



MAKING WAVES ACADEMY

This Consultant Services Agreement (hereinafter "**AGREEMENT**") made by and between LBM Business Services, Inc (hereinafter "**COMPANY**") located at 1930 Village Center Circle #3-934, Las Vegas, Nevada 89134 and, Making Waves Academy (hereinafter "**CLIENT**" or "**MWA**") 4123 Lakeside Drive, Richmond, California 94806.

COMPANY is engaged in the business of providing Business Services Management, specifically as an eRate/EETT Administrator.

Now, COMPANY and CLIENT, effective as of **July 1, 2020 through June 30, 2021** to each of the following, therefore agree it upon:

1. SCOPE OF SERVICES FROM COMPANY

CLIENT hereby retains COMPANY to render services to CLIENT on a nonexclusive basis for and in connection with the Universal Service Administrative Company (USAC) by providing eRate Administration (See Attachment "C").

2. STATEMENT OF WORK

The COMPANY shall perform that stated in Attachment "B" to this AGREEMENT, Statement of Work, (hereinafter "**Work**") at such time(s) and place(s) as mutually agreed upon by CLIENT and COMPANY.

3. COMPENSATION

The CLIENT shall compensate the COMPANY for the Work stated in Attachment "B" (Statement of Work). In the amounts and manner set forth in Attachment "C"

4. TERMS

See Attachment "C".

5. RIGHTS OF OWNERSHIP

The CLIENT retains exclusive title to all works produced for CLIENT by COMPANY under this AGREEMENT. All computer software programs, specifications, routines, subroutines, formulae, documentation and related materials of which COMPANY develops on behalf of the CLIENT are, and will remain, the sole property of the CLIENT. The CLIENT recognizes, that while it maintains all rights and title to work product created for the CLIENT by COMPANY under this AGREEMENT, it has no right to prevent or profit from the COMPANY's practice of its trade or profession in behalf of any other person, including the exercise of such cumulative general knowledge, experience and skills gained over time by the COMPANY. Upon the conclusion of this



AGREEMENT, COMPANY shall return all records, files, contacts and other proprietary information of CLIENT to CLIENT.

6. CONFIDENTIAL INFORMATION

Confidential information is defined as all information subject to protection by the trade secret laws or student information privacy laws of the State of California or the United States to which information COMPANY may be become privy during this AGREEMENT. COMPANY comply with all applicable laws regarding confidential information and hold all such information in trust and confidence in behalf of CLIENT except as may be authorized for release by CLIENT in writing, or which may become public or otherwise known by a legitimate means. COMPANY is to abide by Confidentiality Agreement (hereinafter Attachment "A").

7. INABILITY

If by reason of accident, illness, mental or physical disability the COMPANY shall be incapacitated or prevented from fully performing its services or obligations under this AGREEMENT, then the COMPANY's services shall be suspended during the period of such illness or failure, refusal, or neglect, and no compensation shall accrue or be payable to COMPANY during such period of suspension. If the COMPANY is unable to perform as defined in this paragraph for ten (10) business days, then the CLIENT may terminate this AGREEMENT without liability to COMPANY except for payment by the CLIENT to COMPANY of authorized, completed services and expenses.

8. RIGHTS OF ASSIGNMENT

Neither this AGREEMENT nor any rights or obligations hereunder may be assigned by either party without the prior written and signed consent by an authorized representative of the other party. This AGREEMENT shall insure the benefit of successors and assignees of he parties.

9. MARKS

Neither party has the right to use the trade name, service mark or trademark of the other, or any affiliated entity for any purpose without the prior written and signed consent of the owner of such trade name, service mark or trademark.

10. NOTICES

All notices and other communication acquired or desired to be sent to either party under this AGREEMENT shall be in writing and personally delivered or sent by registered mail, postage prepaid, return receipt requested, to the address of the appropriate party or parties listed above.

11. APPLICABLE LAW



This AGREEMENT, whenever called upon to be construed, shall be governed by the laws of the State of California.

