars per occurrence, two million (\$2,000,000) annual aggregate limit. Business automobile Liability Insurance shall be maintained for owned, scheduled, non-owned or hired automobiles with a combined single limit not less than one million (\$1,000,000) dollars per occurrence. In the event "Contractor" is working with students individually or providing professional services to students, "Contractor" shall maintain a policy providing coverage for sexual molestation and/or abuse claims. In the event that "Contractor's" Commercial General liability policy excludes coverage for sexual molestation and/or abuse claims shall be required to procure a separate or supplemental policy providing such coverage. The limits of coverage for the abuse and molestation policy shall be not less than \$1,000,000 per claim and \$3,000,000 aggregate. If any of the required policies provide coverage on a claims-made basis then the following shall apply; 1) The retroactive date must be shown, and must be before the date of the contract or the beginning of contract work; 2) Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract work; (3) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work. Self-insured retentions must be declared to and approved by District. The District may require "Contractor" to provide proof of ability to pay losses and related investigations, claims administration and defense expenses within the retention. The policy shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or the District.

The District shall be named as an additional insured on the policies by separate endorsement. A Certificate of Insurance and endorsements shall be attached to the Agreement as proof of insurance. The "Contractor" policy shall provide that it is primary such that insurance maintained by the District, if any, shall be excess and not co-primary. "Contractor" shall produce the policy for District, upon request.

17. Independent Contractor Status. While engaged in carrying out the terms and conditions of the contract, the Contractor is an independent contractor, and not an officer, employee, agent, partner, or joint venture of the District.
18. Workers' Compensation Insurance. Contractor agrees to provide all necessary workers' compensation insurance for Contractor's employees, if any, at Contractor's own cost and expense.
19. Fingerprinting Requirements. Contractor hereby acknowledges that, if applicable, it is required to comply with the requirements of Education Code Section 45125.1 with respect to fingerprinting of employees who may have contact with the District's pupils. The Contractor shall also ensure that its consultants on the Project also comply with the requirements of Section 45125.1. If required by Education Code Section 45125.1, the Contractor and its consultants, prior to any of the Contractor's employees, or those of any other consultants, coming into contact with the District's pupils submit through the DISTRICT fingerprints to the Department of Justice (DOJ) for the monitoring and supervision of employee(s) and/or affiliated constituents. Contractor will not begin work on the Project site until obtaining a DOJ cleared status through the DISTRICT. Contractor further acknowledges that other fingerprinting requirements may apply, as set forth in Education Code Section 45125 et seq., and will comply with any such requirements, including having Consultant certify that none of these employees and/or affiliated constituent(s) will have been convicted of a felony as defined in Education Code section 45122.1. "Fingerprinting Requirements," is expressly understood and agreed to by the parties hereto:

Contractor's initials mof

District's initials WYM



20. Taxes. Contractor agrees that Contractor has no entitlement to any future work from the District or to any employment or fringe benefits from the District. Payments to the contractor pursuant to this Agreement will be reported to Federal and State taxing authorities as required. District will not withhold any money from compensation payable to Contractor. District will not withhold FICA (Social Security), state or federal unemployment insurance contributions, state or federal income tax or disability insurance. Contractor is independently responsible for the payment of all applicable taxes.
21. Assignment. The Contractor shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of the District.
22. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the contractor and the District and their respective successors and assigns.
23. Severability. If any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
24. Waiver and Amendments. This Agreement may be amended, modified, superseded, cancelled, renewed or extended, and the terms and conditions hereof may be waived, only by a written instrument signed by the parties or, in the case of a waiver, by the party waiving compliance. The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach.
25. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California and venue shall be in the appropriate Superior court in Fresno, California.
26. Attorney's Fees. The non-prevailing party in any dispute under this Agreement shall pay all costs and expenses, including expert witness fees and attorney's fees, incurred by the prevailing party in resolving such dispute.

27. Written Notice. Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the company or to an officer of the corporation for whom it was intended, or if delivered to or sent by registered or certified mail to the last business address known to the person who gives the notice.

District:

Edward Collins
Purchasing Department
Fresno Unified School District
4498 N. Brawley Avenue
Fresno, CA 93722

Contractor: Performance Fact, Inc.

Name: Mutiu O. Fagbayi

Address:

333 Hegenberger Road, ste 204,
Oakland, CA 94621

c: Andrew De La Torre
Benefits & Risk Management
Fresno Unified School District
2309 Tulare Street
Fresno, CA 93721

28. Compliance with Law. Each and every provision of law and clause required by law to be inserted into this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein. Contractor agrees that it shall comply with all legal requirements for the performance of its duties under this agreement and that failure to do shall constitute material breach.
29. Entire Agreement. This Agreement is intended by the Parties as the final expression of their agreement with respect to such terms as are included herein and as the complete and exclusive statement of its terms and may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement, nor explained or supplemented by evidence of consistent additional terms.
30. Construction. The rule of construction that any ambiguity in an agreement be construed against the drafter of such agreement shall not apply to this Agreement.
31. Execution of Other Documents. The parties to this Agreement shall cooperate fully in the execution of any and all other documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.
32. Execution in Counterparts. This Agreement may be executed in counterparts such that the signatures may appear on separate signature pages. A copy, or an original, with all signatures appended together, shall be deemed a fully executed agreement.
33. Board Approval. For contracts in excess of \$15,000.00, the effectiveness of this Agreement is contingent upon the approval of the Fresno Unified School District Board of Education.

Executed at Fresno, California, on the date and year first written above.

DISTRICT

Fresno Unified School District



Santino Danisi, Chief Financial Officer

Jun 28, 2021

Date

CONTRACTOR

Performance Fact, Inc.

Mutiu O. Fagbayi

Name: Mutiu O. Fagbayi, Title: President/CEO

4/16/2021

Date

Approved As To Form:



*Andrew De La Torre, Executive Director
Benefits and Risk Management*

5/8/2021

Date



PERFORMANCE *fact*, INC.

Developing leaders. Transforming Practices. Inspiring Results.

Scope of Professional Services

African American Academic Acceleration Initiative

Fresno Unified School District

Fresno, CA

Wendy McCulley

Executive Director

**DISCIPLINED IMPLEMENTATION
& LEADERSHIP FOR RESULTS**

Submitted by:

Performance Fact, Inc.

Muti O. Fagbayi, President/CEO

8 February 2021

Introduction

This Proposal outlines professional services that Performance Fact, Inc. will provide to the Fresno USD's **African American Academic Acceleration (A4) Initiative** during the 2021/2022 school years. Its central aim is to support the Executive Director and the A4 Team with tools, targeted assistance, and coaching to facilitate disciplined implementation of the **A4 Strategic Plan**.

The Proposal also include prospective scope of work for the 2022/2023 school year, for the Client's consideration, to ensure continuity of professional development and technical assistance for A4.

2021/2022 and 2022/2023 Scope of Professional Services

FUSD's A4 Initiative

	Key Deliverables
Start of the SY <i>Chart the course</i> 1 day on-site 1 equivalent day virtual	<ul style="list-style-type: none"> Facilitate articulation of the annual performance objectives and development of the consolidated Annual Action Plan for the school year. Facilitate design and development of the Vital Signs Scorecard (Dashboard of key performance indicators), aligned to the A4 Strategic Plan. Compile milestones of progress (using the online CPR Card tool to monitor implementation of the Annual Action Plan). Conduct orientation and training for A4 team regarding core implementation tools and resources, including the CPR Card, Vital Signs Scorecard, Data Summit process.
Every 6-12 Weeks <i>Reflect & Plan</i> 1 day on-site 2 equivalent days virtual	<ul style="list-style-type: none"> (At start of each trimester) Identify priorities for the cycle and develop/update action plan (by program, by team member). (At end of each trimester) Collaboratively with the A4 team, compile data relating to effectiveness of implementation of programs and services, as well as outcomes for students. (At end of each trimester) Conduct a Data Summit (i.e., evidence-based community conversations about student learning and professional/programmatic practices); compile key findings, and identify priorities for the next trimester.
Mid-Year/End-of-Year <i>Evaluate & celebrate</i> 1 equivalent day virtual	<ul style="list-style-type: none"> (End-of-year) Collaboratively with A4 team, prepare evidence-based end-of-year report vis-à-vis the priorities outlined in the Annual Action Plan. (End-of-year) Facilitate development of the Annual Action Plan for the next school year.
Online Eye on the Goal Tools	<ul style="list-style-type: none"> Provide access to Online Eye on the Goal tools, including 4-Lens Analysis of Student Data, CPR Card, Vital Signs Scorecard, Data Summit/Cycle of Inquiry protocols
Sub-total	\$28,280
Less Discount	\$ 7,000
CONTRACT TOTAL \$21,280 per SY	





169 Performance Fact Inc.

Final Audit Report

2021-06-28

Created:	2021-06-24
By:	Cassandra Leduc (cassandra.leduc@fresnounified.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAIirHwPzmRGfCWIAysCo6MAcsQIIdpITL

"169 Performance Fact Inc." History

-  Document created by Cassandra Leduc (cassandra.leduc@fresnounified.org)
2021-06-24 - 6:40:09 PM GMT- IP address: 73.151.14.194
-  Document emailed to Santino Danisi (santino.danisi@fresnounified.org) for signature
2021-06-24 - 6:41:06 PM GMT
-  Email viewed by Santino Danisi (santino.danisi@fresnounified.org)
2021-06-28 - 10:25:17 PM GMT- IP address: 104.47.56.126
-  Document e-signed by Santino Danisi (santino.danisi@fresnounified.org)
Signature Date: 2021-06-28 - 10:26:19 PM GMT - Time Source: server- IP address: 206.78.213.57
-  Agreement completed.
2021-06-28 - 10:26:19 PM GMT

Fresno Unified School District
Board Agenda Item

Board Meeting Date: June 16, 2021

AGENDA ITEM B-44

AGENDA SECTION: B

(A – Consent, B – Discussion, C – Receive, Recognize/Present)

ACTION REQUESTED: Approve

(Adopt, Approve, Discuss, Receive, etc.)

TITLE AND SUBJECT: Approve Annual Agreements for the 2021/22 School Year – Primary Report

ITEM DESCRIPTION: Included in the Board binders is a matrix detailing agreements to provide services to Fresno Unified School District. These agreements include the following categories:

- Leadership Development
- Opportunities to promote arts, activities, and athletics
- Targeted Assistance:
 - Student Achievement Outcomes
 - Social Emotional Supports
- Teacher Development
- Technology

Two agenda items are presented to ratify the agreements. The first item includes the Primary Report with all agreements with the exception of those that may present a potential conflict of interest for an individual Board member. All remaining agreements are in the Supplemental Report and presented as a second agenda item.

By separating the agreements in this manner, Board members with potential conflicts of interest can abstain from taking action on the Supplemental Report while still voting along with the rest of the Board on the Primary Report.

Please be advised that pursuant to Board Bylaw 9270, each individual Board member has a continuing duty to disclose and abstain from voting on any item where the potential for a conflict of interest exists.

Copies of the individual contracts are available upon request. Contracts will commence after Board approval and will end no later than June 30, 2022.

FINANCIAL SUMMARY: Sufficient funds have been budgeted in the 2021/22 budget. These investments will be funded through the appropriate budgets, as detailed in the matrix.


PREPARED BY: Tammy Townsend
Executive Officer

DIVISION: Administrative Services
PHONE NUMBER: (559) 457-6226

CABINET APPROVAL: Santino Danisi
Chief Financial Officer

SUPERINTENDENT APPROVAL:







Agenda Item B-44

Agenda Item B-45

Bundled Contracts

2021/22 School Year

Primary & Supplemental Report

Board of Education
June 16, 2021



Bundled Contracts

- The Board receives two contract bundles annually:
 - In June – contracts with summer start dates
 - In August – contracts that begin with the start of school
- Bundling contracts allows for a wider scope of vendor utilization
- Streamlines Board agendas



Summary

- Staff recommends Board approval of the 2021/22 summer start contracts
 - Separate action required
 - Primary Report
 - Supplemental Report

	Vendor Name	Vendor Type	Principal/Head Approval	Instructional Supt./Executive Director	Cabinet Representative	New Vendor?	School/Dept.	Term	Description	Funding	Estimated Total
166	Panorama Education Inc.	Corporation	Kristi Imberi-Olivares	Kristi Imberi-Olivares	Lindsay Sanders	N	Equity and Access	7/1/2021 - 6/30/2022	Contractor will provide support to the FUSD survey initiative relating to the CORE waiver entered into by FUSD. Contractor will support online students, staff and family survey programs with FUSD.	Common Core Assessments	\$ 85,000
167	Parent Institute for Quality Education (PIQE)	Non-Profit 501(c)3	Zuleica Murillo	Zuleica Murillo	Lindsay Sanders	N	Parent University	7/1/2021 - 6/30/2022	The proposed contract will serve six identified school sites with nine weeks of parent learning lessons. Parents will be provided lessons detailing the importance of Parent Engagement Education in English and Spanish. The purpose of the training is to support parents in developing skills and techniques which will help them address the educational needs of their children with a particular focus on promoting a college-going culture and increase student enrollment in higher-level courses. The goal is to increase parent's knowledge and skills to support their children's academic achievement and ultimately, their enrollment in post-secondary education.	General Fund	\$ 60,000
168	Performance Fact, Inc.	Corporation	Wendy McCulley	Wendy McCulley	Wendy McCulley	N	African American Academic Acceleration (A4)	7/1/2021 - 6/30/2022	Vendor will support the Executive Director and the A4 team with tools, targeted assistance, and coaching to facilitate disciplined implementation of the A4 Strategic Plan.	General Fund	\$ 21,280
169	PowerSchool Group LLC	Limited Liability Company filing as a Partner	Tami Lundberg	Tami Lundberg	Tami Lundberg	N	Information Technology	7/1/2021 - 6/30/2022	1) Annual license/maintenance renewal contract for SmartFind 2) SearchSoft Software for applicant tracking system 3) Annual maintenance renewal contract for district iAchieve	Technology School Support	\$ 182,730
170	PresenceLearning, Inc.	Corporation	Kate Alvarado	Brian Beck	Kim Mecum	N	Special Education	7/1/2021 - 6/30/2022	Provide Online Speech & Language Therapy services to include direct, collaborative and compensatory services, reports, goal development, service documentation in district system.	Special Education	\$ 2,248,000
171	Prodigy Healthcare Inc.	Corporation	Ambra O'Connor	Ambra O'Connor	Kim Mecum	N	Prevention and Intervention	8/2/2021 - 6/30/2022	Prodigy Healthcare Inc. will provide site based drug and alcohol services. Services include screening and assessment, treatment planning, counseling, and case management.		\$ -
172	Project Management Associates Inc	Corporation	Randy Powell	Tami Lundberg	Tami Lundberg	N	Information Technology	7/1/2021 - 6/30/2022	Staff time entry for Lawson payroll.	Technology School Support	\$ 37,800
173	Public Consulting Group (PCG)	Corporation	Teresa Morales-Young	Carlos Castillo	Kim Mecum	N	Teacher Development	7/1/2021 - 6/30/2022	PCG is a provider of online learning for applicable unit members that Fresno Unified has utilized to deliver professional learning within PL Column. Contractor agrees to provide online PL.	Title II - Teacher Quality	\$ 20,000
174	QuaverEd.com	Limited Liability Company filing as a Corporation	Catherine Aujero	Bryan Wells	Kim Mecum	N	Visual and Performing Arts	7/1/2021 - 6/30/2022	Quaver Music Curriculum Resources Kindergarten through sixth grade.	Increased Funding for Music	\$ 29,680
175	Queen of Hearts CPR Training Center	Limited Liability Company filing as a Corporation	Jeremy Ward	Jeremy Ward	Kim Mecum	N	College and Career Readiness - Extended Learning	7/1/2021 - 6/30/2022	CPR, First Aid, Basic of Life Support services and training for CTE pathways and program student certification.	Strong Workforce Program	\$ 83,679
176	Quiq Labs	Partnership	Blair Eliason	Misty Her	Kim Mecum	N	Patiño Entrepreneurship	8/1/2021- 6/30/2022	To build on the current successes at Patino, Quiq Labs will take the existing curriculum and make refinements where necessary to improve the problem areas discovered during "Course Review" as well as curriculum materials will be maintained using the Google Suite of Applications and accessible through a custom built Teacher Curriculum Portal. Quiq Labs will set up and consult on Curriculum design and implementations, program planning, curriculum licensing, ongoing curriculum consultation, and student work experiences. They will help instructors use research based effective teaching strategies, team teach/consult on a total of eight courses with courses meeting four times per week, oversee instruction alignment and planning, assist with scheduling, also communicate regularly with school site administrators.	General Fund	\$ 391,600
177	Riverside Assessments, LLC d/b/a Riverside Insights	Limited Liability Company filing as a Partner	Andrew Scherrer	Andrew Scherrer	Lindsay Sanders	N	Equity and Access	7/1/2021 - 6/30/2022	Contractor will provide Online access to the CogAT GATE assessment (full battery of assessments) for FUSD who will assess all 1st-6th grade students who have been identified for GATE assessments.	Testing Fees	\$ 130,350
178	Robert Half Technologies	Corporation	Randy Powell	Tami Lundberg	Tami Lundberg	N	Information Technology	7/1/2021 - 6/30/2022	Contractor agrees to provide Hire firm to recruit, throughout the country, and select highly qualified candidates to matching specific unique duties for vacant positions.	Technology School Support	\$ 35,000



www.fresnounified.org

PURCHASE ORDER

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ACCOUNTS PAYABLE

Inquiries and Support:
Accounts.Payable@FresnoUnified.org
Remit Invoices:
Invoices@FresnoUnified.org

TRANSACTION

NUMBER

PURCHASE ORDER VERSION:



00000764153

PURCHASING SERVICES

4498 NORTH BRAWLEY AVE. FRESNO, CA 93722
(559) 457-3588 - FAX: (559) 457-6040

Contact Name: David Her

THIS NUMBER MUST APPEAR ON ALL PACKAGES,
PACKING LISTS, INVOICES, AND CORRESPONDENCE.



PAGE

1

DATE OF ORDER:

2022-09-26

DELIVERY DATE:

2023-06-30

DIRECT INQUIRIES TO

VENDOR NO.

30573 B01

VENDOR TELEPHONE: 510-568-7944

VENDOR FAX:

VENDOR EMAIL ADDRESS:

MUTIUF@PERFORMANCEFACT.COM

VENDOR CONTACT:

MUTIU FAGBAYI

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PERFORMANCE FACT, INC
333 HEGENBERGER ROAD, SUITE 204

OAKLAND, CA 94621

BOE 09/14/22 A-8

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FRESNO UNIFIED SCHOOL DISTRICT
OFFICE OF THE SUPERINTENDENT
2309 TULARE STREET
FRESNO, CA 93721

Superintendent/A4/Gloria Jenkins/To support th

LINE	COMMODITY NO.	DESCRIPTION	UNIT	UNIT COST	4th	3rd	2nd	1st
					TOTAL COST			
1	11ICA12	0.00		0.00				\$21,280.00
		INDEPENDENT CONTRACTOR AGREEMENT						
		THIS PURCHASE ORDER IS ISSUED IN ACCORDANCE WITH THE TERMS CONDITIONS AND PRICING OF CONTRACT TITLED: Performance Fact, Inc.						
		ACCEPTED AND DATED: September 22, 2022						
		SERVICE DESCRIPTION: Its central aim is to support the Co-Program Managers and the A4 Team with tools, targeted assistance, and coaching to facilitate disciplined implementation of the A4 Strategic Plan.						
		SERVICE LOCATION: Virtual						
		BOARD AGENDA: 09/14/22 A-8						
		EFFECTIVE DATES FOR THIS PURCHASE ORDER: 9/16/22 - 6/30/23						
		RATE: ORIGINAL ESTIMATED AMOUNT OF \$21,280.00						
		AUTHORIZED APPROVER: Lisa Mitchell and Tonisha Hargrove						
		PLEASE REFER QUESTIONS REGARDING THIS ORDER TO CONTACT PERSON: Gloria Jenkins						
		PH: 559-457-3728						
		RQS #0755-01760048059 DH						
		FOB: Destination, Freight-Prepaid						
		This is the last page						
		ALL EXTENDED TOTAL COSTS REFLECT APPLICABLE CALIFORNIA SALES TAX/DISCOUNTS						
Authorized Signature			Vendor agrees to comply with District Terms & Conditions posted at http://go.fresnounified.org/StandardTermsAndConditions		Date		\$21,280.00	

Fresno Unified School District
Board Agenda Item

Board Meeting Date: September 14, 2022

AGENDA ITEM A-8

AGENDA SECTION: A

(A – Consent, B – Discussion, C – Receive, Recognize/Present)

ACTION REQUESTED: Approve

(Adopt, Approve, Discuss, Receive, etc.)

