

Contract Committee Review Request  
 MUST BE COMPLETED IN FULL

Date: July 27, 2022

Contract/Agreement Vendor: Great Minds Martha Morgan

Name of Vendor & Contact Person

maartha.morgan@greatminds.org

Vendor Email Address

Great Minds will provide Eureka Math professional development for BAPS teachers of sixth-twelfth grade math.

Describe Contract (Technology, program, consultant-prof Development, etc.)

Please use Summary below to fully explain the contract purchase, any titles, and details for the Board of Education to review.

BAPS Math Teachers of Sixth-Twelfth Grade Students

Reason/Audience to benefit

August 8, 2022 \$7,800.00


BOE Date Amount of agreement

Person Submitting Contract/Agreement for Review: Sharon James

**PLEASE SEND THROUGH APPROPRIATE APPROVAL ROUTING BEFORE SENDING TO BOARD CLERK**

Principal **&/or** Director or Administrator: 

Does this Contract/Agreement utilize technology? YES/NO  
 If yes, Technology Admin:  

Leadership Team Member: 

Funding Source: 11/121 121-2213-359-100-1320-000-sites

Fund/Project OCAS Coding

<input checked="" type="checkbox"/> <b>Consent</b>	Accept and approve the NEW agreement between Broken Arrow Public Schools and Great Minds. Great Minds will provide, in person, Eureka Math professional development to Broken Arrow Public School Math teachers of sixth through twelfth grade students. The professional development sessions will set new educators up for success with Eureka Math and will help experienced educators improve implementation of the Math Curriculum.
<input type="checkbox"/> <b>Action</b>	The cost to the District is \$7,800.00 and will be paid with Title IIA Funds./ S.James

**Summary** This area must be complete with full explanation of contract

*The Contract/Agreement should be received at least 2 weeks prior to a Board Meeting to ensure placement on the Agenda. The Contract Committee meets most Tuesdays at 8:00a.m. All Contracts/Agreements, regardless the amount, must be first approved by the Contract Committee and then presented to the Board of Education for approval and signature. The item will be placed on Electronic School Board for the board agenda by Janet Brown. By following this process, the liability of entering into an agreement is placed with the district rather than an individual.*



every child  
is capable of  
greatness

**Great Minds Quote**

Date	July 20, 2022	Quote Number	00226215
Expiration Date		Contact Name	Sharon James
Prepared By	Martha Morgan	Phone	9182595700
Email	martha.morgan@greatminds.org	Email	sjames@baschools.org
Bill to Name	Broken Arrow Public Schools	Ship to Name	Broken Arrow Public Schools
Bill To	701 S Main St Broken Arrow, OK 74012	Ship To	1810 W DETROIT ST BROKEN ARROW, OK 74012

**Make Payment to:**  
Great Minds PBC Tax ID: 84-3785772

**Phone:** 202.223.1854  
**Email:** ordertracking@greatminds.org

**Mail payment to:**  
Great Minds PBC  
P.O. Box 200283  
Pittsburgh, PA 15251-0283

**Wire/ACH** details are available by visiting this link: <https://digitalsupport.greatminds.org/s/ach-instructions>

Eureka - PD	ISBN	Quantity	List Price	Discount	Total Price
Grade Multiple					
Eureka Math PL: Launch 6-12 (On-Site)	GM-01935	1.00	\$3,900.00	0.00%	\$3,900.00
Eureka Math PL: Preparation and Customization 6-12 (On-Site)	GM-01939	1.00	\$3,900.00	0.00%	\$3,900.00

Eureka Math PL: Launch 6-12 (on-site) September 8th, 2022 or another agreed upon date by both parties.

Eureka Math PL: Preparation and Customization 6-12 (on-Site) September 12th, 2022 or another agreed upon date by both parties.

	PD	\$7,800.00
Solution Subtotal		\$7,800.00
Discount		(\$0.00)
Shipping and Handling		\$0.00
<b>*Pre-Tax Solution Total</b>		<b>\$7,800.00</b>
Estimated Sales Tax		\$0.00
Estimated S&H Tax		\$0.00
Total Solution:		<b>\$7,800.00</b>

This Quote is governed by the Terms and Conditions at <https://greatminds.org/customer-quote-terms> which are hereby incorporated by reference as if fully set forth herein.

