

(ATTACHMENT 4) ACTION ON THE AWARD OF EXCEPTION-TO-BID REQUESTS

MILWAUKEE BOARD OF SCHOOL DIRECTORS
PURCHASING DEPT.
PROFESSIONAL SERVICES CONTRACT

2016 JUN 15 A 11:19
This Contract is being entered into this 1st day of May 2016, by and between **College Entrance Examination Board dba The College Board** ("Contractor") and Milwaukee Board of School Directors ("MPS").

1. SCOPE OF SERVICES

Contractor shall specifically perform the following tasks:

Contractor shall provide professional development (PD) training to MPS staff for Springboard®, a registered trademark of The College Board, hereinafter referenced to as, "SpringBoard". The PD will be provided in the following teacher and administrator workshops:

- a) Initial institutes for all teachers implementing SpringBoard
- b) Quick Start for new teachers
- c) Progress monitoring services
- d) Advanced teacher institutes

Contractor shall provide each participant with instructional tools, subject area content, standards-based assessments, and the alignment to the Common Core State Standards (CCSS) to ensure that all participants are equipped to implement SpringBoard, as the curriculum in ELA and mathematics at designated MPS schools. Trainings shall take place at dates, times, and locations as mutually agreed upon. MPS may cancel or reschedule a workshop upon thirty (30) days' notice.

Contractor will provide SpringBoard™ teacher and student materials to TEAM GEAR UP high schools, with a free license to SpringBoard™ digital. SpringBoard™ materials will be provided in ELA standards and mathematics for grade 9. MPS will determine the quantities. Contractor will provide professional development to the TEAM GEAR UP teachers. The professional development will include the initial teacher institute and other sessions needed to launch a successful implementation. The professional development will occur during mutually agreed upon dates and times.

The scope of services shall be in accordance with the attached College Board SpringBoard Rider attached hereto as Attachment A and incorporated herein by this reference.

Contractor shall provide, at its own expense, all personnel required to perform the services under this Contract.

2. TERM

This Contract shall be in effect from June 1, 2016 through May 31, 2017 with the option to extend for two additional one year periods.

No work shall commence before a Contractor receives a fully executed Contract and has been given approval to proceed. Any work performed by the Contractor prior to obtaining a fully-executed Contract with approval to proceed shall not be compensated pursuant to this Contract. Any continuation of the Contract beyond this term must be set forth in writing and signed by the original signatories to the Contract.

3. COMPENSATION

Total compensation under this Contract shall not exceed \$400,000.00. Prices shall be pursuant to Contractor's list prices attached as Attachment B and incorporated herein by reference.

MPS reserves the right to determine in its sole discretion whether services have been adequately and fully delivered; to withhold payment until services are fully and adequately delivered; or to disallow a pro rata share of payments for services not fully and adequately delivered.

Milwaukee Public Schools does not pay in advance for services. No payment shall be made until a properly submitted invoice is approved. Invoices shall be submitted to:

Milwaukee Public Schools
ATTN: Liz Mallegni
5225 W. Vliet Street
Milwaukee, WI 53208

A properly submitted invoice must include a detailed description of the dates and times worked, and the tasks performed. As a matter of practice, MPS attempts to pay all invoices in 30 days. It is mutually agreed that State Prompt pay law does not apply to this Contract.

Unless otherwise specified, MPS shall not pay invoices submitted more than 60 days after actual work. In the case of grant funding, no payments shall be made after grant close out. Final invoices must be marked as such.

4. NON APPROPRIATION OF FUNDS

This Contract is contingent upon the appropriation of sufficient funds by appropriate MPS officials. If funds are not appropriated, Contractor agrees to take back any commodities furnished under the Contract, terminate any services supplied to MPS under the Contract, and relieve MPS of any further obligations under the Contract.

