

**BLACKWATER COMMUNITY SCHOOL (BWCS)**  
**AKIMEL O'OTHAM PEE POSH CHARTER SCHOOL INC.**

**REQUEST FOR PROPOSAL NO. 21-22-01R School Financial Services**

**PROPOSAL DUE DATE:** June 11, 2021 1:00 PM MST

**LOCATION:** Blackwater Community School, 3652 E. Blackwater School Road, Administration Office Bldg., Coolidge, AZ 85128 Phone: (520) 215-5859

**MATERIAL AND/OR SERVICE:** Financial Services

Blackwater Community School/Akimel O'Otham Pee Posh Charter School Inc. (BWCS) is seeking proposals for a Financial Services that will assist the School's administration in all financial operation aspects relating to funding (both BIE and State of Arizona) and all daily financial activities for purchased services, materials, and personnel.

Offerors are strongly encouraged to carefully read the entire Request for Proposals.

Proposals must be in the actual possession of the BWCS Purchasing Department on or prior to the exact time and date indicated above. Proposals received by the correct time and date will be opened and the name of each Offeror will be publicly read.

Proposals must be submitted in a sealed envelope properly addressed to the BWCS Purchasing Department with Request for Proposals, the Proposal Number, Proposal Due Date and Time, and Offeror's Name and Address clearly indicated on the envelope. The School will not be responsible for late receipt or improperly addressed envelopes. All proposals must be completed in ink or typewritten and a complete Request for Proposal returned along with the offer by the time and date cited above.

BWCS reserves the right to accept or reject any and all proposals or any part thereof, unless specified otherwise, and to waive any minor informalities in any proposal, deemed by us to be in the best interest of the School.

The School shall contract with the qualified firm or person whose proposal is determined to be most advantageous to the School based upon the factors set forth in the Request for Proposals. Compensation shall be at an amount which the School determines is fair and reasonable, taking into account budgetary limitations and scope, complexity, and professional nature of the materials/services. No contract may be awarded solely on the basis of price.

After contract award, the proposal shall be open for public inspection except to the extent the Offeror designates, and the School concurs, that trade secrets or other proprietary data remain confidential. If the Offeror designates a portion of its proposal as confidential, it shall isolate and identify in writing the confidential portion(s) at the time of submission. Written notice of the contract award may be made to all firms/persons submitting proposals.

Any questions related to this Request for Proposals shall be directed to the contact person whose name appears below.

Contact Person: Jagdish Sharma (Principal)

Phone (520) 215-5859 Ext. 7905      Date \_\_\_\_\_

**This Proposal is offered by:**

Firm/Person \_\_\_\_\_ Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_ Phone \_\_\_\_\_ Date \_\_\_\_\_

Title \_\_\_\_\_ Signature \_\_\_\_\_

## **A. DIRECTIONS FOR SUBMITTING COMPETITIVE SEALED PROPOSALS**

Offerors shall sign the Request for Proposal. If this document is not properly signed, the proposal may be considered non-responsive. Telephoned, telegraphed or faxed proposals will not be accepted.

In the event that no proposal is to be submitted, please advise Blackwater Community School, whether or not further requests for like items covered by this request are desired.

Any Offeror not responding to two (2) consecutive Requests for Proposals for similar procurements may be removed from the Vendor List for those items.

## **B. TERMS AND CONDITIONS**

The submission of a proposal shall indicate that the Offeror has read the terms and conditions, understands the requirements and that the Offeror can supply the required services specified.

No alterations, erasures or additions are to be made unless initialed in ink by the authorized signer. Proposals must be legible, typewritten if possible. Illegible or vague proposals may be rejected.

No contract exists on the part of the school until a written purchase order has been issued. Issuance of a school purchase order and a formal signed contract (attachment#1) will be considered sufficient notice of acceptance of contract.

Prices shall be stated in units as specified (excluding sales tax) and the extension (excluding sales tax) on each item in the proposal. In the event of conflict between the unit price and the extension, the unit price shall govern.

It is mutually understood and agreed that the successful firm shall not assign, transfer, convey, sublet or otherwise dispose of the purchase order or contract, or their right, title, or interest therein, or power to execute such purchase order or contract to any other person, company or corporation without the prior written consent of the BWCS Principal, Director of Purchasing or designee.