TITLE AND SUBJECT: Approve Agreement with Performance Fact, Inc.

ITEM DESCRIPTION: Included in the Board binders is a request to approve an agreement with Performance Fact, Inc. in the amount of \$21,280.

The agreement's central aim is to support the African American Academic Acceleration's (A4) Leadership and Team with tools, targeted assistance, and coaching to facilitate the disciplined implementation of the A4 Strategic Plan and ensuring A4's mission, vision, values, and goals are synchronized with those of Fresno Unified School District.

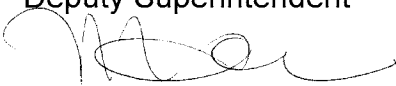
The term of this contract will begin September 16, 2022, and through June 30, 2023.

FINANCIAL SUMMARY: Sufficient funds in the amount of \$21,280 are available in the African American Academic Acceleration (A4) budget.

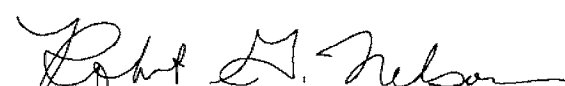
PREPARED BY: Lisa Mitchell,
Executive Director

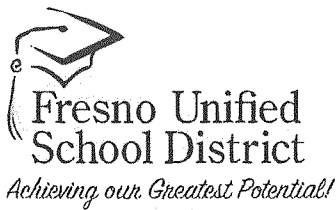
DIVISION: African American Academic
Acceleration (A4)
PHONE NUMBER: (559) 457-3633

CABINET APPROVAL: Misty Her,
Deputy Superintendent



SUPERINTENDENT APPROVAL:





Fresno Unified School District Contract Routing Form

Completed independent contract agreement must be attached

<u>Performance Fact, Inc.</u>		<u>333 Hegenberger Road, Ste 204, Oakland, CA 94621</u>	
<u>Vendor Name</u>		<u>Address</u>	
<u>(510) 568-7944</u>		<u>Muti O. Fagbayi</u>	
<u>Phone Number</u>		<u>Vendor Contact</u>	
<u>From: September 16, 2022</u>		<u>Through: June 30, 2023</u>	
<u>Term (Duration)</u>			
<u>FUSD Contract Administrator:</u>		<u>African American Academic Acceleration</u>	
<u>Lisa Mitchell</u>			
<u>Name</u>		<u>Site/ Dept</u>	<u>Telephone number</u>
<u>Budget (Fund-Unit-Dept.-Activity-Object)</u>		<u>030-0176-0755-1110-1000-5899</u>	

Annual Cost \$ 21,280.00 (Estimated Amount)

Fingerprint Requirements: All individuals providing services under this contract are in compliance with the requirements of the "Michelle Montoya" Act, as required therein.

Yes ☐

No ☒

Scope of Work Summary:

Its central aim is to support A4 Leadership and Team with tools, targeted assistance, and coaching to facilitate disciplined implementation of the A4 Strategic Plan.

Key deliverable include:

Chart the course: facilitate articulation of the annual performance objectives and development of the consolidated Annual Action Plan for the school year. Facilitate design and development of the Vital Signs Scorecard (Dashboard of key performance indicators), aligned to the A4 Strategic Plan.

Reflect and plan: (at the start of each trimester) identify priorities for the cycle and develop/update the action plan (by program, by team member). (At the end of each trimester) Collaboratively with the A4 team, compile data relating to the effectiveness of the implementation of programs and services and student outcomes.

Evaluate and celebrate: (end-of-year) collaboratively with the A4 team, prepare evidence-based end-of-year report vis-à-vis the priorities outlined in the Annual Action Plan.

Date Item is to appear on Board of Education Agenda: 09/14/22 Agenda Item # (Contracts of \$15,000.00 or more)

Reviewed & approved by Cabinet Level Officer:

[Signature] 8/16/22
Signed Date

Reviewed & approved by Executive Director, Risk Management or Executive Director, Purchasing:

[Signature] 08/24/22
Signed Date

Please return signed contract to:

Gloria Jenkins

Name

African American Academic Acceleration

Department



Fresno Unified School District

Independent Contractor Services Agreement

GENERAL INFORMATION

School/Department Budget: 030-0176-0755-1110-1000-5899

District Contact Person: Lisa Mitchell

Budget Manager Approval: Lisa Mitchell

Contractor's Vendor Name: Performance Fact, Inc.

Contractor's Contact Person: Mutiu O. Fagbayi

Contractor's Title: President/CEO

Contractor's Telephone Number: (510) 568-7944

Contractor's E-mail: mutiuf@performancefact.com

Contractor's Address: 333 Hegenberger Road, Ste 204, Oakland, CA 94621

Contractor's Taxpayer ID# or SSN#: 16-1538321

This Independent Contractor Services Agreement is made and entered into effective 09/16/22 (the "Effective Date") by and between the Fresno Unified School District ("District") and ("Contractor").

1. Contractor Services. Contractor agrees to provide _____

Its central aim is to support the Co-Program Managers and the A4 Team with tools, targeted assistance, and coaching to facilitate disciplined implementation of the A4 Strategic Plan.

Key deliverable include:

Chart the course: facilitate articulation of the annual performance objectives and development of the consolidated Annual Action Plan for the school year. Facilitate design and development of the Vital Signs Scorecard (Dashboard of key performance indicators), aligned to the A4 Strategic Plan.

Reflect and plan: (at the start of each trimester) identify priorities for the cycle and develop/update the action plan (by program, by team member). (At the end of each trimester) Collaboratively with the A4 team, compile data relating to the effectiveness of the implementation of programs and services and student outcomes.

Evaluate and celebrate: (end-of-year) collaboratively with the A4 team, prepare evidence-based end-of-year report vis-à-vis the priorities outlined in the Annual Action Plan.

2. Contractor Qualifications. Contractor represents that it has in effect all licenses, permissions and has otherwise all legal qualifications to perform this Agreement.
3. Term. This Agreement shall begin on 09/16/22 , and shall terminate on 06/30/23 . There shall be no extension of the term of the agreement without express written consent from all parties.
4. Payment. District agrees to pay Contractor at following rate of \$ 21,280.00 per contract ; Not to exceed \$ 21,280.00 . Checks will be made payable to Performance Fact, Inc. . Payment shall be limited to amount written in this paragraph, unless specifically indicated in Paragraph 5. District agrees to pay Contractor within thirty (30) days of receipt of detailed invoice.
5. Incidental Expenses. ☐ Yes (See below) ☒ No, Vendor initial here mof
 - a. Lodging _____ Actual cost of single occupancy. Not to exceed \$100 per night. **Receipt Required.*
 - b. Meals _____ Reimbursement limited to actual cost up to the following rates: Breakfast \$12.20, Lunch \$18.30, Dinner \$30.50. **Receipt Required.*
 - c. Travel _____ Actual cost by common carrier. Private car expenses will be reimbursed at the current standard business IRS mileage rate.
 - d. Supplies _____ As negotiated with school/department contracting for service.
 - e. Total Estimated Cost (Sum of paragraphs 4 and 5a – d): \$ 21,280.00
 - f. Other _____
6. Employment. Are you a current FUSD employee? ☐ Yes ☒ No
7. CalPERS & CalSTRS. Are you a CalPERS or CalSTRS retiree? ☐ Yes ☒ No
8. California Residency. Contractor is a resident of the state of California: ☒ Yes ☐ No
9. Report Fraud, Waste and Abuse. By calling the Anti-Fraud Hotline, (559) 325-3200, or by completing the fraud, waste or abuse reporting form online at: <http://www.ppcpas.com/fresno-unified-fraud-alert>. The anti-fraud waste or abuse reporting hotline is available to report alleged fraud in the district. The responsibility for monitoring the hotline rests with the internal auditor for Fresno Unified School District, Price, Page & Company. A report may be made anonymously.
10. Conflict of Interest. In consideration of the Districts Conflict of Interest Code, Contractor affirms they do not have, nor does the Contractor anticipate having any interest in real property, investments, business interest in or income from sources which would provide Contractor, his/her spouse or minor child(ren) with personal financial gain as a result of any recommendation, advice or any other action taken by Contractor during the rendition of services under this Agreement.
Contractor's initials mof District's initials AP
11. Anti-discrimination. Fresno Unified School District prohibits discrimination, harassment, intimidation, and bullying based on actual or perceived race, color, ethnicity, national origin, immigration status, ancestry, age, creed, religion, political affiliation, gender, gender identity, gender expression, genetic information, mental or physical disability, sex, sexual orientation, marital status, pregnancy or parental status, medical information, military veteran status, or association with a person or a group with one or more of these actual or perceived characteristics or any other basis protected by law or regulation, in its educational program(s) or employment. If you believe you, or your student, have been subjected to discrimination, harassment, intimidation, or bullying you should contact your school site principal and/or the District's Chief Compliance and Title IX Officer Paul Idsvoog, by phone at 559-457-3730, by email at Paul.Idsvoog@fresnounified.org, or in person at 2309 Tulare Street Fresno, CA 93721.
12. Termination of Agreement. Either District or Contractor may terminate this Agreement at any time for any reason upon thirty (30) days prior written notice. In the event of early termination, Contractor shall be paid for satisfactory work

performed to the date of termination. The District may then proceed with the work in any manner the District deems proper.

Notwithstanding the expiration or termination of this Agreement for any reason (a) any provision of this Agreement that imposes or contemplates continuing obligations on a Party shall survive the expiration or termination of this Agreement, including without limitation, the rights and duties under Paragraphs 12, 13, 15, and 17; and (b) all undisputed fees due and payable hereunder through the termination date in accordance with Paragraphs 4 and 5.

13. Confidential Information

- a. For the purposes of this Agreement "Confidential Information" includes any written or oral information or data, disclosed by either Party to the other, which may include, without limitation, information relating to technical, financial, personnel, personal employee information, the network, corporate, administration, plan design, benefits or contractual affairs of either Party or a third party that has been identified as confidential or that by the nature of the circumstances surrounding disclosure ought reasonably to be treated as confidential.
- b. Contractor hereby agrees that it shall not disclose Confidential Information, and any materials, discussions, or other communications concerning Confidential Information to any person or entity, except to its own employees, contractor personnel, and to its attorneys, accountants, consultants and other professional advisors having a "need to know," and who are themselves bound by similar nondisclosure restrictions (collectively, "Representatives"). If Contractor becomes aware of any disclosure or use not in compliance with this Agreement, Contractor shall notify the District in writing within three (3) business days. Contractor shall use at least the same degree of care in safeguarding Confidential Information as it uses in safeguarding its own confidential information. Representatives shall be bound to comply with all terms of this Paragraph 13.B. Upon the request of the District, Contractor shall provide a written acknowledgment from each of its Representatives that said Representative is bound by the terms of this Paragraph 13.B.
- c. Contractor's obligation under this Agreement to not disclose Confidential Information shall not apply to information that: (a) becomes generally available to the public other than as the result of unauthorized disclosure by Contractor or a third party; (b) is independently developed by Contractor without the aid, application or use of Confidential Information; or (c) was received by Contractor on a non-confidential basis prior to receipt from the District or from a third-party lawfully possessing and lawfully entitled to disclose such information.
- d. Disclosure of Confidential Information shall not be precluded if such disclosure is: (a) required pursuant to a valid court order; or (b) in the opinion of legal counsel for Contractor, is otherwise required by law, provided that in either circumstance:
 - i. Contractor shall furnish the District with a copy of the demand, summons, subpoena or other legal process to compel such disclosure;
 - ii. Contractor shall give the District reasonable prior notice of its intention to disclose Confidential Information in order to allow the District an opportunity to seek appropriate protection; and
 - iii. Contractor shall take all reasonable steps including, without limitation, the pursuit of a protective order, to restrict the disclosure of Confidential Information to the greatest extent possible.
- e. All Confidential Information provided by the District to Contractor is and shall forever remain the sole and exclusive property of the District. By granting access to Confidential Information, the District does not grant any express or implied right to Contractor to use, publish or disclose any Confidential Information. After its review of the Confidential Information Contractor will return to the District all Confidential Information disclosed to it (including copies or summaries of Confidential Information), or with the District's permission destroy the Confidential Information and certify in writing that it has been destroyed.

14. Injunctive Relief. Each Party acknowledges that a breach or threatened breach of this Agreement may cause immediate and irreparable harm to the District and that, to protect against such harm, the District may seek from a court of competent jurisdiction the issuance of a restraining order or injunction to prohibit any threatened disclosure

or misuse of the District's Confidential Information. Such an action for a restraining order or injunction is in addition to and does not limit all other remedies provided by law or in equity or by agreement between the Parties.

15. Indemnification and Hold Harmless. To the fullest extent allowed by law, the Contractor shall defend, indemnify and hold District, its agents, employees, Board of Trustees, members of the Board of Trustees, officials, officers, volunteers, and representatives ("Indemnities") free and harmless from any and all claims, demands, negligence (including the active or passive negligence of Indemnities, regardless of whether sole or otherwise, as allowed by law), causes of action, costs, expenses, liabilities, losses, damages or injuries, fines, penalties in law or equity, regardless of whether the allegations are false, fraudulent, or groundless, to property or persons, including wrongful death, (collectively "Loss") to the extent arising out of or incident to: 1) the performance or breach of any of the terms and conditions of the contract (including but not limited to) the Contractor's use of the site; or 2) any acts, omissions, negligence, in connection with the performance of Services or otherwise arising from this Contract ("Indemnification"); or 3) the willful misconduct of the Contractor or their respective agents, subcontractors, employees, material or equipment suppliers, invitees, or licensees. The Contractor's Indemnification includes, but is not limited to, the payment of all damages and attorney's fees, fines, penalties and other related costs and expenses.
- a. The Contractor's defense obligations (with counsel approved by District), shall arise immediately upon tender of any of the Indemnities, and the defense shall be paid at Contractor's own cost, expense and risk, for any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against any of the Indemnities, notwithstanding whether liability is, can be or has yet been established.
 - b. The Contractor shall pay and satisfy any judgment, award or decree that may be rendered against any of the Indemnities, in any such suit, action or other legal proceeding. The Contractor shall reimburse Indemnities, and each of them, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided.
 - c. Acceptance of insurance certificates and endorsements required under the contract does not relieve the Contractor from liability under this indemnification and hold harmless clause. The requirements of this Section (Indemnification and Hold Harmless) shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.
16. Insurance. Without limiting "Contractor" indemnification, it is agreed that "Contractor" shall secure and maintain in force during the term of this Agreement a Commercial General Liability policy (Contractual liability included) utilizing an occurrence policy form, with limits of not less than two million (\$2,000,000) dollars per occurrence, four million (\$4,000,000) annual aggregate limit. Business automobile Liability Insurance shall be maintained for owned, scheduled, non-owned or hired automobiles with a combined single limit not less than two million (\$2,000,000) dollars per occurrence. In the event "Contractor" is working with students individually or providing professional services to students, "Contractor" shall maintain a policy providing coverage for sexual molestation and/or abuse claims. In the event that "Contractor's" Commercial General liability policy excludes coverage for sexual molestation and/or abuse claims shall be required to procure a separate or supplemental policy providing such coverage. The limits of coverage for the abuse and molestation policy shall be not less than \$2,000,000 per claim and \$4,000,000 aggregate. If any of the required policies provide coverage on a claims-made basis then the following shall apply; 1) The retroactive date must be shown, and must be before the date of the contract or the beginning of contract work; 2) Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract work; (3) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work. Self-insured retentions must be declared to and approved by District. The District may require "Contractor" to provide proof of ability to pay losses and related investigations, claims administration and defense expenses within the retention. The policy shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or the District.
- The District shall be named as an additional insured on the policies by separate endorsement. A Certificate of Insurance and endorsements shall be attached to the Agreement as proof of insurance. The "Contractor" policy shall provide that it is primary such that insurance maintained by the District, if any, shall be excess and not co-primary. "Contractor" shall produce the policy for District, upon request.

17. Independent Contractor Status. While engaged in carrying out the terms and conditions of the contract, the Contractor is an independent contractor, and not an officer, employee, agent, partner, or joint venture of the District.
18. Workers' Compensation Insurance. Contractor agrees to provide all necessary workers' compensation insurance for Contractor's employees, if any, at Contractor's own cost and expense.
19. Fingerprinting Requirements. Contractor hereby acknowledges that, if applicable, it is required to comply with the requirements of Education Code Section 45125.1 with respect to fingerprinting of employees who may have contact with the District's pupils. The Contractor shall also ensure that its consultants on the Project also comply with the requirements of Section 45125.1. If required by Education Code Section 45125.1, the Contractor and its consultants, prior to any of the Contractor's employees, or those of any other consultants, coming into contact with the District's pupils submit through the DISTRICT fingerprints to the Department of Justice (DOJ) for the monitoring and supervision of employee(s) and/or affiliated constituents. Contractor will not begin work on the Project site until obtaining a DOJ cleared status through the DISTRICT. Contractor further acknowledges that other fingerprinting requirements may apply, as set forth in Education Code Section 45125 et seq., and will comply with any such requirements, including having Consultant certify that none of these employees and/or affiliated constituent(s) will have been convicted of a felony as defined in Education Code section 45122.1. "Fingerprinting Requirements," is expressly understood and agreed to by the parties hereto:

Contractor's initials mof

District's initials AS

20. Taxes. Contractor agrees that Contractor has no entitlement to any future work from the District or to any employment or fringe benefits from the District. Payments to the contractor pursuant to this Agreement will be reported to Federal and State taxing authorities as required. District will not withhold any money from compensation payable to Contractor. District will not withhold FICA (Social Security), state or federal unemployment insurance contributions, state or federal income tax or disability insurance. Contractor is independently responsible for the payment of all applicable taxes.
21. Assignment. The Contractor shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of the District.
22. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the contractor and the District and their respective successors and assigns.
23. Severability. If any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
24. Waiver and Amendments. This Agreement may be amended, modified, superseded, cancelled, renewed or extended, and the terms and conditions hereof may be waived, only by a written instrument signed by the parties or, in the case of a waiver, by the party waiving compliance. The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach.
25. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California and venue shall be in the appropriate Superior court in Fresno, California.
26. Attorney's Fees. The non-prevailing party in any dispute under this Agreement shall pay all costs and expenses, including expert witness fees and attorney's fees, incurred by the prevailing party in resolving such dispute.

