



CONSULTING AGREEMENT

This agreement dated Tuesday October 11, 2016 is between the Mississippi House of Representatives, acting by and through the House Management Committee, and the Mississippi State Senate, acting by and through the Senate Rules Committee, with an address at 400 High Street Jackson, MS 39201 ("Client") and EdBuild (the "Consultant"), a New Jersey non-profit organization located at 140 Bay Street, Suite 2, Jersey City NJ 07302 (the "Agreement").

WITNESSETH:

WHEREAS, Client desires to utilize the expertise and consulting services of Consultant; and
WHEREAS, Consultant desires to make its expertise and consulting services available to Client; and
NOW, THEREFORE, in consideration of the foregoing, of the mutual promises and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the parties hereto agree as follows:

- 1. Term.** Unless otherwise terminated pursuant to Section 14, the term of this Agreement shall be effective as of the date the last party signs and terminate on June 30, 2017 unless otherwise provided for in this Agreement.
- 2. Responsibilities.** As directed by and subject to the supervision and review of the Chairman of the Senate Rules Committee and Chairman of the House Management Committee, Consultant shall provide services related to a school finance project in Mississippi and/or Exhibit A, "Responsibilities". The services and responsibilities set forth in this Agreement are subject to modification in writing as agreed by the parties.
- 3. Excluded Responsibilities.** The parties hereby acknowledge and agree that any other duties not specifically set forth in paragraph 2, its subsections, and Exhibit A, will not be performed by Consultant.
- 4. Fees.** Consultant shall be paid, as consideration in exchange for Consultant's performance hereunder, the amount of \$125,000. Consultant will receive payment in the amount of \$25,000 upon submission of October 2016 deliverables set forth in Exhibit A, \$50,000 upon delivery of the first draft of the modeling tool, and \$50,000 upon delivery of the final modeling tool. Final payment shall be postponed until delivery of a final financial modeling tool. In the event that the final financial modeling tool is not received by Client, such payment shall be forfeited by Consultant. Said fees shall be payable within 15 days from the month of service after EdBuild receipt of a detailed, valid invoice, describing work performed under this Agreement. Invoices for work not yet completed are not considered valid. All invoices will be sent to Client.
- 5. Independent Contractor.** Consultant hereby acknowledges and agrees that they are an independent contractor to Client hereunder and shall not be considered an employee, servant, partner, or agent of Client for any purpose.
- 6. Public Representations.** Client may not bind, obligate, represent or speak publicly on behalf of EdBuild, unless authorized in writing by EdBuild to do so. Client may not use EdBuild's name, logo or

trademarks in any manner without EdBuild's prior written permission in each case and may not include any EdBuild materials or the EdBuild name, logo or trademarks in any materials distributed to third parties without EdBuild's prior written permission in each case. Notwithstanding any contrary section or portion of this Agreement, all Consultant-created work prepared for Client including, but not limited to, any materials, works, tools, processes, and research shall become the exclusive property of Client upon final payment.

7. Tax Reporting. Client acknowledges that EdBuild shall report all payments made under this Agreement to the extent it is required to do so under the law.

8. Confidentiality. During the term of this Agreement and thereafter, Consultant shall maintain with strict confidentiality all confidential information to which Consultant has access while consulting for Client in accordance with the terms set forth in Exhibit A to this Agreement which is attached hereto and incorporated herein ("Confidential Information"). Client acknowledges that EdBuild in the course of providing services under this Agreement may use and store Confidential Information outside of Client's premises; Consultant shall implement appropriate measures to protect the confidentiality of any Confidential Information in its possession. If any Confidential Information or any other property of Client becomes lost or stolen, EdBuild shall notify client immediately. During and after the term of this Agreement, Consultant shall not directly or indirectly use, divulge, furnish, make accessible, or permit the disclosure of any Confidential Information other than as authorized in writing by the Chairman of the Senate Rules Committee and Chairman of the House Management Committee. Consultant shall not be liable for disclosure of Confidential Information when disclosure is required by law or by any court in the opinion of an attorney, provided that Client notifies EdBuild, by registered mail, of the need for such disclosure within ten (10) days after the need for disclosure becomes known so that EdBuild will have a reasonable opportunity to contest such disclosure.

9. Works and Work Product. EdBuild hereby acknowledges and agrees that the Client has specially commissioned the work Client has engaged EdBuild to produce, create and deliver pursuant to this Agreement (the "Work") as a "work made for hire" under Section 101 of the United States Copyright Act of 1976, as amended (the "Copyright Act"). Accordingly, Consultant further acknowledges and agrees that EdBuild shall be deemed the "Author," for purposes of the Copyright Act, of the Work and any products of the Work, including, but not limited to, research results, publications, concepts, creations, developments, reports, programs, products, processes, materials or other works that are conceived of, prepared, generated or produced by Consultant solely or together with others during the course of performing services under this Agreement ("Work Product"). If the Work or Work Product is determined not to be a work made for hire under the Copyright Act, then, as of the date of this Agreement or the creation of any of the Work or Work Product, whichever is earlier, Client irrevocably transfers and assigns to EdBuild the entire right, title, and interest, including, but not limited to, copyright, in and to the Work and the Work Product, in whole or in part, together with all extensions of such copyrights, that may be secured under the Copyright Act or under any other copyright law or similar law in effect in the United States or in any other countries or under any treaties, conventions, or proclamations.