BWCS reserves the right to return any equipment and/or supplies that do not meet specifications indicated in the proposal at Offeror's expense. Offeror guarantees that equipment and/or supplies delivered are standard, new and regular stock.

Failure to examine any requirements shall be at the Offeror's risk.

## **C. CERTIFICATION**

By signing the Offer, Offeror certifies the following:

Offeror has examined and understands the terms, conditions, scope of work and the specifications and other documents in this solicitation.

The submission of the offer did not involve collusion or other anti-competitive practices. Neither signatory nor any person on his behalf, has not agreed, connived or colluded to produce a deceptive show of competition in the matter of the bidding or award of a contract under this solicitation.

Offeror has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer.

Neither Offeror nor any officer, director, partner, member or associate of Offeror, nor any of its employees directly involved in obtaining contracts with the State of Arizona, Blackwater Community School or any subdivision of the state has been convicted of false pretenses, attempted false pretenses, or conspiracy to commit

false pretenses, bribery, attempted bribery or conspiracy to bribe under the laws of any state or federal government for acts or omissions after January 1, 1985.

Offeror agrees to comply fully with any and all provisions of A.R.S. 32-1101 et seq (Registrar of Contractors) that may regulate Offeror's business. Offeror shall not discriminate against any employee, or applicant for employment in violation of federal and state laws (see Federal Executive Order 11246: ARS 31-1461).

Offeror is not currently suspended, debarred or otherwise precluded from participation in any public procurement activity with any federal, state or local government entity.

If awarded a contract, Offeror agrees to promote, offer and sell under BWCS contract only those materials and/or services awarded to contractor by BWCS.

If awarded a contract, Offeror will provide the equipment, commodities, and/or services to Blackwater Community School in accordance with the terms, conditions, scope of work, specifications, and other documents of the Request for Proposal.

If awarded a contract Offeror agrees that all students, staff and other individuals eligible to receive services will have equal access to services regardless of race, religion, color, sex, disability, age or national origin (including language minority individuals).

Offeror and all proposed subcontractors comply and shall remain in compliance with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, A.R.S. 41-4401, and A.R.S. 23-214, which requires compliance with federal immigration laws by Arizona employers, Arizona contractors and Arizona subcontractors in accordance with the E-Verify employee eligibility verification program.

Offeror does not have scrutinized business operation in Sudan or Iran and complies with the Export Administration Act.

#### **D. TAX REQUIREMENTS**

Do not include any Sales or Use Tax on individual items in this proposal. Instead show below the percent of tax to be charged by you. The School is exempt from paying Sales Tax. No sales tax will be charged.

#### **E. SAMPLES**

It is the Offeror 's responsibility to provide the School with adequate samples and detailed specifications from any item offered. If a sample is requested by the School for evaluation, it must be submitted within 10 working days.

Samples submitted for evaluation shall be free of charge, submitted and removed by Offeror at Offeror's expense. Award samples may be held for comparison with deliveries. The School shall not be held responsible for any sample damaged or destroyed in examination or testing. Samples not removed within thirty (30) days after notice to the Offeror will be regarded as abandoned and the school shall have the right to dispose of them as its own property.

Samples submitted will be compared to proposal specifications and evaluated as to: materials used in construction, quality and workmanship, durability, adaptability to the use for which this item was intended, and overall appearance.

#### **F. WARRANTY/GUARANTEE**

All bidders must guarantee full satisfaction of their products use or permit unsatisfactory products to be returned collect for full money refund. Vendors will replace damaged items at no cost to the School.

## **G. QUANTITY(S)**

Quantity(s) indicated are the School 's best estimate of projected needs and are in no way guaranteed or implied. Payment will be made to successful Offeror for actual quantity(s) ordered and received. Final quantities will be based upon need and funds available.

In the best interest of the School, we reserve the right to increase or decrease quantities as shown, or to place subsequent orders with successful Offeror(s). Successful Offeror will be contacted prior to the placement of any additional order for verification of proposal prices.

## **H. PRICE CLAUSES**

Prices must be firm at least 120 days, preferably firm for one year from date of proposal award.