*\*Tax Exemption: If Customer is exempt from paying any or all taxes, customer shall provide written evidence of such tax exemption issued by the applicable taxing authority.*

## GREAT MINDS PBC TERMS AND CONDITIONS OF SALE

### 1) Applicability.

- a) These terms and conditions of sale (these “**Terms**”) govern the sale of goods (“**Goods**”) and the performance of all services (“**Services**”) by Great Minds PBC or any affiliate identified on a Sales Confirmation (as this and all capitalized terms are defined herein) (“**Seller**”), to the purchaser (“**Customer**”).
- b) Any invoice, statement of work, quote or other document referencing these terms (each a “**Sales Confirmation**” and together with these Terms, collectively, this “**Agreement**”) constitute the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. Customer’s issuance of a purchase order in response to the Sales Confirmation constitutes acceptance of these Terms. These Terms prevail over any of Customer’s general terms and conditions of purchase regardless whether or when Customer has submitted its purchase order or such terms. Fulfillment of Customer’s order does not constitute acceptance of any of Customer’s terms and conditions and does not serve to modify or amend these Terms. By issuing a purchase order in response to a Sales Confirmation, notwithstanding any terms included therein, Customer expressly waives any argument or claim that its purchase order terms should apply to the Sales Confirmation, these Terms or this Agreement. To the extent not readily apparent to Seller in Customer’s purchase order, upon request of Seller, Customer shall issue a supplemental purchase order including a list of Goods and Services to be purchased including, for books, the ISBN; (b) if applicable, the quantity of Goods or Services ordered; (c) the requested delivery date; (d) the pricing (exclusive of tax, if any); and (e) Seller’s Delivery Point (as defined below). Such supplemental purchase order shall not otherwise amend these Terms or this Agreement.
- c) The terms and conditions set forth at <https://greatminds.org/digital-terms-conditions> (the “**Digital Services Terms**”) shall apply with respect to Services made available electronically or digitally (“**Digital Services**”) and Customer agrees the Digital Services Terms with respect to its receipt of Digital Services. In the event of a conflict between these Terms and the Digital Services Terms, these Terms shall control.

### 2) Delivery of Goods and Services.

- a) Goods will be delivered within a reasonable time after the receipt of Customer’s purchase order, subject to availability of finished Goods. Seller shall not be liable for any delays, loss or damage in transit.
- b) Unless otherwise agreed in writing by the parties, Seller shall deliver the Goods to Seller’s fulfillment location (the “**Delivery Point**”) using Seller’s standard methods for packaging and shipping such Goods. Customer shall be responsible for all unloading costs and provide equipment and labor reasonably suited for receipt of the Goods at the Delivery Point.
- c) Seller may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Customer. Each shipment will constitute a separate sale, and Customer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Customer’s purchase order.
- d) If for any reason Customer fails to accept delivery of any of the Goods on the date fixed pursuant to Seller’s notice that the Goods have been delivered at the Delivery Point, or if Seller is unable to deliver the Goods at the Delivery Point on such date because Customer has not provided appropriate instructions, documents, licenses or authorizations: (i) if and to the extent it has not already done so, risk of loss to the Goods shall pass to Customer; (ii) the Goods shall be deemed to have been delivered; and (iii) Seller, at its option, may store the Goods until Customer picks them up, whereupon Customer shall be liable for all related costs and expenses (including, without limitation, storage, re-delivery and insurance).
- e) Digital Services shall be delivered digitally subject to the Digital Service Terms. If Seller has

agreed to provide in-person services (e.g., Professional Development Services) in a Sales Confirmation and Customer later requests that such services be delivered virtually, electronically, or remotely, Customer will be charged and responsible for payment for the services at the higher of: (A) the then applicable “virtual” rate, or (B) the “in-person” rate in the Sales Confirmation.

3) Non-Delivery.