5. NON-DISCRIMINATION

In the performance of work under this Contract, Contractor shall not discriminate in any way against any employee or applicant for employment on the basis of a person's sex, race, age, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, disability, or socio-economic status. This prohibition includes but is not limited to employment; promotions, demotions and transfers; recruitment; advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships. Contractor is required to include a similar provision in all subcontracts to this Contract.

If MPS determines Contractor has violated this non-discrimination policy, MPS may terminate this Contract without liability for undelivered services or materials. MPS may also deem the Contractor ineligible to participate in future contracts with MPS.

6. INDEMNITY

Notwithstanding any references to the contrary, Contractor assumes full liability for all of its acts or omissions in the performance of this Contract, as well as the acts or omissions of its subcontractors. Contractor shall indemnify and hold harmless MPS, its agents, officers and employees against all liabilities, losses, judgments, decrees, costs, and expenses that may be claimed against MPS as a result of granting of this Contract to said Contractor, or that may result from the carelessness or neglect of said Contractor, its agents, or employees. If judgment is recovered against MPS in suits of law or equity for any reason, including by reason of the carelessness, negligence, or acts or omissions of the Contractor, against such persons, firms or corporations carrying out the provisions of the Contract for the Contractor, the Contractor assumes full liability for such judgment, not only as to any monetary award, but also as to the costs, attorneys' fees or other expenses resulting therefrom.

In accordance with applicable laws, MPS shall be responsible for defending and paying judgments on behalf of its officers, employees and agents while acting within the scope of their employment or agency for any claims that may arise out of MPS's negligence for acts, policies, or directives that affect the activities covered by this Contract.

7. BACKGROUND CHECKS

Contractor will conduct, at Contractor's expense, a criminal information records background check, (hereinafter referred to as "background check"), through the Wisconsin Department of Justice and other appropriate states' agencies, on all current and potential administrators, board members, officers, and employees who have, or who are anticipated to have, "direct, unsupervised contact" with MPS students in the performance of this Contract.

An out of state background check should be completed in the state(s) in which the individual resided for at least six months within the last two years and was eighteen years or older at the time.

Contractor will submit to MPS's Department of Employment Relations (DER), (via mail to Milwaukee Public Schools Background Checks, Attn: Department of Employment Relations, Room 116, 5225 West Vliet Street, Milwaukee, WI 53208, or via email at 564@milwaukee.k12.wi.us), all completed background checks. Such records will be reviewed and MPS will notify Contractor of any individual(s) who, based on MPS standards, are unfit and should not have contact with MPS students. All determinations made by MPS with regards to whether an individual is fit to provide services pursuant to this Contract are made in MPS's sole discretion.

The following will each be a material failure to comply with the terms of this Contract and cause for immediate termination of this Contract by MPS: failure to perform background checks as outlined in this Section 7; failure to submit background checks to MPS as outlined in this Section 7; allowing services to be provided by an individual who has not been subjected to a background check; and allowing services to be performed by an individual who has been determined to be unfit by MPS as outlined in this Section 7.

8. INSURANCE AND PROOF OF FINANCIAL RESPONSIBILITY

Contractor understands and agrees that financial responsibility for claims or damages to any person, or to Contractor's employees and agents, shall rest with the Contractor. Contractor and its subcontractors shall effect and maintain any insurance coverage, including, but not limited to, Workers' Compensation, Employers' Liability, General Liability, Contractual Liability, Professional Liability, Automobile Liability and Umbrella Liability to support such financial obligations. The indemnification obligation, however, shall not be reduced in any way by existence or non-existence, limitation, amount or type of damages, compensation, or benefits payable under Workers' Compensation laws or other insurance provisions.

The minimum limits of insurance required of the Contractor by MPS shall be:

Workers' Compensation	Statutory Limits
Employers' Liability	\$100,000 per occurrence
General Liability	\$1,000,000 per occurrence/\$2,000,000 aggregate
Professional Liability	\$1,000,000 per occurrence
Auto Liability	\$1,000,000 per occurrence
Umbrella (excess) Liability	\$1,000,000 per occurrence

The Milwaukee Board of School Directors shall be named as an additional insured under Contractor's and subcontractors' general liability insurance and umbrella liability insurance. Evidence of all required insurances of Contractor shall be given to MPS. The certificate of insurance or policies of insurance evidencing all coverages shall include a statement that MPS shall be afforded a thirty (30) day written notice of cancellation, non-renewal or material change by any of Contractor's insurers providing the coverages required by MPS for the duration of this Contract.