After 120 days, the BWCS Purchasing Department will review fully documented requests for price increases. The requested price increase must be based upon a cost increase that was clearly unpredictable at the time of offer and which can be shown to directly affect the price of the item concerned. The BWCS Purchasing Department will determine, through competitive market review, trade publications, independent price index, and/or other means, whether the requested price increase, or an alternative option, is in the best interest of the School. The vendor shall offer BWCS any published price reduction during the contract period. All price adjustments will be effective on acceptance by the BWCS Purchasing Department.

Indicate the number of days prices are firm: \_\_\_\_\_ (If not filled in then price is firm for the term of contract which is normally one year)

## **I. FORM OF CONTRACT**

The form of contract for this purchase shall be a properly issued purchase order referencing the requirements of this Request for Proposals and a signed BWCS Contract. If a firm submitting an offer requires that the School sign an additional contract, a copy of the proposed contract must be included with the proposal.

The Purchasing Department will review proposed vendor contract documents. A vendor's contract document shall not become part of the purchase contract unless and until an authorized representative of the BWCS Purchasing Department and or an administrator/Board Representative signs it. BWCS's contract documents shall govern in the event of conflict with the terms of a vendor's contract.

At any time and with the mutual consent of the vendor and School, the contract may be amended if deemed to be most advantageous to the School. If the vendor objects to the amendment(s) the School may cancel the contract.

## **J. CONTRACT LIAISON**

The Contract Liaison for any contract under this Request for Proposal will be Jagdish Sharma, Principal, Blackwater Community School, (520) 215-5859 x 7905. The Contract Liaison shall act as the BWCS's contract manager and oversee performance under the contract.

The Contract Liaison may provide the vendor with general guidance as to contract performance. However, this individual is not authorized to make or approve changes in the contractual or performance requirements of any contract. Changes to an awarded contract shall be effective only upon written approval from the BWCS Governing Board.

## **K. DELIVERY OF AWARDED ITEMS**

Delivery to be F.O.B. destination, freight prepaid to the BWCS, Coolidge, AZ, as indicated on the purchase order. Prompt delivery is of the essence and may be a factor in proposal award. Therefore, Offeror must indicate delivery time following receipt of purchase order on the proposal form. Failure to deliver order within the specified time frame may result in purchase order cancellation.

All deliveries shall be accompanied by delivery tickets or packing slips. Ticket shall contain school purchase order number, vendor name and name of article. Purchase order number, vendor name and name of article, shall identify cartons.

All equipment must be marked with manufacturer's name either by stamping or embossing.

Indicate number of days for delivery after receipt of purchase order \_\_\_\_\_.

## **L. GENERAL INFORMATION**

Any formal written protest arising from the solicitation and/or award of this Request for Proposal shall be filed with Jagdish Sharma, the School Representative. Written protest relating to the initial solicitation must be filed with the School Representative prior to proposal opening. All other protests must be filed within 10 days after the protester knows or should have known the basis of the protest whichever is earlier. Contact with the School Representative may be made at (520) 215-5859 for the information required in the filing of a formal written protest pursuant to State Board of Education School Procurement Rule R7-2-1142.

The School reserves the right to conduct discussions with responsible Offerors for the purpose of clarification and to request best and final offers before a contract is awarded.

The School reserves the right to accept or reject any proposal, or any part thereof, unless specified otherwise, and to waive any minor informalities in any proposal deemed by us to be in the best interest of the School.

The Request for Proposals is issued in accordance with the requirements of the Arizona Department of Education's School Procurement Rules (Arizona Administrative Code R7-2-1001 through R7-2-1195). Any contract awarded as a result of this Request for Proposal shall be governed by said rules.

## **M. SERVICE TO INCLUDE BUT NOT LIMITED TO**

Prompt delivery of the services requested.

## **N. PROPOSAL EVALUATION AND AWARD**

The School intends to contract with the qualified firm or individual whose proposal(s) is deemed to be most advantageous to the School. No contract shall be awarded solely on the basis of price. Cost is a factor in selection, however, only those proposals determined to meet all of the requirements of this Request for Proposals will be given consideration.

