

Date: December 15, 2020

To: Dr. Michael Lubelfeld, Superintendent of Schools
Members of the Board of Education

From: Dr. Holly Colin, Assistant Superintendent for Student Services

Subject: Equity and Inclusion Audit Contract

Policy Alignment: Policy 4:60 - Purchases and Contracts

Disposition: Action

Executive Summary:

The District issued a Request for Proposal (RFP) in November with proposals due November 30, 2020. The RFP yielded eight proposals that were thoroughly reviewed. Public Consulting Group (PCG) was identified as the most qualified to provide an internal audit of equity and inclusion.

Public Consulting Group was selected based on their written proposal, the team interview and references. The attached proposal outlines the scope of the work and the contract outlines the cost which is not to exceed \$73,250.

Recommendation: Approve

Suggested Motion: May I have a motion to approve the contract with Public Consulting Group for a comprehensive Equity and Inclusion Audit of District 112 at a cost not to exceed \$73,250 as presented.

SERVICES AGREEMENT

This Services Agreement (“Agreement”) is entered into by and between Public Consulting Group, Inc. (“PCG”) and North Shore School District 112 (“CLIENT”) as of _____ (“Effective Date”).

WHEREAS, CLIENT is seeking an Equity and Inclusion Audit, and

WHEREAS, PCG possesses professional skills that can assist CLIENT; and

WHEREAS, CLIENT wishes to engage PCG as an independent contractor to perform certain professional services for CLIENT;

THEREFORE, for good and valuable consideration, the receipt and adequacy of which is acknowledged, PCG and CLIENT hereby agree as follows:

1. **Description of Services.** PCG will provide the professional services assigned by CLIENT and more fully described in **Attachment A** (the “Contracted Services”). PCG acknowledges and agrees that time is of the essence in the value of the Contracted Services, and shall render such Contracted Services in a prompt and diligent manner.
2. **Term.** This Agreement will be effective from the Effective Date through December 31, 2021, unless this Agreement is terminated earlier pursuant to Section 4 or extended by written agreement of the parties. Unless otherwise specified by CLIENT in writing, PCG will provide the Contracted Services for the full duration of this Agreement.
3. **Compensation.** CLIENT will compensate PCG pursuant to the provisions contained in **Attachment B** and this Section 3, and unless the parties agree otherwise in writing, will not pay PCG any other benefits, expenses, or compensation.
 - a. CLIENT will compensate PCG pursuant to the Illinois Prompt Payment Act following the receipt of itemized billing statements from PCG that satisfactorily describe the hours and dates that PCG performed the Contracted Services, the services performed, and any expenses incurred.
 - b. Upon termination of this Agreement, other than termination for cause, PCG will be entitled to receive compensation for Contracted Services satisfactorily provided prior to the effective date of termination.
4. **Termination.** This Agreement may be terminated immediately by either party following a material breach of this Agreement and a failure to cure such breach within a reasonable period after written notice, not to exceed ten (10) business days. Termination of this Agreement will not discharge the obligations of the parties with respect to the protection of Proprietary or Confidential Information.

5. **Notices and Contact Persons.** Any notices, requests, consents and other communications hereunder shall be in writing and shall be effective either when delivered personally to the party for whom intended, e-mailed with an acknowledgment of receipt, or five days following deposit of the same into the United States mail (certified mail, return receipt requested, or first class postage prepaid), addressed to such party at the address set forth below, who shall serve as Contact Persons unless replaced by a party by written notice to the other party:

For PCG:

Public Consulting Group, Inc.
148 State Street, 10th Floor
Boston, MA 02109
Attn: Anna d'Entremont,
Senior Consultant
Email: adentremont@pcgus.com

For CLIENT:

North Shore School District 112
1936 Green Bay Road
Highland Park, IL 60035
Attn: Dr. Holly Colin, Assistant
Superintendent of Student Services
Email: hcolin@nssd112.org

6. **PCG Representation.** PCG represents that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in transactions by any federal, state, or local governmental authority. PCG shall immediately notify CLIENT regarding the circumstances if this representation becomes no longer accurate during the term of this Agreement.
7. **Standards of Conduct.** PCG shall comply with all applicable laws, rules, regulations, and standards of ethical conduct in the performance of this Agreement.
- a. PCG does hereby certify pursuant to Section 2-105 of the Illinois Human Rights Act (775 ILCS 5/2-105) that it has a written sexual harassment policy that includes, at a minimum, the following information: (i) the illegality of sexual harassment; (ii) the definition of sexual harassment under State law; (iii) a description of sexual harassment, utilizing examples; (iv) an internal complaint process including penalties; (v) the legal recourse, investigative and complaint process available through the Department of Human Rights and Human Rights Commission; (vi) directions on how to contact the Department of Human Rights and Human Rights Commission; and (vii) protection against retaliation.
 - b. PCG does hereby certify pursuant to Section 3 of the Illinois Drug-Free Workplace Act (30 ILCS 580/3) that it shall provide a drug-free workplace for all employees engaged in performance of the work under the contract by complying with the requirements of the Illinois Drug-Free Workplace Act and, further certifies, that [he, she, it] is not ineligible for award of this contract by reason of debarment for a violation of the Illinois Drug-Free Workplace Act.
 - c. PCG certifies that it shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, ancestry, age, marital status, or physical or mental handicap. PCG shall take affirmative action to ensure that applicants are employed, and that employees are treated during

