

Service Agreement  
Between  
The Kansas City Public Schools  
And  
Performance Fact, Inc.

This Service Agreement (Agreement) is made between the Kansas City Public Schools (KCPS) and Performance Fact, Inc. (Independent Contractor).

KCPS and Independent Contractor agree as follows:

**Article 1. SCOPE OF SERVICES**

At the request of KCPS, Independent Contractor agrees to provide the strategic planning services outlined on Exhibit A, which is attached and incorporated by reference. The following items are added to the Scope of Services/Deliverables as outlined on Exhibit A:

- Meet as requested with Richard M. Biery, M.D., MSPH, FACPM to understand the KCPS Board Governance structure.
- Design and complete Scorecards to measure KCPS progress.
- Begin the process of acquiring MBE certification – KCPS will accept any local/city/state certification.
- Subcontract with the local firm of Jason Parson and Associates to perform a portion of the community engagement (contingent upon mutual agreement between Performance Fact, Inc. and Jason Parson and Associates).

Independent Contractor represents that it has the requisite knowledge and skills to provide all such services.

**Article 2. CONTACT INFORMATION**

Independent Contractor's contact person is Mutiu Fagbayi at 510-568-7944.

KCPS's contact person is Jesse Lange at 816-418-7506.

**Article 3. TERM/TERMINATION**

- 3.1 **Term.** The term of this Agreement (Term) shall commence on the date of KCPS signature and end on the completion of services unless terminated earlier in accordance with the terms and conditions set forth below.

- 3.2 **Termination without Cause.** KCPS reserves the right to terminate the Agreement without cause by giving the Independent Contractor thirty days written notice. Unless instructed otherwise by KCPS, Independent Contractor will cease work immediately upon receipt of the notice. Upon submission of an invoice which complies with Article 5.2, Independent Contractor will be compensated for work performed in good faith prior to its receipt of the notice.
- 3.3 **Termination with Cause.** Either party reserves the right to terminate this Agreement immediately if the other party fails to comply with any terms or conditions of this Agreement and such failure continues for twenty days following receipt of written notice from the objecting party. Independent Contractor will be compensated for services satisfactorily provided through cure date end.
- 3.4 **Annual Appropriation of Funds.** This Agreement shall be subject to annual appropriations of funds by KCPS in accordance with its normal funding practices. In the event that funds are not available in full or in part for the payments hereunder, this Agreement will be subject to modification or termination, depending upon the extent of available funds. KCPS may terminate the Agreement in its entirety without penalty, if funding is not available.

**Article 4. APPROVAL CONDITIONS**

- 4.1 **Executed Agreement.** This Agreement will not become effective until an understanding is reached between the parties and the Agreement has been fully-executed. The Independent Contractor understands that KCPS shall not be obligated to compensate it for any services provided prior to the execution of this Agreement and performance of such services shall be at the sole risk and liability of the Independent Contractor.
- 4.2 **Employment Eligibility.** Pursuant to Mo. Rev. Stat. §285.530, all business entities awarded any contract in excess of five thousand dollars (\$5,000) with a Missouri public school district must, as a condition to the award of any such contract, be enrolled and participate in a federal work authorization program with respect to the employees working in connection with the contracted services to be provided, to the extent allowed by the E-Verify Work Authorization Program of the United States ("E-Verify"). A business entity must affirm the same through sworn affidavit and provision of documentation, as well as sign an affidavit that it does not knowingly employ any person who is an unauthorized alien in connection with the services to be provided. Independent Contractor further agrees to indemnify KCPS for any fines and legal fees incurred because employees or subcontractors of the Independent Contractor performing services for KCPS are not authorized to work in the United States. Independent Contractor must execute the E-Verify Affidavit attached as Exhibit B and incorporated by reference.

**Article 5. COMPENSATION**

- 5.1 **Fee.** KCPS agrees to pay the Independent Contractor for services provided, not to exceed \$96,350 for the term of this Agreement (including reimbursable expenses).

Any services that cause the Independent Contractor to exceed this amount will require an executed contract amendment.