9. SHIPPING /TAXES

If goods are provided pursuant to this Contract, please note that MPS is exempt from Federal Excise and Wisconsin Sales Taxes. All vendor quotes, bids and invoices must include delivery FOB destination to the MPS location receiving the goods and freight must be prepaid. This means any freight, shipping, processing, handling or like charges must be part of a unit price. Any separate line items for freight, shipping, processing, handling or like charges listed on an invoice will be deleted and NOT PAID.

All textbook purchases shall be governed by the terms and conditions in the Milwaukee Board of School Director Textbook Contract, found on the Milwaukee Public Schools portal (<http://mpsportal.milwaukee.k12.wi.us>) which provides that textbooks shipped to MPS or its schools must be done at no additional charge to MPS or its schools.

MPS reserves the right to reject any items that do not conform to the bid, quote or Purchase Order. All return freight charges associated with the rejected materials shall be borne by the vendor.

10. IRREPARABLE HARM

It is mutually agreed the breach of this Contract on Contractor's part shall result in irreparable and continuing damage to MPS for which money damages may not provide adequate relief. Therefore, the breach of this Contract on Contractor's part shall entitle MPS to both preliminary and permanent injunctive relief and money damages insofar as they can be determined under the circumstances.

11. TERMINATION BY CONTRACTOR

Contractor may, at its option, terminate this Contract upon the failure of MPS to pay any amount, which may become due hereunder for a period of sixty (60) days following submission of appropriate billing and supporting documentation. Upon said termination, Contractor shall be paid the compensation due for all services rendered through the date of termination including any retainage.

12. TERMINATION BY MPS - BREACH BY CONTRACTOR

If Contractor fails to fulfill its obligations under this Contract in a timely or proper manner, or violates any of its provisions, MPS shall thereupon have the right to terminate it by giving five (5) days written notice before the effective date of termination of the Contract, specifying the alleged violations, and effective date of termination. The Contract shall not be terminated if, upon receipt of the notice, Contractor promptly cures the alleged violation with five (5) days. In the event of termination, MPS will only be liable for services rendered through the date of termination and not for the uncompleted portion, or for any materials or services purchased or paid for by Contractor for use in completing the Contract.

13. TERMINATION BY MPS

MPS further reserves the right to terminate this Contract at any time for any reason by giving Contractor written notice by Registered or Certified Mail of such termination. MPS will attempt to give Contractor 20 days' notice, but reserves the right to give immediate notice. In the event of said termination, Contractor shall reduce its activities hereunder, as mutually agreed to, upon receipt of said notice. Upon said termination, Contractor shall be paid for all services rendered through the date of termination, including any retainage. This section also applies should the Milwaukee Board of School Directors fail to appropriate additional monies required for the completion of the Contract.

14. INDEPENDENT CONTRACTOR

Contractor agrees and stipulates that in performing this Contract, it is acting as an Independent Contractor, and that no relationship of employer and employee, partnership or joint venture is created by this Contract. Contractor has exclusive control over work hours, location, and other details of such services, and MPS's sole interest is to ensure that said service shall be performed and rendered in a competent, safe, efficient, timely and satisfactory manner in accordance with the terms of this Contract.

Contractor has the sole obligation to provide for and pay any contribution or taxes required by federal, state or local authorities imposed on or measured by income. Contractor specifically covenant not to file any complaint, charge, or claim with any local, state or federal agency or court in which Contractor claims to be or to have been an employee of MPS during the period of time covered by this Contract and that if any such agency or court assumes jurisdiction of any complaint, charge or claim against MPS on Contractor's behalf, Contractor will request such agency or court to dismiss such matter. MPS shall not be charged any obligation or responsibility whatsoever of extending any fringe benefits which may be extended to MPS employees, including any insurance, or pension plans.