employment without regard to their race, religion, color, sex, national origin, ancestry, age, marital status, or physical or mental handicap. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment of recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. PCG further certifies that it will post in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of nondiscrimination. PCG further certifies that it shall, in all solicitations or advertisements for employees placed by it or on its behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex or national origin.

- d. PCG agrees to comply with all laws applicable to the work to be performed under this Agreement, including all employment and labor laws.

8. Relationship of the Parties

- a. The parties agree that PCG is an independent contractor, and that neither it nor any of its employees is an employee, agent, partner, or joint-venturer of CLIENT.
- b. PCG shall secure and maintain all insurance, licenses, and/or permits necessary to perform the Contracted Services. PCG shall be responsible for paying its employees, and for paying all applicable state and federal taxes including unemployment insurance, social security taxes, and state and federal withholding taxes. PCG understands that neither it nor its employees will be eligible for benefits or privileges provided by CLIENT to its employees. CLIENT will deliver to PCG statements of income at the end of each tax year consistent with its independent contractor status.
- c. Except as may be otherwise provided in this Agreement, PCG has complete and exclusive authority over the means and methods of performing the Contracted Services and may perform the Contracted Services according to its own schedule at its own offices or at any other location. PCG shall hire its own employees, use its own tools and equipment, and purchase its own supplies. To the extent that PCG performs services on School District property, PCG acknowledges that its employees will be subject to all Board of Education policies related to contractors and/or visitors to school property. Additionally, CLIENT reserves the right to direct PCG to remove its employees from School District property and/or remove specific employees from performing Contracted Services if employees violated Board of Education policies while performing Contracted Services on School District property.
- d. PCG has no authority to and shall not purport to bind, represent, or speak for CLIENT or otherwise incur any obligation on behalf of CLIENT for any purpose unless expressly authorized by CLIENT.

- e. At CLIENT's written request, PCG shall provide to CLIENT: (i) its federal employer tax identification number; and (ii) copies of any applicable business licenses.
9. **Record Maintenance.** With respect to all records of any kind that PCG acquires or creates for purposes of performing the Contracted Services, PCG shall not knowingly destroy records that are required to be preserved by law and shall maintain project records in an orderly manner.
10. **Insurance.** PCG shall maintain during the term of this Agreement such insurance, including general liability and worker's compensation insurance, as will fully protect both CLIENT and PCG from claims that may arise from PCG's performance of the Contracted Services. PCG shall provide CLIENT with a certificate of insurance that names CLIENT as an additional insured.
11. **Assignment.** This Agreement may not be assigned by either party without the prior written consent of the other party, which consent may not be unreasonably withheld or delayed. Notwithstanding the foregoing, this Agreement may be assigned by either party: (i) to one of its affiliates or subsidiaries; or (ii) in connection with a merger, consolidation, sale of all of the equity interests of the party, or a sale of all or substantially all of the assets of the party to which this Agreement relates.
12. **Trade Secrets, Proprietary or Confidential Information.** For purposes of fulfilling its obligations under this Agreement, one party (the "Disclosing Party") may convey to the other party (the "Receiving Party") information that is considered a trade secret, which would be proprietary and confidential to the Disclosing Party, disclosure of which would be exempt from the Illinois Freedom of Information Act pursuant to 5 ILCS 140/7(2)(g).
- a. "Proprietary or Confidential Information" is defined as information – including but not limited to trade secrets, strategies, financial information, sales information, pricing information, strategies, processes, policies, procedures, operational techniques, software, and intellectual property -- that (i) has not previously been published or otherwise disclosed by the Disclosing Party to the general public, (ii) has not previously been available to the Receiving Party or others without confidentiality restrictions, or (iii) is not normally furnished to others without compensation, and which the Disclosing Party wishes to protect against unrestricted disclosure or competitive use. Proprietary or Confidential Information does not include information that, without a breach of this Agreement, is developed independently by the Receiving Party, or that is lawfully known by the Receiving Party and received from a source that was entitled to have the information and was not bound to the Disclosing Party by any confidentiality requirement.
 - b. The Receiving Party shall hold Proprietary or Confidential Information in strict confidence, in perpetuity, and shall use and disclose such information to its employees only for purposes of this Agreement and the Contracted Services.