- a) The quantity of any installment of Goods as recorded by Seller on dispatch from Seller’s place of business is conclusive evidence of the quantity received by Customer on delivery unless Customer can provide conclusive evidence proving the contrary.
- b) The Seller shall not be liable for any non-delivery of Goods (even if caused by Seller’s negligence) unless Customer gives written notice to Seller of the non-delivery within five (5) days of the date when the Goods would in the ordinary course of events have been received.
- c) Any liability of Seller for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or adjusting the invoice respecting such Goods to reflect the actual quantity delivered.

4) Shipping Terms All deliveries are FOB shipping point.

5) Title and Risk of Loss. Title and risk of loss passes to Customer at the Delivery Point.

6) Inspection and Rejection of Nonconforming Goods; Returns.

- a) Customer shall inspect the Goods within ten (10) business days of receipt (“**Inspection Period**”). Customer will be deemed to have accepted the Goods unless it notifies Seller in writing of any Nonconforming Goods during the Inspection Period and furnishes such written evidence or other documentation as required by Seller. “**Nonconforming Goods**” means only the following: (i) Goods shipped are different than identified in Customer’s purchase order; or (ii) Goods’ labels or packaging incorrectly identifies its contents, or (iii) Goods contain material defects in material or workmanship.
- b) If Customer timely notifies Seller of any Nonconforming Goods, Seller shall, in its sole discretion, (i) replace such Nonconforming Goods with conforming Goods, or (ii) credit or refund the Price for such Nonconforming Goods, together with any reasonable shipping and handling expenses incurred by Customer in connection therewith. Customer shall ship, at Seller’s expense, the Nonconforming Goods to Seller’s facility. If Seller exercises its option to replace Nonconforming Goods, Seller shall, after receiving Customer’s shipment of Nonconforming Goods, ship to Customer, at Seller’s expense, the replacement Goods to the Delivery Point.
- c) Customer acknowledges and agrees that the remedies set forth in Section 6(b) above are Customer’s exclusive remedies for the delivery of Nonconforming Goods. Except as provided under Section 6(b) and Section 6(d), all sales of Goods to Customer are made on a one-way basis and Customer has no right to return Goods purchased under this Agreement to Seller.
- d) Customer may return Goods, provided any returned goods must be received by Seller within forty-five (45) days of their initial receipt by Customer. Each return will be subject to a \$50 return processing fee as well as a restocking fee equal to 10% of the Price paid by the Customer for the Goods. Customer shall pay all shipping and handling charges necessary to return Goods to the Seller and shall be liable for risk of loss for return shipments. Customer shall complete any forms reasonably requested by Seller in connection with the return.

7) Intellectual Property.

- a) “Intellectual Property Rights” means all (a) patents, patent disclosures, and inventions (whether patentable or not), (b) trademarks, service marks, trade dress, trade names, logos, corporate names, and domain names, together with all of the goodwill associated therewith, (c) copyrights and copyrightable works (including computer programs), including derivative works, and rights in data or databases, (d) trade secrets, know-how, and other confidential information, and (e) all other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or

forms of protection in any part of the world. “GM’s Intellectual Property Rights” means all Intellectual Property Rights owned by or licensed to GM. The parties acknowledge and agree that GM shall own all right, title, and interest in and to the Intellectual Property Rights in and to all documents, work product, and all other materials and media in any form or format that are delivered to Customer under this Agreement or prepared by or on behalf of GM in the course of performing Services (“Deliverables”).