Contractor further agrees that MPS is not to be charged with the obligation or responsibility of extending any fringe benefits such as hospital, medical and life insurance, or pension plans which may be extended to employees of MPS from time-to-time and further agree to indemnify and hold harmless MPS and all its employees, officers and agents from any liability for personal injuries, including death, or for damage to or loss of personal property, which might occur as a result of the performance of the services provided for under this Contract.

15. ASSIGNMENT LIMITATION

This Contract shall be binding upon and inure to the benefit of the parties and their successors and assigns; provided, however, that neither party shall assign its obligations hereunder without the prior written consent of the other.

16. PROHIBITED PRACTICES

- A. Contractor during the period of this Contract shall not hire, retain or use for compensation any member, officer, or employee of MPS to perform services under this Contract, or any other person who, to the knowledge of Contractor, has a conflict of interest.
- B. Contractor hereby attests it is familiar with MPS's Code of Ethics, providing in pertinent part, "[a]n employee of Milwaukee Public Schools may not accept any gift or gratuity in excess of \$25.00 annually from any person, persons, group or any firm which does business with or is attempting to do business with MPS."
- C. No person may enter into this Contract for services that the MPS employee would otherwise perform as an employee.
- D. No current or former MPS employee may perform services on a professional services contract without the prior written consent of the MPS Chief Human Capital Officer or his/her designee.
- E. If the Contract is for apparel for \$5,000.00 or more, the Contractor agrees to provide only items manufactured by responsible manufacturers. Contractor is required to include a similar provision in all subcontracts to this Contract.

17. LIVING WAGE REQUIREMENT

Contractor shall comply with, and ensure its subcontractors performing work under this Contract comply with, Milwaukee Board of School Directors' Administrative Policy 3.09(17), which requires that employees be paid a "living wage."

18. NOTICES

Notices to either party provided for in this Contract shall be sufficient if sent by Certified or Registered mail, postage prepaid, addressed to the signatories on this Contract, or to their designees.

19. WAIVER

The waiver or failure of either Party to exercise in any respect any rights provided for in this Contract shall not be deemed a waiver of any further right under this Contract.

20. INTEGRATION / SEVERABILITY

This Contract and its exhibits and addenda, if any, constitute the entire Contract among the Parties with respect to the subject matter hereof and supersede all prior proposals, negotiations, conversations, discussions and Contracts among the Parties concerning the subject matter hereof. No amendment or modification of any provision of this Contract shall be effective unless the same shall be in writing and signed by both Parties.

The District shall not be bound by any terms and conditions included in of Contractor's packaging, service catalog, brochure, technical data sheet or other document which attempts to impose any conditions at variance with or in addition to the terms and conditions contained herein.

If any term or provision of this Contract should be declared invalid by a court of competent jurisdiction or by operation of law, the remaining terms and provisions of this Contract shall be interpreted as if such invalid Contracts or covenants were not contained herein.

21. CHOICE OF LAW & FORUM

The state courts of Wisconsin shall be the sole forum for all disputes arising of this Contract. The validity, construction, enforcement and effect of this Contract shall be governed solely by the laws of the State of Wisconsin.

22. TIMING

Time is of the essence in this Contract.

23. CERTIFICATION REGARDING DEBARMENT OR SUSPENSION

Contractor certifies that neither Contractor or its principals; its subcontractors or their principals; the sub-recipients (if applicable) or their principals are suspended, debarred, proposed for debarment, voluntarily excluded from covered transactions, or otherwise disqualified by any federal department or agency from doing business with the Federal Government pursuant to Executive Orders 12549 and 12689. Contractor specifically covenants that neither the Contractor or its principals, its sub-contractors or their principals, or the sub-recipients (if applicable) or their principals are included on the Excluded Parties List System ("EPLS") maintained by the General Services Administration ("GSA").

24. FORCE MAJEURE

MPS will not be liable to pay Contractor for any work that the Contractor is unable to perform due to act of God, riot, war, civil unrest, flood, earthquake, outbreak of contagious disease or other cause beyond MPS's reasonable control (including any mechanical, electronic, or communications failure, but excluding failure caused by a party's financial condition or negligence).

25. STUDENT DATA

Contractor acknowledges that student data is protected by both federal and state law. *See* Wis. Stat. § 118.125; 20 U.S.C. § 1232g(b); 34 C.F.R. § 99.1 *et seq.* If MPS determines that Contractor has disclosed any student record information in violation of either federal or state law, without prejudice to any other rights or remedies the MPS may have, MPS shall be entitled to immediately terminate this and every other existing Contract with Contractor without further liability. Moreover, MPS may bar Contractor from future MPS contracts for varying periods up to and including permanent debarment.

26. NON-DISCLOSURE

Absent prior written consent of the person listed in Section 3 or his/her designee, Contractor shall not: (1) disclose, publish, or disseminate any information, not a matter of public record, that is received by reason of this Contract, regardless of whether the Contractor is or is not under contract at the time of the disclosure; or (2) disclose, publish, or disseminate any information developed for MPS under this Contract. Contractor agrees to take all reasonable precautions to prevent any unauthorized use, disclosure, publication, or dissemination of the same information.

With the exception of Contractor's copyrighted material all information and any derivatives thereof and except as set forth in Attachment A, all information and any derivatives thereof, whether created by MPS or Contractor under this Contract remains the property of MPS and no license or other rights to such information is granted or implied hereby. For purposes of this Contract,

“derivatives” shall mean: (i) for copyrightable or copyrighted material, any translation, abridgment, revision, or other form in which an existing work may be recast, transformed, or adapted; and (ii) for patentable or patented material, any improvement thereon.

Within ten business days of the earlier of receipt of MPS’ written or oral request, or final payment, Contractor will return all documents, records, and copies thereof it obtained during the development of the work product covered by this Contract.

27. MPS LOGO/PUBLICITY

No Contractor shall use the MPS Logo in its literature or issue a press release about the subject of this Contract without prior written notice to and written approval of MPS’s Executive Director of Communications & Outreach.

28. ORDER OF PRIORITY

Should Contractor and MPS sign Contractor’s Contract in addition to this Contract, the terms set forth in this Contract shall govern in the event of a conflict.

29. PUBLIC RECORDS

Both parties understand that the Board is bound by the Wisconsin Public Records Law, and as such, all of the terms of this Contract are subject to and conditioned on the provisions of Wis. Stat. § 19.21, *et seq.* Contractor acknowledges that it is obligated to assist the Board in retaining and producing records that are subject to Wisconsin Public Records Law, and that the failure to do so shall constitute a material breach of this Contract, and that the Contractor must defend and hold the Board harmless from liability under the law. Except as otherwise authorized, those records shall be maintained for a period of seven years after receipt of final payment under this Contract.

30. CONTRACT COMPLIANCE REQUIREMENT

The HUB requirement on this Contract is 0%. The student engagement requirement of this Contract is 0 hours. The Career Education requirement for this Contract is 0 hours. Failure to achieve these requirements may result in the application of some or all of the sanctions set forth in Administrative Policy 3.10, which is hereby incorporated by reference.

Purchase Requisition Number: CR021913
Contract Number: C025027
Vendor Number: V007733

IN WITNESS WHEREOF, the parties here to have executed this Contract on the day, month and year first above written.

CONTRACTOR (Vendor #: V007733)

MILWAUKEE BOARD OF SCHOOL DIRECTORS

By: [Signature]
Authorized Representative

By: [Signature]
Kristen D. DeCato, Director
Procurement and Risk Management

Date: 5/23/16

Date: 5/25/16

College Entrance Examination Board
dba The College Board
250 Vesey Street
New York, NY 10281
(847) 562-6105

By: [Signature]
Darien B. Driver Ed.D., Superintendent of Schools

Date: 5/26/16

SSN / FEIN:

Budget Code: SDV-0-S-SBD-CI-ECTS

By: [Signature]
Mark A. Sain, President
Milwaukee Board of School Directors

Date: 6-15-16

Reviewed by Risk Management:

By: [Signature]

Date: 5/25/16

ATTACHMENT A - SPRINGBOARD SERVICES RIDER

1. SpringBoard Program Overview.

The SpringBoard Program, a proprietary program from the College Board that helps prepare 6th through 12th grade students to succeed at college-level work, includes student and teacher editions, a website license to SpringBoard Digital and professional development coaching services, that feature rigorous standards, professional development, instructional resources, and formative assessments in mathematics and/or English language arts through a web-supported, integrated program (the "SpringBoard Program").

2. License Grant to Use SpringBoard Digital. The following licenses are referred to herein collectively as the "Licenses".

2.1 License. The College Board hereby grants to MPS a limited, non-exclusive, non-transferable, non-assignable, revocable license for use in the United States during the Term of this Agreement to access and use the SpringBoard website ("SpringBoard Digital") and to allow each of the participating schools (the "Schools"), to use SpringBoard Digital in accordance with the terms and conditions governing use of and access to SpringBoard Digital for teachers and for students located at www.springboard.collegeboard.com ("Site Terms and Conditions"), which may be modified by the College Board from time to time, and to use all content available on SpringBoard Digital in print or otherwise provided to MPS located at www.springboard.collegeboard.com, and the privacy policy for SpringBoard Digital located at www.springboard.collegeboard.com ("Privacy Policy"), which may be modified by the College Board from time to time. Access to SpringBoard Digital is for the sole purpose of improving teaching and learning of students in the grades designated by MPS in English language arts within its schools.

2.2 Schools' Compliance with License Terms. MPS shall be responsible for the schools' compliance with the terms of all Licenses set forth in this Section 2 (License Grant). Copying, disseminating or posting any SpringBoard material on an internal or external website, including social media sites, is a breach of this Agreement with the College Board.

2.3 Access to SpringBoard. MPS will access SpringBoard Digital via the College Board's website. MPS understands and agrees that there is a risk of interruption to websites. Additionally, the website may be suspended from time to time for administrative purposes, as necessary, including but not limited to, system maintenance. The College Board may change the technical functionality of the website at any time upon notice (where reasonable) to MPS to the extent necessary to address technical and other business needs of the College Board.

2.3.1 Restrictions on Use. MPS shall not: (a) sell, rent, lease, loan, sublicense, disseminate, assign, reverse engineer, attempt to derive the source code of, transfer or otherwise provide access to third parties, make the website available for use by third parties or use the website for the benefit of any third party; (b) copy, reproduce, modify, adapt, translate or create any derivative works from the website; (c) remove, alter, obscure or tamper with any trademark, copyright or other proprietary markings or notices affixed to or contained within the website; or (d) encourage or permit any user or other third party to engage in any of the foregoing. MPS shall be responsible for ensuring that all students and teachers comply with the terms of this Schedule. If MPS violates any of the provisions hereof, the College Board shall have the right to terminate your right to use of SpringBoard Digital, without waiver of any other remedy, whether legal or equitable.

2.4 Service Providers. The College Board maintains a relationship with and has agreements with certain vendors ("Service Provider(s)") for access to some of the services and tools offered through SpringBoard Digital. MPS acknowledges and agrees that the information that is uploaded to SpringBoard Digital will be accessible to the applicable Service Provider for the sole purpose of providing those services to MPS. Please be aware that any information supplied to Service Provider is subject to their security and privacy policies. The College Board encourages MPS to read the policies of Service Provider, because their privacy practices may differ from the College Board's practices.

3. Workshops. The College Board shall furnish SpringBoard professional development and coaching services and institutes (collectively the "Workshops).