The evaluation and award criteria, in relative order of importance, are the following:

- Staff qualifications (including related Degree and Certifications) relating to the ability to provide the required services to the School.
- A thorough knowledge and at least five (5) years of experience in Bureau of Indian Education (BIE) Accounting Practices and Procedures.
- A thorough knowledge and at least five (5) years of experience in Arizona Department of Education Accounting Practices and Procedures.

- A thorough knowledge and at least five (5) years of experience in Arizona Charter School's Accounting Practices and Procedures.
- Plan for implementing the program and providing specified services.
- All required licenses and permits for providing services in the Gila River Indian Community.
- Cost.

BWCS anticipates it will contract with one vendor. The School reserves the right to award to the second most advantageous Offeror, if primary Offeror is unable to perform the contract's requirements.

All proposals shall be open for public inspection after contract award, except to the extent the Offeror designates and the School concurs, that trade secrets or other proprietary data contained in the proposal documents remain confidential.

## **0. SCOPE OF SERVICES**

Blackwater Community School maintains two (2) charters - a K-2 grade, a 3<sup>rd</sup>-5<sup>th</sup> grade and a Bureau of Indian Education Grant School (K-5). Proposals must be inclusive for all three (3) schools.

1. The Offeror will assist with budget planning and development, and other long-range planning as appropriate, including preparation of annual and revised budgets, and the timely filing of these budgets.
2. The Offeror will provide support services within the Bureau of Indian Education financial system providing reports, planning, and all aspects of financing.
3. The Offeror will provide support services within the Arizona Department of Education financial system providing reports, planning, and all aspects of financing.
4. The Offeror will provide accounting, general ledger and reporting services, including the recording of all detail financial transactions in a computerized accounting system that provides payroll and accounts payable checks, state and federal reports, and all management reports required in a comprehensive financial system.
5. The Offeror will reconcile selected key general ledger account monthly. Additionally, reconcile the general ledger to the annual audit report.
6. The Offeror will provide advice and assistance with business procedures required to comply with legal and audit requirements, including the proper investment, safeguarding and handling of cash, records and procedures required to conform with the Single Audit Act of 1984: fixed asset accounting; and, other procedures for adequate internal control and compliance with USFRCS and GASB requirements.
7. The Offeror will provide advice and assistance with other business-related matters, including financial policies, capital planning, insurance, federal and state grants, procurement requirements, legislative and statutory issues and records management.
8. The Offeror will attend monthly Board of Trustees meeting, quarterly Financial Planning meetings, and other meetings and provide detailed financial reports as needed.
9. The Offeror will obtain all required licensing as per the Gila River Indian Community.
10. The offeror will provide oversight on school payrolls (if requested)

11. The Offeror will submit any and all financial documentation in a timely manner for any school audits conducted by any funding authorities.

**P. PROPOSAL SUBMITTAL**

Please submit your proposal providing the following information. Number as indicated.

1. Provide your firm's name, address, telephone number and how long firm has been in business.
2. Provide a description of your firm's experience in providing the specified items.
3. Provide a thorough description of your firm's ability to provide support after sale. Indicate any services that would be available to BWCS with a separate reference to the accounting services as defined in "Section O. Scope of Services" above and include: payroll, accounting and reporting services, budget planning and preparation, and attending required and optional meetings.
4. Please provide individual prices on the following services:
  - A) Payroll
  - B) Accounting & reporting services
  - C) Budget planning & reporting services
  - D) Attending required meetings – monthly board meetings (12), quarterly staff budget meetings, and other meetings as needed (up to six per year).
5. Provide a list of at least three customers the School can contact as references for your firm's services and/or equipment. The references listed must have received the same or substantially similar materials and services as those specified in this Request for Proposals.
6. Indicate any and all extra or incidental costs that might apply to the School purchase.
7. Provide documentation that the firm or any individual representing the firm is not currently suspended, debarred or otherwise precluded from participation in any public procurement activity with any federal, state or local government entity.

**Q. TERM OF CONTRACT. EXTENSION, AMENDMENTS, CANCELATION & PENALTIES**

Contract Period: It is BWCS's intent to award a multi-term contract for the specified materials, equipment and/or services. The initial contract term shall be for one (1) year. By mutual written agreement between Blackwater Community School and vendor, the contract may be extended up to four (4) consecutive additional 12-month periods, beginning immediately after expiration of the prior term. However, no contract extension exists unless and until contractor is so notified by BWCS.