- b) Customer acknowledges and agrees that:
    - i) any and all of GM’s Intellectual Property Rights are the sole and exclusive property of GM or its licensors;
    - ii) Customer shall not acquire any ownership interest in any of GM’s Intellectual Property Rights under this Agreement;
    - iii) any goodwill derived from the use by Customer of GM’s Intellectual Property Rights inures to the benefit of GM or its licensors, as the case may be;
    - iv) if Customer acquires any Intellectual Property Rights, rights in or relating to any Goods (including any rights in any trademarks, derivative works, or patent improvements relating thereto) by operation of law or otherwise, such rights shall be deemed and hereby are irrevocably assigned to GM or its licensors, as the case may be, without further action by either of the parties; and
    - v) Customer shall use GM’s Intellectual Property Rights solely for purposes of using the Goods and Services under this Agreement and only in accordance with this Agreement and the instructions of GM from time to time, and such use shall be subject to quality control by GM.
  - c) Notwithstanding anything to the contrary herein, Customer shall not:
    - i) take (or fail to take) any action that might interfere with any of GM’s rights in or to GM’s Intellectual Property Rights, nor GM’s ownership or exercise thereof.
    - ii) make any unauthorized recordings or copies of GM’s Intellectual Property, Goods and/or Deliverables;
    - iii) challenge any right, title, or interest of GM in or to GM’s Intellectual Property Rights;
    - iv) make any claim or take any action adverse to GM’s ownership of GM’s Intellectual Property Rights;
    - v) engage in any action that tends to disparage, dilute the value of, or reflect negatively on the Goods, Services, or any GM’s trademarks;
    - vi) alter, obscure, or remove any of GM’s trademarks, or trademark or copyright notices, or any other proprietary rights notices placed on the Goods, Deliverables, marketing materials, or other materials that GM may provide;
    - vii) modify, alter, or otherwise change the materials that are the subject of GM’s Intellectual Property Rights.
- 8) Price.
- a) Customer shall purchase the Goods or Services, as applicable, from Seller at the price (the “**Price**”) set forth in this Agreement.
  - b) All Prices are exclusive of all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any governmental authority on any amounts payable by Customer. Customer shall be responsible for all such charges, costs and taxes; provided, that, Customer shall not be responsible for any taxes imposed on, or with respect to, Seller’s income, revenues, gross receipts, personnel or real or personal property or other assets.
- 9) Payment Terms.
- a) Seller will invoice Customer for Goods upon their delivery to the Delivery Point. Digital Services will be invoiced upon first delivery of the Digital Services. Services, other than Digital Services will be invoiced upon the earlier of (a) delivery of the Services, or (b) June 30 of the calendar year succeeding the year of the Sales Confirmation.

- b) Customer shall pay all invoiced amounts due to Seller within 30 days from the date of Seller's invoice. Customer shall make all payments hereunder by wire transfer and in US dollars.
  - c) Customer shall pay interest on all late payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Customer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under these Terms or at law (which Seller does not waive by the exercise of any rights hereunder), Seller shall be entitled to suspend the delivery of any Goods if Customer fails to pay any amounts when due hereunder and such failure continues for 30 days following written notice thereof.
  - d) Customer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller, whether relating to Seller's breach, bankruptcy or otherwise.
  - e) Seller may refuse to fulfill orders or terminate any Sales Confirmation, in its absolutely sole discretion, including if Customer is delinquent in its payment obligations under any of its agreements with Seller.
- 10) Limited Warranty.
- a) Subject to the terms of Section 6, Seller warrants to Customer that on the date of shipment of any Goods such Goods will materially conform to the specifications set forth in the Sales Confirmation and will be free from material defects in material and workmanship.
  - b) Other than Digital Services, Seller warrants to Customer that it shall perform any Services using personnel of required skill, experience, and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and shall devote adequate resources to meet its obligations under this Agreement.
  - c) **SELLER MAKES NO OTHER WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS OR SERVICES, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.**
  - d) Seller shall not be liable for a breach of the warranty set forth in Section 10(a) unless: (i) Customer gives written notice of the defect, reasonably described, to Seller within 10 days of the time when Customer discovers or ought to have discovered the defect and has otherwise complied with the terms of Section 6(a) (if applicable); (ii) Seller shall be given a reasonable opportunity after receiving the notice to examine such Goods and Customer (if requested to do so by Seller) returns such Goods to Seller's place of business at Seller's cost for the examination to take place there; and (iii) Seller reasonably verifies Customer's claim that the Goods are defective.
  - e) The Seller shall not be liable for a breach of the warranty set forth in Section 10(a) if: (i) Customer makes any further use of such Goods after giving such notice; (ii) the defect arises because Customer failed to follow Seller's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods; or (iii) Customer alters or repairs such Goods without the prior written consent of Seller.
  - f) In the case of the warranties set forth in Section 10(a) Customer's remedies shall be as set forth in Section 6.
  - g) In the case of the warranties set forth in Sections 10(b), Seller shall, in its sole discretion, either: (a) use its reasonable commercial efforts to reperform or cause to be reperformed any Services not in substantial compliance with these warranties, or (b) refund amounts paid by Customer related to the portion of Services not in substantial compliance.
  - h) **THE REMEDIES SET FORTH IN SECTIONS 10(f)-(g) SHALL BE THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTIES SET FORTH IN SECTION 10(a) or SECTION 10(b).**
- 11) Limitation of Liability.

