SUWANNEE COUNTY SCHOOL BOARD
SPECIAL MEETING
August 8, 2017

AGENDA

Call to Order – Immediately following the Workshop

Chief Financial Officer – Vickie DePratter:

1. The Superintendent recommends approval of the following resolution for the 2017-2018 school year: (Note: This resolution has been reviewed and approved by Board Attorney Leonard Dietzen.)

   #2018-01R Resolution Affirming Participation in the Small School District Council Consortium (SSDCC) **(pgs. 4-5)**

2. The Superintendent recommends approval of the following contract/agreement for the 2017-2018 school year: (Note: This contract has been reviewed and approved by Board Attorney Leonard Dietzen.)

   #2018-66 Blue Cross and Blue Shield of Florida, Inc., Health Options, Inc., Accounting and Retention Agreement between Blue Cross Blue Shield of Florida, Inc. d/b/a Florida Blue and Health Options, Inc. and the School Board of Suwannee County (*Renewal*) **(pgs. 6-12)**

Assistant Superintendent of Instruction – Janene Fitzpatrick:

3. The Superintendent recommends approval of the following personnel items for the 2017-2018 school year: **(pg. 13)**

   a. Transfer one Teacher position from Suwannee High School to Suwannee Intermediate School
   b. Transfer one Paraprofessional position from Suwannee High School to Suwannee Intermediate School
   c. Transfer one Teacher position from Suwannee High School to Suwannee Elementary School
   d. Add one Paraprofessional position at Suwannee Elementary School

4. The Superintendent recommends approval of the following contracts/agreements for the 2017-2018 school year: (RENEW) (Note: These contracts have been reviewed and approved by Board Attorney Leonard Dietzen.)

#2018-62	Subscription, Services, and Hosting Agreement between Performance Matters LLC and Suwannee County School Board to facilitate access to the Performance Matters Assessment and Data Management System (*Renewal/Revised*) **(pgs. 14-23)**
#2018-68	Virtual Classroom and Web Administrator Agreement between Edgenuity Inc. and the School Board of Suwannee County (*Renewal/Revised*) **(pgs. 24-31)**
#2018-69	Virtual Instruction Provider Agreement between Edgenuity Inc. and the School Board of Suwannee County (*Renewal/Revised*) **(pgs. 32-51)**

Director of Curriculum and Instruction – John Olson:

5. The Superintendent recommends approval of the following contract/agreement for the 2017-2018 school year: (NEW) (Note: This contract has been reviewed and approved by Board Attorney Leonard Dietzen.)

#2018-70	State of Florida Statewide Voluntary Prekindergarten Provider Contract between the Early Learning Coalition of Florida's Gateway and Suwannee County School Board (*Renewal/Revised*) **(pgs. 52-71)**

Director of Facilities – Mark Carver:

6. The Superintendent recommends approval of the following resolution for the 2017-2018 school year: (Note: This resolution has been reviewed and approved by Board Attorney Leonard Dietzen.)

#2018-04R	Resolution of the School Board of Suwannee County, Florida, determining that property described as part of the Southeast ¼ of the Southwest ¼ of Section 26, Township 2 South, Range 13 East, Suwannee County, Florida, is no longer eligible or practical for educational and ancillary purposes and should be disposed of by the most economic means. **(pgs. 72-76)**

Director of Human Resources – Walter Boatright:

7. Personnel Changes List **(pgs. 77-78)**

Adjourn

SUWANNEE COUNTY SCHOOL DISTRICT

702 – 2nd Street, NW • Live Oak, Florida 32064
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www.suwannee.k12.fl.us

TED L. ROUSH
Superintendent of Schools

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DISTRICT 1

CATHERINE CASON
DISTRICT 2

TIM ALCORN
DISTRICT 3

ED DA SILVA
DISTRICT 4

RONALD WHITE
DISTRICT 5

LEONARD J. DIETZEN, III
BOARD ATTORNEY

MEMORANDUM

TO: Ted L. Roush, Superintendent of Schools TR/BP

FROM: Vickie DePratter, Chief Financial Officer VND

DATE: August 3, 2017

RE: Agenda Item for August 8, 2017, Special Meeting

RECOMMENDATION:

