



Contract Committee Review Request
MUST BE COMPLETED IN FULL

Date: 11-30-22

Contract/Agreement Vendor:
Name of Vendor & Contact Person

Vendor Email Address

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.

Reason/Audience to benefit

BOE Date

Amount of agreement

Person Submitting Contract/Agreement for Review:

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:
Fund/Project

OCAS Coding

☒ **Consent**

☐ **Action**

Accept and approve the Non-Exclusive Licensing Agreement between Broken Arrow Public Schools and The Teal Brush to pay a royalty fee of \$250 annually for logo usage per the agreement. There is no cost to the District.

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.

**Broken Arrow Public Schools
Non-Exclusive Licensing Agreement - Crafters**

This licensing agreement (the "Agreement") made and entered as of 12-5, 2022, 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 The Teal Brush LLC ("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, Licensor supports a program for "local crafters" that supports creativity while maintaining the integrity of the district's brand and preventing the sale of infringing products; and

WHEREAS, A crafter is defined as an individual producing domestic handcrafted items in the home or small business setting and selling/distributing to individual consumers via events or direct sales. This might include events organized by a church, school, county, state, crafting entertainment venue, holiday, or street festivals; and

WHEREAS, Local is defined as within the boundaries of the Broken Arrow School district or within 20 miles of its boundaries; 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:
 - a. Items must be hand-made by the Licensee or their customers as part of a crafting experience; no commercially manufactured items are allowed.
 - b. No apparel is allowed, nor is the Licensee permitted to use the district logo in the creation of products that will directly compete with items sold in the district's official spirit store, Tiger Threads.
 - c. A Crafter License allows for sales to individual consumers only, not via wholesale, third party-retailers or at crafter malls.
 - d. No more than (1,000) units may be sold per year and less than (\$5,000) total sales per agreement period.

- e. No sales will be permitted at crafter malls, on a wholesale basis or to a third-party retailer; and
 - f. 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 \$250 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 service marks of Broken Arrow Public Schools shall be exhibited with a notification of trademark.
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** – Licensors 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. Licensors 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 Licensors's Marks in a manner which does not meet the standards of the Licensors or which are unacceptable to Licensors; or (v) upon failure of the Licensee to keep and perform any covenant herein contained. In addition, Licensors 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 Licensors'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. 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 Licensors of any known use of Licensors's Marks by any third party which is not using the Licensors's Marks under a license with the Licensors. __

(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 Licensors: Broken Arrow Public Schools
701 S. Main Street
Broken Arrow, OK 74012
Attn: Chief Communications Officer

If to Licensee:

The TealBrush LLC
8373 S. Memorial Dr.
Tulsa, OK 74133
Attn: Lauren Edwards, owner

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.

(f) **Limitations** – All commercial requests for licensing must be approved by the Broken Arrow Board of Education, which meets monthly. Until a signed copy of the board-approved contract is received by the requestor, the vendor is not authorized to use the district's name and/or logos. This crafter's license is in no way affiliated with the district's tax ID number, and that number may not be utilized by vendors participating in this program.

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

By: _____

President, Board of Education - "LICENSOR"

Date: _____

By:  _____

"LICENSEE"

Name: Lauren Edwards

Title: owner

Date: 11-28-22