

AMENDMENT #1
To
Professional Services Agreement
RFP No. 7257
for
Online Comprehensive Professional Development Platform
between
The City of Waterbury, Connecticut
and
Torsh, Inc.

THIS AMENDMENT (“Amendment #1”), effective on the date signed by the Mayor, is by and between the CITY OF WATERBURY (the “City”), City Hall, 235 Grand Street, Waterbury, Connecticut and TORSH, INC. (the “Contractor”), located at 701 Loyola Avenue, Suite #52377, New Orleans, Louisiana 70152, a duly registered State of Delaware corporation (jointly referred to as the “Parties” to this Amendment #1).

WHEREAS, Contractor submitted a proposal to the City responding to **RFP No. 7257** for an Online Comprehensive Professional Development Platform, and the City selected the Contractor to perform the services; and

WHEREAS, the City and Torsh, Inc. entered into an Agreement effective August 24, 2022 (the “Agreement” or “Contract”), for an Online Comprehensive Professional Development Platform; and

WHEREAS, in accordance with Section 21 of the Agreement, the parties agree to amend the Agreement to add six (6) months to the term and include student data privacy provisions; and

NOW THEREFORE, it is mutually agreed to amend the Agreement as follows:

- 1. Section 5. (“Contract Time”) of the above referenced Agreement shall be amended modify the term of the Agreement. Therefore, Section 5. shall be deleted in its entirety and replaced with the following:**

5. Contract Time. The term of this Contract shall commence March 1, 2023, pending all necessary approvals and terminate December 31, 2027, unless sooner terminated as provided by this agreement or upon agreement of the Parties, in writing, that all services required under the Contract have been fully and completely provided. All licenses purchased hereunder shall remain in full force and effect and be supported contractually during this contract term.

5.1. Time is and shall be of the essence for all Project milestones, completion date for the Project. The Contractor further agrees that the Work shall be prosecuted regularly, diligently and uninterruptedly and at such rate of progress as will insure full completion thereof within the Contract Time stated above. It is expressly understood and agreed, by and between the Contractor and the City, that the Contract Time is reasonable for the

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completion of the Work. The Contractor shall be subject to City imposed fines and/or penalties in the event the Contractor breaches the foregoing dates.

2. Section 6. (“Compensation”) of the above referenced Agreement shall be amended by deleting Section 6 in its entirety and replacing it with the following:

6. Compensation. The City shall compensate the Contractor for the satisfactory provision of all the goods and services set forth in this Contract as follows in this Section 6.

6.1. For a License allowing for up to 100 users for a period commencing March 1, 2023 and terminating December 31, 2027 the City shall pay Contractor the sum of \$54,720. Said sum is to be in full satisfaction of the City’s contracted prices for the license as stated herein and as more fully defined in the Torsh, Inc. Response to **RFP No. 7257** dated May 10, 2022 and revised January 24, 2023. Said sum will be paid in full at or before initiation of access to the licensed software.

6.2. Limitation of Payment. Compensation payable to the Contractor is limited to those fees set forth in Section 6.1. above. Such compensation shall be paid by the City upon review and approval of the Contractor’s invoices for payment and review of the work, services, deliverables, etc. required in this Contract and review as may be further required by the Charter and Ordinances of the City. Contractor’s invoices shall describe the work, services, reports, plans, specifications, deliverables, etc. rendered and the compensation sought therefore in a form and with detail and clarity acceptable to the City.

6.1.1 The Contractor and its affiliates are hereby provided with notice that the City reserves the right, in the City’s sole discretion, to offset, withhold, or otherwise reduce City payment(s) to the Contractor in an amount equaling the sum or sums of money the Contractor and/or its affiliates is/are, or becomes delinquent or in arrears on, regarding the Contractor’s and/or its affiliate’s real and personal tax obligations to the City.

6.3. Review of Work. The Contractor shall permit the City to review, at any time, all work performed under the terms of this Contract at any stage of the work. The Contractor shall maintain or cause to be maintained all records, books or other documents relative to charges, costs, expenses, fees, alleged breaches of the Contract, settlement of claims or any other matter pertaining to the Contractor’s demand for payment. The City shall not certify fees for payment to the Contractor until the City has determined that the Contractor has completed the work in accordance with the requirements of this Contract.

6.4. Proposal Costs. All costs of the Contractor in preparing its proposal for **RFP No. 7257** shall be solely borne by the Contractor and are not included in the compensation to be paid by the City to the Contractor under this Contract or any other Contract.

6.5. Payment for Services, Materials, Employees. The Contractor shall be fully and solely responsible for the suitability, and compliance with the Contract, of all software labor, services, equipment, materials, reports, plans, specifications, deliverables,

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incidentals, etc. furnished to the City under this Contract. The Contractor shall promptly pay all employees as their pay falls due, shall pay promptly as they fall due all bills for labor, services, equipment, materials, reports, plans, specifications, deliverables, incidentals, etc., going into the work, and all bills for insurance, bonds, Worker's Compensation coverage, Federal and State Unemployment Compensation, and Social Security charges applicable to this Project. Before final payment is made, the Contractor shall furnish a legal statement to the City that all payments required under this subparagraph have been made.

3. Section 12. ("Intentional left blank") of the above referenced Agreement shall be amended to include student data privacy provisions. Therefore, Section 12. shall be deleted in its entirety and replaced with the following:

12. To the extent that Contractor stores, accesses or comes into contact with student data as defined herein, the Contractor shall ensure that the Contractor and its employees shall comply with all Federal, State, and Local, laws regulations, Charter and Ordinance provisions relating to confidentiality and student privacy of records and data as outlined herein and will not disclose any confidential material or information connected with the City of any of its Students as set forth herein. For purposes of this section, "Contractor" includes any employees or subcontractors of the Contractor.

12.1. Student Education Records. The Parties acknowledge that in the course of the work performed pursuant to this Agreement, they may come into possession of education records of the City of Waterbury students as defined in and governed by Family Educational Rights and Privacy Act ("FERPA", 20 U.S.C. § 1232g) and related regulations (34 C.F.R. § 99). The Contractor shall comply with the requirements of said statute and regulations, and agree to use information obtained in connection with the work performed only for the purposes provided in this Agreement. Without the prior written consent of the student whose records are at issue (or the parent of such student, if a minor), as required by FERPA, the Parties have no authority to make any other disclosures of any information from education records. The Contractor shall instruct its employees and any subcontractors on their obligations to comply with FERPA.

12.2. Student Data Privacy.

12.2.1. All student records, student information, and student-generated content (collectively, "Student Data") provided or accessed pursuant to this Agreement are not the property of, or under the control of, the Contractor.

12.2.2. The City's Board of Education ("Board") shall have access to and the ability to delete Student Data in the possession of the Contractor except in instances where such data is (A) otherwise prohibited from deletion or required to be retained under state or federal law, or (B) stored as a

copy as part of a disaster recovery storage system and that is (i) inaccessible to the public, and (ii) unable to be used in the normal course of business by the Contractor. The Board may request the deletion of any such student information, student records or student-generated content if such copy has been used by the operator to repopulate accessible data following a disaster recovery. The Board may request the deletion of Student Data by the Contractor within two (2) business days of receiving such a request and provide to the Board confirmation via electronic mail that the Student Data has been deleted in accordance with the request, the date of its deletion, and the manner in which it has been deleted. The confirmation shall contain a written assurance from the Contractor that proper disposal of the data has occurred in order to prevent the unauthorized access or use of Student Data and that deletion has occurred in accordance with industry standards/practices/protocols.

12.2.3. The Contractor shall not use Student Data for any purposes other than those authorized pursuant to this Agreement.

12.2.4. A student, parent or legal guardian of a student may review personally identifiable information contained in Student Data and correct any erroneous information, if any, in such Student Data. If the Contractor receives a request to review Student Data in the Contractor's possession directly from a student, parent, or guardian, the Contractor agrees to refer that individual to the Board and to notify the Board within two (2) business days of receiving such a request. The Contractor agrees to work cooperatively with the Board to permit a student, parent, or guardian to review personally identifiable information in Student Data that has been shared with the Contractor, and correct any erroneous information therein.

12.2.5. The Contractor shall take actions designed to ensure the security and confidentiality of student data.

12.2.6. The Contractor will notify the Board, in accordance with Conn. Gen. Stat. § 10-234dd, when there has been an unauthorized release, disclosure or acquisition of Student Data. Such notification will include the following steps:

12.2.7. Upon discovery by the Contractor of a breach of Student Data, the Contractor shall conduct an investigation and restore the integrity of its data systems and, without unreasonable delay, but not more than thirty (30) days after such discovery, shall provide the Board with a more detailed notice of the breach, including but not limited to the date and time of the breach; name(s) of the student(s) whose student data was released, disclosed or acquired; nature of and extent of the breach; and measures taken to ensure that such a breach does not occur in the future.

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- 12.2.8.** Student Data shall not be retained or available to the Contractor upon expiration of the contract between the Contractor and the City, except a student, parent or legal guardian of a student may choose independently to establish or maintain an electronic account with the Contractor after the expiration of such contract for the purpose of storing student-generated content.
- 12.2.9.** The Contractor and Board shall each ensure their own compliance with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, as amended from time to time.
- 12.2.10.** The Contractor acknowledges and agrees to comply with the above and all other applicable aspects of Connecticut's Student Data Privacy law according to Connecticut General Statutes §§ 10-234aa through 10-234dd.
- 12.2.11.** The Parties agree that this Agreement controls over any inconsistent terms or conditions contained within any other agreement entered into by the Parties concerning Student Data.
- 12.2.12.** If any changes in the law or regulations with respect to the provisions of this Section 12 regarding student confidentially, student data privacy, and FERPA should occur, the Parties agree to construe the provisions therein to comport and comply with any changes in the applicable laws or regulations on this subject while this Agreement remains in effect.
- 4. Attachment A to this Amendment shall be fully incorporated herein and made part of this Amendment and includes the following:**
- 1. Contractor's Revised Response to RFP No. 7257, dated January 24, 2023, consisting of 1 page, attached hereto.**
- 5. All other terms and conditions of said Agreement shall remain in full force and effect and binding upon the Parties.**

[Signature Page Follows]

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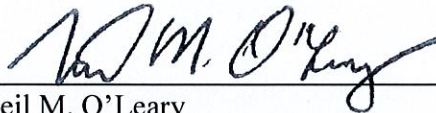
IN WITNESS WHEREOF, the Parties hereto execute this Amendment #1 on the dates signed below.

WITNESSES:

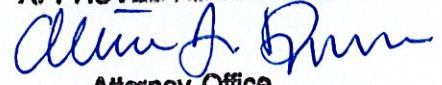
Sign & Print name

Sign & Print name

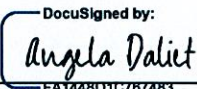
CITY OF WATERBURY

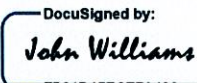
By: 
Neil M. O'Leary
Mayor, City of Waterbury

Date: 02/24/2023

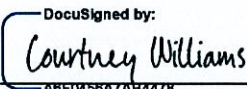
APPROVED AS TO FORM

Attorney, Office
of The Corporation Counsel

WITNESSES:

DocuSigned by:

FA1448D1C767483...
Sign & Print name Angela Daliet

DocuSigned by:

FB01B45ECE7A496...
Sign & Print name John Williams

TORSH, INC.

By: DocuSigned by:

A6F0456A7AB447B...
Signature

Its: Courtney Williams, CEO

Date: 2/9/2023

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ATTACHMENT A to Amendment #1

1. Contractor's Revised Response to RFP No. 7257, dated January 24, 2023, consisting of 1 page, attached hereto.



2023/2024 4Yrs/6Mths Non-HIPAA Pricing Proposal
for Waterbury Public Schools, School Readiness on 01/24/2023*

*Expires on 02/24/2023

Term Dates	Term #	Term Type	Cost/License/Term	# of Licenses	Total
03/01/2023 - 02/28/2027	4	Years	\$109.44	100	\$43,776.00
03/01/2027 - 12/31/2027	10	Months	\$10.94	100	\$10,944.00

Grand Total:	\$54,720.00
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Cost Per License Pricing Breakdown

Tier of Service	Annually	Monthly
TORSH Talent Premium	\$ 160.00	\$ 16.00
<i>Add-Ons</i>		
<input type="checkbox"/> Zoom Integration	Free	Free
Standard Cost per License	\$ 160.00	\$ 16.00
Less Volume Discount 10.00%	\$ (16.00)	\$ (1.60)
Less Multi-Year Discount 20.00%	\$ (28.80)	\$ (2.88)
Less Lagniappe Discount 5.00%	\$ (5.76)	\$ (0.58)
Total Cost per License per Term	\$ 109.44	\$ 10.94

Tiers of Service with Standard Pricing Breakdown

Tier Information	Monthly**	Annually**
BASIC (www.torsh.co/talent-tier/basic)	\$ 9.90	\$ 99.00
PREMIUM (www.torsh.co/talent-tier/premium)	\$ 16.00	\$ 160.00
<u>ADD-ONS - Add-Ons can be added to any tier of service</u>		
<input type="checkbox"/> Custom Workflows	\$ 2.00	\$ 20.00
<input type="checkbox"/> Custom LMS Integration (Blackboard, Canvas, Sakai)	\$ 1.50	\$ 15.00
<input type="checkbox"/> Single Sign On/API Integration	\$ 1.50	\$ 15.00
<input type="checkbox"/> Insights API	\$ 1.50	\$ 15.00
<input type="checkbox"/> Network Architecture	\$ 0.50	\$ 5.00
<input type="checkbox"/> edTPA portfolios	\$ 0.50	\$ 5.00
<input type="checkbox"/> Zoom Integration	Free	Free
**All prices are listed per user license		

TORSH INC.
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