12. NO WAIVER

No waiver by either party of a breach or default hereunder shall be deemed a waiver by such party of a subsequent breach or default of like or similar nature.

13. PARTIAL INVALIDITY

Should any part of this AGREEMENT for any reason be declared invalid, void or unenforceable by a court or governmental agency of competent jurisdiction, such decisions shall not affect the validity of any remaining portion hereof, and the parties hereby acknowledge and agree that they would have executed the remaining without including the part so declared invalid, void or unenforceable.

14. INSURANCE AND INDEMNIFICATION

- I. Without in anyway limiting LBM Business Services Inc liability pursuant to the "Indemnification" section of this AGREEMENT. LBM Business Services Inc. shall procure and maintain during the full term of this agreement the following insurance coverage:
- II. Coverage:
 - a. Coverage for Professional Liability appropriate to LBM Business Services Inc.'s profession covering LBM Business Services Inc's wrongful acts, negligent actions, errors or omissions. As of July 1, 2020
 - b. General Liability Coverage
 - c. Employer's Liability
- III. Limits: LBM Business Services, Inc. shall maintain limits no less than the following:
 - a. Professional Liability – Five Hundred Thousand (\$500,000) per claim
 - b. General Liability - Five Hundred Thousand (\$500,000) per occurrence for bodily injury, personal injury, and property damage and \$1,000,000 aggregate
 - c. Insurance is to be placed with insurers having a current A.M. Best rating of no less than A-:VII or equivalent or as otherwise approved by Making Waves Academy in writing.
 - d. All policies shall provide thirty (30) days advance written notice to Making Waves Academy of cancellation, non-renewal, or reduction in coverage.
 - e. If any policies are written on a claims-made form, LBM Business Services, Inc agrees to maintain such coverage continually throughout



the term of this AGREEMENT and, without lapse, for a period of at least one year beyond the expiration of this AGREEMENT, such that should occurrences during the AGREEMENT term give rise to claims made after expiration of the AGREEMENT, such claims shall be covered.

- f. Should any required insurance lapse during the term of this AGREEMENT, requests for payments originating after such lapse shall not be processed until Making Waves Academy receives satisfactory evidence of reinstated coverage as required by this AGREEMENT, effective as of the lapse date. If insurance is not reinstated, Making Waves Academy may at its sole option, terminate this AGREEMENT effective on the date of such lapsed insurance.
- g. Before commencing any operations under this AGREEMENT, LBM Business Services, Inc. must provide Making Waves Academy with the Certificate of Insurance (Accord Form 25-S or equivalent) signed by the insurer's representative, and additional insured policy endorsements in form (CG 20 10 11 85 or its equivalent) and with insurer's satisfactory to Making Waves Academy evidencing all coverages set forth above, as well as proof that MWA and its officers, agents and employees have been added as additional insureds to the policies, and shall furnish complete copies of policies promptly upon MWA request. Such evidence shall also include a confirmation that coverage includes or has been modified to include the required coverages set forth in section 7 of the general conditions of this AGREEMENT. LBM Business Services, Inc. also understands and agrees that MWA may withhold payment for services performed for any violation of the insurance provisions of this AGREEMENT.
- h. Approval of the insurance by MWA shall not relieve or decrease the liability of LBM Business Services, Inc hereunder.
- i. Any deductible or self-inspired retention must be declared to and approved by MWA. At the option of MWA, the insurer shall either reduce or eliminate such deductibles or self-insured retention.