- 5.2 **Payment and Invoice Procedures.** KCPS will provide payment to the Independent Contractor within forty-five days of receipt of a properly submitted invoice. The invoice must be an itemized billing statement showing the description, location, time and date of services. The invoice should be mailed monthly to the following:

Kansas City Public Schools  
Attn: Jesse Lange, Planner  
2901 Troost, 1<sup>st</sup> Floor  
Kansas City, Missouri 64109

A copy of the invoice should be mailed to the Accounts Payable Department at the following address:

Kansas City Public Schools  
P.O. Box 15568  
Kansas City, Missouri 64106

- 5.3 **Billing Dispute.** In the event of a dispute over the amount billed, the disputed amount will not be paid until the dispute is resolved and there is an agreed-upon amount that is owed to the Independent Contractor.

#### **Article 6. INDEPENDENT CONTRACTOR**

- 6.1 **Independent Contractor Status.** The parties agree the terms of this Agreement do not constitute a formation of a partnership, joint venture, employer-employee, or other relationship and no form of agency exist between the parties. The Independent Contractor represents and warrants that it is a separate and independent entity from KCPS.
- 6.2 **Submission of Forms W-9.** If it has not already done so, the Independent Contractor will submit a completed Form W-9 entitled "Request for Taxpayer Identification Number and Certification" with the correct social security number or federal identification number, as well as a completed Vendor Registration Form.

#### **Article 7. OWNERSHIP**

- 7.1 **KCPS-Owned Property.** All equipment, materials, drawings, software, or data of every description (Property) that the Independent Contractor receives directly or indirectly from KCPS is the Property of KCPS. The Independent Contractor must return all Property to KCPS upon request or upon the termination or expiration of this Agreement, whichever is earlier.

#### **Article 8. INDEPENDENT CONTRACTOR'S REPRESENTATIONS AND WARRANTIES**

- 8.1 **Non-Discrimination.** During the performance of its obligations under this Agreement, the Independent Contractor agrees that it will not discriminate against any person on the basis of sex, race, religion, color, national origin, ancestry, age, disability or any other factor prohibited by law.
- 8.2 **Compliance with Laws.** During the performance of its obligations under this Agreement, the Independent Contractor agrees to conduct its activities in strict compliance with all applicable federal, state, and local laws, as well as the policies and procedures of KCPS.
- 8.3 **No Enticement.** Independent Contractor has not offered or given anything of value to KCPS employees to secure this Agreement.

**Article 9. SUBCONTRACTS**

- 9.1 **Use of Subcontractors.** Independent Contractor is approved to subcontract with local firm Jason Parson and Associates for a portion of the community engagement work as stated in Article 1. The use of any other subcontractors will require the written consent of KCPS.

**Article 10. RECORDS, ACCOUNTING, AND EVALUATIONS OF SERVICES**

- 10.1 **Maintenance of Books and Records.** Upon receipt of written notice, the Independent Contractor shall allow KCPS access to the books and records as may be reasonably required to verify services provided under this Agreement. The Independent Contractor understands that such records must be maintained for at least three years after the termination or expiration of the Agreement.

**Article 11. CONFIDENTIALITY**

- 11.1 **KCPS/Student Information.** Independent Contractor agrees to keep confidential and not to disclose to third parties any information provided by KCPS pursuant to this Agreement without KCPS's prior written consent. Access to any student information or educational records shall be handled pursuant to the Family Educational Rights and Privacy Act (FERPA). This provision shall survive expiration or termination of this Agreement.

**Article 12. INSURANCE**

Independent Contractor shall maintain such insurance as will protect it from claims which may arise out of or result from its obligations under this Agreement as follows:

- 12.1 **Workers' Compensation.** The Independent Contractor agrees to maintain workers' compensation insurance for its employees as statutorily required, and employer's liability coverage with a minimum limit of liability of \$100,000 throughout the term of this Agreement.