The School reserves the right to immediately cancel the contract without penalty or recourse, in whole or part, when the School determines that action to be in its best interest. Contractor shall be entitled to receive just and equitable compensation in accordance with applicable contract pricing for work in progress and/or work completed before the effective date of the cancellation.

The School reserves the right to penalize, withhold payment or partial payment if said products or services are not delivered or not completed as stated in the scope of services. Excessive penalties may result in cancellation of the contract/purchase order.

**R. OTHER REQUIREMENTS:**

Must possess GRIC Tribal Business License prior to starting the work



Attachment 1 - INDEPENDENT CONTRACTOR AGREEMENT

This independent contractor agreement (the "**Agreement**") is made and entered into as of \_\_\_\_\_, 2021 (the "**Effective Date**") between Blackwater Community School (the "**School**"), a tribally controlled grant school, and

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("Contractor") (collectively, the "**Parties**"). The School requests the Contractor to perform services for it and as laid out in the Scope of work section of the RFP.

The Parties therefore agree as follows:

**1.1. Term and Termination.**

1.2. This Agreement takes effect immediately as of the Effective Date, and remains in full force and effect until the Contractor has completed the Services or until June 30, 2018, whichever occurs sooner. This period shall be referred to as the "**Term**." This Agreement may be terminated earlier pursuant to Paragraphs 1.2 – 1.3.

1.3. Either Party may terminate this Agreement for cause by providing the other Party written notice if the other Party: (i) is in material breach of this Agreement and has failed to cure such breach within five (5) days after its receipt of written notice of such breach provided by the non-breaching Party; (ii) engages in any unlawful business practice related to that Party's performance under the Agreement; or (iii) files a petition for bankruptcy, becomes insolvent, acknowledges its insolvency in any manner, ceases to do business, makes an assignment for the benefit of its creditors, or has a receiver, trustee or similar party appointed for its property.

1.3 Either Party may also terminate this Agreement without cause, so long as the terminating party provides thirty calendar days' written notice to the other of termination.

**2.1. Contractor Services and Rate of Pay.**

2.2. During the Term, the School may engage the Contractor to provide the following services as needed (the "**Services**"), or other such services as mutually agreed upon in writing by the Parties (email is acceptable):

2.3. The Contractor shall provide all necessary equipment to perform the Services. School will Provide cleaning supplies and chemicals in order to perform the job requirements If the Contractor has obtained employees or agents (the "**Contractor Personnel**"), the Contractor shall be solely responsible for all costs associated with the Contractor Personnel.

2.3 As a result of providing the Services, the Contractor or Contractor Personnel may create certain work product (the "**Work Product**"). Any such Work Product created pursuant to this Agreement shall be the property of the School, who has procured the Contractor's Services hereunder, and such Work Product shall be turned over to the School at the culmination of this Agreement.

2.4. The Contractor shall notify the School of any change(s) to the Contractor's schedule that could adversely affect the availability of the Contractor, whether known or unknown at the time of this Agreement, no later than **10 days** prior to such change(s). If the Contractor becomes aware of such change(s) within the **10 days** period, the Contractor shall promptly notify the School of such change(s) within a reasonable amount of time.

2.5. The Contractor shall issue invoices that itemize the work performed in the period billed to a sufficient level of specificity as determined by the Principal, in connection with the Business Office. Invoices shall be submitted to the School's accounts payable department within thirty days of completing the Services, unless otherwise instructed by the School. The Contractor shall also provide any supporting documentation as instructed by the School's accounts payable department. The School shall remit payment to the Contractor within thirty days of receiving the invoice from the Contractor.

2.6. The School shall not be responsible for federal, state and local taxes derived from the Contractor's net income or for the withholding and/or payment of any federal, state and local income and other payroll taxes, workers' compensation, disability benefits or other legal requirements applicable to the Contractor. Any such liabilities shall be the sole financial responsibility of the Contractor, including as such liabilities may arise with respect to any Contractor Personnel.

### **3.1. Independent Contractor Status.**

3.2. The Parties intend that the Contractor and any Contractor Personnel be engaged as independent contractors of the School. Nothing contained in this Agreement will be construed to create the relationship of employer and employee, principal and agent, partnership or joint venture, or any other fiduciary relationship.