4. Products. During the Term, the College Board shall furnish professional development and coaching materials, including participant booklets for the Schools, administrators, and teachers as part of the Workshops pursuant to the terms and conditions set forth in SpringBoard Program Policy (collectively, the "Products"), provided that the College Board's furnishing of such Products is conditioned upon MPS' fulfillment of its responsibilities as set forth under this Agreement. MPS acknowledges and agrees that the College Board shall be responsible for coordinating shipping and handling of the Products.

5. PARAGRAPH INTENTIONALLY OMITTED

6. MPS Obligations for Workshops.

6.1 MPS shall promptly provide to the College Board the number of participants in the Workshop(s) and the grades which they teach no later than ten (10) days prior to the Workshop(s).

7. Workshop Cancellation and Rescheduling. The College Board shall make the workshops available to MPS at the dates and times agreed upon. In the event that MPS wishes to cancel or reschedule a workshop, MPS shall use reasonable efforts to notify the College Board in writing no later than thirty (30) days prior to the first day of the workshop. No cancellations or rescheduling will be permitted within thirty (30) days of the first day of the workshop.

MPS is responsible for securing meeting rooms, providing audio-visual equipment, food/beverages, insurance, any necessary substitute teachers and other SBOC personnel, and any other on-site or transportation requirements necessary to MPS. The College Board does not pay for these items.

8. Use of Cookies. A cookie is a small text file placed on your computer's hard drive when you visit a website. The cookie gives you a unique, random ID, and this ID enables our website(s) to readily recognize each user on a subsequent visit to the site(s). For example, a cookie may indicate the preferences you selected on a prior visit. This facilitates more efficient browsing on subsequent visits, by using your preferences to customize the content and/or layout of our site(s). The College Board may use cookies in this fashion. Visitors are free to set their Web browsers to prevent the acceptance of cookies. However, subscribers of SpringBoard Digital must enable cookies to access member areas. Be aware that the College Board website cookies do not contain personally identifiable information.

Some Service Providers use cookies on College Board site(s). The College Board has no access to or control over these cookies. This privacy statement covers the use of cookies by the College Board website(s) only and does not cover the use of cookies by any third-party providers.

9. Proprietary Rights. The College Board and its service providers have expended substantial time, effort, and funds to create the website(s) and SpringBoard Digital. MPS acknowledges and agrees that the College Board or College Board affiliates exclusively own the copyright to (or have been granted licenses by third parties to use) all rights, title, and interest in SpringBoard Digital and the information, data, databases, images, sound recordings, audio and visual clips, and other content (collectively, "Content") provided by the website(s). Certain materials specifically designated as belonging to another party are not owned by the College Board. No copyrighted material or other Content may be performed, distributed, downloaded, uploaded, modified, reused, reproduced, reposted, retransmitted, disseminated, sold, published, broadcast or circulated or otherwise used in any way whatsoever except as expressly stated either in such materials or in this Schedule without express written permission of the College Board or permission of the copyright owner. Any modification of the Content, or any portion thereof, or use of the Content for any other purpose constitutes an infringement of the College Board's copyrights and other proprietary rights. Use of the Content on any other website (including, without limitation, internal websites and social media sites) or other networked computer environment is prohibited without prior written permission from the College Board. MPS agrees not to reproduce, duplicate, copy, sell, resell, or exploit for any commercial purposes any portion of the SpringBoard Program, use of the SpringBoard Program, or access to the SpringBoard Program.

MPS agrees and acknowledges that Workshops and Products, including, but not limited to, training notes, and materials and booklets provided to participants, including all copies thereof, are the sole and exclusive property of the College Board. Copying, disseminating or posting any SpringBoard Program material on MPS' internal or any external website, including social media sites, or creating and sharing derivative works of the materials is a breach of MPS' agreement with the College Board and the College Board's intellectual property rights. MPS may solely use the Products described herein for the professional development and coaching services provided by the College Board in connection with Workshop participants' knowledge and use of the SpringBoard Program.

