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(910) 576-6511 FAX (910) 576-2044

TO: Board of Education
FROM: Dale Ellis
DATE: February 4, 2013
SUBJ: ACTION ITEM (Agreement with K2 Solutions)

Attached is an agreement between MCS and K2 Solutions to help with the training of weapons detection dogs. I feel the agreement is beneficial to both of our organizations.

I am available to answer any questions you might have.



5735 US Highway 1 North • Southern Pines, NC 28387
Phone: (910) 692-6898 • Fax: (910) 692-8114

AGREEMENT FOR EXCHANGE OF SERVICES

THIS SERVICES CONTRACT (referred to hereafter as "Agreement") is hereby made and entered into by and between **K2 SOLUTIONS, INC.** (referred to hereafter as "K2") and the **MONTGOMERY COUNTY SCHOOL SYSTEM** as of the ___ day of _____, 2013 (the "Effective Date").

RECITALS

WHEREAS, K2 is a Service Disabled Veteran Owned Small Business engaged in the business of providing a broad spectrum of services, including conducting detection searches of facilities for weapons using K2's K9 Team;

WHEREAS, the Montgomery County School System controls and operates primary and secondary schools in Montgomery County, North Carolina; and

WHEREAS, the Montgomery County School System wishes to engage K2, and K2 wishes to accept the engagement, to provide certain services as set forth in Scope of Work below;

WHEREAS, the parties to this Agreement seek to create a model that will provide a safer learning environment for students, and will provide K2 with otherwise unavailable resources to continue to shape the manner in which detection searches are conducted by its K9 program in order to become as efficient and effective as possible at schools.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the Parties hereby agree as follows:

1. Scope of Work. The Montgomery County School System engages K2 to provide the following services, to-wit:

- K2 will conduct a preliminary evaluation of all dogs that are to be utilized for this effort in order to ensure that the dogs are environmentally social and completely non-aggressive.
- After the preliminary off-site evaluation has been completed, the K2 K9 team will begin practice searches in the schools in order to test the dogs' search skills in a realistic environment. These searches are for the purpose of maintaining the K9s' proficiency, and will be conducted using decoys and inoperable weapons components. ***No operable weapons of any kind will be used when conducting training searches.***



Solutions, Inc.

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- K2 will conduct regular weapons detection searches at various schools operated by the Montgomery County School System on a rotating basis. Searches will be conducted at East Middle School, West Middle School, East Montgomery High School and West Montgomery High School.
- The search will consist of the handler(s) and the K9 walking through the hallways, parking lots and common areas. All searches will be conducted by the K2 K9 Team in conjunction with the School Resource Officer (SRO). If the presence of weapons is detected, the dog will alert on the scent and the handler(s) will promptly inform the appropriate school agent of the alert. K2 will have no right, duty, obligation, or ability to take any additional action of any kind whatsoever after informing the appropriate school agent of the possibility of the presence of a weapon.
- A representative from both K2 and the Montgomery County School System will be appointed as the point of contact for coordinating dates and times for the various searches.
- Approximately 3 trainers from K2 will be working in a school at any given time in conjunction with the SRO.
- The training will begin in the morning when the school opens, at which time the dogs will monitor the school entrances.
- The training will recommence after morning classes begin, at which time the dogs would be used to search lockers, vehicles and common areas.

The K9 weapons detection search is a non-invasive search designed only to deter and detect. Every dog that will be used in such searches are non-aggressive, and will not be used in any way to apprehend a person carrying a weapon. The dogs that will be utilized during such searches will be Labrador retrievers that have been tested to have a temperament that is conducive to this environment and to people.

2. Term and Termination. The term of this Agreement begins on the Effective Date and shall terminate on the earlier of: (a) one year after the effective date of this Agreement, or (b) prior to the completion or achievement of the Scope of Work by either Party giving thirty (30) days written notice. Termination pursuant to Section 2(b) shall not prejudice any other remedy to which the terminating Party may be entitled, either by law, in equity, or under this Agreement.



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3. Consideration for Services performed. As consideration for the performance of the services set forth in section 1 *supra*, the Montgomery County School System agrees to allow K2's K9 detection Team supervised regular access to certain school buildings and other premises used for school related activities to conduct additional detection training for K2 handlers and K9s. K2 accepts, in lieu of payment, Montgomery County School Systems offer to utilize these facilities for the stated purpose, which will benefit K2 and K2's K9 Team.