3.3. The Contractor **may not act** as agent for, or on behalf of, the School, or to represent the School, or bind the School in any manner.

3.4. Neither the Contractor, and the Contractor's Personnel, if any, will not be entitled to worker's compensation, retirement, insurance or other benefits afforded to employees of the School.

### **4.1. Ownership.**

4.2. The Parties intend that, to the extent the Work Product or a portion of the Work Product qualifies as a "work made for hire," within the definition of Section 101 of the Copyright Act of the United States (17 U.S.C. § 101), it will be so deemed a work made for hire. If the Work Product or any portion of the Work Product does not qualify as work made for hire, and/or as otherwise necessary to ensure the School's complete ownership of all rights, titles and interest in the Work Product, the Contractor shall transfer and assign to the School all rights, titles and interests throughout the world in and to any and all Work Product. This transfer and assignment includes, but is not limited to, the right to publish, distribute, make derivative works of, edit, alter or otherwise use the Work Product in any way the School sees fit.

4.3. The School grants the Contractor, a limited, non-exclusive, non-transferable, non-assignable, royalty free, worldwide license to display the Work Product on a platform personally controlled, in whole or in part, by the Contractor. The School may revoke this license at any time by requesting the removal of the Work Product displayed by the Contractor. Upon such request, the Contractor shall remove the Work Product from the platform, and provide written notification of such removal.

5.1. **Insurance Coverage.** The Contractor understands and agrees that, as a precondition to this Agreement and prior to beginning any work on behalf of the School, the Contractor shall obtain and must provide a certificate of liability insurance naming Blackwater Community School as an additional insured for the following types of insurance coverage at the amounts identified herein:

- Workers' compensation coverage must provide statutory limits and show limits of \$1,000,000.00/\$1,000,000/\$1,000,000.
- General liability coverage in the amount of \$1,000,000.00 per occurrence with a \$2,000,000.00 aggregate;
- Auto liability coverage in the amount of \$100,000.00 combined single limit for bodily injury, \$300,000.00 for total bodily injury, and \$100,000.00 for property damage.

Should the Contractor not provide the aforementioned certificate of liability prior to commencing work with the School, or should the Contractor allow any mandatory insurance required by this Agreement to expire during the term of this Agreement, Blackwater Community School will assess a 5% penalty in the form of a deduction from any payment of fees paid to Contractor to cover the cost to Blackwater Community School for providing said coverage through the School's own carrier(s).

The Contractor hereby acknowledges and agrees that the foregoing coverage is required at any and all times work is performed on behalf of the School, regardless of whether said work is performed on the School's campus or not.

#### 5.1 Workers' Compensation Not Required for Sole Proprietors

Pursuant to Arizona law, certain sole proprietors are not required to maintain workers' compensation insurance coverage. If the Contractor is a sole proprietorship or other entity that is not required to secure such coverage for him/herself or his/her employees, Contractor nevertheless agrees to release, indemnify, and hold harmless Blackwater Community School from all claims, fines and actions, including any award by the Industrial Commission of Arizona, or any other similar administrative body and/or court of law, arising out of claims by an employee or agent of the Contractor for work-related injuries.

**6.0 Interactions with School Personnel.** As a condition of this Agreement, the Contractor expressly agrees to interface with School personnel in a professional manner at all times. Neither the Contractor nor Contractor Personnel shall have any right, whatsoever, to direct any School personnel. Further, Contractor hereby agrees not to interfere with any School business outside the scope of Services defined herein, nor interfere with any personnel matters. Should the Contractor experience any issues with respect to its engagement with the School hereunder, he/she/it should direct those concerns only to the Superintendent / Principal.

**7.0 Fingerprinting and Background Check Clearance.** The Contractor understands that as a condition of entering into this Agreement both the Contractor and any Contractor personnel may be required to undergo fingerprinting and a background clearance check pursuant to the Indian Child Protection and Family Violence Prevention Act, 25 U.S.C. §3201, *et seq.*, and its implementing regulations. This process must be completed *prior to* the Contractor beginning any work on campus.