The Superintendent recommends approval of the following resolution for the 2016-2017 school year:

#2018-01R Resolution Affirming Participation in the Small School District Council Consortium

BACKGROUND:

The Suwannee County School Board annually participates in the Small School District Council Consortium (SSDCC). Membership and support in the SSDCC is important in terms of representing the needs of Florida's small districts, especially as the Florida Legislature continues to struggle with a difficult economy. The purpose of the SSDCC is to influence small district legislative priorities. In reviewing the past 25 years, the record demonstrates where the SSDCC has successfully influenced education funding, statutes, and state policy.

The fee to participate in 2017-2018 remains at the prior year level of $2,850. This fee is for the annual services associated with the SSDCC.

RESOLUTION
AFFIRMING PARTICIPATION IN THE SMALL SCHOOL DISTRICT COUNCIL CONSORTIUM

WHEREAS, the Suwannee County School Board believes there is a need to have educational information, interpretation, and consultation on issues relating to small and rural communities that is not independently available, and

WHEREAS, the cost of providing such services independently for the School Board would make the cost prohibitive, and

WHEREAS, the needed services are provided through the Small School District Council Consortium, and

WHEREAS, the Suwannee County School District has participated in the consortium in previous years by official action of the Board and payment of the annual fee,

NOW THEREFORE BE IT RESOLVED that the Suwannee County School Board authorizes the participation in the Small School District Council Consortium for fiscal year 2017-2018 and as such agrees to pay $2,850.00 to the designated Fiscal Agent upon invoice for participation fees.

BE IT FURTHER RESOLVED that the SSDCC Fiscal Agent shall be the contracting agent for the employment and payment of consulting services and associated program costs.

Adopted by the Suwannee County School Board in Regular Session at Live Oak, Florida on the 22nd day of August, 2017.

BY:

_____

Jerry Taylor, Chairperson, Suwannee County School Board

ATTEST:

_____

Ted L. Roush, Superintendent, Suwannee County School District

"Approved as to Form and Sufficiency

BY_____

Leonard J. Dietzen, III

Rumberger, Kirk & Caldwell, P.A.

Suwannee School Board Attorney"

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BOARD ATTORNEY

MEMORANDUM

TO: Ted L. Roush, Superintendent of Schools TR/BB

FROM: Vickie Music DePratter, Chief Financial Officer VMD

DATE: July 13, 2017

RE: Agenda Item for August 8, 2017, Special Meeting

RECOMMENDATION:

The Superintendent recommends approval of the following contract agreement:

#2018-66 Blue Cross and Blue Shield of Florida, Inc. Accounting and Retention Agreement (Renewal)

BACKGROUND:

The Board approved the District's health insurance renewal with Blue Cross Blue Shield of Florida, Inc., for plan year May 1, 2017, through April 30, 2018. This Proshare agreement provides for the District to participate in the return of excess premiums in the event there are any at the end of the agreement.

This agreement has been reviewed and approved by Mr. Leonard Dietzen, Suwannee County School Board attorney.

BLUE CROSS AND BLUE SHIELD OF FLORIDA, INC.
HEALTH OPTIONS, INC.

ACCOUNTING AND RETENTION AGREEMENT
(Proshare)

This is an Agreement (hereinafter "Agreement") between Blue Cross Blue Shield of Florida, Inc. d/b/a Florida Blue and Health Options, Inc., (hereinafter jointly referred to as "Florida Blue"), located at 4800 Deerwood Campus Parkway, Jacksonville, Florida 32246 and School Board of Suwannee County, (hereinafter "the Group") located at 1729 Walker Avenue, SW, Ste. 200, Live Oak, FL 32064.

WHEREAS, the Group requests Florida Blue to provide a health maintenance organization (hereinafter "HMO") and a Point-of-Service insurance program, (hereinafter jointly referred to as GHP "the Group Health Plan") to its employees and their covered dependents (hereinafter "Group Member(s)"); and

WHEREAS, Health Options, Inc., has agreed to provide the HMO part of the GHP, and Florida Blue has agreed to provide the insurance part of the GHP; and

WHEREAS, each of the parties to this Agreement seeks to set forth in writing the terms and conditions of their Agreement.