IV. Indemnification

- a. LBM Business Services, Inc. shall indemnify and hold harmless MWA and its Board members, officers, employees, authorized volunteers and agents from, and if requested, shall defend them against any liabilities, obligations, losses, claims, fines, penalties, damages, judgements, costs or expenses (including legal fees, attorney fees/costs and costs of investigation) (collectively "Losses") or threatened Losses arising from, in connection with or caused in whole or in part by services rendered by COMPANY pursuant to the terms of this AGREEMENT or in any way connected with the rendering of services under this AGREEMENT including but not limited to any claim, threatened claim, suit, action or proceeding against MWA for:



- i. Injury or death of any individual, or the loss, damage or destruction of any real or personal property caused, directly or indirectly, by any act or omission of LBM Business Services, Inc; or its employees, directors, officers, agents, representatives, or subcontractors;
- ii. Any infringement of patent, copyright, trademark, trade secret or other propriety right caused by LBM, Business Services, Inc. or its employees, directors, officers, agents, representatives, or subcontractors; or
- iii. Any violation of law or violation of this AGREEMENT by LBM Business Services, Inc or its employees, directors, officers, agents, representatives or subcontractors.

Notwithstanding the foregoing, LBM Business Services, Inc. shall have no obligation under this section with respect to any Loss that is caused solely by the active negligence or willful misconduct of MWA and is not contributed to by any act or omission (including any failure to perform duty imposed by law) by LBM Business Services, Inc., its subcontractors or either's agent or employees. LBM Business Services, Inc.'s indemnification under this section shall survive termination of this agreement.

15. TERMINATION

This AGREEMENT terminates automatically on the occurrence of any of the following events: (a) the bankruptcy or insolvency of either party; (b) sale of business of either party; (c) the death or permanent disability of either party; or (d) revocation or nonrenewal of the CLIENT charter.

16. COMPANY STATUS

COMPANY is an independent contractor not an employee of CLIENT. COMPANY's employees or subcontractors are not CLIENT's employees. COMPANY and CLIENT agree to the following rights consistent with an independent contractor relationship:

- (a) COMPANY has the right to perform services for others during the term of this AGREEMENT.
- (b) COMPANY has the sole right to control and direct the means, manner and method by which the services required by this AGREEMENT will be performed to the extent the provision of COMPANY's services are consistent with the responsibilities set forth in this AGREEMENT and the attachments to this AGREEMENT as dictated by CLIENT.
- (c) COMPANY has the right to hire assistants as subcontractors, or to use employees to provide the services required by this AGREEMENT.



- (d) COMPANY or COMPANY's employees or subcontractors shall perform the services required by this AGREEMENT; CLIENT shall not hire, supervise or pay any assistants to help COMPANY.
- (e) Neither COMPANY nor COMPANY's employees or subcontractors shall receive any training from CLIENT in the skills necessary to perform the services required by this AGREEMENT.
- (f) CLIENT shall not require COMPANY or COMPANY's employees or subcontractors to devote full time to performing the services required by this AGREEMENT.
- (g) Neither COMPANY nor COMPANY's employees or subcontractors are eligible to participate in any employee pension, health, vacation pay, sick pay or other fringe benefit plan of CLIENT.

17. WORKERS' COMPENSATION

CLIENT shall not obtain workers' compensation insurance on behalf of COMPANY or COMPANY's employees. If COMPANY hires employees to perform any work under this AGREEMENT, COMPANY will obtain workers' compensation insurance for those employees to the extent required by law.

18. LOCAL, STATE AND FEDERAL TAXES

COMPANY shall pay all income taxes and FICA (Social Security and Medicare taxes) incurred while performing services under this AGREEMENT. CLIENT will not:

- (a) Withhold FICA from COMPANY's payments or make FICA payments on COMPANY's behalf;
- (b) Make state or federal unemployment compensation contributions on COMPANY's behalf; or
- (c) Withhold state or federal income tax from COMPANY's payments.

If COMPANY is required to pay any federal, state or local sales, use, property, or value added taxes based on the services provided under this AGREEMENT, the taxes shall be separately billed to CLIENT. COMPANY shall not pay any interest or penalties incurred due to late payment or nonpayment of any taxes by CLIENT.

19. EXCLUSIVE AGREEMENT

This is the entire AGREEMENT between COMPANY and CLIENT. All previous agreements between the parties, if any, whether written or oral, are merged herein and superseded hereby.