10. Work and Work Product Warranties. Consultant hereby covenants, represents, and warrants to Client that the Work and the Work Product is or (as to future Work or Work Product to be created) shall be original to Consultant or derived from materials to which Consultant has obtained all required permissions, releases, rights or licenses, and that the Work and the Work Product does not or shall not violate or infringe any third

party's copyright, trademark, right of privacy or publicity or other personal or proprietary right, nor does it contain any matter that is libelous. Consultant is responsible for all payments to third parties relating to the creation of the Work and the Work Product.

11. Termination. Either party may terminate this Agreement at any time by notifying the non-terminating party in writing at least thirty (30) days in advance of the effective date of the termination. Should Client exercise its option to terminate, EdBuild may, at its option immediately cease all work on the project and terminate the Agreement immediately. Notwithstanding the above, EdBuild reserves the right to terminate this Agreement for cause. If this Agreement is terminated, Client shall only be liable for, and Consultant agrees only to retain, payment of the portion of the fee earned as a result of work actually and satisfactorily performed, as determined by EdBuild and Client, prior to the effective date of termination.

12. Modification. The terms of this Agreement may be modified or waived only by written agreement, signed by both of the parties.

13. Assignment. Either party may assign its obligations and rights under this Agreement only with the prior written approval of the other party.

14. Choice of Law and Forum. This Agreement shall be governed and construed in accordance with the laws of the State of Mississippi applicable to contracts entered into in that State, without regard to choice of law rules.

15. Notices. Any notice under this Agreement must be in writing and, unless expressly provided otherwise, must be sent to the other party (at its address below or at such other address as a party designates by notice) by overnight courier service, registered or certified mail (return receipt requested, postage prepaid) or by other means for which the sender has written proof of receipt. Notice will be considered given upon delivery, as evidenced by delivery receipt or similar documentation. Notices shall be provided as follows:

Client:

Mississippi Senate
Mississippi House of Representatives
400 High Street
Jackson, MS 39201

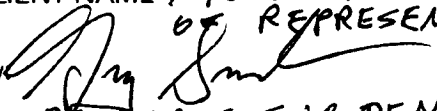
EdBuild:

Rebecca Sibia
CEO
EdBuild
140 Bay Street, Suite 2
Jersey City, NJ 07302
Email: operations@edbuild.org

16. Entire Agreement. This is the entire agreement between Client and EdBuild with respect to the performance of consultancy services for EdBuild. Consultant acknowledges that they are not relying on any representations, except as set forth in this Agreement. EdBuild makes no representations to Client, and none it may have made in the past survives, except as set forth in this Agreement.
17. Section Headings. Section headings used in this Agreement are included solely for convenience and shall not affect, or be used in connection with, the interpretation of this Agreement.
18. Prior Agreements. This Agreement supersedes and terminates all prior agreements between the parties relating to the subject matter herein addressed.
19. Invalidity. If any provision of this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. In such a case, the parties shall replace the invalid provisions with a legally permissible arrangement which comes nearest to the intended purpose of the invalid provision.
20. Signature. This Agreement may be executed by facsimile signature or by other electronic means acceptable to the parties. This Agreement may be signed in counterparts, each of which shall be deemed an original, but all of which shall constitute one instrument.
21. Conflicts. In the event of any conflict between the terms of this Agreement and the terms of any particular attachment to this Agreement, the terms of this Agreement shall control, unless explicitly designated otherwise in writing.
22. Additional Representations. Consultant agrees to comply with all applicable rules of law and rules of professional conduct applicable to Consultant.
23. Survival. The following Sections shall survive termination or expiration of this Agreement: 5, 6, 8-11, 15-17, 19 and any other terms which by their nature survive.

IN WITNESS WHEREOF, EdBuild and Client each has caused this Agreement to be signed by its duly authorized representative as of the day and year first above written.

CLIENT NAME MISSISSIPPI HOUSE
OF REPRESENTATIVES

By 
REP. GREG SNOWDEN
SPEAKER PRO TEMPORE
CHAIRMAN, HOUSE MANAGEMENT COMMITTEE

Name: *Francis P. Swad*
Title: *President Pro Tempore*
Date: *10-10-16*

EdBuild

By: 

Name: Rebecca Sibia
Title: CEO
Date: *10-10-16*

EXHIBIT A
Scope of Work

Background:

EdBuild is engaging with the state of Mississippi to review and strengthen its school funding formula.

Scope of Work

1. Technical assistance
2. Development of modeling tool
3. Optional education materials for legislative and public audience

1. Technical assistance

EdBuild will:

- a) Provide data and policy analysis to identify the areas of improvement in the current state funding model and offer solutions related to new ways of allocating funds;
- b) Provide recommendations related to programmatic implementation;

2. Modeling tool

EdBuild's School Finance Simulator provides real-time financial information to decision-makers and stakeholders in the state of Mississippi.

3. Additional materials

EdBuild will provide additional analysis and education materials as needed.

Timeline and Budget:

September, 2016

Data collection and quick modeling begins, including a comparative analysis of Mississippi's current funding policies with peer states.

Deliverable: End of Sept: EdBuild will deliver a short brief on how Mississippi's current funding system compares to peer states, and the nation as a whole.

October, 2016

EdBuild will have all state level data collected from the Department of Education, NCES, and US Census.

EdBuild will travel to Mississippi to meet with the subgroup in person and discuss policy priorities for the state.

November, 2016

EdBuild will have completed a school finance simulator.

EdBuild will travel to Mississippi to meet with the subgroup and provide training on the modeling tool.

Deliverable: Mid November: Completed Simulator.

December, 2016 – June 2017

EdBuild will provide technical assistance for the school finance subgroup as they produce varying scenarios to come up with new recommendations.

EXHIBIT B

Non-Disclosure Agreement

To be attached.