NOW THEREFORE, for good and valuable consideration, the parties agree to these terms and conditions:

I. TERM

The initial term of this Agreement shall begin on May 1, 2017, (the effective date) and shall end on April 30, 2019, (the termination date), unless otherwise terminated or renewed in accordance with the provisions of this Agreement.

During the term of this Agreement, the Group agrees to: a) maintain enrollment that does not decline to one hundred (100) or fewer contracts for two consecutive months or three nonconsecutive months during a single contract period, and b) meet or exceed the minimum participation guidelines set forth in the True Group Application. In the event the Group is unable to maintain adequate enrollment, this Agreement may be terminated and no settlement will be prepared and the Group will not be eligible for this funding arrangement in the future.

II. BENEFIT PLAN

Florida Blue will pay benefits to all eligible Group Members in accordance with the provisions of this Agreement and the GHP.

III. PREMIUM PAYMENTS

The Premium Rates, Prepayment Fees, and Supplemental Charges for the GHP are payable in advance to Florida Blue at the address set forth above. The premiums for the program are set forth in Exhibit A.

IV. SETTLEMENT ACCOUNTING

Within one hundred twenty (120) days after the end of the entire term of the Agreement, Florida Blue shall prepare and furnish to the Group a Settlement Accounting of their operations of the term. This Settlement Accounting shall include operations under all coverages of the Agreement and shall set forth the following:

(a) Earned Premium
(b) Incurred Claims less claims in excess of the pooling point
(c) Capitation Charges, if applicable
(d) Pooling Charges (not included in administrative charges)
(e) Administrative Charges as set forth on Exhibit A

If Earned Premium is greater than the sum of Incurred Claims less claims in excess of the pooling point, Capitation Charges, Pooling Charges and Administrative Charges, 50% of this excess will be returned to the Group.

The accounting is an aggregation of the contract periods encompassed in the term of the Agreement. If the Group cancels prior to August 31, 2019, any such excess will not be available for return to the Group.

If Earned Premium is less than the sum of Incurred Claims less claims in excess of the pooling point, Capitation Charges, Pooling Charges and Administrative Charges, the deficit will be retained by Florida Blue.

V. TERMINATION

This Agreement may be terminated at any anniversary of the effective date by either party by giving the other party at least 45 days prior written notice of such termination.

VI. MODIFICATION OF RATES

Rates for the first twelve (12) months of this Agreement will remain in effect, as set forth in Exhibit A, provided there is no material change to the Benefit Contracts, the enrollment, or any other risk factor, as determined by Florida Blue. Thereafter, all rates set forth in this Exhibit A of this Agreement or subsequent contract periods are subject to change by Florida Blue at any time following at least forty-five (45) days prior written notice to the Group.

The administrative charge shall remain the same for the duration of the Agreement. The rates and pooling charge for subsequent contract periods after the initial contract period of the term of the Agreement will be set forth and presented to the Group on a revised Exhibit A. All other provisions of this Agreement shall remain in effect without modification.

VII. LATE PAYMENT/CHARGE

In the event the Group fails to make any payment due under this Agreement, in full, prior to the applicable due date, such payment may be made to Florida Blue up to ten (10) days after such due date without a late payment charge. Payments received by Florida Blue eleven (11) to thirty-one (31) days after such due date are subject to a late payment charge. The Group shall pay any late payment charge to Florida Blue immediately upon receipt of the notice of such charge.

In the event any charge under this Agreement is not paid, in full, by the Group to Florida Blue within thirty-one (31) days after the applicable due date, this Agreement will automatically terminate as of the applicable due date. In the event this Agreement terminates retrospectively for any reason, the Group shall be liable, in addition to all other liabilities set forth in this Agreement, for any claim(s) paid by Florida Blue which were incurred after the termination date.

All payments due for charges during the Agreement period must be received by Florida Blue in order for the Group to share in any excess.

VIII. RENEWAL

This Agreement does not automatically renew or extend upon completion of the term of the Agreement. A revised Exhibit A for subsequent periods after the initial period showing renewal rates, administrative charge and pooling charge for such subsequent period will be provided to the Group after renewal for each subsequent period within the term of the Agreement. Any revised Exhibit A does not represent a renewal or extension of the original term of the Agreement.

IX. INCONSISTENCIES

If the provisions of this Agreement are, in any way, inconsistent with the provisions of the Benefit Contract(s), then the provisions of this Agreement shall prevail, and the other provisions shall be deemed modified but only to the extent necessary to implement the intent of the parties expressed herein.

X. SURVIVAL

The rights and obligations of the parties, as set forth herein, shall survive the termination of this Agreement to the extent necessary to effectuate the intent of the parties as expressed herein.

XI. WAIVER OF BREACH

The failure by either party, at any time, to enforce or to require the strict adherence to any provision of this Agreement shall not be deemed to be a waiver of such provision or any other provision of this Agreement.

XII. GOVERNING LAW

This Agreement, and the rights of the parties hereunder, shall be construed according to the laws of the State of Florida.

XIII. SEVERABILITY

In the event any provision of this Agreement is deemed to be invalid or unenforceable, all other provisions shall remain in full force and effect.

XIV. AMENDMENT

This Agreement may be amended at any time upon mutual, written agreement of both parties, except that Florida Blue may make changes necessary to comply with State and Federal laws upon sixty (60) days' notice to the Group.

XV. ENTIRE AGREEMENT

This Agreement, including its Exhibits, the application(s) for coverage, and the Benefit Contract(s) constitute the entire Agreement between the Group and Florida Blue. Any prior agreements, promises, or representations, either oral or written, relating to the subject matter of this Agreement, and not expressly set forth in this Agreement, are of no force or effect.

XVI. NOTICES

Any notice, required or permitted under this Agreement, shall be deemed given if hand delivered or if mailed by United States mail, or an overnight mail service (e.g., Federal Express), postage prepaid, to the applicable address as set forth above or to such other address as a party may designate, in writing, to the other party. Such notice shall be deemed effective as of the date so deposited or delivered.

XVII. SEPARATE CORPORATIONS

Florida Blue and Health Options, Inc., are separate corporations. Nothing in this Agreement shall be construed, for any purpose whatsoever, to make either liable for the actions of the other.

XVIII. PROVIDER NETWORKS

Florida Blue's Health Care Provider Networks are subject to change and may be modified at any time during the term of this Agreement without notice to or consent of the Group or any Group Member.

BLUE CROSS & BLUE SHIELD OF FLORIDA, INC.
d/b/a FLORIDA BLUE & HEALTH OPTIONS, INC.

By: _____

Name: **Joseph C. Gregor, Esq.**

Title: **Vice President, Commercial Segments**

Date: _____

SCHOOL BOARD OF SUWANNEE COUNTY

By: _____

Name: Ted L. Roush
Printed

Title: Superintendent of Schools

Date: _____

"Approved as to Form and Sufficiency
BY _____
Leonard J. Dietzen, III
Rumberger, Kirk & Caldwell, P.A.
Suwannee School Board Attorney"

_____
Chairperson, Suwannee County School Board

EXHIBIT A
TO THE
ANNUAL ACCOUNTING AND RETENTION AGREEMENT
WITH
SCHOOL BOARD OF SUWANNEE COUNTY
GROUP NO. 78170

A. Premium rates effective: May 1, 2017 through April 30, 2018

Blue Options Plan 03359:	Single:	$696.54
	E/S:	$1,657.74
	E/C:	$1,281.62
	Family:	$2,173.16
Blue Options Plan 05360:	Single:	$608.38
	E/S:	$1,447.98
	E/C:	$1,119.44
	Family:	$1,898.18
Blue Options Plans 05192-05193:	Single:	$479.92
	E/S:	$1,142.20
	E/C:	$883.04
	Family:	$1,497.32
Blue Care Plan NQ54:	Single:	$523.76
	E/S:	$1,246.54
	E/C:	$963.70
	Family:	$1,634.10
Blue Care Plan 122-123:	Single:	$400.00
	E/S:	$952.00
	E/C:	$736.02
	Family:	$1,248.02

B. Administrative charges effective: May 1, 2017 through April 30, 2019
17.17% of earned premium

C. Pooling effective: May 1, 2017 through April 30, 2018
Pooling Level: $210,000 Per Individual
Pooling Charges: 6.63% of earned premium

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BOARD ATTORNEY

MEMORANDUM

TO: Ted L. Roush, Superintendent of Schools TR/BB

FROM: Janene Fitzpatrick, Assistant Superintendent of Instruction

THRU: Walter Boatright, Director of Human Resources WB
Vickie DePratter, Chief Financial Officer

DATE: July 26, 2017

RE: Agenda Item for August 8, 2017, Special Board Meeting

RECOMMENDATION:

The Superintendent recommends approval of the following positions for the 2017-2018 school year:

a. Transfer one teacher position from SHS to SIS
b. Transfer one paraprofessional position from SHS to SIS
c. Transfer one teacher position from SHS to SES
d. Add one paraprofessional position at SES

BACKGROUND:

These changes are needed to support the relocation of the District's K-5 Opportunity School Program. The Opportunity School Program is collaboratively funded through Federal Programs and IDEA. The general fund will not be impacted by these changes/additions.

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BOARD ATTORNEY

MEMORANDUM

TO: Ted L. Roush, Superintendent of Schools TR/BB

FROM: Janene Fitzpatrick, Assistant Superintendent of Instruction

THRU: Vickie DePratter, Chief Financial Officer VD

DATE: July 31, 2017

RE: Agenda Item for August 8, 2017, Special Board Meeting

RECOMMENDATION:

The Superintendent recommends approval of the following contract for the 2017-2018 school year.

#2018-62 Performance Matters, LLC and Suwannee County School District (RENEWAL)

BACKGROUND:

The purpose of the agreement is to facilitate access by Suwannee County School District employees to the Performance Matters Assessment & Data Management System. This cost will be partially grant funded.

performance matters

Subscription, Services and Hosting Agreement

This Subscription, Services and Hosting Agreement ("Agreement") is made between the following parties:

Performance Matters LLC, a Utah limited liability company, located at: 7730 South Union Park Avenue, Suite 500 Sandy, Utah 84047 (referred to in this Agreement as "**PM**") and	**Suwannee County School Board,** located at: 1729 Walker Avenue, SW, Ste. 200 Live Oak, FL 32064 (referred to in this Agreement as "**Customer**")

RECITALS

A. PM is a provider of internet-based professional growth, data management, development and assessment platforms, products, systems and hosting services for schools, district, educators and other educational institutions and customers.
B. Performance Matters and Customer entered into a Hosting Services Agreement dated March 25, 2014 for access to PM's system, and use PM's services and products to manage its professional development and data management needs.
C. This Agreement supersedes and replaces any and all prior agreements, communications, and understandings (both written and oral) regarding such subject matter, and comprises the complete agreement between the parties with respect to the subject matter. This Agreement may only be modified by a written agreement executed by both parties.
D. As of July 2016, the address of record for Performance Matters LLC is changed to 7730 South Union Park Avenue, Suite 500, Sandy UT 84047 and the payment remittance address is changed to 8860 East Chaparral Road, Suite 100, Scottsdale, AZ 85250. All payments should be directed to Accounts Receivable at this address. Any billing questions may be sent via email to accounting@performancematters.com.

THE PARTIES AGREE AS FOLLOWS:

1. **SITE SUBSCRIPTION AND PM PRODUCTS AND SERVICES**. During the Term of this Agreement, PM agrees to provide Customer and Customer-identified authorized users ("Authorized Users") a subscription that includes access to and usage of a PM-hosted, Customer-branded website on the internet (the "Site") and PM's internet-based K-12 professional growth and data management products ("Products") as described in Exhibit A. The Site will include certain proprietary software and Products of PM and will contain certain content and data entered by Customer. PM will provide ongoing support and maintenance services for the Site and Products, including application software required to support the Products and enhancements when generally made available. In conjunction with the subscription, PM will also provide (a) Implementation Services, (b) Hosting Services, (c) Software and Products, and (d) Training Services, each as set forth in detail in Exhibit A.

   a. Hosting Services. Unless otherwise specified in Exhibit A or in a separate Service Level Agreement ("SLA"), and subject to routine maintenance and upgrade requirements, PM will use commercially reasonable efforts to have hosting services available for the Customer Site at all times. Customer will be notified by the PM Project Team regarding scheduled system maintenance, product patch release dates and associated information. PM provided hosting services for the Site do not include internet access at Customer's or any Authorized User's location. Obtaining and maintaining internet access will be solely Customer's responsibility and PM shall have no liability for interruptions and outages caused by Customer's Internet Service Provider.

   b. Software and other Products. Subject to Section 5, PM will provide Customer access to and a limited license to use the Products and proprietary software for the number of users, the subscription term and at the cost specified in Exhibit A. As provided in Section 5 below, all Software licenses are non-exclusive and non-transferable, and shall terminate on the same date as this Agreement.

   c. Training Services. Training services, Site and Product training, videos and/or documentation ("Training Services") for Customer are detailed in Exhibit A, and will be scheduled at a time mutually agreeable to the parties. All Training Services listed in Exhibit A must be completed within the first twelve months of the initial Term of the Agreement. Any Training Services detailed in Exhibit A, that are not used during the first twelve months of the initial Term are forfeited by the Customer. Upon execution of the Agreement, any unused Training Services previously purchased by Customer will expire. Class size for any Training Services is limited to twenty (20) attendees per session. PM may charge an extra fee for additional attendees in its sole discretion.

   d. Service Change Requests. Any Customer requested updates, revisions, enhancements or changes in scope, Products, or price that are not provided for in Exhibit A must be documented in a Service Change Request ("SCR") in the form attached as Exhibit B. Each SCR is an amendment to the Agreement, and must be executed by the parties prior PM commencing any of the work

requested.

2. **CUSTOMER RESPONSIBILITIES AND OBLIGATIONS.** During the Term of the Agreement, Customer will be responsible for the following:

   a. Customer Data Format for Import and Implementation. PM will provide Customer with specific data formatting and content requirements for the Customer Data that will be imported onto PM's platform (the "Data Import Requirements"). Customer will provide PM with all employee and other authorized user information at its own expense and in the format set forth in Data Import Requirements to perform the Implementation Services. Customer is responsible for insuring that the Customer Data to be imported complies with the Data Import Requirements. In the event Customer's implementation requires PM to process custom import files that differ from the Data Import Requirements, additional charges will apply and will be itemized in an SCR for approval by the parties prior to import services being performed.

   b. Customer will manage and protect all authorized user registration, maintenance of passwords and accounts for end-user access, will keep all passwords secure and confidential, and will disable accounts and passwords as appropriate upon termination of any authorized user. Customer will use commercially reasonable efforts to prevent unauthorized access to its accounts. Customer will notify PM within forty-eight (48) hours in the event Customer becomes aware of any breach or unauthorized access to its account(s).

   c. Customer be solely responsible for the accuracy and completeness of Customer Data and all activity in its account and on the Site.

   d. Customer will use the Site, Products and Services only in accordance with PM's written technical guides and applicable law. Customer may allow authorized third parties to access the Product(s) and Site in compliance with the terms of this Agreement, provided that (i) the access is for the sole benefit of Customer; and (ii) such Customer-authorized third parties are contractually bound to comply with all applicable federal, state and local laws and with the terms of this Agreement.