- c. The Receiving Party shall not divulge any such Proprietary or Confidential Information to any employee who is not working on matters relating to this Agreement and the Contracted Services, without the prior written consent of the Disclosing Party.
- d. The Receiving Party shall use at least the same standard of care for protecting Proprietary or Confidential Information that it uses to prevent disclosure of its own proprietary or confidential information, but in no case less than reasonable care.
- e. Nothing in this Agreement prohibits the Receiving Party from disclosing Proprietary or Confidential Information pursuant to a lawful order of a court or government agency, but only to the extent of such order, and only if the Receiving Party gives immediate notice of such order to the Disclosing Party in order that the Disclosing Party may seek a protective order or take other action to protect the information that was ordered to be disclosed.
- f. Rights and obligations under this Agreement shall take precedence over specific legends or statements that may be associated with Proprietary or Confidential Information when received.
- g. The parties agree that the Disclosing Party would suffer irreparable harm hereunder if Proprietary or Confidential Information were improperly released, conveyed, or transferred by a Receiving Party, and that in such situation the Disclosing Party shall be entitled to, in addition of any other remedies, the entry of injunctive relief and specific performance.
- h. Upon termination or expiration of this Agreement, each party shall cease use of Proprietary or Confidential Information received from the other party. At the request of the Disclosing Party, the Receiving Party shall promptly destroy all physical copies of such information in its possession, custody, or control and shall furnish the Disclosing Party with written certification of such destruction within thirty (30) days of such request. Alternatively, if the Disclosing Party fails to provide such a written request to the Receiving Party within ten (10) days of the termination or expiration of this Agreement, the Receiving Party shall return all such physical copies of such information to the Disclosing Party. If return is not practicable, the Receiving Party shall so notify the Disclosing Party and shall keep such information secure and confidential in perpetuity.

13. Confidentiality.

- a. **Confidential Information.** In performance of the Services under this Agreement, PCG may have access to receive certain information that is not generally known to others including, but not limited to, school, student, Parent and teacher information (“Confidential Information”). PCG agrees not to use or disclose any Confidential Information or any information, records, reports, deliverables or documents collected, prepared or generated as a result of this Agreement (“Work Product”) without prior

written consent of the District or the student's parent(s). PCG further agrees to (a) receive and hold in conference all Confidential information and Work Product, and (b) use such Confidential Information and Work Product solely for purposes of performing Services hereunder, and (c) protect and safeguard all Confidential Information and Work Product from unauthorized disclosure.

- b. *Dissemination of Information.*** In the event that PCG or the District is presented with a request for documents by any administrative agency or with a *subpoena dices tecum* regarding any records, data, Confidential Information, or Work Product which may be in PCG's possession as a result of this Agreement, PCG will immediately give notice to the District with the understanding that the District shall have the opportunity to contest such process by any means available prior to submission of any documents to a court or other third party. PCG will not be obligated to withhold delivery of documents beyond the time ordered by a court of law or administrative agency, unless the request for production or subpoena is quashed or withdrawn, or the time to produce is otherwise extended. PCG and the District agree to cause its personnel, staff and/or subcontractors, if any, to undertake the same obligations of confidentiality agreed to by both parties under this Agreement.
- c. *Family Educational Rights and Privacy Act (FERPA).*** PCG acknowledges that certain information about the District's participating students is confidential by reason of the Federal Family Educational Rights and Privacy Act (FERPA) and Illinois School Student Records Act (ISSRA). PCG agrees to protect this information and to ensure the confidentiality of any and all information in its possession regarding participating District students. PCG shall not disclose to the public or any third party the identity of any student without the prior written consent of the student's parent(s). Any use of information contained in student educational records to be release must be pre-approved by the District. To protect the confidentiality of student educational records, PCG will limit its access to those employees who reasonably need access to them in order to perform their responsibilities under this Agreement. For purposes of this Agreement, PCG shall be deemed a school official with a current demonstrable educational or administrative interest in student records.
- d. *The Protection of Pupil Rights Amendment (PPRA).*** Pursuant to this Agreement, PCG may be performing surveys and focus groups of students that ask questions about a student's background. To the extent this surveys implicate the provisions of the Protection of Pupil Rights Amendment (PPRA), PCG agrees that students will only participate in surveys or focus groups to the extent they obtain written consent from the students' parents prior to their participation.

- 14. *Intellectual Property.*** Neither party makes any representation or warranty as to the accuracy or completeness of its Proprietary or Confidential Information disclosed under this Agreement. PCG guarantees that its use or creation of any intellectual property under this Agreement does not infringe upon the intellectual property rights of any third party.