4. Relationship of the Parties. This Agreement does not constitute a hiring by either Party. It is the Parties' intention that K2 shall have an independent contractor status and not be an employee for any purpose, including, but not limited to, the application of the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Revenue and Taxation Code relating to income tax withholding at the source of income, the Workers' Compensation Insurance Code, 401(k) and other benefit payments and third party liability claims. K2 shall retain sole and absolute discretion in the manner and means of carrying out their activities and responsibilities under this Agreement. This Agreement shall not be considered or construed to be a partnership or joint venture, and the Montgomery County School System shall not be liable for any obligations incurred by K2 unless specifically authorized in writing. K2 shall not act as an agent of the Parties, ostensibly or otherwise, nor bind the Parties in any manner, unless specifically authorized to do so in writing.

5. Materials. K2 will furnish all materials and equipment used to provide the services required under this Agreement.

6. Resolving Disputes and Attorney's Fees. If a dispute arises under this Agreement, any party may take the matter to court. If any court action is necessary to enforce this Agreement, the prevailing party shall be entitled to reasonable attorney fees, costs, and expenses in addition to any other relief to which the party may be entitled.

7. Indemnification. The Montgomery County School System hereby agrees that it shall indemnify, defend, and hold harmless K2 from any and all claims, damages, suits, actions, judgment, liabilities, defaults, costs and expenses asserted against or incurred by K2 as a result of any injury to or death of any person or damage to any property, or for any injury or death to a third party or damage to its property which is caused by the negligence of K2 while on any premises owned and operated by the Montgomery County School System in the course of or related to or as a result of performance of this Agreement to the degree or extent so caused.

8. Limitation of Damages. The parties agree that they are bound by Section 7, however should Section 7 be deemed unenforceable for any reason, the total liability of K2 to the Montgomery County School System under this Agreement for all damages, costs, and expenses, including reasonable attorney's fees, shall not exceed the compensation received by K2 under this Agreement. NEITHER PARTY TO THIS AGREEMENT SHALL BE LIABLE FOR THE



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OTHER'S LOST PROFITS OR SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF THE PARTY HAS BEEN ADVISED BY THE OTHER PARTY OF THE POSSIBILITY OF SUCH DAMAGES. Once this Agreement is signed, these terms shall survive any termination and will remain effective for all purposes.

9. Notices. All notices and other communications in connection with this Agreement shall be in writing and shall be considered given as follows: (a) when delivered personally to the recipient's address as stated on this Agreement; (b) three days after being deposited in the United States mail, with postage prepaid to the recipient's address as stated on this Agreement; or (c) when sent by fax or electronic mail, such notice is effective upon receipt provided that a duplicate copy of the notice is promptly given by first class mail, or the recipient delivers a written confirmation of receipt.

10. No Partnership. This Agreement does not create a partnership relationship. Neither party has authority to enter into contracts on the other's behalf.

11. Exclusive Agreement. This Agreement is the entire agreement between K2 and Montgomery County School System.

12. Modifying the Agreement. This Agreement may be modified only by a writing signed by both parties.

13. Applicable Law and Venue. Any lawsuit arising out of this Agreement shall be filed in the State of North Carolina, County of Moore, and the substantive law of the State of North Carolina shall apply in that action without regard to the conflict of the law rules of that state. If any portion of this Agreement is found to be void or unenforceable by a Court, then the remaining document shall remain in full force and effect.

14. Points of Contact. The technical and contractual point of contact for the Montgomery County School System is Dr. Richard Ellis, Superintendent, 441 Page Street, Troy, NC 27371. The contractual point of contact for K2 is Rick Riordan, Contracts Officer, 5735 US Highway 1 North, Southern Pines, 28387. The technical point of contact for K2 is Darrell Hagan, Canine Trainer, 5735 US Highway 1 North, Southern Pines, NC 28387.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]



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IN WITNESS WHEREOF, the Parties have executed this Agreement in duplicate originals as of the dates set forth herein below, with an Effective Date as previously set forth herein above.

MONTGOMERY COUNTY SCHOOL SYSTEM

By: _____

Signature

Typed or Printed Name: Dr. Richard Ellis

Title: Superintendent of the Montgomery County School System

Date: _____

K2 SOLUTIONS, INC.

By: _____

Signature

Typed or Printed Name: _____

Title: _____

Date: _____