# INTERGOVERNMENTAL AGREEMENT BETWEEN THE BEMIS PUBLIC LIBRARY AND LITTLETON PUBLIC SCHOOLS REGARDING THE LITTLETON ONECARD INITIATIVE

This Intergovernmental Agreement ("Agreement") is executed this 30 day of March, 2020, by and between the **CITY OF LITTLETON, BEMIS PUBLIC LIBRARY,** a Colorado municipal corporation ("City" or "Library") and **LITTLETON PUBLIC SCHOOLS,** a quasi-municipal corporation and political subdivision of the State of Colorado ("LPS") individually a "Party" and collectively, the "Parties."

## RECITALS

**WHEREAS**, LPS and the Library are enthusiastic to increase collaboration between their respective overlapping communities.

**WHEREAS**, the Library has a breadth of valuable resources that will provide LPS students with greater access to materials they need to be successful in school, to include:

a. Access to databases in school or at home,

b. Downloadable materials,

c. Check out books, and

d. Use of library computers and other technology.

**NOW THEREFORE, IN CONSIDERATION** of the above recitals, the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the Parties agree as follows:

## AGREEMENT

1. Both the Library and LPS agree to share database and online resources costs. The partnership activities provided by the Library shall be provided at no additional cost to LPS.

2. Term and Termination:

   A. Term. The term of this Agreement is for a period of one year, commencing from the date first written above, to renew annually absent a written termination by either party.

   B. Termination. Each party shall have the right, without assigning any reason therefore, to terminate any work under this Agreement, in whole

or in part, at any time at its complete discretion by providing sixty (60) days written notice to the other party.

3.   The Library agrees to:

A. Streamline student access to databases and materials by integrating LPS Student ID Numbers into Library accounts, allowing every LPS student instant access to Library databases and materials and to enhance the technology and material access available to students;

B. Work collaboratively with LPS to further strengthen the relationship between the Library and LPS;

C. Provide LPS with data about student participation in the annual summer reading program to include the number of participants by grade and school;

D. Establish a data field into the Library's integrated library system ("System") identifying all cards issued to LPS students. The LPS Student ID Number will be stored in the System and used as the User ID (the library card number). Student cards will limit physical material checkout to two (2) items, unless the respective parent/guardian fills out a full library registration form at the Bemis Public Library. Student cards will not accrue late charges on physical materials;

E. Work jointly with LPS to develop a handout/letter describing the policy and goals of the Littleton OneCard Initiative;

F. Work jointly with LPS to develop and disseminate external media coverage;

G. Provide training related to the use of library resources, including but not limited to online resources; and

H. Continue to develop and provide appropriate collections to assist with the overall reading for children and adults in the community as a whole.

4.   LPS agrees to:

A. Support implementation of the Library/LPS partnership by providing to the Library: Student ID Numbers, first and last names, email addresses, and parent/guardian of each student enrolled. The database will be updated bi-annually beginning in July 2020 as new students enroll in the

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district. Data shall be provided in both October and February of each school year;

B. Provide an option during registration or record updates for parents/guardians to opt-out of the Littleton OneCard program and subsequently provide that information to the Library so the records may be updated accordingly;

C. In collaboration with Library staff, will help facilitate the introduction of professional development opportunities for LPS teachers on an annual basis;

D. Distribute policies/goals/awareness to all students and parents/guardians of LPS;

E. Work jointly with the Library to develop a handout/letter describing the policy and goals of the Littleton OneCard Initiative; and

F. Work jointly with the Library to disseminate external media coverage.

5. Costs/Expenses: LPS will provide $10,000 annually to the Library in order to share database and online resource costs. Any additional expenses related to the provision of services incurred by the Library shall be the sole responsibility of the Library.

6. Confidentiality:

A. The parties agree that all student data or information provided by LPS is considered confidential under this Agreement as well as under the Family Educational Rights and Privacy Act (FERPA), and any other federal or state regulations pertaining to students' education records. To the extent the Library has access to any personally identifiable information from students' education records, the Library agrees that it shall not use such information except for the legitimate educational purpose of providing services pursuant to this Agreement and that it shall not re-disclose this information to any other party for any other reason. The Library's staff agrees to comply with all applicable federal and state regulations governing the student records.

B. The parties agree that the Library supports and complies with the Colorado Library User Records Privacy Act (C.R.S. 24-90-119) with respect to the confidentiality of library records. All library records relating to a customer's use of the Library and it resources are confidential.

7. LPS Project Coordinator: Jessica Hesselberg, LPS District Librarian, is designated as the Project Coordinator for LPS. The LPS Director of Technology, Mike Porter, is fully authorized to act on behalf of LPS in connection with this Agreement. The project coordinator shall be LPS' representative in connection with this Agreement.

8. Library Project Coordinator: Nancy Trimm, Bemis Deputy Director, is designated as the Project Coordinator for the Library. The Bemis Executive Director, Tim Nimz, is fully authorized to act on behalf of the Library in connection with this Agreement.

9. Liability and Governmental Immunity:

(a) Each Party is a governmental entity of the State of Colorado, entitled to certain immunities under Colorado law, including the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, et seq., and are self-insured or insured through public agency risk pool for this purpose as more fully set forth in Risk Management laws, C.R.S, §§ 24-30-1501, et seq. The Parties agree that such insurance shall satisfy all insurance requirements of this Agreement except as otherwise specified herein.

(b) The Colorado Constitution prohibits the State of Colorado and the Parties to this Agreement from agreeing to indemnify any other party, public or private. In addition, the Colorado Governmental Immunity Act limits the tort liability of public entities and their employees and authorized volunteers acting in the course of authorized governmental undertakings. Any provision of this Agreement, whether or not incorporated herein by reference, shall be controlled, limited and otherwise so modified by statute.

10. No Multi-Fiscal Year Obligation: Nothing herein contained is intended, nor shall be deemed, to create any debt or multi-fiscal year financial obligation on the part of either party hereto. Each party's financial obligations hereunder are subject to annual budgeting and appropriation of funds necessary therefor.

11. Independent Contractors: The provisions of this Agreement are not intended to create, and shall not be interpreted to create, a joint venture, a partnership, employee/employer, or any similar relationship between the parties. No officer, manager, director, employee, agent, affiliate or other person associated with one party shall be deemed to be an officer, manager, director, employee, agent, contractor or subcontractor of the other party by reason of this Agreement.

12. Amendment: No amendment or modification of this Agreement shall be valid unless expressed in writing and executed by the Parties hereto in the same manner as the execution of this Agreement.

13.    Integration:  This is a completely integrated Agreement and contains the entire agreement between the Parties, and any written or oral agreements which are different from the terms; conditions and provisions of this Agreement shall be of no effect and shall not be binding upon any Party.

14.    Notice:  All notices required hereunder shall be given to:


**Littleton Public Schools:**
Jessica Hesselberg, District Librarian
5776 South Crocker Street
Littleton, Colorado  80120

**City of Littleton, Bemis Public Library:**
Nancy Trimm and Tim Nimz
6014 S Datura Street
Littleton, Colorado 80120

With a copy to:
Reid Betzing, City Attorney
Mark Relph, City Manager
2255 W. Berry Ave
Littleton, CO 80120


Any notice so given in writing shall be effective when hand delivered or upon mailing, if notice is given by first class mail.

15.    Governing Law:  This agreement is made and delivered in the State of Colorado and shall be construed and enforced in accordance with the laws thereof.

16.    Counterparts, Electronic Signatures and Electronic Records.  This Agreement may be executed in two counterparts, each of which shall be an original, but all of which, together, shall constitute one and the same instrument.  The Parties consent to the use of electronic signatures and agree that the transaction may be conducted electronically pursuant to the Uniform Electronic Transactions Act, § 24-71.3-101, *et seq.*, C.R.S.  The Agreement and any other documents requiring a signature may be signed electronically by either Party.  The Parties agree not to deny the legal effect or enforceability of the Agreement, solely because it is in electronic form or because an electronic record was used in its formation.  The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature on the grounds that it is an electronic record or an electronic signature or that it is not in its original form or is not an original.

EXECUTED as of the date first written above.

**LITTLETON PUBLIC SCHOOLS**

By _____
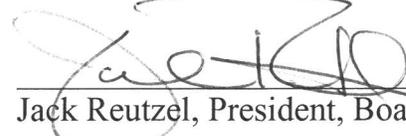
Jack Reutzel, President, Board of
Education

Attest:

_____

Mary Stevens, Executive Assistant to
Superintendent and Board of Education

**CITY OF LITTLETON**

By _____

Jerry Valdes, Mayor

Attest:

_____,

City Clerk

Approved as Form:

Reid Betzing, City Attorney

By: _____

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# ADDENDUM – 1

## Littleton Public Schools
## Data Privacy Addendum

The provisions of this Data Privacy Addendum (the "Addendum") are a part of the Independent Contractor Agreement (the "Agreement") and apply to all Contractors that will or may have access to student information.

### 1.      Covered Data

As used in this Addendum, confidential information, confidential data, student information, student data, and personally identifiable information ("PII") have the same meaning. Student PII means information collected, maintained, generated or inferred that alone or in combination personally identifies an individual student or the student's parent or family, in accordance with C.R.S. § 22-16-103(13) & 34 C.F.R. § 99.3.

### 2.      Compliance with State and Federal Law

All data sharing, use, and storage will be performed in accordance with the requirements of the Family Educational Rights and Privacy Act of 1974 as amended, 20 U.S.C. § 1232g & 34 C.F.R. § 99 ("FERPA") and C.R.S. § 22-16-101, et seq.

**Contractor Obligations:**

1.  *Uses and Disclosures as Provided in the Agreement.* Contractor may use and disclose the confidential information provided by the District only for the purposes described in the Agreement and this Addendum and only in a manner which does not violate local or federal privacy regulations. Only the individuals or classes of individuals will have access to the data that need access to the confidential information to do the work described in the Agreement and this Addendum. Contractor shall ensure that any subcontractors who may have access to confidential information are contractually bound to follow industry standard privacy practices no less restrictive than the provisions of the Agreement and this Addendum.

2.  *Nondisclosure, Except as Provided in the Agreement.* Contractor shall not use or further disclose the confidential data except as stated in and explicitly allowed by the Agreement and this Addendum, and state and federal law. Contractor does not have permission to re-disclose data to a third party,

except for a third party performing services for Contractor related to the work described in the Agreement.

3. *Safeguards.* Contractor agrees to implement administrative, technical and physical safeguards designed to reasonably protect the security, privacy, confidentiality, and integrity of student information. Contractor shall ensure that student information is secured and encrypted in a commercially reasonable manner during use, storage and/or transmission. Contractor agrees that student information will be stored on equipment or systems located domestically.

4. *Reasonable Methods.* Contractor agrees to use "reasonable methods" to ensure that Contractor and all parties accessing data are compliant with state and federal law. Specifically, this means: 1. Only de-identified student data may be used for the purposes of educational research. 2. Contractor must protect confidential data from re-identification, further disclosures, or other uses, except as authorized by the District in accordance with state and federal law. Approval to use confidential data for one purpose does not confer approval to use it for another.

5. *Confidentiality.* Contractor agrees to protect student information according to industry standards and no less rigorously then they protect their own confidential information.

6. *Reporting.* Contractor shall report to the District within five (5) working days of Contractor becoming aware of and confirming any unauthorized use or disclosure of the confidential information in violation of the Agreement, this Addendum or applicable law.

7. *Data Destruction.* Confidential information must be destroyed in a secure manner or returned to the District at the end of the work described in the Agreement and upon written request by the District. Contractor agrees to send a written certificate that the data was properly destroyed or returned within 30 days of receipt of the written request (email certification shall be deemed sufficient for the forgoing purposes). Additionally, during the term of the Agreement, Contractor shall destroy confidential information upon written request of the District as soon as practicable. Contractor shall destroy confidential information in such a manner that it is permanently irretrievable in the normal course of business.

8. *Minimum Necessary.* Contractor attests that the confidential information requested represents the minimum necessary information for the services as described in the Agreement. Only necessary individuals or entities which require access to the confidential information to perform work described in the Agreement will have access to the confidential information.

9. *Authorizations.* When necessary, Contractor agrees to secure individual authorizations to maintain or use student PII in any manner beyond the scope or after the termination of the Agreement.

10. *Data Ownership.* The District is the data owner. Contractor does not obtain any right, title, or interest in any of the data furnished by the District.

11. *Misuse or Unauthorized Release.* Contractor shall notify the District within five (5) working days upon Contractor becoming aware of and confirming the misuse or unauthorized release of student PII held by Contractor or one of its subcontractors, when such misuse or unauthorized release is the result of a material breach of the Agreement or this Addendum.

12. *Data Breach.* In the event of a data breach, the District will be responsible for contacting and informing any parties, including students (or their parents), who may have been affected by the security incident. If the data breach was the fault of Contractor, Contractor will reimburse the District for the cost of providing such notices to affected parties. Contractor will promptly notify the District upon the discovery of any data breach.

13. *De-Identified Data Use.* Notwithstanding anything in this Addendum to the contrary, Contractor may use aggregated, de-identified data in combination with other aggregated data for the following purposes: to improve the product, to demonstrate the effectiveness of the product, and for research or other purposes related to developing and improving the product and any other services or products of the Contractor. Contractor's use of such de-identified data will survive termination of this Addendum and the Agreement.

## Prohibited Uses

Contractor shall not sell student PII; use or share student PII for purposes of targeted advertising; or use student PII to create a personal profile of a student other than for accomplishing the purposes described in the Agreement.

Notwithstanding the previous paragraph, Contractor may use student PII to ensure legal or regulatory compliance or take precautions against legal liability; respond to or participate in the judicial process or as required by law or regulation or by any court proceeding or lawful order or other governmental request; protect the safety of users or others on Contractor's website, online service, or application; or investigate a matter related to public safety. Contractor shall notify the District within five (5) days of Contractor becoming aware and confirming use described in this paragraph.

### 3. School Service Contract Provider Additional Provisions

If Contractor is a School Service Contract Provider – defined in C.R.S. § 22-16-103 as an entity that enters into a contract with the District to provide a website, online service, or application that is designed and marketed primarily for using in a school and collects, maintains or uses student personally identifiable information – the following provisions shall apply:

1. *Data Collection Transparency and Privacy Policy.* Contract shall provide clear information that is understandable by a layperson explaining the data elements of student PII that Contractor collects, the learning purpose for which it collects the student PII, and how Contractor uses and shares the student PII. The information must include all student PII that Contractor collects regardless of whether it is initially collected or ultimately held individually or in aggregate. Contractor shall provide the District with a link to the information on a webpage maintained and updated by Contractor so that the District may post the link on its website.

2. *Notice Before Making Changes to Privacy Policy.* Contractor shall provide notice to the District before making material changes to Contractor's privacy policy that affects student PII. This notice may occur through various methods, depending on which best allows Contractor to reach affected customers. These methods may include, but are not limited to, e-mail, postal mail, or a conspicuously-posted website notice. Contractor's Privacy Policy is available at: https://www.littletongov.org/home/showdocument?id=22770

3. *Access to Student Information.* Upon request by the District, Contractor agrees to assist District in obtaining in readable electronic format a copy of all student PII maintained by the Contractor for individual students. Any student PII held by Contractor will ordinarily be accessible by the District immediately through the functionality of Contractor's products. If the District

requires Contractor's assistance in obtaining any of the District's student PII, Contractor will provide such assistance as is reasonably required to facilitate the request.

4. *Correction of Inaccurate Student PII.* Contractor shall facilitate access to and correction of any factually inaccurate student PII in response to a request for correction that the District receives in the event the District cannot correct such inaccurate student PII itself through the standard District functionality.

5. *Grounds for Termination.* Contractor understands that any breach by Contractor or any subcontractor of this Addendum, state or federal law regarding student information, or the Contractor's privacy policy described above, may be grounds for termination of the Agreement in accordance with C.R.S. § 22-16-107(2)(a).

IN WITNESS WHEREOF, the parties have executed this Addendum contemporaneously with the Agreement.

| LITTLETON PUBLIC SCHOOLS | CITY OF LITTLETON |
|---|---|
| Organization | Organization |

Name: *MARK LINDSTONE*
(Please Print)

Signature: *Mark Lindstone*

Title: CHIEF INFORMATION OFFICER

Date: 4-2-2020

Name: _____
(Please Print)

Signature: _____

Title: _____

Date: _____