20. MODIFYING THE AGREEMENT

This AGREEMENT may be supplemented, amended, or modified only by the mutual agreement of both parties. No modification of this AGREEMENT shall be binding unless in writing and expressing an intent to modify the AGREEMENT and signed by both parties.

21. LIMITED LIABILITY

This provision allocates the risks under this AGREEMENT between COMPANY and CLIENT. COMPANY's pricing reflects the allocation of risk and limitation of liability specified below. However, COMPANY shall remain liable for bodily injury or personal property damage resulting from grossly negligent or willful actions of COMPANY or COMPANY's employees or agents while on CLIENT's premises to the extent such actions or omissions were not caused by CLIENT. CLIENT IS NOT LIABLE FOR COMPANY'S LOST PROFITS, OR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF CLIENT HAS BEEN ADVISED BY COMPANY OF THE POSSIBILITY OF SUCH DAMAGES.

22. NO PARTNERSHIP

This AGREEMENT does not create a partnership relationship. Neither party has authority to enter into contracts on the other's behalf.

By signing in the spaces provided below, the parties hereto have agreed to all the terms and conditions of this AGREEMENT as of the effective date set forth above.

CLIENT: Making Waves Academy

Date: _____

By: _____

Title: _____

COMPANY: LBM Business Services, Inc.

Date: 05/12/2020

By: Loretta Mc Donald

Title: President



ATTACHMENT "A"

CONFIDENTIALITY AGREEMENT

COMPANY acknowledges that during the course of performing consulting duties with CLIENT or any of its or their corporate affiliates, COMPANY may have access to certain trade secrets. Such trade secrets include, but are not limited to, contractual agreements, computer software programs, systems documentation and related materials which are of a confidential nature, and which are proprietary either to the client or to the vendor from which the CLIENT has acquired rights of use. COMPANY also acknowledges that, with respect to materials or information that is proprietary to a vendor, the CLIENT may be under an obligation to prevent disclosure of such material to unauthorized persons.

In consideration of the CLIENT entering into or continuing the AGREEMENT whereby COMPANY performs services for the CLIENT, COMPANY agrees to use its best efforts and utmost diligence to guard and protect all such trade secrets with which COMPANY may come in contact while COMPANY is consulting to CLIENT. COMPANY will not, either directly or indirectly, during or after the period COMPANY is consulting to the CLIENT, use for itself or divulge to unauthorized persons any trade secrets, which COMPANY may obtain or develop as a result of COMPANY's consulting for the CLIENT.

CLIENT: Making Waves Academy

Date: _____

By: _____

Title: _____

COMPANY: LBM Business Services, Inc.

Date: 05/12/2020

By: Loretta Mc Donald

Title: President



ATTACHMENT "B"

STATEMENT OF WORK

COMPANY: LBM Business Services, Inc.
CLIENT: Making Waves Academy
DATE: May 12, 2020

COMPANY shall perform the following work:

1. Application Process: The application process will include the description of services and certification application (Form 470) that requests for proposals, service order and certification (Form 471) evaluation of proposals for services. Then a criteria matrix for all bids is prepared for review, certification to billed entity of compliance with the Children's Internet Protection Act (CIPA) (Form 479), receipt of services confirmation and certification (Form 486), adjustment to funding commitment or modification (Form 500), and billed entity reimbursement (Form 472) and reconciliation of Quarterly Payment Authorization Report.

There are two types of applications Category 1 and Category 2. Category 1 services are telephone and internet services provided by a selected vendor. Category 1 funds are funded first before any funds are approved for Category 2 funds. Category 2 funds may take several months before funds are allocated depending on the Program Integrity Assurance (PIA) review by Universal Service Administrative Company (USAC). PIA review is a compliance audit completed by USAC to ensure compliance is met on all regulatory measures prior to funding.

A five-year budget based on school enrollment is projected for Category 2 funds. This budget is implemented and maintained on an annual basis in the newly legislated E-Rate Productivity Center (EPC) system.

