

SERVICE CONTRACT FOR THE EXPENDITURE OF EANS FUNDS

This Agreement is entered into by the Governing Board of the Educational Service Center of Lorain County ("ESC") and the _____ School ("School"), this _____ day of _____, 2021:

WHEREAS, the United States Congress authorized the Emergency Assistance to Non-Public Schools ("EANS") program as part of the Coronavirus Response and Relief Supplemental Appropriations Act's Governor's Emergency Education Relief Fund, pursuant to which the United States Department of Education awarded a formula grant to the Governor of Ohio for the purpose of providing emergency services or assistance to non-public schools in the wake of the Coronavirus Disease 2019 ("COVID-19"). The Ohio Department of Education (the "Department" or "ODE"), as the state educational agency for Ohio, is required by law to administer the EANS program, and has been designated by the Governor of Ohio to administer the EANS program in Ohio; and

WHEREAS, in order to receive services or assistance under the EANS program, an eligible non-public school must submit an application to the Department; and

WHEREAS, the School submitted its application as described in the prior paragraph, which application was granted in full or in part to receive EANS funds to pay for the services and assistance described in Exhibit A hereto; and

WHEREAS, the Department will provide the ESC with a copy of the School's application and request for services because while the services and support requested therein is not binding, it may assist the ESC in understanding the needs and requests of School; and

WHEREAS, in order to increase its capacity for delivering services and assistance to non-public schools receiving aid under the EANS program, the Department contracted with the ESC to provide EANS services and assistance to certain eligible non-public schools; and

WHEREAS, as part of its contract with ODE, the ESC is responsible for ensuring the School meets certain regulatory requirements related to the expenditure of the EANS funds; and

WHEREAS, the Parties wish to memorialize between themselves the duties that are necessary to ensure the proper expenditure of the EANS funds and the delivery of the services and assistance to the School;

NOW, THEREFORE, in consideration of the mutual promises and obligations contained herein, the parties agree by and between themselves as follows:

Section 1 Services

The ESC will provide the mutually agreed upon services and assistance to the School listed in Exhibit A, as the same may be amended from time-to-time by agreement of the Parties, in accordance with the requirements of the EANS program and this Agreement. The Parties acknowledge that, in accordance with the EANS program requirements, the ESC is providing the

services and assistance under this Agreement under the control and supervision of the Department. The ESC will work with the School to establish the services and assistance to be included in Exhibit A.

Section 2 Term

This Contract is effective upon execution by designated officers of the ESC and the School. The performance period of the EANS program ends September 30, 2023 (that period, the “**Performance Period**”). The School is responsible for fulfilling its obligations under this Agreement (e.g., reporting, recordkeeping) after the term of this Agreement ends.

Section 3 Responsibilities of the School

- A. The School will cooperate with ESC staff to identify the programs and services to be delivered under the supervision and control of the Department.
- B. The Department has determined that the School is eligible to receive services and/or assistance under the EANS program. If, however, the School comes into possession of any information, now or at any time in the future, that may indicate that the School is not eligible to receive such services or assistance, the School shall immediately report such information to the ESC in order to allow the ESC to fulfill its reporting obligations under its contract with the Department.
- C. In receiving services and assistance hereunder, the School certifies that each of the following is true:
 - 1. That the School is eligible to receive services and/or assistance under the EANS program;
 - 2. That the School did not, and will not, apply for and receive a loan under the Small Business Administration’s Paycheck Protection Program (“PPP”) (15 U.S.C. 636(a)(37)), that is made on or after December 27, 2020;
 - 3. That all services provided under this Agreement are secular, neutral, and non-ideological;
 - 4. That the School complies with all of the requirements of the Uniform Guidance in the receipt of services and/or assistance under the EANS program;
 - 5. That the School only seeks reimbursement for allowable services or assistance that the School incurred on or after March 13, 2020, to prevent, prepare for, and respond to COVID-19, that have not already been reimbursed with Federal funds, including PPP;
 - 6. That the School’s expenditures of EANS funds are only for allowable expenses;
 - 7. That the School has sufficient documentation supporting such expenditures;
 - 8. That the School actually received the services or assistance related to those expenditures; and
 - 9. That any and all materials, equipment, and property purchased with funds from the EANS program are titled in the name of the Ohio Department of Education.
- D. In order to aid the ESC and ODE with their reporting duties under the EANS program, the School agrees to the following recordkeeping requirements:

1. The School shall establish and maintain for at least three years after the last day of the Performance Period its records regarding this Agreement, including financial reports and all other information pertaining to the School's performance of its obligations under this Agreement. The School also agrees that any records required by the ESC and/or the Department with respect to any questioned costs, audit disallowances, litigation, or dispute between the ESC, the Department and/or the School shall be maintained for the time needed for the resolution of such question or dispute. The ESC or Department may, at its option, extend the records retention period in this section by providing notice to the school.
2. Upon request of the ESC or the Department, the School shall provide the ESC and/or the Department promptly with any records, documents, or information relating to the provision of services, reimbursement of expenses and/or any other expenditure of funds under this Agreement and the EANS program. The School shall, upon the ESC's or the Department's request, assist the ESC and/or the Department with the requesting party's completion of any reports that are required under the EANS program. The School's duties to provide records, documents, or information applies equally to requests to support the initial receipt of EANS funds for services and assistance as well as any post-program audits and proceedings.