15. **Conflicts of Interest.** The parties understand that PCG is not required to perform the Contracted Services on a full-time basis for CLIENT and may perform services for other individuals and organizations consistent with the limitations in this Agreement.
16. **Waiver.** The failure of a party to enforce a provision of this Agreement shall not constitute a waiver with respect to that provision or any other provision of this Agreement.
17. **Entire Agreement.** This Agreement (including the attachments) constitutes the entire agreement between the parties with respect to the subject matter of the Contracted Services, and supersedes all prior agreements and understandings, both written and oral. Notwithstanding the foregoing, any separate written agreement between the parties regarding the confidentiality and security of information exchanged or used by the parties for purposes of this Agreement shall be effective unless and until it is specifically terminated.
18. **Amendment.** This Agreement may be amended only by written agreement of the parties, signed by authorized representatives and referencing this Agreement.
19. **Severability.** If any provision in this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions in this Agreement shall continue in full force and effect.
20. **Applicable Law and Venue.** This Agreement, and all other aspects of the business relationship between the parties, is construed, interpreted, and enforced under and in accordance with the laws of the Commonwealth of Massachusetts, without regard to choice of law provisions. The parties also consent to the personal jurisdiction in its courts, and agree that the state and federal courts of Suffolk County, Massachusetts shall have exclusive jurisdiction over the enforcement of this Agreement.
21. **Miscellaneous**
 - a. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, PCG DOES NOT MAKE ANY WARRANTY WITH RESPECT TO THE CONTRACTED SERVICES, WHETHER EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES, WHETHER OF MERCHANTABILITY, SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR OTHERWISE FOR SAID CONTRACTED SERVICES.
 - b. NEITHER PARTY SHALL BE LIABLE TO THE OTHER ANY INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, SUCH DAMAGES ARISING FROM ANY TYPE OR MANNER OF COMMERCIAL, BUSINESS, OR FINANCIAL LOSS, EVEN IF THE OTHER PARTY HAD ACTUAL OR CONSTRUCTIVE KNOWLEDGE OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE.

OTHER THAN A CLAIM BY PCG THAT CLIENT HAS NOT PAID COMPENSATION UNDER SECTION 3, UNDER NO CIRCUMSTANCES SHALL EITHER PARTY'S AGGREGATE LIABILITY TO THE OTHER PARTY UNDER THIS AGREEMENT EXCEED AN AMOUNT EQUAL TO THE TOTAL FEES PAID BY CLIENT TO PCG PURSUANT TO SECTION 3 OF THIS AGREEMENT DURING THE PRIOR TWELVE (12) MONTH PERIOD.

- c. The parties agree that the terms of this Agreement result from negotiations between them. This Agreement will not be construed in favor of or against either party by reason of authorship.
- d. Neither party shall be responsible for delays or failures in performance resulting from acts of God, acts of civil or military authority, terrorism, fire, flood, strikes, war, epidemics, pandemics, shortage of power, or other acts or causes reasonably beyond the control of that party. The party experiencing the force majeure event agrees to give the other party notice promptly following the occurrence of a force majeure event, and to use diligent efforts to re-commence performance as promptly as commercially practicable.
- e. The captions and headings in this Agreement are for convenience only and are not intended to, and shall not be construed to, limit, enlarge, or affect the scope or intent of this Agreement. nor the meaning of any provisions hereof.
- f. Each party represents that: (i) it has the authority to enter into this Agreement; and (ii) that the individual signing this Agreement on its behalf is authorized to do so.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date written above.

PUBLIC CONSULTING GROUP

**BOARD OF EDUCATION OF
NORTH SHORE SCHOOL
DISTRICT NO. 112**

BY: _____
Peter Giles

BY: _____
Bennett Lasko

ITS: Manager

ITS: Board President

DATE: _____

DATE: _____

ATTEST: _____

DATE: _____

ATTACHMENT A
CONTRACTED SERVICES

Pursuant to the terms and conditions of this Agreement, PCG shall provide the following Contracted Services:

Public Consulting Group, Inc. will be responsible for carrying out an Equity and Inclusion Audit for North Shore School District 112, to be completed no later than December 31, 2021. These services will include project management; data collection and analysis (including a data and document review, stakeholder interviews and focus groups, and a community-wide survey); a preliminary findings report; and a final report and recommendations roadmap.

**ATTACHMENT B
COMPENSATION**

Pursuant to the terms and conditions of this Agreement, CLIENT shall compensate PCG as follows:

North Shore School District 112 will pay Public Consulting Group, Inc. the agreed-upon total sum of \$73,250.00 for the work and services described in Attachment A. Such sum shall be broken down and payable upon completion of each of the Phases of Work, as outlined below:

Phases of Work	Fee
Phase 1: Data Collection and Analysis	\$30,470
Phase 2: Preliminary Report and Data Analysis II	\$28,250
Phase 3: Final Report, Recommendations Roadmap, and Project Management	\$14,530
Total Sum	\$73,250