- a) **IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.**
  - b) **IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, IRRESPECTIVE OF THE GOODS OR SERVICES SOLD AND WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED \$100,000.00.**
  - c) The limitation of liability set forth in Section 11(b) above shall not apply to (i) liability resulting from Seller's gross negligence or willful misconduct and (ii) death or bodily injury resulting from Seller's acts or omissions.
- 12) **Waiver.** No waiver by Seller of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.
- 13) **Force Majeure.** The Seller shall not be liable or responsible to Customer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Seller including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lockouts, strikes or other labor disputes or shortages (impacting either Seller or its vendors), or restraints or delays affecting carriers or Seller's ability (or inability) or delay in obtaining supplies of adequate or suitable materials (including any such shortages or delays caused by COVID-19), materials or telecommunication breakdown or power outage.
- 14) **Assignment.** Customer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Seller. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Customer of any of its obligations under this Agreement.
- 15) **Relationship of the Parties.** The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.
- 16) **No Third-Party Beneficiaries.** This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.
- 17) **Governing Law.**
- a) The construction and validity of these Terms and this Agreement shall be governed by the laws of the state where Customer is located, without giving effect to its conflict of laws rules, regardless of where any order was placed or filed, the place of performance of the Services or delivery of reports, or where any other act or performance occurred. Where Customer is not located in the United States or is not formed, incorporated, or organized under the laws of a State, possession or



territory of the United States, the Terms and this Agreement shall be governed by the laws of Delaware without giving effect to its conflict of laws rules.

- b) All Services provided by Seller shall be deemed to be provided in the state where the Customer is located. Customer agrees to the exclusive jurisdiction of the federal and state courts located in the state where the Customer is located, with respect to the adjudication of any dispute arising out of or in connection with the provision of the Services or these Terms. Where Customer is not located in the United States or is not formed, incorporated, or organized under the laws of a State, possession or territory of the United States, the parties agree to the exclusive jurisdiction of the state and federal courts located in Delaware.
- 18) Notices. All notices, request, consents, claims, demands, waivers and other communications hereunder (each, a “**Notice**”) shall be in writing and addressed to the parties at the addresses set forth on the face of the Sales Confirmation or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.
- 19) Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.
- 20) Equitable Relief. Customer acknowledges and agrees that (a) a breach or threatened breach by Customer of any of its obligations hereunder would give rise to irreparable harm to Seller for which monetary damages may not be an adequate remedy and (b) in the event of a breach or a threatened breach by Customer of any such obligations, Seller shall, in addition to any and all other rights and remedies that may be available to Seller at law, at equity, or otherwise in respect of such breach, be entitled to equitable relief, including a temporary restraining order, an injunction, specific performance, and any other relief that may be available from a court of competent jurisdiction, without any requirement to post a bond or other security, and without any requirement to prove actual damages or that monetary damages will not afford an adequate remedy. Customer shall not oppose or otherwise challenge the appropriateness of equitable relief or the entry by a court of competent jurisdiction of an order granting equitable relief, in either case.
- 21) Waiver, Amendment or Modification. No waiver, amendment, or modification of these Terms nor this Agreement shall be valid or binding unless in a writing specifically referencing these terms and signed by both Customer and Seller. Waiver by either party of any breach or default of any provision of these Terms or this Agreement by the other party shall not operate as a waiver of any previous or future default or breach of the same or different provision of these Terms or this Agreement.