- 12.2 **General Liability.** The Independent Contractor agrees to maintain general liability insurance throughout the term of this Agreement with the following minimum limits of liability: \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
- 12.3 **No Waiver.** The foregoing provisions shall not be deemed a relinquishment or waiver of sovereign immunity by KCPS.
- 12.4 **Proof of Insurance.** KCPS requires proof of insurance prior to services being performed. Failure by the Independent Contractor to provide any insurance as requested under this article will not relieve it of any contractual obligation or responsibility herein. Further, failure on the part of the Independent Contractor to maintain said insurance in full force and effect throughout the term of this Agreement will constitute a material breach and may initiate action under Article 3.3.

**Article 13. INDEMNIFICATION**

- 13.1 To the fullest extent allowed by law, KCPS and Independent Contractor agree to indemnify and hold harmless the other party, its officers, agents and employees from and against all claims or losses including reasonable attorneys' fees, arising out of or resulting from the negligence or omissions of their own organization, its officers, agents, employees, contractors or volunteers in the provision of services under this Agreement. This provision shall not be deemed a waiver of sovereign immunity, and each party shall continue to enjoy all rights, claims, and defenses available to it under law, to specifically include, where applicable, Mo. Rev. Stat. §537.600, et seq.

**Article 14. NOTICE**

Communications relating to this Agreement should be sent to the following:

**KCPS:**

Kansas City Public Schools  
Attention: Jesse Lange  
2901 Troost, 1<sup>st</sup> Floor  
Kansas City, Missouri 64109  
Telephone: 816-418-7506

**Independent Contractor:**

Performance Fact, Inc.  
Attn: Mutiu O. Fagbayi, President/CEO  
333 Hegenberger Road, Suite 204  
Oakland, California 94621  
Telephone: 510-568-7944

**Article 15. GENERAL**

- 15.1 **Successors and Assignments.** The Independent Contractor and any partners, successors, executors, administrators, and representatives are bound to KCPS in

respect to all terms, covenants, agreements, and obligations. This Agreement shall not be assigned by either party without the prior written consent of the other party.

- 15.2 **Governing Law.** This Agreement is governed by and constructed in accordance with the laws of the state of Missouri without regard to any conflict of laws provision. KCPS and the Independent Contractor waive any objection to the venue of any action arising under this Agreement, which is brought in the federal or state courts located in the state of Missouri and waive any claim that such action has been brought in an inconvenient forum.
- 15.3 **Force Majeure.** Neither party shall be liable if the performance of any part or all of this Agreement is prevented, delayed, hindered, or otherwise made impracticable or impossible by reason of any strike, flood, riot, fire, explosion, war, act of God, sabotage, accident, or any other casualty or cause beyond either party's control and which cannot be overcome by reasonable diligence and without unusual expense.
- 15.4 **No Third Party Beneficiary Rights.** This agreement does not and is not intended to confer any rights or remedies upon any person other than the parties to this agreement.
- 15.5 **Survival.** All representations, warranties, and statements of indemnification shall survive termination or cancellation of the Agreement.
- 15.6 **Amendments.** The Agreement may be altered, amended, changed, or modified only by written agreement executed by authorized representatives of the parties.
- 15.7 **Entire Agreement.** This Agreement constitutes the understanding between the parties, and supersedes all prior agreements, discussions and correspondence.

IN WITNESS THEREOF, the parties have caused this Agreement to be executed and do each represent that their respective signatory whose signature appears below is fully authorized to execute this Agreement.

**SIGNATURES ON FOLLOWING PAGE.**

KANSAS CITY PUBLIC SCHOOLS

By: Mark Bedell

Name: Mark T. Bedell, Ed.D.

Title: Superintendent of Schools

Date: 12-12-16

PERFORMANCE FACT, INC.