2. Preparation of data input for application forms: Detailed technology needs are determined by number of classrooms, buildings, and employees for infrastructure networking, and cabling will be communicated by the technology administrator and formatted into application data.
3. Program Integrity Assurance Review: USAC completes a review to ensure compliance of the rules and regulations. This review goes through all documents and paperwork before offering a Funding Commitment Decision Letter (FCDL). Once this letter is received the project is approved.
4. Bid Process: The Bid Process (28 day cycle) begins with the submission of the Form 470 (used as a Request for Proposals). LBM Business Services, Inc's responsibilities will be to gather all bid proposals formulate them into the criteria matrix for review by IT Director.



5. Vendor Contract: Coordinate with IT Director regarding the establishment of contracts with vendors once the bid process ends. All contracts must refer to the Form 471 application as to services requested.

6. Project Management Monitoring: Collaboration with IT Director and vendors to ensure timelines are met and tasks are completed as warranted by Administration and the project itself.

CLIENT: Making Waves Academy

Date: _____

By: _____

Title: _____

COMPANY: LBM Business Services, Inc.

Date: 05/12/2020

By: Loretta Mc Donald

Title: President



ATTACHMENT "C"

COMPENSATION

COMPANY: LBM Business Services, Inc.
CLIENT: Making Waves Academy
DATE: May 12, 2020

The CLIENT shall compensate COMPANY under the following schedule of rates and fees for performing the WORK specified by this AGREEMENT:

Consultant: LBM Business Services, Inc
Hourly Rate: N/A
Project Cost: Making Waves Academy - \$14,750.00

Total Cost: \$14,750.00

Payments will be made in twelve increments of **\$1,299.17** and due on the 1st of each month starting July 1, 2020.

Partial periods of work shall be compensated on a pro-rated basis. Time spent in travel shall not be deemed to be compensable time, unless approved in advance by CLIENT in writing or for WORK actually performed during such travel time.

COMPANY shall be responsible for all expenses incurred while performing services under this AGREEMENT. MWA shall not reimburse COMPANY for any expenses it incurs while performing services under this AGREEMENT unless reimbursement of the expense is approved in writing and signed by an authorized representative of MWA in advance.

MWA Project Cost:

Needed Services	Projected Hours	Costs per Application	# of Applications	Total Cost
2018/2019 Follow-up				
Reconciliation of Annual Report (EPC)	Unknown	\$200 per application	2	400.00
2019/2020 Follow-up				
Form 486	4 hours	\$400 per application	2	800.00
Form 479	1.5 hours	\$150 per application	1	150.00
Form 500	2 hours	\$200 per application	1	200.00
PIA Review (Monitoring Process) or Appeal	Unknown	\$200 per application	4	800.00
<u>Application Process 2020/2021</u>				



Form 470 (Category 1&2)	4 hours	\$400 per application	2	800.00
Form 471 (Category 1&2)	4 hours	\$400 per application	4	1600.00
Attachments 21's (Category 1&2)	4 hours	\$400 per application	8	3,200.00
Preparation of data for application detail	4 hours	\$200 per application	4	800.00
Administrative Planning	80 hours	\$75 per hour		6,000
Bid Process				
RFP Criteria Matrix				
Eligibility Service Review				
Review of Contracts				
Attachment 21 data input preparation				
Collection of Service Provider Bid Proposals				
Administrative meetings				
Vendor Q & A				
Reconciliation of Quarterly Reports				
EPC Data Input (historical Update)				
EPC Annual Budget Adjustments				
Documentation of Program Files				Free
TOTAL PROJECT COSTS:				\$14,750.00

* Monthly cost of \$1,229.17 per month

CLIENT: Making Waves Academy

Date: 05/12/2020

By: _____

Title: _____

COMPANY: LBM Business Services, Inc.

Date: 05/12/2020

By: Loretta Mc Donald

Title: President