Section 4 Responsibilities of the ESC

The ESC will provide the appropriate staff and work collaboratively with the School in order to provide the mutually agreed upon services and assistance under this Agreement. Services may be provided by ESC personnel, by such other persons or entities as determined by the ESC, or by any combination thereof. The ESC shall designate an administrator to serve as a liaison with those contact persons designated by the School. The ESC agrees to fully abide by all Ohio laws relative to criminal record checks and the appropriate licensure of said individuals. The ESC retains the right, both initially and going forward, to immediately remove any employee or agent who does not meet the background or licensure standards, or who the ESC, in its sole discretion, determines is not appropriate for the then-current assignment.

Section 5 Unemployment Benefits

In consideration of the programs and services requested by the School and provided by the ESC hereunder, the School agrees to pay any unemployment compensation benefits which may become payable by reason of the Services provided under this Agreement or the termination of such Services.

Section 6 State Retirement Benefits

The School acknowledges that in order for the ESC to provide all of the services and assistance to the School listed in Exhibit A, the ESC may contract with third-party service providers (each a "Service Provider"). Under such circumstances, all employees of Service Provider shall be deemed employees of Service Provider for all purposes and Service Provider alone shall be responsible for their work, personal conduct, direction, and compensation. Neither Service Provider nor its personnel assigned hereunder shall be considered as having employee status with the ESC and shall not be entitled to participate in any of the ESC's worker's compensation, retirement, fringe benefits, unemployment insurance, liability insurance, disability insurance, or

other similar employee benefit programs. If there is a determination that any of the employees of the Service Provider are required to participate in the State Teacher's Retirement System ("STRS") or one of the other state retirement systems, such as the School Employees Retirement System ("SERS") or the Public Employees Retirement System ("PERS"), and the Service Provider fails to make contributions to cover the total cost of its employees' participation in the applicable state retirement system, the School will reimburse the ESC for any such costs the ESC is required to pay to the applicable retirement system.

Section 7 Amendment/Assignment

Except as expressly provided herein, this Agreement may only be modified or amended by a written agreement executed by both parties. This Agreement, and/or the obligations represented by this Agreement, cannot be assigned or transferred by the ESC without the express, prior written permission of the School. The ESC may, at its sole discretion, employ or subcontract with other individuals or entities to assist in the rendition of services provided under this Agreement.

Section 8 Indemnification

The School shall identify and hold harmless the ESC, its Board, Board members, employees, contractors, agents and assigns from and against all claims, damages, losses, and expenses, including but not limited to attorney's fees, court costs and fines, arising out of or resulting from the School's mis-certification of the items contained in Section 3(C) above.

Section 9 Entire Agreement

This Agreement contains the entire agreement of the parties as to its subject matter and there are no other promises or conditions in any other agreement, whether written or oral. This Agreement supersedes any prior written or oral agreements between the parties with respect to the services to be provided as specified herein.

Section 10 Severability

If any provision of this Agreement shall be held to be invalid or unenforceable by any court or agency having jurisdiction over the parties for any reason, the remaining provisions shall continue to be valid and enforceable provided that either party may terminate this Agreement upon five days written notice following the determination of invalidity.

Section 11 Waiver of Contractual Right

The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel compliance with every provision of this Agreement.

Section 12 General Assembly's Failure to Appropriate Funds

The Parties acknowledge that the Department's funds are contingent on the availability of lawful appropriations by the Ohio General Assembly. If the Ohio General Assembly fails at any time to continue the funding for the receipt of services and/or assistance under the EANS program that support the ESC's contract with ODE that, in turn, provides the basis for this Agreement, this

Agreement will be terminated with written notice to the School effective as of the date that the funding expires without further obligation of the ESC. Furthermore, the ESC's contract with the Department is subject to section 126.07 of the Ohio Revised Code and will not be valid and enforceable unless the Director of the Ohio Office of Budget and Management first certifies that there is a balance in the appropriations and not already obligated to pay existing obligations. If the Director fails to make such a certification, this Agreement will be terminated with written notice to the School effective as of the date that the funding expires without further obligation to the ESC.

School: _____

Educational Service Center

_____, Title _____

Judy Maldonado, President

_____, Title _____

Angela Dotson, Treasurer/CFO

_____, Title _____

Franco Gallo, Superintendent

School Contact:

Educational Service Center of Lorain County Contact:

Name: _____

Name: Angela Dotson

Title: _____

Title: Treasurer/CFO

School

Educational Service Center of Lorain County

Address:

Address: 1885 Lake Ave., Elyria, OH 44035
440-324-5777

Email the following to apayable@esclc.org

- 1) Executed agreement
- 2) Approved CCIP EANS Application
- 3) Completed W-9 form

Subject line: EANS Executed Agreement