27. Written Notice. Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the company or to an officer of the corporation for whom it was intended, or if delivered to or sent by registered or certified mail to the last business address known to the person who gives the notice.

District:

Ann Loorz
Purchasing Department
Fresno Unified School
District 4498 N. Brawley
Avenue Fresno, CA 93722

Contractor: Performance Fact, Inc.

Name: Mutiu O. Fagbayi

Address:

4022 Balfour Avenue
Oakland, CA 94610

c: Andrew De La Torre
Benefits & Risk Management
Fresno Unified School District
2309 Tulare Street
Fresno, CA 93721

28. Compliance with Law. Each and every provision of law and clause required by law to be inserted into this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein. Contractor agrees that it shall comply with all legal requirements for the performance of its duties under this agreement and that failure to do shall constitute material breach.
29. Entire Agreement. This Agreement is intended by the Parties as the final expression of their agreement with respect to such terms as are included herein and as the complete and exclusive statement of its terms and may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement, nor explained or supplemented by evidence of consistent additional terms.
30. Construction. The rule of construction that any ambiguity in an agreement be construed against the drafter of such agreement shall not apply to this Agreement.
31. Execution of Other Documents. The parties to this Agreement shall cooperate fully in the execution of any and all other documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.
32. Execution in Counterparts. This Agreement may be executed in counterparts such that the signatures may appear on separate signature pages. A copy, or an original, with all signatures appended together, shall be deemed a fully executed agreement.
33. Board Approval. For contracts in excess of \$15,000.00, the effectiveness of this Agreement is contingent upon the approval of the Fresno Unified School District Board of Education.

Executed at Fresno, California, on the date and year first written above.

DISTRICT

Fresno Unified School District



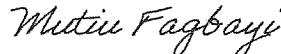
Santino Danisi, Chief Financial Officer

Sep 22, 2022

Date

CONTRACTOR

Performance Fact, Inc.

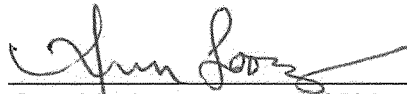


Name: Mutiu O. Fagbayi, Title: President/CEO

08.16.2022

Date

Approved As To Form:



*Executive Director Benefits and Risk
Management or Purchasing*

08/24/22

Date



PERFORMANCE *fact*, INC.

Developing leaders. Transforming Practices. Inspiring Results.

Scope of Professional Services
African American Academic Acceleration Initiative
Fresno Unified School District
Fresno, CA

Lisa Mitchell
Executive Director

**DISCIPLINED IMPLEMENTATION
& LEADERSHIP FOR RESULTS**

Submitted by:
Performance Fact, Inc.
Mutiu O. Fagbayi, President/CEO

6 May 2022

vi

Introduction

This Proposal outlines professional services that Performance Fact, Inc. will provide to the Fresno USD's **African American Academic Acceleration (A4) Initiative** during the 2022/2023 school years. Its central aim is to support A4 Leadership and Team with tools, targeted assistance, and coaching to facilitate disciplined implementation of the **A4 Strategic Plan**.

2022/2023 Scope of Professional Services **FUSD's A4 Initiative**

	Key Deliverables
Start of the SY <i>Chart the course</i> 1 day on-site 1 equivalent day virtual	<ul style="list-style-type: none"> Facilitate articulation of the annual performance objectives and development of the consolidated Annual Action Plan for the school year. Facilitate design and development of the Vital Signs Scorecard (Dashboard of key performance indicators), aligned to the A4 Strategic Plan. Compile milestones of progress (using the online CPR Card tool to monitor implementation of the Annual Action Plan). Conduct orientation and training for A4 team regarding core implementation tools and resources, including the CPR Card, Vital Signs Scorecard, Data Summit process.
Every 6-12 Weeks <i>Reflect & Plan</i> 1 day on-site 2 equivalent days virtual	<ul style="list-style-type: none"> (At start of each trimester) Identify priorities for the cycle and develop/update action plan (by program, by team member). (At end of each trimester) Collaboratively with the A4 team, compile data relating to effectiveness of implementation of programs and services, as well as outcomes for students. (At end of each trimester) Conduct a Data Summit (i.e., evidence-based community conversations about student learning and professional/programmatic practices); compile key findings, and identify priorities for the next trimester.
Mid-Year/End-of-Year <i>Evaluate & celebrate</i> 1 equivalent day virtual	<ul style="list-style-type: none"> (End-of-year) Collaboratively with A4 team, prepare evidence-based end-of-year report vis-à-vis the priorities outlined in the Annual Action Plan. (End-of-year) Facilitate development of the Annual Action Plan for the next school year.

Sub-total \$28,280
Less Discount \$ 7,000

CONTRACT TOTAL \$21,280

CONTRACT TERMS ACCEPTED:

PERFORMANCE FACT SIGNATORY

MUTIU O. FAGBAYI

Name

Mutiu Fagbayi
Signature

President/CEO

Title

May 6, 2022

FRESNO UNIFIED A4 SIGNATORY

Lisa Mitchell

Santino Danisi

Name (Please Print)

Lisa Mitchell
Signature

Executive Director

Title

8/16/2022

Date

Chief Financial Officer

Sep 22, 2022

© Performance Fact, Inc.


Performance Fact, Inc


Final Audit Report


2022-09-22


Created:	2022-09-19
By:	Florencia Ventura (florencia.venturarodriguez@fresnounified.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAJHDcY502yFSZkNHL2ZI7DseI_xDqX8Af


"Performance Fact, Inc" History

 Document created by Florencia Ventura (florencia.venturarodriguez@fresnounified.org)
2022-09-19 - 6:18:46 PM GMT- IP address: 206.78.213.129

 Document emailed to Santino (santino.danisi@fresnounified.org) for signature
2022-09-19 - 6:22:39 PM GMT

 Email viewed by Santino (santino.danisi@fresnounified.org)
2022-09-19 - 6:22:44 PM GMT- IP address: 40.94.34.126

 Document e-signed by Santino (santino.danisi@fresnounified.org)
Signature Date: 2022-09-22 - 7:49:51 PM GMT - Time Source: server- IP address: 206.78.213.93

 Agreement completed.
2022-09-22 - 7:49:51 PM GMT



www.fresnounified.org

PURCHASE ORDER

B
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T
O

ACCOUNTS PAYABLE

Inquiries and Support:
Accounts.Payable@FresnoUnified.org
Remit Invoices:
Invoices@FresnoUnified.org

TRANSACTION

NUMBER

PURCHASE ORDER VERSION:



00000785546

PURCHASING SERVICES

4498 NORTH BRAWLEY AVE. FRESNO, CA 93722
(559) 457-3588 - FAX: (559) 457-6040

Contact Name: David Her

THIS NUMBER MUST APPEAR ON ALL PACKAGES,
PACKING LISTS, INVOICES, AND CORRESPONDENCE.



PAGE

1

DATE OF ORDER:

2023-08-04

DELIVERY DATE:

2024-06-28

DIRECT
INQUIRIES
TO

VENDOR NO.

30573 B01

VENDOR TELEPHONE: 510-568-7944

VENDOR FAX:

VENDOR EMAIL ADDRESS:

MUTIUF@PERFORMANCEFACT.COM

VENDOR CONTACT:

MUTIU FAGBAYI

V
E
N
D
O
R

PERFORMANCE FACT, INC
4022 BALFOUR

OAKLAND, CA 94610

BOE 06/21/23 A-18 (BUNDLED CONTRACTS)

S
H
I
P
T
O

AFRICAN AMERICAN ACADEMIC ACCELERATION
748 S. 10TH STREET

FRESNO, CA 93702

A4/Gloria Jenkins/Support the co-program manag

DESCRIPTION

4th 3rd 2nd 1st

LINE	COMMODITY NO.	QUANTITY	UNIT	UNIT COST	TOTAL COST
1	11ICA12 INDEPENDENT CONTRACTOR AGREEMENT	0.00		0.00	21,280.00
THIS PURCHASE ORDER IS ISSUED IN ACCORDANCE WITH THE TERMS CONDITIONS AND PRICING OF CONTRACT TITLED: PERFORMANCE FACT, INC.					
ACCEPTED AND DATED: 6/28/23					
SERVICE DESCRIPTION: ITS CENTRAL AIM IS TO SUPPORT THE CO-PROGRAM MANAGERS AND THE A4 TEAM WITH TOOLS, TARGETED ASSISTANCE, AND COACHING TO FACILITATE DISCIPLINED IMPLEMENTATION OF THE A4 STRATEGIC PLAN.					
SERVICE LOCATION: VITUAL					
SITE / DEPARTMENT NAME: AFRICAN AMERICAN ACADEMIC ACCELERATION (A4)					
BOARD AGENDA: 06/21/23 A-18 #136					
EFFECTIVE DATES FOR THIS PURCHASE ORDER: 7/1/23 - 6/28/23					
RATE: NOT TO EXCEED ORIGINAL CONTRACT AMOUNT OF \$21,280.00					
AUTHORIZED APPROVER: LISA MITCHELL					
PLEASE REFER QUESTIONS REGARDING THIS ORDER TO CONTACT PERSON: GLORIA JENKINS					
PH: 559-457-3728					
RQS #0755-01760053209 MM					
FOB: Destination, Freight-Prepaid					
This is the last page					
ALL EXTENDED TOTAL COSTS REFLECT APPLICABLE CALIFORNIA SALES TAX/DISCOUNTS					

Authorized Signature

Vendor agrees to comply with District Terms &
Conditions posted at
<http://go.fresnounified.org/StandardTermsAndConditions>

Date

\$21,280.00

Standard Terms and Conditions

All Purchase Orders
Payment Terms: Net 30 days
FOB: Destination

Performance on or fulfillment of this Purchase Order Agreement shall bear witness to the acceptance of the Standard Terms and Conditions of this Purchase Order Agreement.

- (1) NO GOODS WILL BE RECEIVED BETWEEN 12:00 AND 12:30 PM, OR AFTER 3:00 P.M. M-F, OR ON SATURDAYS, SUNDAYS OR HOLIDAYS.
- (2) IF MERCHANDISE CANNOT BE DELIVERED BY DATE SHOWN OR IF UNABLE TO FILL ORDER EXACTLY AS SHOWN CONTACT BUYER FOR INSTRUCTIONS. DO NOT SUBSTITUTE
- (3) THE P.O. NUMBER MUST APPEAR ON ALL INVOICES, CORRESPONDENCE AND PACKAGES.
- (4) **TAXES:** The Fresno Unified School District is exempt from all federal excise taxes. Federal exemption certificates will be furnished when applicable. The Fresno Unified School District does pay a state & local sales tax; however, California use tax will be paid to out of state vendors only when their permit number is shown on both their bid and invoices.
- (5) **TRANSPORTATION CHARGES:** It is understood that the seller agrees to deliver all items on this order PREPAID unless otherwise specified. All costs for delivery, drayage or freight, or for the packaging of said articles, are to be borne by the seller unless otherwise stated. All containers, drums, carboys, etc., to be returned, must be shipped on a no charge or consignment basis.
- (6) **LIQUIDATED DAMAGES:** In case of contract default by seller, the Fresno Unified School District may procure the articles or services from other sources and may deduct the excess costs so paid from any unpaid balance due the seller or may collect against the bond or security, or from the surety. Liquidated damages shall be based on the following: (1) actual cost to the district between the price or prices bid and the price or prices paid by the school district on the open market at the time such purchases are made and (2) actual cost of labor and materials involved by the district in changing the award from one vendor to another.
- (7) **INSPECTIONS:** All material furnished must be in conformity with the specifications and will be subject to inspection and approval of the Fresno Unified School District after delivery. The right is reserved to reject and return at the risk and expense of the seller such portion of any shipment which may be defective or fail to comply with specifications, without invalidating (at the option of the Executive Director of Purchasing) the remainder of the order. If rejected it will be held for disposition at expense and risk of the seller.
- (8) **LIABILITIES:** The contractor or seller must save, keep, bear harmless, and fully indemnify said Board of Education and any of their officers or agents from all damages, or claims for damages, costs or expenses in law or equity that may at any time arise or be set up for any infringement of the patent rights, copyright, or trademark of any persons in consequence of the use by said district or districts, or by any of their officers or agents, of articles to be supplied under this bid.
- (9) **DELIVERIES:** The seller will not be held liable for failure to make delivery because of strikes, conscription of property, government regulations, or acts of GOD. Whenever the seller claims the delay is due to any of the above-named causes, he shall request within five days of the delay an extension of time from the Board of Education. Such a request must be in writing and must be described in detail the cause for the delay. If the board finds that such cause or causes of delay exists, it shall grant the bidder an extension of time equal to the delay resulting from such cause or causes; or the board may rescind the contract in total or in part.
- (10) **SUBSTITUTIONS:** All delivered good, services and charges must be in accordance with the bids or specifications upon which this order is placed. Do not substitute. The District reserves the right to cancel this order or adjust any claim thereunder if merchandise, delivery, services rendered or charges submitted are not in accordance with the bids or specifications.
- (12) **SAMPLES:** Seller maybe required to submit samples. If samples are required, they must be submitted within the time specified after notification by the Executive Director of Purchasing. Samples must be furnished free of expense to the school district. All samples must be securely tagged, showing seller's name and bid number. Samples, if not destroyed by tests, shall be picked up by the seller not later than two (2) weeks after notification. Samples not picked up the seller within two (2) week period become the property of the district and may be disposed of as the district sees fit.
- (13) **PAYMENT:** It is the seller's responsibility to submit invoices directly to the Accounting Department rather than to the Purchasing or using department, and no invoice will be considered due for payment until received by the Accounting Department. Invoices against completed orders are processed at least once a month; therefore, it is the policy of the School District to take any and all discounts without regard to date of invoice. Partial payments will not be made against this Purchase Order unless agreed to in advance by the Fresno Unified School District. Payment terms shall be net 30 days from receipt of invoice.
- (14) **SAFETY REGULATIONS:** All equipment and supplies furnished, and/or all work performed, shall meet all applicable safety regulations of the Division of Industrial Safety of the State of California, and Health & Safety Code of the State of California.
- (15) **EQUAL OPPORTUNITY EMPLOYMENT:** It is the policy of the Fresno Unified School District that in connection with all work performed there be no discrimination against any prospective or active employee engaged in the work because of race, color, ancestry, national origin, sex or religious creed; and therefore the contractor agrees to comply with all applicable Federal and California laws and Executive Orders pertaining to equal employment opportunities. In addition, the contractor agrees to require like compliance by all subcontractors employed on the work by him.

(16) **DEFECTS OF MATERIALS AND WORKMANSHIP:** Seller/Contractor warrants that all articles furnished shall be free from defects of materials and workmanship, that all articles furnished shall be fit and sufficient for the purpose intended, and shall save, keep, bear harmless and fully indemnify the Buyer and any of its officers, employees or agents from all damages, or claims from damages, costs or expenses in law or equity that may arise from Buyer's normal use.

(17) **PRICING:** When a discrepancy exists between the bid price and the order price, the bid price is the legally binding price.

(18) **MATERIALS SAFETY DATA SHEETS (MSDS):** When applicable, Material Safety Data Sheets (MSDS) must be included with the order. If requested MSDS are not delivered with order, payment will be delayed pending receipt of sheets.

(19) **INDEMNIFICATION:** To the fullest extent permitted by law, Provider agrees to defend, indemnify, and hold harmless District, its governing board, officers, agents, employees, successors, assigns, independent contractors and/or volunteers from and against any and all claims, demands, monetary or other losses, loss of use, damages and expenses,, including but not limited to, legal fees and costs, or other obligations or claims arising out of any liability or damage to person or property resulting from bodily injury, illness, communicable disease, virus, pandemic, or any other loss, sustained or claimed to have been sustained arising out of activities of the Provider or those of any of its officers, agents, employees, participants, vendors, customers or subcontractors of Provider, whether such act or omission is authorized by this Agreement or not. Provider also agrees to pay for any and all damage to the real and personal property of the District, or loss or theft of such property, or damage to the Property done or caused by such persons. District assumes no responsibility whatsoever for any property placed on District premises by Provider, Provider's agents, employees, participants, vendors, customers or subcontractors. Provider further hereby waives any and all rights of subrogation that it may have against the District. The provisions of this Indemnification do not apply to any damage or losses caused solely by the negligence of the District or any of its governing board, officers, agents, employees and/or volunteers.

(20) **PUBLIC WORKS LABOR CODE:** The Contractor hereby stipulates that it shall comply with the applicable provisions of the California Labor Code, Division 2, Part 7, Chapter 1, Articles 1-5 ("Public Works Labor Code Provision"), including, but not limited to, the payment of the general prevailing rates for public works projects of more than One Thousand Dollars (\$1,000) (1771), hiring of Apprentices (1777.5) and Working Hours (1813), and Payroll Records (1776).

(21) **DIR REGISTRATION:** Contractors involved in a public works project as defined in Section 1720 of the Labor Code shall be registered with the Department of Industrial Relations pursuant to Labor Code 1725.5.

UNLESS EXCEPTIONS ARE FILED IN WRITING WITH THE EXECUTIVE DIRECTOR OF PURCHASING AND NOTED ON THE PURCHASE ORDER, SELLER AGREE TO ALL TERMS AND CONDITIONS HEREIN THE "STANDARD TERMS AND CONDITIONS" AND ALL BID INSTRUCTIONS AND CONDITIONS PROVIDED AT THE TIME OF BID.

(22) **ASSIGNMENT:** The Contractor shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of the District.

(23) **WAIVER AND AMENDMENTS:** This Purchase Order Agreement may be amended, modified, superseded, cancelled, renewed or extended, and the terms and conditions hereof may be waived, only by a written instrument signed by the parties or, in the case of a waiver, by the party waiving compliance. The waiver by any party hereto of a breach of any provision of this Purchase Order Agreement shall not operate or be construed as a waiver of any subsequent breach.

(24) **GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the laws of the State of California and venue shall be in the appropriate Superior court in Fresno, California.

(25) **ATTORNEY'S FEES:** The non-prevailing party in any dispute under this Agreement shall pay all costs and expenses, including expert witness fees and attorney's fees, incurred by the prevailing party in resolving such dispute.

(26) **ENTIRE AGREEMENT:** This Agreement is intended by the Parties as the final expression of their agreement with respect to such terms as are included herein and as the complete and exclusive statement of its terms and may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement, nor explained or supplemented by evidence of consistent additional terms.

(27) **CONFLICT OF INTEREST:** In consideration of the Districts Conflict of Interest Code, Contractor affirms they do not have, nor does the Contractor anticipate having any interest in real property, investments, business interest in or income from sources which would provide Contractor, his/her spouse or minor child(ren) with personal financial gain as a result of any recommendation, advice or any other action taken by Contractor during the rendition of services under this Agreement

(28) **TERMINATION WITH CAUSE:** The district reserves the right to terminate services if CONTRACTOR defaults in the performance of any of its duties or obligations under this Agreement, then the DISTRICT, by giving written notice of termination to the CONTRACTOR, terminate this Agreement as of a date specified in the notice of termination (the "Termination Date") such Termination Date being subsequent to the date of the notice of termination.



Fresno Unified
School District



PROCUREMENT
SERVICES

Fresno Unified School District
Board Agenda Item

Board Meeting Date: June 21, 2023

AGENDA ITEM A-18

AGENDA SECTION: A

(A – Consent, B – Discussion, C – Receive, Recognize/Present)

ACTION REQUESTED: Approve

(Adopt, Approve, Discuss, Receive, etc.)