**8.0 Confidentiality of Proprietary Information.** The Contractor understands and agrees that, pursuant to this Agreement, the Contractor may become aware of confidential or proprietary information related to the School's staff or its students. The Contractor acknowledges and agrees to maintain the confidentiality of any such information, unless otherwise compelled by law. The Contractor further agrees that this is a material condition of this Agreement and that a breach of this clause shall entitle the School to immediately seek injunctive relief in a forum of its choosing.

**9.0 Other Conditions.** The Contractor further agrees that during the term of this Agreement to follow the School's dress code policies.

**10. Representations.** Both Parties represent that they are fully authorized and empowered to enter into this Agreement, and that the performance of the obligations under this Agreement will not violate or infringe upon the rights of any third party, or violate any agreement between the Parties and any other person, firm or organization or any law or governmental regulation.

**11.0. Indemnification.** The Contractor, on its own behalf and on behalf of any Contractor Personnel, shall indemnify and hold harmless the School, its affiliates, and its respective officers, directors, agents and employees from any and all claims, demands, losses, causes of action, damage, lawsuits, judgments, including attorneys' fees and costs, arising out of, or relating to, the Contractor's services, including those provided by any Contractor Personnel, under this Agreement.

**12.0. Liability.** EXCEPT WITH RESPECT TO THE PARTIES' INDEMNIFICATION OBLIGATIONS, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES ARISING FROM OR RELATED TO THIS AGREEMENT, INCLUDING BODILY INJURY, DEATH, LOSS OF REVENUE, OR PROFITS OR OTHER BENEFITS, AND CLAIMS BY ANY THIRD PARTY, EVEN IF THE PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION APPLIES TO ALL CAUSES OF ACTION IN THE AGGREGATE, INCLUDING WITHOUT LIMITATION TO BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, AND OTHER TORTS.

**13.0. Disclaimer of Warranty.** THE WARRANTIES CONTAINED HEREIN ARE THE ONLY WARRANTIES MADE BY THE PARTIES HEREUNDER. EACH PARTY MAKES NO OTHER WARRANTY, WHETHER EXPRESS OR IMPLIED, AND EXPRESSLY EXCLUDES AND DISCLAIMS ALL OTHER WARRANTIES AND REPRESENTATIONS OF ANY KIND, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. THE SCHOOL DOES NOT PROVIDE ANY WARRANTY THAT OPERATION OF ANY SERVICES HEREUNDER WILL BE UNINTERRUPTED OR ERROR-FREE.

#### **14.0 Miscellaneous Provisions.**

14.1. This Agreement, and duplicates or copies, constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement, and supersedes all prior negotiations, agreements, representations, and understandings of any kind, whether written or oral, between the Parties, preceding the date of this Agreement.

14.2. This Agreement may be amended only by written agreement duly executed by an authorized representative of each party (email is acceptable).

14.3. If any provision or provisions of this Agreement shall be held unenforceable for any reason, then such provision shall be modified to reflect the parties' intention. All remaining provisions of this Agreement shall remain in full force and effect for the duration of this Agreement.

14.4. This Agreement shall not be assigned by either party without the express written consent of the other party.

14.5. A failure or delay in exercising any right, power or privilege in respect of this Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise, of that right, power or privilege or the exercise of any other right, power or privilege.

14.6. This Agreement is being governed by and construed in accordance with the laws of the Gila River Indian Community and any applicable federal law, without reference to any principles of conflicts of laws, which might cause the application of the laws of another state. Any action instituted by either party arising out of this Agreement will only be brought, tried and resolved in the applicable federal court, or in the Gila River Indian Community tribal court, except as may otherwise be provided herein. EACH PARTY HEREBY CONSENTS TO THE EXCLUSIVE PERSONAL JURISDICTION AND VENUE OF THE COURTS, TRIBAL AND FEDERAL, WITHIN THE STATE OF ARIZONA AND THE GILA RIVER INDIAN COMMUNITY

The Parties are signing this Agreement on the date stated in the introductory clause. BLACKWATER COMMUNITY SCHOOL

By: \_\_\_\_\_ Name:  
Jagdish Sharma Title: Principal

Vendor/Contractor

By: \_\_\_\_\_ Name: Vendor/Contractor

Title: