

AGREEMENT FOR SERVICES

AGREEMENT this 21st day of December by and between the Ballston Spa Central School District, hereinafter referred to as "District", with its principal business address at 70 Malta Avenue, Ballston Spa, New York 12020 and West & Company, with a business address at 60 Railroad Place, Suite 302, Saratoga Springs, NY 12866 hereinafter referred to as "Contractor." District and Contractor may hereinafter be collectively referred to as "the Parties."

WHEREAS, District desires to obtain certain services and activities from Contractor and Contractor wishes to provide such services and activities; and,

WHEREAS, the parties have discussed and agreed on the following terms and conditions for such Agreement,

IT IS THEREFORE AGREED:

1. Qualifications

Contractor is qualified and if required, licensed and/or certified, to provide the services required by this Agreement and will maintain such qualifications during the term of this Agreement.

2. Term

The Contractor is hereby retained by District as an independent contractor. The terms of this agreement shall begin July 1, 2022 and end June 30, 2026.

3. Services

Contractor shall perform the services and work (hereinafter "Work") described as follows:

Independent Auditing Services per requirements and Scope of Work of the Request for Proposal for Independent Audit Services dated October 7, 2022.

4. Schedule

Contractor will coordinate the schedule to meet the District's needs. Such work may be required during particular hours, on particular days or in a particular location, in order to complete the assignment. The Contractor shall work with the District so as to coordinate any work to be performed so as to minimize the disruption to District staff and students.

5. Fees and Charges

Contractor's fees and charges:

See Attachment A.

6. Independent Contractor

Contractor is an independent contractor and not an employee of District. The Contractor is not entitled to any benefit plan afforded to the employees of District, Worker's Compensation, unemployment insurance benefits, nor any other benefit, right or privilege available to employees of District. District will provide Contractor with Internal Revenue Service Form 1099. Contractor is responsible for payment of taxes due for payments under this Agreement.

7. Payment

Payment pursuant to this Agreement is dependent upon the satisfactory completion of work, faithful compliance with the Agreement, acceptance of the Work by District, and periodic submission of invoice(s) describing work performed.

8. Record Confidentiality

The Contractor shall observe and require the observance by all subcontractors and/or employees of all applicable Federal and New York State requirements relating to the

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confidentiality of records and information provided to the Contractor by the District, including but not limited to, student records. See Attachment B.

9. Record Ownership

All records generated by the Contractor as a result of rendering services under this Agreement shall be the property of the District and maintained in District files. The Contractor may maintain duplicate records for its purpose consistent with confidentiality requirements.

10. Assignment

The Contractor is prohibited from assigning, transferring, conveying, subcontracting, or otherwise disposing of this Agreement and its obligations there under without the prior written consent of the District.

11. Indemnification

The Contractor shall defend, indemnify and save harmless the District, its employees and agents from and against all claims, damages, losses and expenses (including, but not limited to, reasonable attorney's fees) arising out of, or in consequence of, any negligent or intentional act or omission of the Contractor, its employees or agents.

The District shall defend, indemnify and save harmless the Contractor, its employees and agents from and against all claims, damages, losses and expenses (including, but not limited to, reasonable attorney's fees) arising out of, or in consequence of, any negligent or intentional act or omission of the Contractor, its employees or agents.

Neither the Contractor nor the District shall be obligated to indemnify the other party in any manner whatsoever for the other party's negligence.

12. Insurance

The Contractor agrees to procure and maintain, at no additional expense to the School District, general liability insurance (including application to any claims of professional liability) in the amount of \$1,000,000 and workmen's compensation insurance in accordance with New York State Law. The Contractor further agrees that, at the District's request, it shall furnish a certificate of insurance to the School District showing that the requirements of this provision are satisfied. The liability insurance shall further provide that it may not be changed or canceled without thirty (30) days prior written notice to the School District.

13. Non-Discrimination Clause

The Contractor agrees that neither it, nor any of its subcontractors, shall violate any Federal or New York State laws regarding discrimination in employment.

14. Termination

This Agreement shall terminate upon submission by the Contractor of the product and services described above in a form and manner satisfactory to the District or upon mutual agreement. The Parties reserve the right to terminate this Agreement upon failure by either party to meet the terms and conditions set forth herein. The District has the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days written notice to the Contractor.

15. Governing Law

This Agreement shall be governed by, construed and enforced in accordance with the law of the State of New York.

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IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT on the day and year written below.

By: _____ Date: _____
Signature- Authorized Contractor Representative

Contractor Representative Name (Printed)

By: _____ Date: _____
Ballston Spa Central School District

Name (Printed)

APPENDIX C

SCHEDULE OF AUDIT QUOTATIONS

	<u>Year End</u> <u>6-30-2023</u>	<u>Year End</u> <u>6-30-2024</u>	<u>Year End</u> <u>6-30-2025</u>	<u>Year End</u> <u>6-30-2026</u>
Audit of general purpose financial statements, and all other services not separately listed below	\$ 15,750	\$ 15,750	\$ 15,750	\$ 15,750
Single Audit	2,500	2,500	2,500	2,500
Audit of Extraclassroom Activity Fund	<u>1,500</u>	<u>1,500</u>	<u>1,500</u>	<u>1,500</u>
TOTAL ALL-INCLUSIVE MAXIMUM PRICE	<u>\$ 19,750</u>	<u>\$ 19,750</u>	<u>\$ 19,750</u>	<u>\$ 19,750</u>

SCHEDULE OF FEES FOR ADDITIONAL SERVICES AND AUDITS
(If additional work is requested by the District)

<u>Hourly Rates</u>	<u>Year End</u> <u>6-30-2023</u>	<u>Year End</u> <u>6-30-2024</u>	<u>Year End</u> <u>6-30-2025</u>	<u>Year End</u> <u>6-30-2026</u>
Partner	\$ 200	\$ 200	\$ 200	\$ 200
Manager	110	110	110	110
Supervisory Staff	95	95	95	95
Staff	75	75	75	75
Other – Paraprofessional/Clerical	60	60	60	60

Signature: Amy M. Pedrick

Authorized
Signer (Name Printed): Amy M. Pedrick, CPA

Title: Shareholder

Date: October 7, 2022

Attachment B	Data Sharing and Confidentiality Agreement
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1. Scope

In recognition of the fact that West & Company hereinafter referred to as the “Vendor,” has been engaged to provide certain products or perform certain services for the Ballston Spa Central School District (hereinafter “District”), it is understood as follows:

2. Confidentiality

- a. The Vendor and/or any subcontractor, affiliate, or entity that may receive, collect, store, record or display any District data shall comply with New York State Education Law §2-d and Part 121 of the Regulations of the Commissioner of Education. In fulfillment of that Law, the following plan shall be in place for this agreement.
- b. The Vendor agrees that it will comply with all terms set forth in this Agreement. In the event that Vendor has online or written Privacy Policies or Terms of Service (collectively, “TOS”) that would otherwise be applicable to its customers or users of the products or services that are the subject of this Agreement between the District and Vendor, to the extent that any terms of the TOS, that are or may be in effect at any time during the term of the Agreement, conflict with the terms of this Agreement, the terms of this Agreement will apply and be given effect.

3. Definitions

As used in this Agreement:

- a. “Student Data” means personally identifiable information, as defined in Section 2-d, from student records that Vendor may receive from the District.
- b. “Teacher or Principal Data” means personally identifiable information, as defined in Section 2-d, relating to the annual professional performance reviews of classroom teachers or principals that Vendor may receive from the District.
- c. “Protected Data” means Student Data and/or Teacher or Principal Data, to the extent applicable to the product or service actually being provided to the District by Vendor.
- d. “NIST Cybersecurity Framework” means the U.S. Department of Commerce National Institute for Standards and Technology Framework for Improving Critical Infrastructure Cybersecurity (Version 1.1).

4. Confidentiality of Protected Data

- a. The Vendor acknowledges that the Protected Data it receives pursuant to this Agreement originates from the District and that this Protected Data belongs to and is owned by the District.
- b. The Vendor will maintain the confidentiality of the Protected Data it receives in accordance with federal and state law and the District’s policy on data security and privacy. The District will provide Vendor with a copy of its policy on data security and privacy upon request.

5. Data Security and Privacy Plan

As more fully described herein, throughout the term of this Agreement, the Vendor will have a Data Security and Privacy Plan in place to protect the confidentiality, privacy and security of the Protected Data it receives from the District.

The Vendor's Plan for protecting the District's Protected Data includes, but is not limited to, its agreement to comply with the terms of the District's Bill of Rights for Data Security and Privacy, a copy of which is set forth below.

Additional components of Vendor's Data Security and Privacy Plan for protection of the District's Protected Data throughout the term of this Agreement are as follows:

- a. Limit internal access to Protected Data to only those employees or subcontractors that are determined to have legitimate educational interests within the meaning of Section 2-d and the Family Educational Rights and Privacy Act (FERPA); i.e., they need access in order to assist Vendor in fulfilling one or more of its obligations to the District under the Master Agreement.
- b. Not use the Protected Data for any other purposes than those explicitly authorized in this Agreement.
- c. Except for authorized representatives of the Vendor to the extent they are carrying out the contract, not disclose any Protected Data to any other party:
 - (i) Without the prior written consent of the parent or eligible student; or
 - (ii) Unless required by statute or court order and the party provides a notice of the disclosure to the department, district board of education, or institution that provided the information no later than the time the information is disclosed, unless providing notice of the disclosure is expressly prohibited by the statute or court order;
- d. Maintain reasonable administrative, technical and physical safeguards to protect the security, confidentiality and integrity of Protected Data in its custody.
- e. Use encryption technology to protect Protected Data while in motion or in its custody from unauthorized disclosure using a technology or methodology specified by the secretary of the United States department of health and human services in guidance issued under Section 13402(H)(2) of Public Law 111-5.
- f. Ensure that any of its officers or employees and/or assignees who have access to Protected Data have received or will receive training on the federal and State law governing confidentiality of such data prior to receiving access.
- g. Ensure that Protected Data is not sold or used for marketing purposes.

- h. Use “best practice” and industry standards with respect to Protected Data storage, privacy and protection, including, but not limited to encryption, firewalls, passwords, protection of off-site records, and limitations of access to stored Protected Data to authorized staff.
- i. Ensure that the subcontractors, persons or entities that the Vendor will share the Protected Data with, if any, will abide by contractual obligations with respect to Protected Data as set forth herein, including, but not limited to, the data protection and security requirements.
- j. In the event this Agreement expires, is not renewed or is terminated, the Vendor shall return all District Protected Data in its possession by secure transmission or delete the Protected Data in its possession within 30 days.

6. Notification of Breach and/or Unauthorized Release

- a. The Vendor will promptly notify the District, of any known breach of security resulting in an unauthorized release of Protected Data by it or its subcontractors and/or assignees, in the most expedient way possible but no more than seven (7) calendar days after Vendor has discovered or been informed of the breach or unauthorized release. Vendors will provide such notifications to the District by contacting the Data Protection Office directly by email at cpo@bscsd.org or by calling 518-884-7195 x1320.
- b. The Vendor will cooperate with the District and provide as much information as possible about the incident, including but not limited to: a description of the incident, the date of the incident, the date Vendor discovered or was informed of the incident, a description of the types of Protected Data involved, an estimate of the number of records affected, the schools within the District affected, what the Vendor has done or plans to do to investigate the incident, stop the breach and mitigate any further unauthorized access or release of Protected Data, and contact information for Vendor representatives who can assist affected individuals that may have additional questions.
- c. The Vendor acknowledges that upon initial notification from Vendor, the District, as the educational agency with which Vendor contracts, has an obligation under Section 2-d to in turn notify the Chief Privacy Officer in the New York State Education Department (“CPO”). Vendor agrees not to provide this notification to the CPO directly unless requested by the District or otherwise required by law. In the event the CPO contacts Vendor directly or requests more information from Vendor regarding the incident after having been initially informed of the incident by the District, Vendor will promptly inform the District.
- d. Promptly reimburse the District for the full cost of notifying a parent, eligible student, teacher, or principal of an unauthorized release of Protected Data by the Vendor, its subcontractors, and/or assignees.

7. Parents' Bill of Rights for Data Privacy and Security

Incorporated into this Agreement is the District's Parents Bill of Rights as shown below:

Parents' Bill of Rights for Data Privacy and Security

In accordance with New York State Education Law Section 2-d, the Ballston Spa Central School District sets forth the following Parents' Bill of Rights for Data Privacy and Security. This Bill of Rights is subject to change based on regulations of the Commissioner of Education.

Parents and eligible students can expect the following:

1. A student's personally identifiable information (PII) cannot be sold or released for any commercial purpose.
2. In accordance with Section 2-d and FERPA, parents have the right to inspect and review the complete contents of their child's education record.
3. State and federal laws that protect the confidentiality of a student's PII, and safeguards associated with industry standards and best practices, including but not limited to, encryption, firewalls, and password protection, must be in place when data is stored or transferred.
4. The New York State Education Department collects student data from school districts for authorized uses. A complete list of all student data elements collected by New York State is available for public review at www.nysed.gov/data-privacy-security, and by writing to: Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, NY 12234.
5. The right to submit complaints about possible breaches of student data. Complaints or questions should be directed in writing to: Records Access Officer, Ballston Spa Central School District, 70 Malta Avenue, Ballston Spa, NY 12020.
6. To be notified in accordance with applicable laws and regulations if a breach or unauthorized release of their student's PII occurs.
7. Educational agency workers that handle PII will receive training on applicable state and federal laws, the educational agency's policies, and safeguards associated with industry standards and best practices that protect PII.
8. Educational agency contracts with vendors that receive PII will address statutory and regulatory data privacy and security requirements.

8. Supplemental Information

The District may provide to Vendor, and Vendor will receive, personally identifiable information about students and/or teachers and principals that is protected by Section 2-d of the New York Education Law (“Protected Data”).

a. Exclusive Purposes for which Protected Data will be Used:

Vendor will not use the Protected Data for any other purposes not explicitly authorized above.

b. Oversight of Subcontractors:

In the event that Vendor engages subcontractors or other authorized persons or entities to perform one or more of its obligations, it will require those subcontractors or other authorized persons or entities to whom it will disclose the Protected Data to execute legally binding agreements acknowledging their obligation under Section 2-d of the New York Education Law to comply with all applicable data protection, privacy and security requirements required of the Vendor and applicable state and federal law and regulations.

c. Duration of Agreement and Protected Data Upon Termination or Expiration:

i. Upon expiration of this Agreement without renewal, or upon termination prior to its expiration, Vendor will securely delete or otherwise destroy any and all Protected Data remaining in the possession of Vendor or any of its subcontractors or other authorized persons or entities to whom it has disclosed Protected Data. If requested by the District, Vendor will assist the District in exporting all Protected Data previously received back to the District for its own use, prior to deletion, in such formats as may be requested by the District.

ii. In the event the Agreement is assigned to a successor Vendor (to the extent authorized by the Agreement), the Vendor will cooperate with the District as necessary to transition Protected Data to the successor Vendor prior to deletion.

iii. Neither Vendor nor any of its subcontractors or other authorized persons or entities to whom it has disclosed Protected Data will retain any Protected Data, copies, summaries or extracts of the Protected Data, or any de-identified Protected Data, on any storage medium whatsoever. Upon request, Vendor and/or its subcontractors or other authorized persons or entities to whom it has disclosed Protected Data, as applicable, will provide the District with a certification from an appropriate officer that these requirements have been satisfied in full.

d. Challenging Accuracy of Protected Data:

Parents or eligible students can challenge the accuracy of any Protected Data provided by the District to Vendor, by contacting the District regarding procedures for requesting amendment of education records under the Family Educational Rights and Privacy Act (FERPA). Teachers or principals may request to challenge the accuracy of APPR data provided to Vendor by following the appeal process in the District’s applicable APPR Plan.

e. Data Storage and Security Protections:

Any Protected Data that Vendor receives will be stored on systems maintained by Vendor, or by a subcontractor under the direct control of Vendor, in a secure data center facility located within the United States. The measures the Vendor (and, if applicable, its subcontractors) will take to protect Protected Data include adoption of technologies, safeguards and practices that align with the NIST Cybersecurity Framework, and safeguards associated with industry standards and best practices including, but not limited to, disk encryption, file encryption, firewalls, and password protection.

f. Encryption of Protected Data:

Vendor (and, if applicable, its subcontractors) will protect Protected Data in its custody from unauthorized disclosure while in motion or at rest, using a technology or methodology that complies with Section 2-d of the New York Education Law.

By signing below, the parties agree to abide by the terms and conditions set forth above.

BY THE VENDOR:

Vendor Signature (Authorized Signer)

Date

Vendor Signatory Name (Printed)

Vendor Legal Name

BY THE DISTRICT:

District Signature (Authorized Signer)

Date

District Signatory Name (Printed)