TITLE AND SUBJECT: Approve Annual Agreements for the 2023/24 School Year

ITEM DESCRIPTION: Included in the Board binders is a matrix detailing agreements to provide services to Fresno Unified School District. These agreements include the following categories:

- Leadership Development
- Opportunities to promote arts, activities, and athletics
- Targeted Assistance:
 - Student Achievement Outcomes
 - Social Emotional Supports
- Teacher Development
- Technology

This item includes all agreements with the exception of those that may present a potential conflict of interest for an individual Board member. All remaining agreements are in the Supplemental Report and presented as a second agenda item.

By separating the agreements in this manner, Board members with potential conflicts of interest can abstain from acting on the Supplemental Report while still voting along with the rest of the Board on the Primary Report.

Please be advised that pursuant to Board Bylaw 9270, each individual Board member has a continuing duty to disclose and abstain from voting on any item where the potential for a conflict of interest exists.

Copies of the individual agreements are available upon request. Agreements will commence after Board approval and will end no later than June 30, 2024.

FINANCIAL SUMMARY: Sufficient funds have been budgeted in the 2023/24 budget. These investments will be funded through the appropriate budgets, as detailed in the matrix.

PREPARED BY: Ashlee Chiarito,
Executive Officer

DIVISION: Business and Financial Services
PHONE NUMBER: (559) 457-6226

CABINET APPROVAL: Patrick Jensen,
Interim Chief Financial Officer

SUPERINTENDENT APPROVAL:





	Vendor Name	Vendor Type	Principal/Head Approval	Instructional Supt./Executive Director	Cabinet Representative	New Vendor?	School/Dept.	Term	Description	Funding	Estimated Total
134	Parent Institute for Quality Education (PIQE)	Corporation	Maiyer Vang	Nikki Henry	Nikki Henry	N	Parent University	7/1/23-6/30/24	PIQE will provide its one of its Family Engagement Programs for the parents/guardians of the students enrolled in five (5) school within the above-mentioned school district.	Parent University	\$ 60,000
135	Parsec Education	Other	Kristi Imberi-Olives	Kristi Imberi-Olives	Tami Lundberg	N	Information Technology	7/1/23-6/30/24	Parsec will develop and publish a public-facing data analytics dashboard to showcase state and local data.	Technology School Support	\$ 174,314
136	Performance Fact, Inc.	Corporation	Lisa Mitchell	Misty Her	Misty Her	N	African American Academic Acceleration	7/1/23-6/30/24	Will provide to A4 Initiative during the 23-24 school year. Its central aim is to support the A4 Team with tools, targeted assistance, & coaching to facilitate disciplined implement of Strategic Plan.	African American Student Academic Acceleration	\$ 21,280
137	PPL Studio LLC	LLC	Maria Ceballos Tapia	Ed Gomes	Natasha Baker	N	Early Learning	7/1/23-6/30/24	PPL Studio will support the ongoing statewide expansion of the Language Learning Project including developing digital resources to support training & implementation, maintaining the online platform.	Dual Language Learners Professional Development Grant	\$ 40,000
138	Presence Learning Inc.	Corporation	Kate Alvarado	Tangee Pinheiro	Natasha Baker	N	Special Education	7/1/23-6/30/24	Provide Online Speech & Language Therapy services to include direct, collaborative and compensatory services, reports, goal development, service documentation in district system, supervision of SLPA and attendance at IEP team meetings. Vendor will not solicit services directly. Special Education staff will be solely responsible for referring parents/students to vendor. \$89.00 an hour for up to 30 SLPs for a total of 180 eight hour days each. SLPs are to work within the 8 hour day.	Special Education	\$ 3,844,800
139	Price, Paige, and Company	Corporation	Wendy McCulley	Wendy McCulley	Wendy McCulley	N	Engagement and External Partnerships	7/1/23-6/30/24	Vendor will be providing bookkeeping services to the Foundation for Fresno Unified Schools.	External Partnership	\$ 84,000
140	Propio LS LLC	LLC	Zuleica Murillo	Nikki Henry	Nikki Henry	N	Translation And Interpretation Services	7/3/23-6/28/24	Contractor to provide on-demand audio/video interpretation to families. Languages include but not limited to ASL, Arabic, Hmong, Khmer, Laotian, and Spanish.	Translation Services	\$ 20,000
141	Public Consulting Group (PCG)	Other	Teresa Morales-Young	Ed Gomes	Natasha Baker	N	Teacher Development	7/1/23-6/30/24	PCG is a provider of online learning for applicable unit members that Fresno Unified has utilized to deliver professional learning within PL Column. Contractor agrees to provide online PL	Title II - Teacher Quality	\$ 20,000
142	QuaverEd.com	LLC	Heather Kuyper-McKenithen	Bryan Wells	Natasha Baker	N	VAPA (Art Education Department)	7/1/23-6/30/24	Quaver music curriculum resources Kindergarten through Sixth grade.	Increased Funding for Music	\$ 35,280
143	Queen of Heart	Individual	Tamara Neely	David Chavez	David Chavez	N	Classified Development	8/1/23-6/30/24	Queen of Hearts will provide in person CPR training for Classified Professionals. We are planning to provide training for 320 employees, who will then receive a certificate of completion.	Classified School Employee Prof Dev Block Grant	\$ 20,880
144	Quiq Labs	Partnership	Blair Sagardia	Marie Williams	Natasha Baker	N	Patino High School	8/1/23-6/30/24	Quiq labs will revise existing curriculum, consult on new curriculum, provide 2 consultants to team teach 6 sections of courses 4 days per week, arrange field trips and guest speakers, facilitate internships for 1 10th grade students, and host student websites (300). Adding \$10,000 for marketing/advertising paid by CTE 030-0152-0710-3800-1000-5899.	Student Engagement Center	\$ 401,600
145	Recruitment Alley LLC	Sole Proprietor	Xai Liz Torrez	Misty Her	Misty Her	N	Health Services	7/1/23-9/30/23	Recruitment Alley will provide LVNs who will support the school nurses for any student's health needs.	Expanded Learning Opportunities Program	\$ 109,200
146	Relay Hub, LLC	LLC Filing as Corporation	Xai Liz Torrez	Misty Her	Misty Her	N	Health Services	7/1/23-6/30/24	Annual license fees for enhanced reports, dashboard analytics and management of the LEA Medi-Cal Billing Option program for reimbursement funds for Health Services by district employees including RSP staff.	Student Health Services	\$ 125,000
147	Robin Jenkins	Individual	Paul Rosencrans	Paul Idsvoog	Paul Idsvoog	N	Transportation	7/1/23-12/31/23	Provide Driver Training for Original and Renewal requirements. Prepare drivers for Delegate/Instructor exam.	Transportation-Home To School	\$ 57,000
148	San Joaquin County Office of Education	State Government	Tangee Pinheiro	Tangee Pinheiro	Natasha Baker	N	Special Education	7/1/23-6/30/24	For SPED to continue to use SEIS web-based system.	Special Education	\$ 116,777
149	Scambray Consulting Group, LLC	Individual	Julie Severns	Ed Gomes	Natasha Baker	N	Leadership Development	7/1/23-6/30/24	Direct and virtual coaching to the principal and administrative team at a high school focused on instructional leadership development through site visitations, data analysis, modeling, and coaching.	IASA: Title I Basic Grants Low	\$ 17,250
150	School Services of Calif. Inc.	Corporation	Patrick Jensen	Patrick Jensen	Patrick Jensen	N	Business Services Administration	7/1/23-6/30/24	School Services of California to provide fiscal advice, budget support, and legislative and budget advocacy services.	Administrative Services	\$ 50,674
151	SEL Launch Pad	Individual	Nicole Gorban	Ed Gomes	Natasha Baker	N	Prevention and Intervention	7/1/23-6/30/24	Provide consulting services to the SEL team and professional learning on Social Emotional Learning to teachers/leaders. Assist and coach with strategic planning for systemic implementation of SEL.	Safe & Civil Schools	\$ 25,000
152	Shatera Sangster dba: Social Media Sidekick	Individual	Natasha Baker	Natasha Baker	Natasha Baker	Y	Chief Academic Office	7/1/23-6/30/24	Content creation, social media/event toolkits, promotional graphics/flyers, content calendar creation, onsite photography/videography, blog, trainings/consultations, printing services, copywriting, coachings, logo, style guide.	Targeted Improvement Actions	\$ 16,000
153	Shaw HR Consulting Inc	Corporation	Steven Shubin	Steven Shubin	Patrick Jensen	N	Benefits & Risk Management	7/1/23-6/30/24	Americans with Disabilities Act (ADA) consulting services.	Liability/Property ISF	\$ 37,500
154	SHC Services, Inc. d/b/a Supplemental Healthcare	Corporation	Xai Liz Torrez	Misty Her	Misty Her	N	Health Services	7/1/23-9/30/23	SHC will provide LVNs who will support the school nurses for any student's health needs. SHC will also provide RNs who will support our HUB and school sites.	Student Health Services	\$ 109,200
155	Shifting Perspectives, LLC		Julie Severns	Ed Gomes	Natasha Baker	N	Leadership Development	7/1/23-6/30/24	Six Equity Focused Leadership sessions over two days during the Summer Institute for CoAdministrators focused on defining equity focused leadership, conducting equity data reviews, and designing action plans. A workshop and book study with a principal cohort focused on leading your school toward equity. Eight days of professional learning to develop equity leadership in practice during CoAdministrator sessions, building upon the work of the Summer Institute.	Elementary and Secondary School Emergency Relief III (ESSER)	\$ 43,200



Fresno Unified School District

Contract Routing Form

Completed independent contract agreement must be attached

30573

Vendor Number

Performance Fact, Inc.

Vendor Name

(510) 568-7944

Phone Number

From: 7/3/2023

Term (Duration)

FUSD Contract Administrator:

Lisa Mitchell

Name

333 Hegenberger Rd, Ste 204, Oakland, CA 94621

Address

Mutiu O. Fagbayi

Vendor Contact

Through: 6/28/2024

African American Academic Acce. (559) 457-3728

Site/ Dept

Telephone number

Budget (Fund-Unit-Dept.-Activity-Object)

Annual Cost 21280

(Estimated Amount)

Fingerprint Requirements: All individuals providing services under this contract are in compliance with the requirements of the "Michelle Montoya" Act, as required therein.

Yes ☐

No ☒

Scope of Work Summary:

- Facilitate articulation of the annual performance objectives and development of the consolidated Annual Action Plan for the school year.
- Facilitate design and development of the Vital Signs Scorecard (Dashboard of key performance indicators), aligned to the A4 Strategic Plan.
- Compile milestones of progress (using the online CPR Card tool to monitor implementation of the Annual Action Plan).
- Conduct orientation and training for A4 team regarding core implementation tools and resources, including the CPR Card, Vital Signs Scorecard, Data Summit process.

Please indicate where the work will be performed: Work to be performed remotely in the st

Date Item is to appear on **Board of Education Agenda:** 06/21/23 Will this contract be submitted with Bundled Contracts? Jun Bundle
(Contracts of \$15,000.00 or more)

Reviewed & approved by **Cabinet Level Officer:**

Signed

4/24/23

Date

Reviewed & approved by **Risk Management**

Signed

6/1/2023

Date

Reviewed & approved by **Department Head**

Signed

4/20/2023

Date

Please return signed agreement back to (name/email) : Gloria Jenkins/Gloria.Jenkins@fresnounif



Fresno Unified School District

Independent Contractor Services Agreement

GENERAL INFORMATION

School/Department Budget: 030-0176-0755-1110-1000-5899

District Contact Person: Lisa Mitchell

Budget Manager Approval: Lisa Mitchell

Contractor's Vendor Name: Performance Fact, Inc.

Contractor's Contact Person: Mutiu O. Fagbayi

Contractor's Title: President/CEO

Contractor's Telephone
Number: (510)568-7944

Contractor's E-mail: mutiuf@performancefact.com

Contractor's Address: 333 Hegenberger Rd, Ste 204, Oakland, CA 94621

This Independent Contractor Services Agreement is made and entered into effective 7/3/2023 (the "Effective Date") by and between the Fresno Unified School District ("District") and Performance Fact, Inc. ("Contractor").

1. Contractor Services. Contractor agrees to provide

- Facilitate articulation of the annual performance objectives and development of the consolidated Annual Action Plan for the school year.
- Facilitate design and development of the Vital Signs Scorecard (Dashboard of key performance indicators), aligned to the A4 Strategic Plan.
- Compile milestones of progress (using the online CPR Card tool to monitor implementation of the Annual Action Plan).
- Conduct orientation and training for A4 team regarding core implementation tools and resources, including the CPR Card, Vital Signs Scorecard, Data Summit process.

2. Contractor Qualifications. Contractor represents that it has in effect all licenses, permissions and has otherwise all legal qualifications to perform this Agreement.

3. Term. This Agreement shall begin on 7/3/2023 , and shall terminate on 6/28/2024 . There shall be no extension of the term of the agreement without express written consent from all parties.

4. Payment. District agrees to pay Contractor at following rate of \$21,280 per SoPS , Not to exceed \$21280 . Checks will be made payable to Performance Fact, Inc. . Payment shall be limited to amount written in this paragraph, unless specifically indicated in Paragraph 5. District agrees to pay Contractor within thirty (30) days of receipt of detailed invoice.

5. Incidental Expenses. ☐ Yes (See below) ☒ No, Vendor initial here mof

- a. Lodging _____ Actual cost of single occupancy. Not to exceed \$100 per night. **Receipt Required.*
- b. Meals _____ Reimbursement limited to actual cost up to the following rates: Breakfast \$12.20, Lunch \$18.30, Dinner \$30.50. **Receipt Required.*
- c. Travel _____ Actual cost by common carrier. Private car expenses will be reimbursed at the current standard business IRS mileage rate.
- d. Supplies _____ As negotiated with school/department contracting for service.
- e. Total Estimated Cost (Sum of paragraphs 4 and 5a – d): \$ 21,280.00
- f. Other _____

6. Employment. Are you a current FUSD employee? ☐ Yes ☒ No

7. CalPERS & CalSTRS. Are you a CalPERS or CalSTRS retiree? ☐ Yes ☒ No

8. California Residency. Contractor is a resident of the state of California: ☒ Yes ☐ No

9. Report Fraud, Waste and Abuse. By calling the Anti-Fraud Hotline, (559) 325-3200, or by completing the fraud, waste or abuse reporting form online at: <http://www.ppcpas.com/fresno-unified-fraud-alert>. The anti-fraud waste or abuse reporting hotline is available to report alleged fraud in the district. The responsibility for monitoring the hotline rests with the internal auditor for Fresno Unified School District, Price, Page & Company. A report may be made anonymously.

10. Conflict of Interest. In consideration of the Districts Conflict of Interest Code, Contractor affirms they do not have, nor does the Contractor anticipate having any interest in real property, investments, business interest in or income from sources which would provide Contractor, his/her spouse or minor child(ren) with personal financial gain as a result of any recommendation, advice or any other action taken by Contractor during the rendition of services under this Agreement.

Contractor's initials mof District's initials SS

11. Anti-discrimination. Fresno Unified School District prohibits discrimination, harassment, intimidation, and bullying based on actual or perceived race, color, ethnicity, national origin, immigration status, ancestry, age, creed, religion, political affiliation, gender, gender identity, gender expression, genetic information, mental or physical disability, sex, sexual orientation, marital status, pregnancy or parental status, medical information, military veteran status, or association with a person or a group with one or more of these actual or perceived characteristics or any other basis protected by law or regulation, in its educational program(s) or employment. If you believe you, or your student, have been subjected to discrimination, harassment, intimidation, or bullying you should contact your school site principal and/or the District's Chief Compliance and Title IX Officer David Chavez, by phone at 559-457-3500, by email at David.Chavez@fresnounified.org, or in person at 2309 Tulare Street Fresno, CA 93721.

12. Termination of Agreement. Either District or Contractor may terminate this Agreement at any time for any reason upon thirty (30) days prior written notice. In the event of early termination, Contractor shall be paid for satisfactory work

performed to the date of termination. The District may then proceed with the work in any manner the District deems proper.

Notwithstanding the expiration or termination of this Agreement for any reason (a) any provision of this Agreement that imposes or contemplates continuing obligations on a Party shall survive the expiration or termination of this Agreement, including without limitation, the rights and duties under Paragraphs 12, 13, 15, and 17; and (b) all undisputed fees due and payable hereunder through the termination date in accordance with Paragraphs 4 and 5.

13. Confidential Information

- a. For the purposes of this Agreement “Confidential Information” includes any written or oral information or data, disclosed by either Party to the other, which may include, without limitation, information relating to technical, financial, personnel, personal employee information, the network, corporate, administration, plan design, benefits or contractual affairs of either Party or a third party that has been identified as confidential or that by the nature of the circumstances surrounding disclosure ought reasonably to be treated as confidential.
- b. Contractor hereby agrees that it shall not disclose Confidential Information, and any materials, discussions, or other communications concerning Confidential Information to any person or entity, except to its own employees, contractor personnel, and to its attorneys, accountants, consultants and other professional advisors having a “need to know,” and who are themselves bound by similar nondisclosure restrictions (collectively, “Representatives”). If Contractor becomes aware of any disclosure or use not in compliance with this Agreement, Contractor shall notify the District in writing within three (3) business days. Contractor shall use at least the same degree of care in safeguarding Confidential Information as it uses in safeguarding its own confidential information. Representatives shall be bound to comply with all terms of this Paragraph 13.B. Upon the request of the District, Contractor shall provide a written acknowledgment from each of its Representatives that said Representative is bound by the terms of this Paragraph 13.B.
- c. Contractor's obligation under this Agreement to not disclose Confidential Information shall not apply to information that: (a) becomes generally available to the public other than as the result of unauthorized disclosure by Contractor or a third party; (b) is independently developed by Contractor without the aid, application or use of Confidential Information; or (c) was received by Contractor on a non-confidential basis prior to receipt from the District or from a third-party lawfully possessing and lawfully entitled to disclose such information.
- d. Disclosure of Confidential Information shall not be precluded if such disclosure is: (a) required pursuant to a valid court order; or (b) in the opinion of legal counsel for Contractor, is otherwise required by law, provided that in either circumstance:
 - i. Contractor shall furnish the District with a copy of the demand, summons, subpoena or other legal process to compel such disclosure;
 - ii. Contractor shall give the District reasonable prior notice of its intention to disclose Confidential Information in order to allow the District an opportunity to seek appropriate protection; and
 - iii. Contractor shall take all reasonable steps including, without limitation, the pursuit of a protective order, to restrict the disclosure of Confidential Information to the greatest extent possible.
- e. All Confidential Information provided by the District to Contractor is and shall forever remain the sole and exclusive property of the District. By granting access to Confidential Information, the District does not grant any express or implied right to Contractor to use, publish or disclose any Confidential Information. After its review of the Confidential Information Contractor will return to the District all Confidential Information disclosed to it (including copies or summaries of Confidential Information), or with the District's permission destroy the Confidential Information and certify in writing that it has been destroyed.

14. Injunctive Relief. Each Party acknowledges that a breach or threatened breach of this Agreement may cause immediate and irreparable harm to the District and that, to protect against such harm, the District may seek from a court of competent jurisdiction the issuance of a restraining order or injunction to prohibit any threatened disclosure

or misuse of the District's Confidential Information. Such an action for a restraining order or injunction is in addition to and does not limit all other remedies provided by law or in equity or by agreement between the Parties.

15. Indemnification and Hold Harmless. To the fullest extent allowed by law, the Contractor shall defend, indemnify and hold District, its agents, employees, Board of Trustees, members of the Board of Trustees, officials, officers, volunteers, and representatives ("Indemnities") free and harmless from any and all claims, demands, negligence (including the active or passive negligence of Indemnities, regardless of whether sole or otherwise, as allowed by law), causes of action, costs, expenses, liabilities, losses, damages or injuries, fines, penalties in law or equity, regardless of whether the allegations are false, fraudulent, or groundless, to property or persons, including wrongful death, (collectively "Loss") to the extent arising out of or incident to: 1) the performance or breach of any of the terms and conditions of the contract (including but not limited to) the Contractor's use of the site; or 2) any acts, omissions, negligence, in connection with the performance of Services or otherwise arising from this Contract ("Indemnification"); or 3) the willful misconduct of the Contractor or their respective agents, subcontractors, employees, material or equipment suppliers, invitees, or licensees. The Contractor's Indemnification includes, but is not limited to, the payment of all damages and attorney's fees, fines, penalties and other related costs and expenses.

a. The Contractor's defense obligations (with counsel approved by District), shall arise immediately upon tender of any of the Indemnities, and the defense shall be paid at Contractor's own cost, expense and risk, for any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against any of the Indemnities, notwithstanding whether liability is, can be or has yet been established.

b. The Contractor shall pay and satisfy any judgment, award or decree that may be rendered against any of the Indemnities, in any such suit, action or other legal proceeding. The Contractor shall reimburse Indemnities, and each of them, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided.

c. Acceptance of insurance certificates and endorsements required under the contract does not relieve the Contractor from liability under this indemnification and hold harmless clause. The requirements of this Section (Indemnification and Hold Harmless) shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

16. Insurance. Without limiting "Contractor" indemnification, it is agreed that "Contractor" shall secure and maintain in force during the term of this Agreement a **Commercial General Liability** policy (Contractual liability included) utilizing an occurrence policy form, with limits of not less than two million (\$2,000,000) dollars per occurrence, four million (\$4,000,000) annual aggregate limit. **Business automobile Liability** Insurance shall be maintained for owned, scheduled, non-owned or hired automobiles with a combined single limit not less than two million (\$2,000,000) dollars per occurrence. In the event "Contractor" is working with students individually or providing professional services to students, "Contractor" shall maintain a policy providing coverage for sexual molestation and/or abuse claims. In the event that "Contractor's" Commercial General liability policy excludes coverage for sexual molestation and/or abuse claims shall be required to procure a separate or supplemental policy providing such coverage. The limits of coverage for the **abuse and molestation policy** shall be not less than \$2,000,000 per claim and \$4,000,000 aggregate. If any of the required policies provide coverage on a claims-made basis then the following shall apply; 1) The retroactive date must be shown, and must be before the date of the contract or the beginning of contract work; 2) Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract work; (3) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work. Self-insured retentions must be declared to and approved by District. The District may require "Contractor" to provide proof of ability to pay losses and related investigations, claims administration and defense expenses within the retention. The policy shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or the District.

The District shall be named as an additional insured on the policies by separate endorsement. A Certificate of Insurance and endorsements shall be **attached to this Agreement as proof of insurance.** The "Contractor" policy shall provide that it is primary such that insurance maintained by the District, if any, shall be excess and not co-primary.

17. Independent Contractor Status. While engaged in carrying out the terms and conditions of the contract, the Contractor is an independent contractor, and not an officer, employee, agent, partner, or joint venture of the District.
18. Workers' Compensation Insurance. Contractor agrees to provide all necessary workers' compensation insurance for Contractor's employees, if any, at Contractor's own cost and expense.
19. Fingerprinting Requirements. Contractor hereby acknowledges that, if applicable, it is required to comply with the requirements of Education Code Section 45125.1 with respect to fingerprinting of employees who may have contact with the District's pupils. The Contractor shall also ensure that its consultants on the Project also comply with the requirements of Section 45125.1. If required by Education Code Section 45125.1, the Contractor and its consultants, prior to any of the Contractor's employees, or those of any other consultants, coming into contact with the District's pupils submit through the DISTRICT fingerprints to the Department of Justice (DOJ) for the monitoring and supervision of employee(s) and/or affiliated constituents. Contractor will not begin work on the Project site until obtaining a DOJ cleared status through the DISTRICT. Contractor further acknowledges that other fingerprinting requirements may apply, as set forth in Education Code Section 45125 et seq., and will comply with any such requirements, including having Consultant certify that none of these employees and/or affiliated constituent(s) will have been convicted of a felony as defined in Education Code section 45122.1. "Fingerprinting Requirements," is expressly understood and agreed to by the parties hereto:

Contractor's initials mof District's initials SS

20. Taxes. Contractor agrees that Contractor has no entitlement to any future work from the District or to any employment or fringe benefits from the District. Payments to the contractor pursuant to this Agreement will be reported to Federal and State taxing authorities as required. District will not withhold any money from compensation payable to Contractor. District will not withhold FICA (Social Security), state or federal unemployment insurance contributions, state or federal income tax or disability insurance. Contractor is independently responsible for the payment of all applicable taxes.
21. Assignment. The Contractor shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of the District.
22. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the contractor and the District and their respective successors and assigns.
23. Severability. If any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
24. Waiver and Amendments. This Agreement may be amended, modified, superseded, cancelled, renewed or extended, and the terms and conditions hereof may be waived, only by a written instrument signed by the parties or, in the case of a waiver, by the party waiving compliance. The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach.
25. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California and venue shall be in the appropriate Superior court in Fresno, California.
26. Attorney's Fees. The non-prevailing party in any dispute under this Agreement shall pay all costs and expenses, including expert witness fees and attorney's fees, incurred by the prevailing party in resolving such dispute.

27. Written Notice. Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the company or to an officer of the corporation for whom it was intended, or if delivered to or sent by registered or certified mail to the last business address known to the person who gives the notice.

District:

Fresno Unified School District
Purchasing Department
4498 N. Brawley Avenue
Fresno, CA 93722

Contractor: Performance Fact, Inc.

Name: Mutiu O. Fagbayi

Address:

333 Hegenberger Road Suite 204
Oakland, California 94621

c: Risk Management Fresno
Unified School District 2309
Tulare Street
Fresno, CA 93721

28. Compliance with Law. Each and every provision of law and clause required by law to be inserted into this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein. Contractor agrees that it shall comply with all legal requirements for the performance of its duties under this agreement and that failure to do shall constitute material breach.
29. Entire Agreement. This Agreement is intended by the Parties as the final expression of their agreement with respect to such terms as are included herein and as the complete and exclusive statement of its terms and may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement, nor explained or supplemented by evidence of consistent additional terms.
30. Construction. The rule of construction that any ambiguity in an agreement be construed against the drafter of such agreement shall not apply to this Agreement.
31. Execution of Other Documents. The parties to this Agreement shall cooperate fully in the execution of any and all other documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.
32. Execution in Counterparts. This Agreement may be executed in counterparts such that the signatures may appear on separate signature pages. A copy, or an original, with all signatures appended together, shall be deemed a fully executed agreement.
33. Board Approval. For contracts in excess of **\$15,000.00**, the effectiveness of this Agreement is contingent upon the approval of the Fresno Unified School District Board of Education.

Executed at Fresno, California, on the date and year first written above.

DISTRICT

Fresno Unified School District
Patrick Jensen, Interim Chief Financial Office


Patrick Jensen (Jun 28, 2023 12:23 PDT)

Date

Risk Management
Approved As To Form:
Stacey Sandoval, Executive Director



6/1/2023

Date

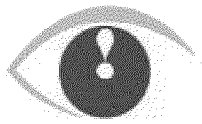
CONTRACTOR

Performance Fact, Inc.


Name: Mutiu O. Fagbayi *, Title:* President/CEO

4/20/2023

Date



PERFORMANCE **FACT**

THINK. BELIEVE. MOVE MOUNTAINS.

Scope of Professional Services: 2023-2024 SY
African American Academic Acceleration Initiative
Fresno Unified School District
Fresno, CA

Lisa Mitchell
Executive Director

DISCIPLINED IMPLEMENTATION & LEADERSHIP FOR RESULTS

Submitted by:
Performance Fact, Inc.
Mutiu O. Fagbayi, President/CEO

April 7, 2023

Introduction


This Proposal outlines professional services that Performance Fact, Inc. will provide to the Fresno USD's **African American Academic Acceleration (A4) Initiative** during the 2023/2024 school year. Its central aim is to support the A4 Team with tools, targeted assistance, and coaching to facilitate disciplined implementation of the **A4 Strategic Plan**.

2023/2024 Scope of Professional Services **FUSD's A4 Initiative**

	Key Deliverables
Start of the SY <i>Chart the course</i> 1 day on-site 1 equivalent day virtual	<ul style="list-style-type: none"> Facilitate articulation of the annual performance objectives and development of the consolidated Annual Action Plan for the school year. Facilitate design and development of the Vital Signs Scorecard (Dashboard of key performance indicators), aligned to the A4 Strategic Plan. Compile milestones of progress (using the online CPR Card tool to monitor implementation of the Annual Action Plan). Conduct orientation and training for A4 team regarding core implementation tools and resources, including the CPR Card, Vital Signs Scorecard, Data Summit process.
Every Month <i>Learn & Collaborate; Reflect & Plan</i> 1 day on-site 2 equivalent days virtual	<ul style="list-style-type: none"> Identify priorities for the cycle and develop/update action plan (by program, by team). Provide monthly coaching and support for the Leadership Team. Collaboratively with the A4 team, compile data relating to effectiveness of implementation of programs and services, as well as outcomes for students. Conduct a Data Summit (i.e., evidence-based community conversations about student learning and professional/programmatic practices); compile key findings and identify priorities for the next assessment cycle.
Mid-Year/End-of-Year <i>Evaluate & celebrate</i> 1 equivalent day virtual	<ul style="list-style-type: none"> (End-of-year) Collaboratively with A4 team, prepare evidence-based end-of-year report vis-à-vis the priorities outlined in the Annual Action Plan. (End-of-year) Facilitate development of the Annual Action Plan for the next school year.
Sub-total <i>Less Discount</i>	\$28,280 \$ 7,000
CONTRACT TOTAL	\$21,280

Approved As to Form

CONTRACT TERMS ACCEPTED:

 6/1/2023
Stacey Sandoval, Executive Director
Risk Management

PERFORMANCE FACT SIGNATORY

FUSD A4 SCHOOL SIGNATORY

MUTIU O. FAGBAYI

Lisa Mitchell

Name

Name (Please Print)





Signature

Signature

President/CEO

Executive Director

Title

Title

April 7, 2023

4/26/2023

Date

Date







Performance Fact Inc_African American Academic Acceleration_\$21,280

Final Audit Report

2023-06-28

Created:	2023-06-27
By:	StateAndFedDocs@fresnounified.org StateAndFedDocs@fresnounified.org (stateandfeddocs@fresnounified.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAurM3aMH_XqRWQb02_wKXLABgWuXS9B-c

"Performance Fact Inc_African American Academic Acceleration_\$21,280" History

-  Document created by StateAndFedDocs@fresnounified.org StateAndFedDocs@fresnounified.org (stateandfeddocs@fresnounified.org)
2023-06-27 - 8:27:06 PM GMT
-  Document emailed to Florencia Ventura Rodriguez (florencia.venturarodriguez@fresnounified.org) for approval
2023-06-27 - 8:28:39 PM GMT
-  Email viewed by Florencia Ventura Rodriguez (florencia.venturarodriguez@fresnounified.org)
2023-06-28 - 5:56:12 PM GMT
-  Document approved by Florencia Ventura Rodriguez (florencia.venturarodriguez@fresnounified.org)
Approval Date: 2023-06-28 - 5:57:10 PM GMT - Time Source: server
-  Document emailed to Patrick Jensen (patrick.jensen@fresnounified.org) for signature
2023-06-28 - 5:57:12 PM GMT
-  Document e-signed by Patrick Jensen (patrick.jensen@fresnounified.org)
Signature Date: 2023-06-28 - 7:23:01 PM GMT - Time Source: server
-  Agreement completed.
2023-06-28 - 7:23:01 PM GMT

PURCHASE ORDER

Version Number: 1



0755 2501528

THIS NUMBER MUST APPEAR ON ALL PACKAGES, PACKING LISTS,
INVOICES, AND CORRESPONDENCE

VENDOR: VCUST#: 30573 B01

PERFORMANCE FACT, INC -

4022 BALFOUR

OAKLAND CA 94610

Vendor Contact Information:

MUTIUFAGBAYI

510-568-7944

MUTIUF@PERFORMANCEFACT.COM

DIRECT ENQUIRIES TO:

David Her

David.Her@fresnounified.org

BOE 06/20/24 B-55 (BUNDLED CONTRACTS)

SHIP TO: **METHOD:**

AFRICAN AMERICAN ACADEMIC ACCELERATION

748 S. 10TH STREET

FRESNO CA 93702

AA4/Gloria Jenkins/Luis Ramirez/Support to A4 Team with tools to implement A4's Strategic Plan

Order Date **Delivery Date**

07/26/24 06/30/25

BILL TO:

Attention: ACCOUNTS PAYABLE

Billing Instructions: Remit Invoices to invoices@fresnounified.org

Subject Line: PERFORMANCE FACT, INC

COMMODITY / SERVICE INFORMATION							4th	3rd	2nd	1st
Line	Quantity	UOM	Unit Price	Service Amount	Line Sub Total	Tax Amount	Line Total			
1	0		\$0.00	\$28,280.00	\$28,280.00	\$0.00	\$28,280.00			
11ICA12 - INDEPENDENT CONTRACTOR AGREEMENT THIS PURCHASE ORDER IS ISSUED IN ACCORDANCE WITH THE TERMS CONDITIONS AND PRICING OF CONTRACT TITLED: Performance Fact, Inc. #163613 ACCEPTED AND DATED: 6/21/24 SERVICE DESCRIPTION: Support A4 Team with tools, targeted assistance, and coaching to facilitate disciplined implementation of the A4 Strategic Plan SERVICE LOCATION: Virtual SITE / DEPARTMENT NAME: African American Academic Acceleration BOARD AGENDA: 06/20/24 B-55 #115 EFFECTIVE DATES FOR THIS PURCHASE ORDER: July 1, 2024 thru June 30, 2025 RATE: ESTIMATED CONTRACT AMOUNT \$28,280.00 AUTHORIZED APPROVER: Lisa Mitchell and Luis Ramirez PLEASE REFER QUESTIONS REGARDING THIS ORDER TO CONTACT PERSON: Gloria Jenkins PH: (559) 457- 3728 RQS #0755-01762500017 DH										
ACCOUNTING LINE INFORMATION										
Line	Fund	Dept	Unit	Object	Activity	Function	Line Total			
1	030	0755	0176	5899	1110	1000	\$ 28,280.00			

	ORDER TOTAL: \$ 28,280.00
--	----------------------------------

PURCHASE ORDER

Version Number: 1



0755 2501528

THIS NUMBER MUST APPEAR ON ALL PACKAGES, PACKING LISTS,
INVOICES, AND CORRESPONDENCE

I certify that the items listed hereon were received and checked by me on the date indicated. All items conform to specifications and are in good condition.

Receiver Signature

Date

Standard Terms and Conditions

All Purchase Orders
Payment Terms: Net 30 days
FOB: Destination

This Purchase Order may be subject to Federal Acquisition Regulation (FAR)

Performance on or fulfillment of this Purchase Order Agreement shall bear witness to the acceptance of the Standard Terms and Conditions of this Purchase Order Agreement.

(1) NO GOODS WILL BE RECEIVED BETWEEN 12:00 AND 12:30 PM, OR AFTER 3:00 P.M. M-F, OR ON SATURDAYS, SUNDAYS OR HOLIDAYS.

(2) IF MERCHANDISE CANNOT BE DELIVERED BY DATE SHOWN OR IF UNABLE TO FILL ORDER EXACTLY AS SHOWN CONTACT BUYER FOR INSTRUCTIONS. DO NOT SUBSTITUTE

(3) THE P.O. NUMBER MUST APPEAR ON ALL INVOICES, CORRESPONDENCE AND PACKAGES.

(4) **TAXES:** The Fresno Unified School District is exempt from all federal excise taxes. Federal exemption certificates will be furnished when applicable. The Fresno Unified School District does pay a state & local sales tax; however, California use tax will be paid to out of state vendors only when their permit number is shown on both their bid and invoices.

(5) **TRANSPORTATION CHARGES:** It is understood that the seller agrees to deliver all items on this order PREPAID unless otherwise specified. All costs for delivery, drayage or freight, or for the packaging of said articles, are to be borne by the seller unless otherwise stated. All containers, drums, carboys, etc., to be returned, must be shipped on a no charge or consignment basis.

(6) **LIQUIDATED DAMAGES:** In case of contract default by seller, the Fresno Unified School District may procure the articles or services from other sources and may deduct the excess costs so paid from any unpaid balance due the seller or may collect against the bond or security, or from the surety. Liquidated damages shall be based on the following: (1) actual cost to the district between the price or prices bid and the price or prices paid by the school district on the open market at the time such purchases are made and (2) actual cost of labor and materials involved by the district in changing the award from one vendor to another.

(7) **INSPECTIONS:** All material furnished must be in conformity with the specifications and will be subject to inspection and approval of the Fresno Unified School District after delivery. The right is reserved to reject and return at the risk and expense of the seller such portion of any shipment which may be defective or fail to comply with specifications, without invalidating (at the option of the Executive Director of Purchasing) the remainder of the order. If rejected it will be held for disposition at expense and risk of the seller.

(8) **LIABILITIES:** The contractor or seller must save, keep, bear harmless, and fully indemnify said Board of Education and any of their officers or agents from all damages, or claims for damages, costs or expenses in law or equity that may at any time arise or be set up for any infringement of the patent rights, copyright, or trademark of any persons in consequence of the use by said district or districts, or by any of their officers or agents, of articles to be supplied under this bid.

(9) **DELIVERIES:** The seller will not be held liable for failure to make delivery because of strikes, conscription of property, government regulations, or acts of GOD. Whenever the seller claims the delay is due to any of the above-named causes, he shall request within five days of the delay an extension of time from the Board of Education. Such a request must be in writing and must describe in detail the cause of the delay. If the board finds that such cause or causes of delay exists, it shall grant the bidder an extension of time equal to the delay resulting from such cause or causes; or the board may rescind the contract in total or in pail.

(10) **SUBSTITUTIONS:** All delivered goods, services and charges must be in accordance with the bids or specifications upon which this order is placed. Do not substitute. The district reserves the right to cancel this order or adjust any claim thereunder if merchandise, delivery, services rendered, or charges submitted are not in accordance with the bids or specifications.

(12) **SAMPLES:** Seller may be required to submit samples. If samples are required, they must be submitted within the time specified after notification by the Executive Director of Purchasing. Samples must be furnished free of expense to the school district. All samples must be securely tagged, showing the seller's name and bid number. Samples, if not destroyed by tests, shall be picked up by the seller not later than two (2) weeks after notification. Samples not picked up by the seller within two (2) week period become the property of the district and may be disposed of as the district sees fit.

(13) **PAYMENT:** It is the seller's responsibility to submit invoices directly to the Accounting Department rather than to the Purchasing or using department, and no invoice will be considered due for payment until received by the Accounting Department. Invoices against completed orders are processed at least once a month; therefore, it is the policy of the School District to take any and all discounts without regard to date of invoice. Partial payments will not be made against this Purchase Order unless agreed to in advance by the Fresno Unified School District. Payment terms shall be net 30 days from receipt of invoice.

(14) **SAFETY REGULATIONS:** All equipment and supplies furnished, and/or all work performed, shall meet all applicable safety regulations of the Division of Industrial Safety of the State of California, and Health & Safety Code of the State of California.

(15) **EQUAL OPPORTUNITY EMPLOYMENT:** It is the policy of the Fresno Unified School District that in connection with all work performed there be no discrimination against any prospective or active employee engaged in the work because of race, color, ancestry, national origin, sex or religious creed; and therefore, the contractor agrees to comply with all applicable Federal and California laws and Executive Orders pertaining to equal employment opportunities. In addition, the contractor agrees to require compliance by all subcontractors employed on the work by him.

(16) **DEFECTS OF MATERIALS AND WORKMANSHIP:** Seller/Contractor warrants that all articles furnished shall be free from defects of materials and workmanship, that all articles furnished shall be fit and sufficient for the purpose intended, and shall save, keep, bear harmless and fully indemnify the Buyer and any of its officers, employees or agents from all damages, or claims from damages, costs or expenses in law or equity that may arise from Buyer's normal use.

(17) **PRICING:** When a discrepancy exists between the bid price and the order price, the bid price is the legally binding price.

(18) **MATERIALS SAFETY DATA SHEETS (MSDS):** When applicable, Material Safety Data Sheets (MSDS) must be included with the order. If requested MSDS are not delivered with order, payment will be delayed pending receipt of sheets.

(19) **INDEMNIFICATION:** To the fullest extent permitted by law, Provider agrees to defend, indemnify, and hold harmless District, its governing board, officers, agents, employees, successors, assigns, independent contractors and/or volunteers from and against any and all claims, demands, monetary or other losses, loss of use, damages and expenses,, including but not limited to, legal fees and costs, or other obligations or claims arising out of any liability or damage to person or property resulting from bodily injury, illness, communicable disease, virus, pandemic, or any other loss, sustained or claimed to have been sustained arising out of activities of the Provider or those of any of its officers, agents, employees, participants, vendors, customers or subcontractors of Provider, whether such act or omission is authorized by this Agreement or not. The provider also agrees to pay for any and all damage to the real and personal property of the district, or loss or theft of such property, or damage to the Property done or caused by such persons. District assumes no responsibility whatsoever for any property placed on District premises by Provider, Provider's agents, employees, participants, vendors, customers or subcontractors. The provider further hereby waives any and all rights of subrogation that it may have against the district. The provisions of this Indemnification do not apply to any damage, or losses caused solely by the negligence of the district or any of its governing board, officers, agents, employees and/or volunteers.

(20) **PUBLIC WORKS LABOR CODE:** The Contractor hereby stipulates that it shall comply with the applicable provisions of the California Labor Code, Division 2, Part 7, Chapter 1, Articles 1-5 ("Public Works Labor Code Provision"), including, but not limited to, the payment of the general prevailing rates for public works projects of more than One Thousand Dollars (\$1,000) (1771), hiring of Apprentices (1777.5) and Working Hours (1813), and Payroll Records (1776).

(21) **DIR REGISTRATION:** Contractors involved in a public works project as defined in Section 1720 of the Labor Code shall be registered with the Department of Industrial Relations pursuant to Labor Code 1725.5.

UNLESS EXCEPTIONS ARE FILED IN WRITING WITH THE EXECUTIVE DIRECTOR OF PURCHASING AND NOTED ON THE PURCHASE ORDER, SELLER AGREE TO ALL TERMS AND CONDITIONS HEREIN THE "STANDARD TERMS AND CONDITIONS" AND ALL BID INSTRUCTIONS AND CONDITIONS PROVIDED AT THE TIME OF BID.

(22) **ASSIGNMENT:** The Contractor shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of the district.

(23) **WAIVER AND AMENDMENTS:** This Purchase Order Agreement may be amended, modified, superseded, cancelled, renewed or extended, and the terms and conditions hereof may be waived, only by a written instrument signed by the parties or, in the case of a waiver, by the party waiving compliance. The waiver by any party hereto of a breach of any provision of this Purchase Order Agreement shall not operate or be construed as a waiver of any subsequent breach.

(24) **GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the laws of the State of California and venue shall be in the appropriate Superior court in Fresno, California.

(25) **ATTORNEY'S FEES:** The non-prevailing party in any dispute under this Agreement shall pay all costs and expenses, including expert witness fees and attorney's fees, incurred by the prevailing party in resolving such dispute.

(26) **ENTIRE AGREEMENT:** This Agreement is intended by the Parties as the final expression of their agreement with respect to such terms as are included herein and as the complete and exclusive statement of its terms and may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement, nor explained or supplemented by evidence of consistent additional terms.

(27) **CONFLICT OF INTEREST:** In consideration of the Districts Conflict of Interest Code, Contractor affirms they do not have, nor does the Contractor anticipate having any interest in real property, investments, business interest in or income from sources which would provide Contractor, his/her spouse or minor child(ren) with personal financial gain as a result of any recommendation, advice or any other action taken by Contractor during the rendition of services under this Agreement

(28) **TERMINATION WITH CAUSE:** The district reserves the right to terminate services if CONTRACTOR defaults in the performance of any of its duties or obligations under this Agreement, then the DISTRICT, by giving written notice of termination to the CONTRACTOR, terminate this Agreement as of a date specified in the notice of termination (the "Termination Date") such Termination Date being subsequent to the date of the notice of termination.



Fresno Unified School District
Board Agenda Item

Board Meeting Date: June 20, 2024,

AGENDA ITEM B-55

AGENDA SECTION: B

(A – Consent, B – Discussion, C – Receive)

ACTION REQUESTED: Approve

(Adopt, Approve, Discuss, Receive)

TITLE AND SUBJECT: Discuss and Approve Annual Agreements for the 2024/25 School Year – Primary Report

ITEM DESCRIPTION: Included in the Board binders is a matrix detailing agreements to provide services to Fresno Unified School District. These agreements include, but are not limited to, the categories as follows:

- Leadership and Professional Development
- Opportunities to promote arts, activities, and athletics
- Student Achievement Outcomes
- Social Emotional Supports
- Teacher Development
- Technology

This item includes all agreements with the exception of those that may present a potential conflict of interest for an individual Board member. All remaining agreements are in the Supplemental Report and presented as a second agenda item.

By separating the agreements in this manner, Board members with potential conflicts of interest can abstain from acting on the Supplemental Report while still voting along with the rest of the Board on the Primary Report.

Please be advised that pursuant to Board Bylaw 9270, each individual board member has a continuing duty to disclose and abstain from voting on any item where the potential for a conflict of interest exists.

Copies of the individual agreements are available upon request. Agreements will commence after Board approval and will end no later than June 30, 2025.

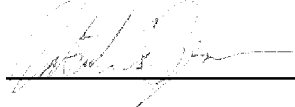
FINANCIAL SUMMARY: Sufficient funds have been budgeted in the 2024/25 budget. These investments will be funded through the appropriate budgets, as detailed in the matrix.

PREPARED BY: Ashlee Chiarito, Ed.D.

DIVISION: Business and Financial Services
PHONE NUMBER: (559) 457-6226

CABINET APPROVAL: Patrick Jensen,
Chief Financial Officer

INTERIM SUPERINTENDENT APPROVAL:
Mao Misty Her



Page 7 of 11

Contract Routing Form



Routing Contract Status: FINAL

Board Approved
June 20, 2024

Please review the attached document linked below. Apply your approval to continue routing by scrolling down to your signature line.

Budget Manager Signed FINAL this must be cleared if you are trying to re-route a corrected version.

Performance Fact 1.52MB
Inc_163613_D_4292024_vs.pdf

Contract Attachments Exhibits/Appendices/Quotes etc..

SoW_Performance Fact.pdf 324.19KB

Agenda Item Required for Amendments or items that have already been board approved and need signatures.

Original Agreement Required for Amendments

VENDOR INFORMATION (as found in AMS)

Performance Fact, Inc

Vendor Contact Primary/Signature Authority

Muti O. Fagbayi

Vendor Email mutiuf@performancefact.com

SCHOOL SITE/DEPARTMENT INFORMATION

Site/Department African American Academic Acce

Site Contact Email Gloria.Jenkins@fresnounified.org

Site Contact Phone (559) 457-3728

CONTRACT DETAILS

Contract Total \$ 28,280.00

Amount is: Estimated

Contract Start Date 7/1/2024

Contract End Date 6/30/2025

Summarized Services to be provided For services to be provided, keep the description simple and clear. This description will appear on the matrix for Board of Education approval. (Maximum of 200 characters)

Central aim is to support the A4 Team with tools, targeted assistance, and coaching to facilitate disciplined implementation of the A4 Strategic Plan.

Date item is to appear on Board of Education Agenda: (Contracts of \$15,000 or more)
06/20/2024

Contract Issued to Performance Fact, Inc

Routing Approvals

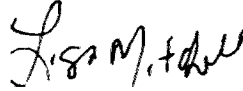
Review Instructions:

- Approval: apply signature and click submit button on bottom of this page
- Rejection: change phase from FINAL to DRAFT and click reject button on bottom of this page. Apply comments so that the initiator/requestor will know what may need to be modified, or why this contract is rejected.

Contract Phase FINAL

Department Leader Lisa.Mitchell@fresnounified.org

Department Leader Signature



Lisa Mitchell | 5/3/2024 5/3/2024 2:02:51 PM | Approve | IP Address: 107.115.224.83

Cabinet Level Officer Chief Equity & Access

Cabinet Level Officer



Carlos Castillo | 5/3/2024 5/3/2024 2:20:07 PM

Stacey Sandoval, Executive Director Risk Management



Patrick Jensen, Chief Financial Officer



6/21/2024

Reviewer/Approver: Use the comments box below to provide feedback or request changes to be made. The comments will be sent to the originator so that appropriate updates can be made for resubmission.



Independent Contractor Services Agreement

2309 Tulare Street, Fresno, CA 93721

Achieving our Greatest Potential!

GENERAL INFORMATION

Contract Number: 163613

Federal Funding will not be used

School/Department Budget:	030	0176	0755	5899	1110	1000
	.	.	755	.	.	.
	.	.	755	.	.	.

District Contact Person: Gloria.Jenkins@fresnounified.org

Budget Manager Approval: 

Contractor's Vendor Name: Performance Fact, Inc

Contractor's Contact Person: Mutiu O. Fagbayi

Contractor's Title: President/CEO

Contractor's Telephone Number: (510) 568-7944

Contractor's E-mail: mutiuf@performancefact.com

Contractor's Address: 333 Hegenberger Rd, Ste204, Oakland, CA 94621

FUSD contract administrator acknowledges all individuals providing services under this contract are in compliance with the requirements of the "Michelle Montoya" Act, as required therein. No, this is not applicable to the scope of work

This Independent Contractor Services Agreement is made and entered into effective July 1, 2024 (the "Effective Date") by Fresno Unified School District ("District") and Performance Fact, Inc ("Contractor").

1. Contractor Services. Contractor agrees to provide

a.) OBJECTIVE:

- Facilitate articulation of the annual performance objectives and development of the consolidated Annual Action Plan for the school year.
- Facilitate design and development of the Vital Signs Scorecard (Dashboard of key performance indicators), aligned to the A4 Strategic Plan.
- Compile milestones of progress (using the online CPR Card tool to monitor implementation of the Annual Action Plan).
- Conduct orientation and training for A4 team regarding core implementation tools and resources, including the CPR Card, Vital Signs Scorecard, Data Summit process.

Identify priorities for the cycle and develop/update action plan (by program, by team).

- Provide monthly coaching and support for the Leadership Team.

- Collaboratively with the A4 team, compile data relating to effectiveness of implementation of programs and services, as well as outcomes for students.

- Conduct a Data Summit (i.e., evidence-based community conversations about student learning and professional/programmatic practices); compile key findings and identify priorities for the next assessment cycle.

- (End-of-year) Collaboratively with A4 team, prepare evidence-based end-of- year report vis-à-vis the priorities outlined in the Annual Action Plan.

- (End-of-year) Facilitate development of the Annual Action Plan for the next school year.

b.) REQUIREMENTS:

c.) SPECIFIC TASKS

d.) DELIVERABLES AND DELIVERY SCHEDULE

e.) NOTICE REGARDING LATE DELIVERY

f.) PERSONNEL/KEY PERSONNEL

g.) GENERAL ACCEPTANCE CRITERIA

h.) HOURS OF WORK

Academic Return on Investment to be completed by district staff

Situation	Inputs		Outputs		Outcomes (Must be measurable)		
	Problem and Need	Investments (e.g., equipment, funds, product, services, staff)	Activities	Participants	Short-term (Learning)	Medium-term (Change in Behavior or Performance)	Long-term (Change in Condition)
	The problem lies in the disparity faced by African American students who have not achieved the same social-emotional learning (SEL) and academic outcomes as their peers. This is evident from the 2022-2023 SBAC data, which showed that AA/Black students lagged district peers by 13% in ELA and 11% in Math. A long-term strategic plan to sustain the vision and outcomes for A4 to close the achievement gap is need	Performance Fact's central aim is to support the A4 Team with tools, targeted assistance, and coaching to facilitate disciplined implementation of the A4 Strategic Plan.	The activities include Charting the Course, Learning & Collaborating, Reflecting and Planning, and Evaluating and Celebrating. These will take place during monthly hourly meetings and twice a year for half-day sessions during A4's strategic planning sessions.	They will provide the following support for A4: Facilitate articulation of the annual performance objectives and development of the consolidated Annual Action Plan for the school year. Facilitate design and development of the Vital Signs Scorecard (Dashboard of key performance indicators), aligned to the A4 Strategic Plan.	FUSD Staff: All of A4 Staff	Provide monthly coaching and support for the A4 Leadership Team. Conduct an A4 Data Summit, compile key findings and identify priorities for the next assessment cycle.	Collaboratively with A4 team, prepare evidence-based end of year report vis-à-vis the priorities outlined in the Annual Action Plan. Facilitate development of the Annual Action Plan for the next school year.

2. Contractor Qualifications. Contractor represents that it has in effect all licenses, permissions and has otherwise all legal qualifications to perform this Agreement.
3. Term. This Agreement shall begin on July 1, 2024, and shall terminate on June 30, 2025. There shall be no extension of the term of the agreement without express written consent from all parties.
4. Payment. District agrees to pay Contractor at following rate of \$28,280.00 per year, not to exceed \$28,280.00. Checks will be made payable to Performance Fact, Inc. Payment shall be limited to amount written in this paragraph, unless specifically indicated in Paragraph 5. District agrees to pay Contractor within thirty (30) days of receipt of detailed invoice.
5. Incidental Expenses. ☐ Yes (See below) ☒ No, Vendor initial here MF
- a. Lodging \$0.00 Actual cost. Not to exceed IRS Travel per diem limits**Receipt Required*.
- b. Meals \$0.00 Reimbursement limited to actual cost up to IRS M&IE per diem rates for: Breakfast, Lunch, and Dinner **Receipt Required*.
- c. Travel \$0.00 Actual cost by common carrier. Private car expenses will be reimbursed at the current standard business IRS mileage rate.
- d. Supplies \$0.00 As negotiated with school/department contracting for service.
- e. Total Estimated Cost (Sum of paragraphs 4 and 5a – d): \$28,280.00
- f. Other \$0.00
6. Employment. Are you a current FUSD employee? ☐ Yes ☒ No
7. CalPERS & CalSTRS. Are you a CalPERS or CalSTRS retiree? ☐ Yes ☒ No
8. California Residency. Contractor is a resident of the state of California: ☒ Yes ☐ No
9. Report Fraud, Waste and Abuse. By calling the Anti-Fraud Hotline, (559) 325-3200, or by completing the fraud, waste or abuse reporting form online at: <http://www.ppcpas.com/fresno-unified-fraud-alert>. The anti-fraud waste or abuse reporting hotline is available to report alleged fraud in the district. The responsibility for monitoring the hotline rests with the internal auditor for Fresno Unified School District, Price, Page & Company. A report may be made anonymously.
10. Conflict of Interest. In consideration of the Districts Conflict of Interest Code, Contractor affirms they do not have, nor does the Contractor anticipate having any interest in real property, investments, business interest in or income from sources which would provide Contractor, his/her spouse or minor child(ren) with personal financial gain as a result of any recommendation, advice or any other action taken by Contractor during the rendition of services under this Agreement.
- Contractor's initials MF District's initials SS
11. Anti-discrimination. Fresno Unified School District prohibits discrimination, harassment, intimidation, and bullying based on actual or perceived race, color, ethnicity, national origin, immigration status, ancestry, age, creed, religion, political affiliation, gender, gender identity, gender expression, genetic information, mental or physical disability, sex, sexual orientation, marital status, pregnancy or parental status, medical information, military veteran status, or association with a person or a group with one or more of these actual or perceived characteristics or any other basis protected by law or regulation, in its educational program(s) or employment. If you believe you, or your student, have been subjected to discrimination, harassment, intimidation, or bullying you should contact your school site principal and/or the District's Chief Compliance and Title IX Officer David Chavez, by phone at 559-457-3500, by email at David.Chavez@fresnounified.org, or in person at 2309 Tulare Street Fresno, CA 93721.
12. Termination of Agreement. Either District or Contractor may terminate this Agreement at any time for any reason upon thirty (30) days prior written notice. In the event of early termination, Contractor shall be paid for satisfactory work

performed to the date of termination. The District may then proceed with the work in any manner the District deems proper.

Notwithstanding the expiration or termination of this Agreement for any reason (a) any provision of this Agreement that imposes or contemplates continuing obligations on a Party shall survive the expiration or termination of this Agreement, including without limitation, the rights and duties under Paragraphs 12, 13, 15, and 17; and (b) all undisputed fees due and payable hereunder through the termination date in accordance with Paragraphs 4 and 5.

13. Confidential Information

- a. For the purposes of this Agreement “Confidential Information” includes any written or oral information or data, disclosed by either Party to the other, which may include, without limitation, information relating to technical, financial, personnel, personal employee information, the network, corporate, administration, plan design, benefits or contractual affairs of either Party or a third party that has been identified as confidential or that by the nature of the circumstances surrounding disclosure ought reasonably to be treated as confidential.
- b. Contractor hereby agrees that it shall not disclose Confidential Information, and any materials, discussions, or other communications concerning Confidential Information to any person or entity, except to its own employees, contractor personnel, and to its attorneys, accountants, consultants and other professional advisors having a “need to know,” and who are themselves bound by similar nondisclosure restrictions (collectively, “Representatives”). If Contractor becomes aware of any disclosure or use not in compliance with this Agreement, Contractor shall notify the District in writing within three (3) business days. Contractor shall use at least the same degree of care in safeguarding Confidential Information as it uses in safeguarding its own confidential information. Representatives shall be bound to comply with all terms of this Paragraph

13.B. Upon the request of the District, Contractor shall provide a written acknowledgment from each of its Representatives that said Representative is bound by the terms of this Paragraph 13.B.

- c. Contractor's obligation under this Agreement to not disclose Confidential Information shall not apply to information that: (a) becomes generally available to the public other than as the result of unauthorized disclosure by Contractor or a third party; (b) is independently developed by Contractor without the aid, application or use of Confidential Information; or (c) was received by Contractor on a non-confidential basis prior to receipt from the District or from a third-party lawfully possessing and lawfully entitled to disclose such information.
- d. Disclosure of Confidential Information shall not be precluded if such disclosure is: (a) required pursuant to a valid court order; or (b) in the opinion of legal counsel for Contractor, is otherwise required by law, provided that in either circumstance:
 - i. Contractor shall furnish the District with a copy of the demand, summons, subpoena or other legal process to compel such disclosure;
 - ii. Contractor shall give the District reasonable prior notice of its intention to disclose Confidential Information in order to allow the District an opportunity to seek appropriate protection; and
 - iii. Contractor shall take all reasonable steps including, without limitation, the pursuit of a protective order, to restrict the disclosure of Confidential Information to the greatest extent possible.
- e. All Confidential Information provided by the District to Contractor is and shall forever remain the sole and exclusive property of the District. By granting access to Confidential Information, the District does not grant any express or implied right to Contractor to use, publish or disclose any Confidential Information. After its review of the Confidential Information Contractor will return to the District all Confidential Information disclosed to it (including copies or summaries of Confidential Information), or with the District's permission destroy the Confidential Information and certify in writing that it has been destroyed.

14. Injunctive Relief. Each Party acknowledges that a breach or threatened breach of this Agreement may cause immediate and irreparable harm to the District and that, to protect against such harm, the District may seek from a court of competent jurisdiction the issuance of a restraining order or injunction to prohibit any threatened disclosure

or misuse of the District's Confidential Information. Such an action for a restraining order or injunction is in addition to and does not limit all other remedies provided by law or in equity or by agreement between the Parties.

15. Indemnification and Hold Harmless. To the fullest extent allowed by law, the Contractor shall defend, indemnify and hold District, its agents, employees, Board of Trustees, members of the Board of Trustees, officials, officers, volunteers, and representatives ("Indemnities") free and harmless from any and all claims, demands, negligence (including the active or passive negligence of Indemnities, regardless of whether sole or otherwise, as allowed by law), causes of action, costs, expenses, liabilities, losses, damages or injuries, fines, penalties in law or equity, regardless of whether the allegations are false, fraudulent, or groundless, to property or persons, including wrongful death, (collectively "Loss") to the extent arising out of or incident to: 1) the performance or breach of any of the terms and conditions of the contract (including but not limited to) the Contractor's use of the site; or 2) any acts, omissions, negligence, in connection with the performance of Services or otherwise arising from this Contract ("Indemnification"); or 3) the willful misconduct of the Contractor or their respective agents, subcontractors, employees, material or equipment suppliers, invitees, or licensees. The Contractor's Indemnification includes, but is not limited to, the payment of all damages and attorney's fees, fines, penalties and other related costs and expenses.

a. The Contractor's defense obligations (with counsel approved by District), shall arise immediately upon tender of any of the Indemnities, and the defense shall be paid at Contractor's own cost, expense and risk, for any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against any of the Indemnities, notwithstanding whether liability is, can be or has yet been established.

b. The Contractor shall pay and satisfy any judgment, award or decree that may be rendered against any of the Indemnities, in any such suit, action or other legal proceeding. The Contractor shall reimburse Indemnities, and each of them, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided.

c. Acceptance of insurance certificates and endorsements required under the contract does not relieve the Contractor from liability under this indemnification and hold harmless clause. The requirements of this Section (Indemnification and Hold Harmless) shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

16. Insurance. Without limiting "Contractor" indemnification, it is agreed that "Contractor" shall secure and maintain in force during the term of this Agreement a **Commercial General Liability** policy (Contractual liability included) utilizing an occurrence policy form, with limits of not less than two million (\$2,000,000) dollars per occurrence, four million (\$4,000,000) annual aggregate limit. **Business automobile Liability** Insurance shall be maintained for owned, scheduled, non-owned or hired automobiles with a combined single limit not less than two million (\$2,000,000) dollars per occurrence. In the event "Contractor" is working with students individually or providing professional services to students, "Contractor" shall maintain a policy providing coverage for sexual molestation and/or abuse claims. In the event that "Contractor's" Commercial General liability policy excludes coverage for sexual molestation and/or abuse claims shall be required to procure a separate or supplemental policy providing such coverage. The limits of coverage for the **abuse and molestation policy** shall be not less than \$2,000,000 per claim and \$4,000,000 aggregate. If any of the required policies provide coverage on a claims-made basis then the following shall apply; 1) The retroactive date must be shown, and must be before the date of the contract or the beginning of contract work; 2) Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract work; (3) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work. Self-insured retentions must be declared to and approved by District. The District may require "Contractor" to provide proof of ability to pay losses and related investigations, claims administration and defense expenses within the retention. The policy shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or the District. **The District shall be named as an additional insured on the policies by separate endorsement.** A Certificate of Insurance and endorsements shall be attached to this Agreement as proof of insurance. The "Contractor" policy shall provide that it is primary such that insurance maintained by the District, if any, shall be excess and not co-primary.

17. Independent Contractor Status. While engaged in carrying out the terms and conditions of the contract, the Contractor is an independent contractor, and not an officer, employee, agent, partner, or joint venture of the District.
18. Workers' Compensation Insurance. Contractor agrees to provide all necessary workers' compensation insurance for Contractor's employees, if any, at Contractor's own cost and expense.
19. Fingerprinting Requirements. Contractor hereby acknowledges that, if applicable, it is required to comply with the requirements of Education Code Section 45125.1 with respect to fingerprinting of employees who may have contact with the District's pupils. The Contractor shall also ensure that its consultants on the Project also comply with the requirements of Section 45125.1. If required by Education Code Section 45125.1, the Contractor and its consultants, prior to any of the Contractor's employees, or those of any other consultants, coming into contact with the District's pupils submit through the DISTRICT fingerprints to the Department of Justice (DOJ) for the monitoring and supervision of employee(s) and/or affiliated constituents. Contractor will not begin work on the Project site until obtaining a DOJ cleared status through the DISTRICT. Contractor further acknowledges that other fingerprinting requirements may apply, as set forth in Education Code Section 45125 et seq., and will comply with any such requirements, including having Consultant certify that none of these employees and/or affiliated constituent(s) will have been convicted of a felony as defined in Education Code section 45122.1. "Fingerprinting Requirements," is expressly understood and agreed to by the parties hereto:

Contractor's initials MF District's initials SS

20. Taxes. Contractor agrees that Contractor has no entitlement to any future work from the District or to any employment or fringe benefits from the District. Payments to the contractor pursuant to this Agreement will be reported to Federal and State taxing authorities as required. District will not withhold any money from compensation payable to Contractor. District will not withhold FICA (Social Security), state or federal unemployment insurance contributions, state or federal income tax or disability insurance. Contractor is independently responsible for the payment of all applicable taxes.
21. Assignment. The Contractor shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of the District.
22. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the contractor and the District and their respective successors and assigns.
23. Severability. If any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
24. Waiver and Amendments. This Agreement may be amended, modified, superseded, cancelled, renewed or extended, and the terms and conditions hereof may be waived, only by a written instrument signed by the parties or, in the case of a waiver, by the party waiving compliance. The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach.
25. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California and venue shall be in the appropriate Superior court in Fresno, California.
26. Attorney's Fees. The non-prevailing party in any dispute under this Agreement shall pay all costs and expenses, including expert witness fees and attorney's fees, incurred by the prevailing party in resolving such dispute.

27. Written Notice. Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the company or to an officer of the corporation for whom it was intended, or if delivered to or sent by registered or certified mail to the last business address known to the person who gives the notice.

District:

Fresno Unified School District
Purchasing Department
4498 N. Brawley Avenue
Fresno, CA 93722

Contractor: Performance Fact, Inc

Name: Mutiu O. Fagbayi

Address:

333 Hegenberger Rd, Ste 204, Oakland, CA
94621

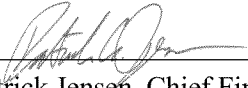
c: Risk Management Fresno
Unified School District 2309
Tulare Street
Fresno, CA 93721

28. Compliance with Law. Each and every provision of law and clause required by law to be inserted into this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein. Contractor agrees that it shall comply with all legal requirements for the performance of its duties under this agreement and that failure to do so shall constitute material breach.
29. Entire Agreement. This Agreement is intended by the Parties as the final expression of their agreement with respect to such terms as are included herein and as the complete and exclusive statement of its terms and may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement, nor explained or supplemented by evidence of consistent additional terms.
30. Construction. The rule of construction that any ambiguity in an agreement be construed against the drafter of such agreement shall not apply to this Agreement.
31. Execution of Other Documents. The parties to this Agreement shall cooperate fully in the execution of any and all other documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.
32. Execution in Counterparts. This Agreement may be executed in counterparts such that the signatures may appear on separate signature pages. A copy, or an original, with all signatures appended together, shall be deemed a fully executed agreement.
33. Board Approval. For contracts in excess of **\$15,000.00**, the effectiveness of this Agreement is contingent upon the approval of the Fresno Unified School District Board of Education.
34. The complete Agreement includes and incorporates by reference herein all of the "Contract Documents" which includes: all terms and conditions of this agreement, Academic Return on Investment Exhibit, provisions of required forms, any appendix, schedules, or attachments, and all modifications, and amendments.

Executed at Fresno, California, on the date and year first written above.

DISTRICT

Fresno Unified School District



Patrick Jensen, Chief Financial Officer

6/21/2024

Date

CONTRACTOR

Performance Fact, Inc



Name: Mutiu O. Fagbayi

, Title: President/CEO

April 29, 2024

Date

Approved As To Form:



Stacey Sandoval, Executive Director
Risk Management

6/10/2024

Date

Fresno Unified School District
Board Agenda Item

Board Meeting Date: June 20, 2024,

AGENDA ITEM B-55

AGENDA SECTION: B

(A – Consent, B – Discussion, C – Receive)

ACTION REQUESTED: Approve

(Adopt, Approve, Discuss, Receive)

TITLE AND SUBJECT: Discuss and Approve Annual Agreements for the 2024/25 School Year – Primary Report

ITEM DESCRIPTION: Included in the Board binders is a matrix detailing agreements to provide services to Fresno Unified School District. These agreements include, but are not limited to, the categories as follows:

- Leadership and Professional Development
- Opportunities to promote arts, activities, and athletics
- Student Achievement Outcomes
- Social Emotional Supports
- Teacher Development
- Technology

This item includes all agreements with the exception of those that may present a potential conflict of interest for an individual Board member. All remaining agreements are in the Supplemental Report and presented as a second agenda item.

By separating the agreements in this manner, Board members with potential conflicts of interest can abstain from acting on the Supplemental Report while still voting along with the rest of the Board on the Primary Report.

Please be advised that pursuant to Board Bylaw 9270, each individual board member has a continuing duty to disclose and abstain from voting on any item where the potential for a conflict of interest exists.

Copies of the individual agreements are available upon request. Agreements will commence after Board approval and will end no later than June 30, 2025.

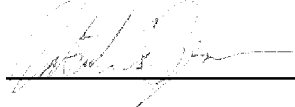
FINANCIAL SUMMARY: Sufficient funds have been budgeted in the 2024/25 budget. These investments will be funded through the appropriate budgets, as detailed in the matrix.

PREPARED BY: Ashlee Chiarito, Ed.D.

DIVISION: Business and Financial Services
PHONE NUMBER: (559) 457-6226

CABINET APPROVAL: Patrick Jensen,
Chief Financial Officer

INTERIM SUPERINTENDENT APPROVAL:
Mao Misty Her



Vendor Name	Vendor Type	Principal/Department Head Approval	Instructional Superintendent/Exec. Director	Cabinet Representative	New Vendor?	School/Department	Contract Start Date	Contract End Date	Scope of Work	Funding Source	Estimated Cost
102 Moreno Institute Llc	Corporation	Rita Baharian	Carlos Castillo	Chief Equity & Access	No	Prevention and Intervention	7/1/2024	6/30/2025	Contractor will provide academic mentoring, language, and social emotional support to middle school students participating in Prevention and Intervention (PI) Peer Mentoring Program.	Peer Mentors / Ment's & Women's Alliance	\$ 23,000
103 Moreno Institute Llc	Corporation	Marie Williams	Natasha Baker	Chief Academic Officer	No	Instructional Services	8/5/2024	6/13/2025	Moreno Institute will provide bilingual literacy support professionals at various sites to assist with instructional support, supervision in and out of the classroom, & help students with translation.	Learning Recovery Emergency Block Grant	\$ 405,878
104 Municipal Resource Group	Partnership	Ambra O'Conner	Ambra O'Conner	Chief of Staff	No	Office of the Superintendent	7/1/2024	6/30/2025	Facilitate the process of conducting the annual evaluation of the superintendent, the annual self- assessment of the board of education, and any related workshops and/or closed session discussions per	Diversity, Equity, and Inclusion	\$ 30,000
105 Nancy Akhavan Consulting Inc	Corporation	Tamara Neely	David Chavez	Chief Human Resources	No	Human Resources	7/1/2024	6/30/2025	The Consultant will provide the services (collectively, the "Services") which are Customized Professional Learning for Literacy- Increasing Professional Skills in Early Literacy.	Classified School Employee Prof Dev Block Grant	\$ 115,200
106 Nancy Akhavan Consulting Inc	Corporation	Marie Williams	Natasha Baker	Chief Academic Officer	No	Instructional Services	8/5/2024	6/27/2025	Nancy will provide professional learning for staff that focuses on the components of comprehensive reading programs that need to be in place to increase student achievement through focused instruction	Regional Literacy Fund - 7435	\$ 592,400
107 National Academy Foundation	Corporation	Kristen Boroski	Natasha Baker	Chief Academic Officer	No	Career Education	7/1/2024	6/30/2025	National Academy Foundation will provide ongoing support for Fresno Unified School District in order to reach a high level of quality and ensure that all Academy Students are "Future Ready."	Vocational Programs: Voc & App	\$ 32,700
108 National University		Traci Taylor	Natasha Baker	Chief Academic Officer	No	Teacher Development	7/1/2024	6/30/2025	National University liaison will coordinate with Fresno Unified in planning, communication, and program implementation beyond the Leadership Committee for the Teacher Residence Program.	Transition to Teaching	\$ 20,000
109 Navigated, LLC	Sole Proprietor	Rita Baharian	Carlos Castillo	Chief Equity & Access	No	Prevention and Intervention	7/1/2024	6/30/2025	Provide design, professional learning and implementation support for social emotional behavior interventions within the Multi-Tiered System of Support.	Safe & Civil Schools	\$ 20,000
110 New Life Physical Therapy Services Pc	Corporation	Tangees Pinheiro	Natasha Baker	Chief Academic Officer	No	Special Education Administration	7/1/2024	6/30/2025	Provide direct physical therapy on students enrolled in the Lori Ann Infant Program, physical therapy groups, consultation with staff and parents of children enrolled in the Lori Ann Infant Program.	Special Ed- Local	\$ 59,200
111 New Life Physical Therapy Services Pc	Corporation	Tangees Pinheiro	Natasha Baker	Chief Academic Officer	No	Special Education Administration	7/1/2024	6/30/2025	Occupational therapist to provide professional services, conduct thorough assessments to identify students' strengths, challenges, and appropriate goals to address areas of need.	Special Education	\$ 910,000
112 Nextar Media Inc	Corporation	Nikki Henry	Nikki Henry	Chief Information Officer	No	Communication Information	7/1/2024	6/30/2025	CS547 will provide commercial advertisements of Fresno Unified key information for educational partners throughout the community.	Expanded Student and Community Communication	\$ 24,000
113		Wendy McCulley	Wendy McCulley	Chief Engagement & External Relations	No	Engagement & External Partnerships	7/1/2024	6/30/2025	Vendor will provide professional services to support the development and implementation of the district's communication and marketing practices.	External Partnerships	\$ 20,000
114 Pelisari Inc	Corporation	Blair Eliason	Natasha Baker	Chief Academic Officer	No	Patino Entrepreneurship	7/1/2024	6/30/2025	Pelisari Inc. will provide a consultant/instructor who will teach and support the development of curriculum for the Project Mipoint course side by side the credentialled classroom teacher 3 days per week	Career Vocational Education/Workforce Readiness	\$ 95,000
115 Performance Fact, Inc	Corporation	Lisa Mitchell	Carlos Castillo	Chief Equity & Access	No	African American Academic Acceleration (AA)	7/1/2024	6/30/2025	Central aim is to support the AA Team with tools, targeted assistance, and coaching to facilitate disciplined implementation of the AA Strategic Plan.	African American Student Academic Acceleration	\$ 28,280
116 Ppi Studio Llc	Corporation	Maria Ceballos Tapia	Natasha Baker	Chief Academic Officer	No	Preschool Office	7/1/2024	6/30/2025	Ppi Studio, LLC will provide media services to create demonstration videos for the Administrator Training. This will support the expansion of the Principals Academy locally within Fresno County.	FGSS Early Educator Teacher Development Grant	\$ 27,000
117 Ppi Studio Llc	Corporation	Maria Ceballos Tapia	Natasha Baker	Chief Academic Officer	No	Preschool Office	7/1/2024	6/30/2025	Development and design of materials and website maintenance for the Language Learning Project. Services measured by website analytics and feedback surveys.	Dual Language Learners Professional Development Grant	\$ 25,000
118 Prescenclearing Inc	Corporation	Tangees Pinheiro	Natasha Baker	Chief Academic Officer	No	Special Education Administration	8/1/2024	6/12/2025	Contracted Speech and Language Pathologist to provide online/virtual or in-person speech and language therapy services to students eligible under Speech Language Impairment.	Special Education	\$ 3,726,000
119 Price, Paige & Company	Corporation	Wendy McCulley	Wendy McCulley	Chief Engagement & External	No	Engagement & External Partnerships	7/1/2024	6/30/2025	Vendor will provide accounting services for the Foundation for Fresno Unified Schools.	External Partnership	\$ 84,000

Contract Routing Form



Routing Contract Status: FINAL

Board Approved
June 20, 2024

Please review the attached document linked below. Apply your approval to continue routing by scrolling down to your signature line.

Budget Manager Signed FINAL this must be cleared if you are trying to re-route a corrected version.

Performance Fact 1.52MB
Inc_163613_D_4292024_vs.pdf

Contract Attachments Exhibits/Appendices/Quotes etc..

SoW_Performance Fact.pdf 324.19KB

Agenda Item Required for Amendments or items that have already been board approved and need signatures.

Original Agreement Required for Amendments

VENDOR INFORMATION (as found in AMS)

Performance Fact, Inc

Vendor Contact Primary/Signature Authority

Muti O. Fagbayi

Vendor Email mutiuf@performancefact.com

SCHOOL SITE/DEPARTMENT INFORMATION

Site/Department African American Academic Acce

Site Contact Email Gloria.Jenkins@fresnounified.org

Site Contact Phone (559) 457-3728

CONTRACT DETAILS

Contract Total \$ 28,280.00

Amount is: Estimated

Contract Start Date 7/1/2024

Contract End Date 6/30/2025

Summarized Services to be provided For services to be provided, keep the description simple and clear. This description will appear on the matrix for Board of Education approval. (Maximum of 200 characters)

Central aim is to support the A4 Team with tools, targeted assistance, and coaching to facilitate disciplined implementation of the A4 Strategic Plan.

Date item is to appear on Board of Education Agenda: (Contracts of \$15,000 or more)
06/20/2024

Contract Issued to Performance Fact, Inc

Routing Approvals

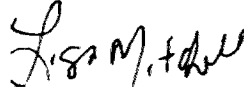
Review Instructions:

- Approval: apply signature and click submit button on bottom of this page
- Rejection: change phase from FINAL to DRAFT and click reject button on bottom of this page. Apply comments so that the initiator/requestor will know what may need to be modified, or why this contract is rejected.

Contract Phase FINAL

Department Leader Lisa.Mitchell@fresnounified.org

Department Leader Signature



Lisa Mitchell | 5/3/2024 5/3/2024 2:02:51 PM | Approve | IP Address: 107.115.224.83

Cabinet Level Officer Chief Equity & Access

Cabinet Level Officer



Carlos Castillo | 5/3/2024 5/3/2024 2:20:07 PM

Stacey Sandoval, Executive Director Risk Management



Patrick Jensen, Chief Financial Officer



6/21/2024

Reviewer/Approver: Use the comments box below to provide feedback or request changes to be made. The comments will be sent to the originator so that appropriate updates can be made for resubmission.



Independent Contractor Services Agreement

2309 Tulare Street, Fresno, CA 93721

Achieving our Greatest Potential!

GENERAL INFORMATION

Contract Number: 163613

Federal Funding will not be used

School/Department Budget:	030	0176	0755	5899	1110	1000
	.	.	755	.	.	.
	.	.	755	.	.	.

District Contact Person: Gloria.Jenkins@fresnounified.org

Budget Manager Approval: 

Contractor's Vendor Name: Performance Fact, Inc

Contractor's Contact Person: Mutiu O. Fagbayi

Contractor's Title: President/CEO

Contractor's Telephone Number: (510) 568-7944

Contractor's E-mail: mutiuf@performancefact.com

Contractor's Address: 333 Hegenberger Rd, Ste204, Oakland, CA 94621

FUSD contract administrator acknowledges all individuals providing services under this contract are in compliance with the requirements of the "Michelle Montoya" Act, as required therein. No, this is not applicable to the scope of work

This Independent Contractor Services Agreement is made and entered into effective July 1, 2024 (the "Effective Date") by Fresno Unified School District ("District") and Performance Fact, Inc ("Contractor").

1. Contractor Services. Contractor agrees to provide

a.) OBJECTIVE:

- Facilitate articulation of the annual performance objectives and development of the consolidated Annual Action Plan for the school year.
- Facilitate design and development of the Vital Signs Scorecard (Dashboard of key performance indicators), aligned to the A4 Strategic Plan.
- Compile milestones of progress (using the online CPR Card tool to monitor implementation of the Annual Action Plan).
- Conduct orientation and training for A4 team regarding core implementation tools and resources, including the CPR Card, Vital Signs Scorecard, Data Summit process.
- Identify priorities for the cycle and develop/update action plan (by program, by team).
- Provide monthly coaching and support for the Leadership Team.
- Collaboratively with the A4 team, compile data relating to effectiveness of implementation of programs and services, as well as outcomes for students.
- Conduct a Data Summit (i.e., evidence-based community conversations about student learning and professional/programmatic practices); compile key findings and identify priorities for the next assessment cycle.
- (End-of-year) Collaboratively with A4 team, prepare evidence-based end-of- year report vis-à-vis the priorities outlined in the Annual Action Plan.
- (End-of-year) Facilitate development of the Annual Action Plan for the next school year.

b.) REQUIREMENTS:

c.) SPECIFIC TASKS

d.) DELIVERABLES AND DELIVERY SCHEDULE

e.) NOTICE REGARDING LATE DELIVERY

f.) PERSONNEL/KEY PERSONNEL

g.) GENERAL ACCEPTANCE CRITERIA

h.) HOURS OF WORK

Academic Return on Investment to be completed by district staff

Situation	Inputs		Outputs		Outcomes (Must be measurable)		
	Problem and Need	Investments (e.g., equipment, funds, product, services, staff)	Activities	Participants	Short-term (Learning)	Medium-term (Change in Behavior or Performance)	Long-term (Change in Condition)
	The problem lies in the disparity faced by African American students who have not achieved the same social-emotional learning (SEL) and academic outcomes as their peers. This is evident from the 2022-2023 SBAC data, which showed that AA/Black students lagged district peers by 13% in ELA and 11% in Math. A long-term strategic plan to sustain the vision and outcomes for A4 to close the achievement gap is need	Performance Fact's central aim is to support the A4 Team with tools, targeted assistance, and coaching to facilitate disciplined implementation of the A4 Strategic Plan.	The activities include Charting the Course, Learning & Collaborating, Reflecting and Planning, and Evaluating and Celebrating. These will take place during monthly hourly meetings and twice a year for half-day sessions during A4's strategic planning sessions.	They will provide the following support for A4: Facilitate articulation of the annual performance objectives and development of the consolidated Annual Action Plan for the school year. Facilitate design and development of the Vital Signs Scorecard (Dashboard of key performance indicators), aligned to the A4 Strategic Plan.	FUSD Staff: All of A4 Staff	Provide monthly coaching and support for the A4 Leadership Team. Conduct an A4 Data Summit, compile key findings and identify priorities for the next assessment cycle.	Collaboratively with A4 team, prepare evidence-based end of year report vis-à-vis the priorities outlined in the Annual Action Plan. Facilitate development of the Annual Action Plan for the next school year.

2. Contractor Qualifications. Contractor represents that it has in effect all licenses, permissions and has otherwise all legal qualifications to perform this Agreement.
3. Term. This Agreement shall begin on July 1, 2024, and shall terminate on June 30, 2025. There shall be no extension of the term of the agreement without express written consent from all parties.
4. Payment. District agrees to pay Contractor at following rate of \$28,280.00 per year, not to exceed \$28,280.00. Checks will be made payable to Performance Fact, Inc. Payment shall be limited to amount written in this paragraph, unless specifically indicated in Paragraph 5. District agrees to pay Contractor within thirty (30) days of receipt of detailed invoice.
5. Incidental Expenses. ☐ Yes (See below) ☒ No, Vendor initial here MF
- a. Lodging \$0.00 Actual cost. Not to exceed IRS Travel per diem limits**Receipt Required*.
 - b. Meals \$0.00 Reimbursement limited to actual cost up to IRS M&IE per diem rates for: Breakfast, Lunch, and Dinner **Receipt Required*.
 - c. Travel \$0.00 Actual cost by common carrier. Private car expenses will be reimbursed at the current standard business IRS mileage rate.
 - d. Supplies \$0.00 As negotiated with school/department contracting for service.
 - e. Total Estimated Cost (Sum of paragraphs 4 and 5a – d): \$28,280.00
 - f. Other \$0.00
6. Employment. Are you a current FUSD employee? ☐ Yes ☒ No
7. CalPERS & CalSTRS. Are you a CalPERS or CalSTRS retiree? ☐ Yes ☒ No
8. California Residency. Contractor is a resident of the state of California: ☒ Yes ☐ No
9. Report Fraud, Waste and Abuse. By calling the Anti-Fraud Hotline, (559) 325-3200, or by completing the fraud, waste or abuse reporting form online at: <http://www.ppcpas.com/fresno-unified-fraud-alert>. The anti-fraud waste or abuse reporting hotline is available to report alleged fraud in the district. The responsibility for monitoring the hotline rests with the internal auditor for Fresno Unified School District, Price, Page & Company. A report may be made anonymously.
10. Conflict of Interest. In consideration of the Districts Conflict of Interest Code, Contractor affirms they do not have, nor does the Contractor anticipate having any interest in real property, investments, business interest in or income from sources which would provide Contractor, his/her spouse or minor child(ren) with personal financial gain as a result of any recommendation, advice or any other action taken by Contractor during the rendition of services under this Agreement.
- Contractor's initials MF District's initials SS
11. Anti-discrimination. Fresno Unified School District prohibits discrimination, harassment, intimidation, and bullying based on actual or perceived race, color, ethnicity, national origin, immigration status, ancestry, age, creed, religion, political affiliation, gender, gender identity, gender expression, genetic information, mental or physical disability, sex, sexual orientation, marital status, pregnancy or parental status, medical information, military veteran status, or association with a person or a group with one or more of these actual or perceived characteristics or any other basis protected by law or regulation, in its educational program(s) or employment. If you believe you, or your student, have been subjected to discrimination, harassment, intimidation, or bullying you should contact your school site principal and/or the District's Chief Compliance and Title IX Officer David Chavez, by phone at 559-457-3500, by email at David.Chavez@fresnounified.org, or in person at 2309 Tulare Street Fresno, CA 93721.
12. Termination of Agreement. Either District or Contractor may terminate this Agreement at any time for any reason upon thirty (30) days prior written notice. In the event of early termination, Contractor shall be paid for satisfactory work

performed to the date of termination. The District may then proceed with the work in any manner the District deems proper.

Notwithstanding the expiration or termination of this Agreement for any reason (a) any provision of this Agreement that imposes or contemplates continuing obligations on a Party shall survive the expiration or termination of this Agreement, including without limitation, the rights and duties under Paragraphs 12, 13, 15, and 17; and (b) all undisputed fees due and payable hereunder through the termination date in accordance with Paragraphs 4 and 5.

13. Confidential Information

- a. For the purposes of this Agreement “Confidential Information” includes any written or oral information or data, disclosed by either Party to the other, which may include, without limitation, information relating to technical, financial, personnel, personal employee information, the network, corporate, administration, plan design, benefits or contractual affairs of either Party or a third party that has been identified as confidential or that by the nature of the circumstances surrounding disclosure ought reasonably to be treated as confidential.
- b. Contractor hereby agrees that it shall not disclose Confidential Information, and any materials, discussions, or other communications concerning Confidential Information to any person or entity, except to its own employees, contractor personnel, and to its attorneys, accountants, consultants and other professional advisors having a “need to know,” and who are themselves bound by similar nondisclosure restrictions (collectively, “Representatives”). If Contractor becomes aware of any disclosure or use not in compliance with this Agreement, Contractor shall notify the District in writing within three (3) business days. Contractor shall use at least the same degree of care in safeguarding Confidential Information as it uses in safeguarding its own confidential information. Representatives shall be bound to comply with all terms of this Paragraph

13.B. Upon the request of the District, Contractor shall provide a written acknowledgment from each of its Representatives that said Representative is bound by the terms of this Paragraph 13.B.

- c. Contractor's obligation under this Agreement to not disclose Confidential Information shall not apply to information that: (a) becomes generally available to the public other than as the result of unauthorized disclosure by Contractor or a third party; (b) is independently developed by Contractor without the aid, application or use of Confidential Information; or (c) was received by Contractor on a non-confidential basis prior to receipt from the District or from a third-party lawfully possessing and lawfully entitled to disclose such information.
- d. Disclosure of Confidential Information shall not be precluded if such disclosure is: (a) required pursuant to a valid court order; or (b) in the opinion of legal counsel for Contractor, is otherwise required by law, provided that in either circumstance:
 - i. Contractor shall furnish the District with a copy of the demand, summons, subpoena or other legal process to compel such disclosure;
 - ii. Contractor shall give the District reasonable prior notice of its intention to disclose Confidential Information in order to allow the District an opportunity to seek appropriate protection; and
 - iii. Contractor shall take all reasonable steps including, without limitation, the pursuit of a protective order, to restrict the disclosure of Confidential Information to the greatest extent possible.
- e. All Confidential Information provided by the District to Contractor is and shall forever remain the sole and exclusive property of the District. By granting access to Confidential Information, the District does not grant any express or implied right to Contractor to use, publish or disclose any Confidential Information. After its review of the Confidential Information Contractor will return to the District all Confidential Information disclosed to it (including copies or summaries of Confidential Information), or with the District's permission destroy the Confidential Information and certify in writing that it has been destroyed.

- 14. Injunctive Relief. Each Party acknowledges that a breach or threatened breach of this Agreement may cause immediate and irreparable harm to the District and that, to protect against such harm, the District may seek from a court of competent jurisdiction the issuance of a restraining order or injunction to prohibit any threatened disclosure

or misuse of the District's Confidential Information. Such an action for a restraining order or injunction is in addition to and does not limit all other remedies provided by law or in equity or by agreement between the Parties.

15. Indemnification and Hold Harmless. To the fullest extent allowed by law, the Contractor shall defend, indemnify and hold District, its agents, employees, Board of Trustees, members of the Board of Trustees, officials, officers, volunteers, and representatives ("Indemnities") free and harmless from any and all claims, demands, negligence (including the active or passive negligence of Indemnities, regardless of whether sole or otherwise, as allowed by law), causes of action, costs, expenses, liabilities, losses, damages or injuries, fines, penalties in law or equity, regardless of whether the allegations are false, fraudulent, or groundless, to property or persons, including wrongful death, (collectively "Loss") to the extent arising out of or incident to: 1) the performance or breach of any of the terms and conditions of the contract (including but not limited to) the Contractor's use of the site; or 2) any acts, omissions, negligence, in connection with the performance of Services or otherwise arising from this Contract ("Indemnification"); or 3) the willful misconduct of the Contractor or their respective agents, subcontractors, employees, material or equipment suppliers, invitees, or licensees. The Contractor's Indemnification includes, but is not limited to, the payment of all damages and attorney's fees, fines, penalties and other related costs and expenses.

a. The Contractor's defense obligations (with counsel approved by District), shall arise immediately upon tender of any of the Indemnities, and the defense shall be paid at Contractor's own cost, expense and risk, for any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against any of the Indemnities, notwithstanding whether liability is, can be or has yet been established.

b. The Contractor shall pay and satisfy any judgment, award or decree that may be rendered against any of the Indemnities, in any such suit, action or other legal proceeding. The Contractor shall reimburse Indemnities, and each of them, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided.

c. Acceptance of insurance certificates and endorsements required under the contract does not relieve the Contractor from liability under this indemnification and hold harmless clause. The requirements of this Section (Indemnification and Hold Harmless) shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

16. Insurance. Without limiting "Contractor" indemnification, it is agreed that "Contractor" shall secure and maintain in force during the term of this Agreement a **Commercial General Liability** policy (Contractual liability included) utilizing an occurrence policy form, with limits of not less than two million (\$2,000,000) dollars per occurrence, four million (\$4,000,000) annual aggregate limit. **Business automobile Liability** Insurance shall be maintained for owned, scheduled, non-owned or hired automobiles with a combined single limit not less than two million (\$2,000,000) dollars per occurrence. In the event "Contractor" is working with students individually or providing professional services to students, "Contractor" shall maintain a policy providing coverage for sexual molestation and/or abuse claims. In the event that "Contractor's" Commercial General liability policy excludes coverage for sexual molestation and/or abuse claims shall be required to procure a separate or supplemental policy providing such coverage. The limits of coverage for the **abuse and molestation policy** shall be not less than \$2,000,000 per claim and \$4,000,000 aggregate. If any of the required policies provide coverage on a claims-made basis then the following shall apply; 1) The retroactive date must be shown, and must be before the date of the contract or the beginning of contract work; 2) Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract work; (3) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work. Self-insured retentions must be declared to and approved by District. The District may require "Contractor" to provide proof of ability to pay losses and related investigations, claims administration and defense expenses within the retention. The policy shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or the District. **The District shall be named as an additional insured on the policies by separate endorsement.** A Certificate of Insurance and endorsements shall be attached to this Agreement as proof of insurance. The "Contractor" policy shall provide that it is primary such that insurance maintained by the District, if any, shall be excess and not co-primary.

17. Independent Contractor Status. While engaged in carrying out the terms and conditions of the contract, the Contractor is an independent contractor, and not an officer, employee, agent, partner, or joint venture of the District.
18. Workers' Compensation Insurance. Contractor agrees to provide all necessary workers' compensation insurance for Contractor's employees, if any, at Contractor's own cost and expense.
19. Fingerprinting Requirements. Contractor hereby acknowledges that, if applicable, it is required to comply with the requirements of Education Code Section 45125.1 with respect to fingerprinting of employees who may have contact with the District's pupils. The Contractor shall also ensure that its consultants on the Project also comply with the requirements of Section 45125.1. If required by Education Code Section 45125.1, the Contractor and its consultants, prior to any of the Contractor's employees, or those of any other consultants, coming into contact with the District's pupils submit through the DISTRICT fingerprints to the Department of Justice (DOJ) for the monitoring and supervision of employee(s) and/or affiliated constituents. Contractor will not begin work on the Project site until obtaining a DOJ cleared status through the DISTRICT. Contractor further acknowledges that other fingerprinting requirements may apply, as set forth in Education Code Section 45125 et seq., and will comply with any such requirements, including having Consultant certify that none of these employees and/or affiliated constituent(s) will have been convicted of a felony as defined in Education Code section 45122.1. "Fingerprinting Requirements," is expressly understood and agreed to by the parties hereto:

Contractor's initials MF District's initials SS

20. Taxes. Contractor agrees that Contractor has no entitlement to any future work from the District or to any employment or fringe benefits from the District. Payments to the contractor pursuant to this Agreement will be reported to Federal and State taxing authorities as required. District will not withhold any money from compensation payable to Contractor. District will not withhold FICA (Social Security), state or federal unemployment insurance contributions, state or federal income tax or disability insurance. Contractor is independently responsible for the payment of all applicable taxes.
21. Assignment. The Contractor shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of the District.
22. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the contractor and the District and their respective successors and assigns.
23. Severability. If any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
24. Waiver and Amendments. This Agreement may be amended, modified, superseded, cancelled, renewed or extended, and the terms and conditions hereof may be waived, only by a written instrument signed by the parties or, in the case of a waiver, by the party waiving compliance. The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach.
25. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California and venue shall be in the appropriate Superior court in Fresno, California.
26. Attorney's Fees. The non-prevailing party in any dispute under this Agreement shall pay all costs and expenses, including expert witness fees and attorney's fees, incurred by the prevailing party in resolving such dispute.

27. Written Notice. Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the company or to an officer of the corporation for whom it was intended, or if delivered to or sent by registered or certified mail to the last business address known to the person who gives the notice.

District:

Fresno Unified School District
Purchasing Department
4498 N. Brawley Avenue
Fresno, CA 93722

Contractor: Performance Fact, Inc

Name: Mutiu O. Fagbayi

Address:

333 Hegenberger Rd, Ste 204, Oakland, CA
94621

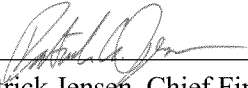
c: Risk Management Fresno
Unified School District 2309
Tulare Street
Fresno, CA 93721

28. Compliance with Law. Each and every provision of law and clause required by law to be inserted into this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein. Contractor agrees that it shall comply with all legal requirements for the performance of its duties under this agreement and that failure to do so shall constitute material breach.
29. Entire Agreement. This Agreement is intended by the Parties as the final expression of their agreement with respect to such terms as are included herein and as the complete and exclusive statement of its terms and may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement, nor explained or supplemented by evidence of consistent additional terms.
30. Construction. The rule of construction that any ambiguity in an agreement be construed against the drafter of such agreement shall not apply to this Agreement.
31. Execution of Other Documents. The parties to this Agreement shall cooperate fully in the execution of any and all other documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.
32. Execution in Counterparts. This Agreement may be executed in counterparts such that the signatures may appear on separate signature pages. A copy, or an original, with all signatures appended together, shall be deemed a fully executed agreement.
33. Board Approval. For contracts in excess of **\$15,000.00**, the effectiveness of this Agreement is contingent upon the approval of the Fresno Unified School District Board of Education.
34. The complete Agreement includes and incorporates by reference herein all of the "Contract Documents" which includes: all terms and conditions of this agreement, Academic Return on Investment Exhibit, provisions of required forms, any appendix, schedules, or attachments, and all modifications, and amendments.

Executed at Fresno, California, on the date and year first written above.

DISTRICT

Fresno Unified School District



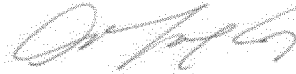
Patrick Jensen, Chief Financial Officer

6/21/2024

Date

CONTRACTOR

Performance Fact, Inc



Name: Mutiu O. Fagbayi

, Title: President/CEO

April 29, 2024

Date

Approved As To Form:



Stacey Sandoval, Executive Director
Risk Management

6/10/2024

Date