Except for the license expressly granted herein, MPS shall have no rights to or other interests in the website, materials or Content. The College Board reserves all rights not explicitly granted to MPS under this Schedule.

9. College Board Disclaimer of Implied Warranties. EXCEPT AS OTHERWISE PROVIDED HEREIN, THE COLLEGE BOARD MAKES NO WARRANTIES WHATSOEVER AND PROVIDES THE SERVICES AND DELIVERABLES, AS APPLICABLE, ON AN "AS IS" AND "AS AVAILABLE" BASIS. THE COLLEGE BOARD HEREBY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE. THE COLLEGE BOARD DOES NOT WARRANT THE OPERATION OF THE DELIVERABLES TO BE UNINTERRUPTED OR ERROR-FREE OR THAT ALL DEFICIENCIES OR ERRORS ARE CAPABLE OF BEING CORRECTED. FURTHERMORE, THE COLLEGE BOARD DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OF THE DELIVERABLES OR THE RESULTS OBTAINED THEREFROM OR THAT THE DELIVERABLES WILL SATISFY MPS' REQUIREMENTS.

10 Limitation of Liability. TO THE EXTENT PERMITTED BY LAW AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE TOTAL LIABILITY, IN THE AGGREGATE, OF THE COLLEGE BOARD AND ITS OFFICERS, TRUSTEES, PARTNERS, EMPLOYEES, AGENTS AND THE COLLEGE BOARD'S SUBCONTRACTORS AND CONSULTANTS, AND ANY OF THEM, TO MPS AND ANYONE CLAIMING BY, THROUGH OR UNDER SBOC, FOR ANY AND ALL CLAIMS, LOSSES, COSTS OR DAMAGES WHATSOEVER ARISING OUT OF, RESULTING FROM OR IN ANY WAY RELATED TO THIS AGREEMENT OR THE WORK PERFORMED BY THE COLLEGE BOARD PURSUANT TO THIS AGREEMENT FROM ANY CAUSE OR CAUSES, INCLUDED BUT NOT LIMITED TO THE NEGLIGENCE, PROFESSIONAL ERRORS OR OMISSIONS, STRICT LIABILITY OR BREACH OF CONTRACT OR WARRANTY EXPRESS OR IMPLIED OF THE COLLEGE BOARD OR THE COLLEGE BOARD'S OFFICERS, TRUSTEES, PARTNERS, EMPLOYEES, AGENTS, SUBCONTRACTORS OR CONSULTANTS OR ANY OF THEM, SHALL NOT EXCEED THE ACTUAL AMOUNT PAID TO THE COLLEGE BOARD UNDER THIS AGREEMENT FOR THE SPECIFIC DELIVERABLE SUBJECT TO THE DAMAGES CLAIM.

IN NO EVENT SHALL EITHER PARTY, THEIR AFFILIATES OR THEIR SUBCONTRACTORS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES (INCLUDING, BUT NOT LIMITED TO, ANY DAMAGES FOR LOSS OF PROFITS OR SAVINGS, LOSS OF USE, BUSINESS INTERRUPTION OR THE LIKE), EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

ATTACHMENT B - SPRINGBOARD PRICE LIST FOR 2016-17 SCHOOL YEAR

English Language Arts - 2014©

Print Student Editions with Access to SpringBoard Digital

<u>Description</u>		<u>Price</u>
English Language Arts, Grade 6	978-1-4573-0218-3	\$ 18.75
English Language Arts, Grade 7	978-1-4573-0219-0	\$ 18.75
English Language Arts, Grade 8	978-1-4573-0220-6	\$ 18.75
English Language Arts, Grade 9	978-1-4573-0221-3	\$ 19.25
English Language Arts, Grade 10	978-1-4573-0222-0	\$ 19.25
English Language Arts, Grade 11	978-1-4573-0223-7	\$ 19.25
English Language Arts, Senior English	978-1-4573-0224-4	\$ 19.25

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