

STATE OF TEXAS §

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COUNTY OF FORT BEND §

**THIRD RENEWAL TO AGREEMENT
FOR ONLINE HOMEWORK TUTOR FOR LIBRARIES (RFP 22-002)**

This Third Renewal to Agreement for Online Homework Tutor for Libraries (“Renewal”) is entered into by and between Fort Bend County, (“County”), a body corporate and politic under the laws of the State of Texas, and Brainfuse, Inc. (“Brainfuse”), a company authorized to conduct business in the State of Texas (hereinafter collectively referred to as the “parties”).

WHEREAS, the parties have previously executed Brainfuse’s Agreement for Online Homework Tutor for Libraries on or about September 7, 2021 pursuant to RFP 22-002, which was subsequently amended on or about August 23, 2022 and August 22, 2023, (hereinafter collectively referred to as the “Agreement”), incorporated by reference as if set forth verbatim; and

WHEREAS, County desires to renew the Agreement for an additional term, for continued online homework tutor services for libraries pursuant to RFP 22-002.

NOW THEREFORE, County and Brainfuse do mutually agree as follows:

1. **Term.** The Agreement shall be renewed for an additional one (1) year term starting October 1, 2024 and ending September 30, 2025.
2. **Maximum Compensation.** The Maximum Compensation for the performance of online homework tutor services (“Services”) during the additional one (1) year term shall be Ninety-Five thousand dollars and 00/100 (\$95,000.00), as outlined in Exhibit B for year four (4) in the original agreement, incorporated herein by reference. In no case shall the amount paid under this Renewal exceed the Maximum Compensation without an approved amendment.
3. **Applicable Law; Arbitration; Attorney Fees.** The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the County’s sovereign immunity. County does not agree to submit disputes arising out of the Agreement to binding arbitration. Therefore, any references to binding arbitration or the waiver of a right to litigate a dispute are hereby deleted. County does not agree to pay any and/or all attorney fees incurred by Brainfuse in any way associated with the Agreement.
4. **Certain State Law Requirements for Contracts.**

The contents of this Section are required by Texas Law and are included by County regardless of content. For purposes of Sections 2252.152, 2271.002, and 2274.002, Texas Government Code, as amended, Brainfuse hereby verifies that CSS and any parent company, wholly owned subsidiary, majority-owned subsidiary, and affiliate:

 - a. Unless affirmatively declared by the United States government to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization, is not identified on a list prepared and maintained by

the Texas Comptroller of Public Accounts under Section 806.051, 807.051, or 2252.153 of the Texas Government Code.

- b. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, Brainfuse does not boycott Israel and is authorized to agree in such contracts not to boycott Israel during the term of such contracts. "Boycott Israel" has the meaning provided in § 808.001 of the Texas Government Code.
 - c. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, Brainfuse does not boycott energy companies and is authorized to agree in such contracts not to boycott energy companies during the term of such contracts. "Boycott energy company" has the meaning provided in § 809.001 of the Texas Government Code.
 - d. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, Brainfuse does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and is authorized to agree in such contracts not to discriminate against a firearm entity or firearm trade association during the term of such contracts. "Discriminate against a firearm entity or firearm trade association" has the meaning provided in § 2274.001(3) of the Texas Government Code. "Firearm entity" and "firearm trade association" have the meanings provided in § 2274.001(6) and (7) of the Texas Government Code.
5. **Human Trafficking.** BY ACCEPTANCE OF CONTRACT, BRAINFUSE ACKNOWLEDGES THAT FORT BEND COUNTY IS OPPOSED TO HUMAN TRAFFICKING AND THAT NO COUNTY FUNDS WILL BE USED IN SUPPORT OF SERVICES OR ACTIVITIES THAT VIOLATE HUMAN TRAFFICKING LAWS.
6. **Conflict.** In the event there is a conflict between this Renewal and the Agreement, this Renewal controls. Except as provided herein, all terms and conditions of the Agreement shall remain unchanged.
7. **Electronic and Digital Signatures.** The parties to the Agreement agree that the electronic and/or digital signatures of the parties included in the Agreement are intended to authenticate this writing and to have the same force and effect as the use of manual signatures.

{EXECUTION PAGE FOLLOWS}

{REMAINDER TO THE PAGE INTENTIONALLY LEFT BLANK}

IN WITNESS WHEREOF, this Renewal is signed, accepted, and agreed to by all parties by and through the parties or their agents or authorized representatives. All parties hereby acknowledge that they have read and understood this Renewal and the attachments and exhibits hereto. All parties further acknowledge that they have executed this legal document voluntarily and of their own free will.

FORT BEND COUNTY

BRAINFUSE, INC.

KP George, County Judge



Authorized Agent- Signature

Troy Weiman, Director of Accounts

Date

Authorized Agent- Printed Name

ATTEST:

Date: 7/26/2024

Laura Richard, County Clerk

AUDITOR'S CERTIFICATE

I hereby certify that funds in the amount of \$ 95,000.00 are available to pay the obligation of Fort Bend County within the foregoing Agreement.

Robert Ed Sturdivant, Fort Bend County Auditor

Exhibit B

BRAINFUSE PRICE PROPOSAL

FOR FORT BEND COUNTY LIBRARIES

Brainfuse will continue to provide Fort Bend County Libraries with unlimited use of its HelpNow services (as described in our proposal) at the following annual rates:

SERVICE DESCRIPTION	PRICE: YEAR 1	PRICE: YEAR 2	PRICE: YEAR 3	PRICE: YEAR 4	PRICE: YEAR 5
Unlimited use of our HelpNow services (as described in our proposal)	\$81,000	\$85,000	\$89,000	\$95,000	\$95,000

PLEASE NOTE THE FOLLOWING REGARDING OUR PRICING FOR FORT BEND COUNTY LIBRARIES:

Based on an average of 11,500-13,000+ sessions per year, market rates would result in estimated fees of over \$115,000 (at \$9-\$10 per session). In light of our history with Fort Bend, and its importance to us as a long-standing customer, we propose: 1) to cap our fees for unlimited access at \$95,000 for the length of this contract and its renewable years; and 2) in light of the difficulties that would be encountered by a library when it is asked to increase its budget dramatically in one year, we propose to gradually build in the increase, such that the Year 1 fee would be \$81,000, the Year 2 fee would be \$85,000; the Year 3 fee would be \$89,000 and the Years 4-5 fees would be \$95,000 per year.

We hope that the pricing structure above is sensitive to your budgetary concerns, while at the same time will provide both parties with a sustainable fee structure moving forward.

ADDITIONAL NOTES:

- There are **no** additional fees associated with Brainfuse services. All services outlined in this proposal are included in this quote. Also included is any set-up, future set-up, full technical support, training, and outreach.
- There are **no** administrative or startup costs with Brainfuse.
- There are **no** use limits.
- All upcoming services and enhancements will be included at **no** additional charge.
- All software upgrades are provided at **no** additional charge.
- HelpNow is designed as a student-initiated service, not as part of a school or class-wide mandated assignment.
- Payment options are available upon request.