By: Muti O. Fagbayi

Name: MUTI O. FAGBAYI

Title: President/CEO

Date: 7 December 2016

## **EXHIBIT A**

### **Scope of Services**

1. Help build a detailed, step-by-step strategic planning process framework that is aligned with KCPS' specific needs, can be completed within 9 to 12 months, and includes the following elements:
  - a. Comply with Board Policy (1.0, 2.7, 4.1 and 4.2)
  - b. Include an effective strategic planning committee and subcommittee structure;
  - c. Ensure inclusion of all stakeholders (community, parents, students and staff) that is representative of the district and ensures all have an opportunity to provide structured input;
  - d. Involve Board of Education members as an integral part of the process providing input, support and commitment;
  - e. Review existing planning and assessment documents, including the most recent strategic plan;
  - f. Outline a process to ensure implementation and evaluation of the plan with measureable key performance-based indicators/metrics/outcomes;
  - g. Contain no more than three to four high-leverage strategic goals;
  - h. Spans a five-year planning horizon;
  - i. Describe the process for renewal of KCPS' vision, mission and beliefs;
  - j. Identify and develop quantitative and perceptive data to ground the planning work and create a baseline for analysis, comparison, decision-making and identification of priority goals/strategies; and,
  - k. Utilize best practices and trends within the educational industry, e.g., online learning and effective integration of technology.
2. Guide and support implementation of the strategic planning process framework, in particular:
  - a. Facilitate conversations with stakeholders;
  - b. Support the strategic planning committees and subcommittees in gathering and organizing internal and external environmental assessments;
  - c. Communicate the work of the strategic planning committee and subcommittees and the outcomes of their work;
  - d. Align Strategic Plan process (including outreach efforts and data analysis) to existing KCPS activities and systems; and,
  - e. Keep the process on track, on time and on budget.
3. Author the report with the guidance and assistance of the committee and develop an implementation plan with an outcomes-based dashboard to track progress against milestones over time, and which includes guidelines for resource allocation.

### **Deliverables**

1. Needs Assessment
2. Methodology/Dissemination



- 3. Assessment of Representative Stakeholders' Input and Perspectives**
- 4. Preliminary Report and Recommendations**
- 5. Final Report, and Five-Year Vision and Strategic Plan**

EXHIBIT B

FEDERAL WORK AUTHORIZATION PROGRAM AFFIDAVIT

I, Muti O. Fagbayi, being of legal age and having been duly sworn upon my oath, state the following facts are true:

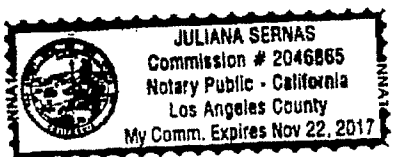
1. I am more than twenty-one years of age and have first-hand knowledge of the matters set forth herein.
2. I am employed by Performance Fact, Inc. ("Company") and have authority to issue this affidavit on its behalf.
3. The Company is enrolled in and participating in E-Verify with respect to the Company's employees working in connection with the services the Company is to provide to the District, to the extent allowed by E-Verify.
4. The Company does not knowingly employ any person who is an unauthorized alien in connection with the services the Company is to provide to the District.

By: [Signature]  
Individual Signature

For: Performance Fact, Inc.  
Company Name

Title: President/CEO

Subscribed and sworn to before me on this 8th day of December 2016.



[Signature]  
Notary Public

Juliana Sernas  
Printed Name

My Commission Expires: 11/22/2017

Contract No.: SA-17010  
1st Amend.

**FIRST AMENDMENT TO THE AGREEMENT  
BETWEEN  
THE KANSAS CITY PUBLIC SCHOOLS  
AND  
PERFORMANCE FACT, INC.**

This First Amendment is made between the Kansas City Public Schools (KCPS) and Performance Fact, Inc. (Independent Contractor).

Whereas, the parties executed a Service Agreement (SA-17010) for Independent Contractor to provide strategic planning services that expires upon completion of services and the parties now desire to amend exhibit A to expand services to include implementation.

The language of the agreement is amended as written below. No other changes are made to the agreement, and it remains in full force and effect.

Exhibit A is amended to additionally include the attached proposal for implementation services and the payment amount in Article 5.1 is increased from \$96,350 to \$129,250 (an increase of \$32,900).

In witness thereof, the parties acknowledge their agreement to the change above by executing this First Amendment.

[Signature page follows.]

Date: 11-28-17

**Kansas City Public Schools**

By: Mark Bedell

Name: Mark T Bedell, ed.D

Title: Superintendent

Date: 11/28/2017

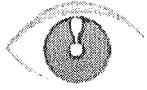
**Performance Fact, Inc.**

By: 

Name: MUTIU FAGBAYI

Title: PRESIDENT / CEO

Exhibit A



**PERFORMANCE fact, INC.**

*Building leadership for courageous and accountable action in public education*

**2017-2018 Scope of Professional Services**  
**Kansas City Public Schools**  
Kansas City, Missouri

**Mark Bedell, Ed.D.**  
*Superintendent of Schools*

**DISCIPLINED IMPLEMENTATION**  
**& LEADERSHIP FOR RESULTS**

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

6 October 2017

## Introduction

A results-focused plan is the first step towards realizing desired outcomes for student learning and achievement. However, without disciplined implementation, a plan founders and may not live up to its promise.

This Proposal outlines the professional services that Performance Fact, Inc. ("PFI") will provide to Kansas City Public Schools ("KCPS"), in support of Year #1 (2017-2018) implementation of the district's strategic plan.

The proposed 2017-2018 scope of work focuses on three strands:

1. **Planning & Alignment** to update school level and district-level *annual planning* processes and structures relative to the strategic plan, and define goals and milestones for the annual plans
2. **Performance Management** to design and implement *data-gathering and continuous monitoring* systems to assess the effectiveness of implementation of the annual and long-term plans
3. **Leadership-in-Action** to strengthen the *leadership proficiency* of school- and district-level leaders to guide their teams through successful implementation of their plans, and to develop mission-focused structures and processes

At Performance Fact, our approach is to align our external perspective with our client's internal vision for their staffs, teams, schools, and community. In particular, we aim to strengthen the organization's capacity to achieve stronger results through disciplined implementation and development of sustainable leadership capacity.

## 2017-2018 Areas of Focus

(front view)

Implementation Quarters

Q1 Q2 Q3 Q4

### 1. Planning & Alignment

#### 1.1 Annual School Improvement Plans:

Q1 Q2 Q3 Q4

- a. Design a customized process and tools to align annual school improvement plans with the district strategic plan.

#### 1.2 Annual Department Workplans:

Q1 Q2 Q3 Q4

- a. Design customized process and tools to align annual department-level plans with the district strategic plan.
- b. Facilitate development of department-level work plans and provide coaching and feedback to Department leaders

### 2. Performance Management

#### 2.1 Vital Signs Scorecard

Q1 Q2 Q3 Q4

- a. Design department-level Vital Signs Scorecard aligned with district-level Vital Signs Scorecard. Review and refine Vital Signs Scorecard annually. Design department-level Vital Signs Scorecard aligned with district-level Vital Signs Scorecard. Review and refine Vital Signs Scorecard annually.

#### 2.2 Cycle of Inquiry & Data Summit:

Q1 Q2 Q3 Q4

- a. Design a framework for conducting cycles of inquiry, including a process for holding evidence-based collegial conversations about student learning and professional practices (i.e. Data Summit) at school level and department level.

### 3. Leadership-in-Action

#### 3.1 Leadership Coaching & Support

Q1 Q2 Q3 Q4

- a. Provide executive coaching for Superintendent and Cabinet regarding monitoring of school/department plans, developing structures and processes critical for system-wide efficiency and effectiveness, developing leadership at all levels.

#### 3.2 Engagement of & Accountability to Stakeholders:

Q1 Q2 Q3 Q4

- a. Develop framework and tools for conducting mid-year and end-of-year progress reports to the Board, district employees and community, and work collaboratively with district leaders to complete the 2017-2018 mid-year and end-of-year reports

## Roadmap for Disciplined Implementation

[Roadmap view]

Getting things done well demands discipline! Performance Fact's Roadmap process guides leaders and their teams towards creating a coherent "map" for accelerating student learning, implemented with discipline in the *proper sequence and proper time*.

### KEY ACTIONS / DELIVERABLES

### STRAND

#### Quarter 1 - Year 1 [Chart the course]

1.2.a Design customized process and tools to align annual department-level plans with the district strategic plan.

PSA

1.2.b Facilitate development of department-level work plans and provide coaching and feedback to Department leaders.

PSA

#### Every Year

#### [Monitor & adjust]

N/A

#### Every Month

#### [Learn & collaborate]

1.1.a Design a customized process and tools to align annual school improvement plans with the district strategic plan.

3.1.a Provide executive coaching for Superintendent and Cabinet regarding monitoring of school/department plans, developing structures and processes critical for system-wide efficiency and effectiveness, developing leadership of all levels.

#### Every Quarter - Year 1 [Reflect & plan]

2.1.a Develop dashboards of key indicators of student learning and professional practices for (CIP) elementary, middle and high schools and apply the design specifically to one elementary school, one middle school and one high school [working collaboratively with each principal (psd)]

PM

2.2.a Design a framework for conducting cycles of inquiry, including a process for holding evidence-based collegial conversations about student learning and professional practices (i.e., Data Summit) at school-level and department-level level and pilot the process with one school or district level department.

PM

#### Every Year - Year 1 [Evaluate & celebrate]

3.2.a Develop framework and tools for conducting mid-year and end-of-year progress reports to the Board, district employees and community, and work collaboratively with district leaders to compile the 2011-2013 mid-year and end-of-year reports.



## Roadmap Calendar

[Calendar view]

### 1. Superintendent & Cabinet (~ 10 people)

- ✓ Three (3) on-site sessions during the school year
- ✓ One (1) 90-minute virtual (GoToMeeting) sessions per month as needed

Day	Date	Time		Notes/Comments
		Start	End	
	xx Nov. 2017			
	xx Dec. 2017			
	xx Jan. 2018			
	xx Feb. 2018			
	xx Mar. 2018			
	xx Apr. 2018			
	xx Ma 2018			
	x Jun. 2018			

### 2. Department Leaders (~ xx people)

- ✓ Three (3) on-site sessions during the school year; all leaders together
- ✓ One (1) virtual sessions per leader every quarter; 60 minutes per session
- ✓ Focus on development and monitoring of department level plans

Day	Date	Time		Notes/Comments
		Start	End	
??	xx Nov. 2017			
??	xx Dec. 2017			
??	xx Jan. 2017			
??	xx Feb. 2018			
??	xx Mar. 2018			
??	xx Apr. 2018			
??	xx May 2018			
??	xx Jun. 2018			

### 3. Teaching-&-Learning (~ xx people)

- ✓ Three (3) on-site sessions during the school year; with leadership and Design team, as appropriate
- ✓ One (1) virtual session with leadership every quarter, 60 minutes per session
- ✓ Focus on development of: (a) Annual school improvement planning process; (b) Vital Signs Scorecard; (c) Cycle of Inquiry & Data Summit

Day	Date	Time		Notes/Comments
		Start	End	
	xx Nov. 2017			
	xx Dec. 2017			
	xx Jan. 2017			
	xx Feb. 2018			
	xx Mar. 2018			
	xx Apr. 2018			
	xx May 2018			
	xx Jun. 2018			

## Fees for Professional Services

(Per view)

What the Professional Fees Cover	
<ul style="list-style-type: none"> <li>✓ On-site sessions; 3 one day visits during school year</li> <li>✓ Virtual (GoToMeeting) check-in meetings with: <ul style="list-style-type: none"> <li>○ Monthly with Superintendent &amp; Cabinet; 90 minutes per session</li> <li>○ Quarterly virtual session with each Department leader every quarter; 60 minutes per session</li> <li>○ Quarterly virtual session with Teaching &amp; Learning Leadership; 60 minutes per session</li> </ul> </li> <li>✓ Access to Eye on the Goal™ Online- web-based tools and resources; 1 license for the school year, for up to 20 individual-users per license; renewable annually</li> <li>✓ Ongoing ad hoc consultation/support for Superintendent and Cabinet</li> <li>✓ All expenses associated with Performance Fact team's travel, lodging, meals, ground transportation, and materials for core participants in formal scheduled meetings</li> </ul>	
Professional Fees	\$39,900.00
	(5 )
<b>Total Professional Fees</b> (Contract Total)	<b>\$32,900</b>