

BROKEN ARROW PUBLIC SCHOOLS

Educating Today

Leading Tomorrow



Contract Committee Review Request

MUST BE COMPLETED IN FULL

Date: 9-27-21

Contract/Agreement Vendor: The Cotton Gallery, LTD

Name of Vendor: Eric Hubbell Phone Number: 319-373-0068

Contact Person: 799 44th St. Address: Marion IA 52302

City: _____ State: _____ Zip: _____

Email address: ehubbell@cottongallery.com

Date of services: 2021-22 FY

IS THIS A NEW VENDOR? IF SO, PLEASE PROVIDE :
 W9 _____
 And _____
 Vendor Registration _____

Person Submitting Contract/Agreement for Review: Christina Dixon, ESC
 Name: _____ Site: _____

Reason for Review: (New Agreement, Renewal...): Renewal

Audience/Group to benefit from Contract/Agreement: Students, parents, staff

Routing Approval: PLEASE SEND TO APPROPRIATE LEADERSHIP TEAM MEMBER BEFORE SENDING TO STACIE CHASE

Principal and Director or Administrator: _____
 Signature: _____

Does this Contract/Agreement utilize technology? No Yes

Has it been reviewed by the Chief Technology Officer? No Yes

If yes, Approved by: _____
 (Signature) Technology / Approval

Leadership Team Member: _____
 Signature

Funding Source: _____
 Description OCAS Coding

- Process: PLEASE FOLLOW ALL STEPS
- 1. The Contract/Agreement is reviewed and approved by site Principal/ Director/ Administrator.
 - 2. If Technology related, the Contract/Agreement is reviewed and approved Technology.
 - 3. Prepare Board Agenda Memorandum and attach to Contract/Agreement.
 - 4. Begin the requisition process and place a comment in the Notes section that says, "Please hold req pending board approval on _____"
 Date of Board Meeting
 - 5. Attach this form with Contract/Agreement and Board Memo
 - 6. **The appropriate Leadership Team Member will review and submit to the Contract Committee**
 - 7. Keep copy for your records

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 8:30a.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 Stacie Chase. By following this process, the liability of entering into an agreement is placed with the district rather than an individual.

MEMORANDUM

To: Dr. Janet Vinson
Lori Kerns

From: Christina Dixon

Date: 10-11-21

Re: Logo Agreement Renewal for Cotton Gallery

SUBJECT

Accept and approve the RENEWAL of the Non-Exclusive Licensing Agreement between Broken Arrow Public Schools and The Cotton Gallery to pay a royalty fee of \$1,000.00 annually for logo usage per the agreement. There is no cost to the District. C. Dixon

ENCLOSURES/ATTACHMENTS

Renewal Agreement

SUMMARY

FUNDING

N/A

RECOMMENDATION

Approve

Broken Arrow Public Schools Non-Exclusive Licensing Agreement

This licensing agreement (the "Agreement") made and entered as of September 28th 2021, by and between Independent School District No. 3 of Tulsa County, Oklahoma, a/k/a Broken Arrow Public Schools, an Oklahoma political subdivision ("Licensor"), and Cotton Gallery, Ltd.

("Licensee").

RECITALS:

WHEREAS, Licensor has adopted and is using the school names, designs, trademarks and logos ("Licensor's Marks") attached hereto as Exhibit "A"; and

WHEREAS, Licensor's Marks are registered with the Oklahoma Secretary of State and are entitled to trademark protection under Common, Oklahoma, and federal law; and

WHEREAS, Licensee desires to use Licensor's Marks on merchandise produced, manufactured, or sold by Licensee.

NOW, THEREFORE, in consideration of the mutual promises herein contained, it is agreed that:

1. **Grant of License** – The Licensor hereby grants to the Licensee a non-exclusive, non-transferable, right and license to use the Licensor's Marks on or in connection with the manufacture, distribution, or sale of the following merchandise: T-shirts, sweatshirts, mugs, keychains, hats, and other agreed upon merchandise ("Merchandise"). All rights not specifically granted and licensed to the Licensee hereunder are reserved by the Licensor.
2. **Licensing Fee** – Prior to using the Licensor's Marks, the Licensee shall pay the Licensor a royalty fee of \$1,000 annually.
Those businesses owned and operated in Broken Arrow City limits shall pay a reduced royalty fee of \$500 annually. Licensing fee shall be made payable to:

*Broken Arrow Public Schools
701 S. Main Street
Broken Arrow, OK 74012
Attn: Accounts Payable*

3. **Ownership and Title** – Licensee hereby acknowledges the validity of the Licensor's title and ownership of the Licensor's Marks and agree not to contest or in any way dispute said title and ownership. Licensee acknowledges the existence and value of Licensor's good will in the Licensor's Marks and that the goodwill generated by Licensee shall inure to the benefit of Licensor and shall be the exclusive property of Licensor, regardless of the duration of this license, or the extent of use of Licensor's Marks by Licensee.

4. **Quality Control** – The Licensee shall only use the Licensor’s Marks in connection with products meeting the standards, specifications and qualities established by, or reasonably acceptable to, the Licensor. The Licensor shall have the right, at reasonable times, to inspect, from time to time, the Licensee’s goods employing the Licensor’s Marks to determine that they are of the proper and acceptable quality. Before initial printing of Licensor’s Marks on any garment or product, Licensee shall be required to deliver a sample copy or prototype of the Licensed Merchandise to Licensee’s Public Information Officer, or designee, at the Notice Address for Licensor’s prior approval. No use of Licensor’s marks or sale of Licensed Merchandise shall be made prior to receipt of such approval.
5. **Trademark Designation**– Depictions of the Licensor’s Marks which are based on trademarks or servicemarks of Broken Arrow Public Schools shall be exhibited with a notification of trademark. Such notification shall consist of ®.
6. **No Agency or Endorsement** – Licensee agrees that it will not state or imply that Licensees products are endorsed, supported by, or sponsored by Licensor. Nothing contained herein shall be deemed to create an agency, joint venture, franchise or partnership relationship between the parties and neither party shall hold itself out as such.
7. **Indemnification and Hold Harmless Provision** – Licensee shall defend, indemnify, and hold harmless Licensor, its officers, employees and agents from and against any losses and expenses (including attorneys’ fees, expert witness fees, and other costs and expenses), claims, suits, or other liability, including claims based on product liability, resulting from injury to or death of any person or damage to property arising out of or in any way connected with the use of the license granted by this Agreement, provided such injuries to persons or damage to property are due to the acts or omissions of Licensee, its officers, employees, or agents, or the products manufactured or sold by Licensee.
8. **Termination** – Licensor shall have the right to terminate this Agreement upon breach of any of its terms by Licensee, and such termination shall be effective immediately upon occurrence of the breach. Licensor may terminate the agreement immediately upon the occurrence of any of the following, including (i) non-payment of any royalties, fees, or costs required to be paid under this Agreement; (ii) the insolvency (however expressed or indicated), or bankruptcy of the Licensee; (iii) any assignments or receivership of, whether in or out of court, or any proceedings in bankruptcy or for the relief of debtors or readjustment of debts filed by or against Licensee; (iv) any use of the Licensor’s Marks in a manner which does not meet the standards of the Licensor or which are unacceptable to Licensor; or (v) upon failure of the Licensee to keep and perform any covenant herein contained. In addition, Licensor and Licensee shall have the right to terminate this Agreement at any time, with or without cause, by providing ninety (90) days’ prior written notice to the other party. Upon termination, Licensee shall cease all use of the Licensor’s Marks and all further sale of Licensed Merchandise.
9. **Term of Agreement** – The initial term of this Agreement shall be for one (1) year, July 1 through June 30. Thereafter, this Agreement will automatically renew for consecutive one (1) year periods, unless either party notifies the other not less than thirty (30) days prior to the end of the initial or any subsequent renewal term of that party’s intention not to renew the Agreement for an additional year.

10. **Infringement** – Licensee agrees to inform Licensor of any known use of Licensor’s Marks by any third party which is not using the Licensor’s Marks under a license with the Licensor.

(a) **Notice.** Any notice permitted or required to be given under the terms of this Agreement shall be deemed to have been received when delivered in person or when mailed by registered first class mail, return receipt requested to the address given below, or to such other address as may be designated from time to time during the term of this Agreement (the “Notice Address”).

If to Licensor: Broken Arrow Public Schools
701 S. Main Street
Broken Arrow, OK 74012
Attn: Chief Communications Officer

If to Licensee: Cotton Gallery, Ltd
799 44th Street
Marion, IA 52302

11. **Miscellaneous** –

(a) **Claims** – In any action to enforce the terms and conditions of this Agreement or to recover damages for its breach, the prevailing party shall be entitled to recover its attorneys’ fees expended, expert witness fees, mediation fees and all other costs and expenses associated with the claim or cause of action from the non-prevailing party. Furthermore, this Agreement shall be construed, interpreted and enforced in accordance with the laws of the State of Oklahoma, and any claim or cause of action, of any nature, relating to this Agreement, shall be brought in any court of competent jurisdiction having Tulsa, Oklahoma, within its judicial circuit or district.

(b) **Non-Assignment** – This Agreement may not be assigned by Licensee to any person, firm, corporation, trustee, receiver or any other person capable of receiving an assignment, without the prior written consent of the Licensor.

(c) **Authority to Enter Into Agreement** – Licensor and Licensee represent that the representative signing this Agreement on its behalf is duly authorized and has full authority to execute and deliver this Agreement on their behalf.

(d) **Entire Agreement** – This Agreement constitutes the entire agreement of the parties with regard to the subject matters addressed herein. The Agreement supersedes all prior or contemporaneous agreements, discussions or representations, whether oral or written. This Agreement cannot be amended, except by a writing signed by all parties.

(e) **Enforceability** – If any provision of this Agreement should be held unenforceable or invalid for any reason by a court of competent jurisdiction, such provision shall be modified or deleted in such a manner as to render this Agreement, as modified, legal and enforceable to the maximum extent permitted by law.

INDEPENDENT SCHOOL DISTRICT NO. 3 OF TULSA COUNTY,
OKLAHOMA, a/k/a BROKEN ARROW PUBLIC SCHOOLS

By: _____
President, Board of Education - "LICENSOR"

Date: _____

By:  (Michael B. Stromert)
"LICENSEE"

Name: The Cotton Gallery Ltd

Title: President

Date: 9/28/2021