3. **EFFECTIVE DATE, TERM AND TERMINATION.** This Agreement begins on the last date of signature ("Effective Date"). The initial Agreement term is three years ("Term"). Upon expiration of the initial three year term, the agreement automatically renews on the anniversary of the Effective Date for successive one-year terms ("Renewal Term") unless Customer gives PM written notice no less than sixty (60) days before the end of the Term or current Renewal Term. The Term and each Renewal Term includes the Subscription Term identified in Exhibit A.

   a. Mutual Termination for Material Breach. Except for non-payment, if either party is in material breach of this Agreement, the non-breaching party may terminate this Agreement at the end of a written 30-day notice/cure period, if the breach has not been cured.

   b. Suspension for Violations of Law. PM may temporarily suspend the Service or remove the applicable Customer Data, or both, if PM in good faith believes that Customer has violated any Applicable Law as part of using the PM System.

   c. Effect of Termination. Upon termination or expiration of the Agreement:
      i. PM will end Customer's Subscription, and terminate Customer's access to the Site, Services, Products, and related software.
      ii. Customer will immediately pay any fees due and owing prior to the termination date.
      iii. Upon written request of Customer, PM will make the Site and any Product available for Customer to export customer data for 60 days after termination.

   d. Funding-Out Clause. Customer's payment obligation may conditioned upon the availability of funds that are appropriated or allocated by the applicable government agency. If funds are not allocated, Customer may terminate this Agreement at the end of the period for which funds are available. Customer must notify PM in writing before such termination, and provide PM with sufficient legal documentary proof of the non-availability of the funds. If Customer terminates Agreement due to lack of funding, Customer agrees not to acquire similar services from a third party for the remainder of the Term of the Agreement.

   e. Non-payment of Fees. PM may terminate this Agreement and Customer's access to the Site, Services, Products and associated software for Customer's non-payment of amounts owed.

4. **FEES.**

   a. Fees and Payment Terms. Customer will pay all fees set forth on Exhibit A within thirty (30) days of receipt of invoice, unless other payment terms have been provided for and agreed upon in Exhibit A. Payments not made when due, shall bear interest at the rate of 1.5% per month, or the highest legal rate, whichever is less, commencing as of the due date, until fully paid.

   b. Taxes. If Customer provides PM with a valid tax exemption certificate authorized by the appropriate taxing authority, PM will

not charge or collect sales or other taxes as the exemption certificate provides. If no exemption certificate is provided, Customer must pay any taxes, impositions, or other charges imposed or levied by any governmental authority, including any sales, use, value-added, or withholding taxes, in connection with the Invoice (except for any PM income or PM employee taxes).

5. INTELLECTUAL PROPERTY, OWNERSHIP AND LICENSE.

a. License to Use Products. PM grants to Customer a limited, non-exclusive, non-transferable license to access and use software and Product(s) for the number of users and for the subscription term specified in Exhibit A. This license is solely for Customer's internal educational and training purposes.

b. Customer Data. Customer represents and warrants that Customer has appropriate rights to any data and content Customer uploads or enters into the Site or a Product ("Customer Data"). All Customer Data remains the property of Customer, as between PM and Customer. Customer grants PM the right to use the Customer Data solely for purposes of performing under this Agreement and in accordance with all applicable federal, state and local laws and regulations ("Applicable Laws"). PM will adopt, implement and maintain commercially reasonable security measures and procedures (including, firewalls, passwords, encryption, commercially available virus protection, access and use of adequate back-up computer servers, and periodic back-up of data) on a continuing basis.

c. Restrictions. Customer will not (i) sell, resell, rent or lease the Site, Products, Software, or any other deliverable under this Agreement, (collectively, the "PM System") or use the PM System in a service provider capacity; (ii) use the PM System to store or transmit infringing, unsolicited marketing emails, libelous, or otherwise objectionable, unlawful or tortious material, or to store or transmit material in violation of third-party rights or Applicable Law; (iii) interfere with or disrupt the integrity or performance of the PM System or attempt to gain unauthorized access to the PM System or their related systems or networks; (iv) use the PM System for any use other than for internal Customer educational or professional development purposes; (v) reproduce, frame, mirror, modify, translate, enhance, decompile, disassemble, copy, download or reverse engineer the PM System, or modify, create derivative works based on the PM System; or (vi) access the PM System to build a competitive service or product, or copy any feature, function or graphic for competitive purposes. Any materials placed on the PM System inconsistent with the foregoing requirements shall be deemed to be a material breach of this Agreement and may be removed by PM.

d. Products. All audio, video and other content, curriculum, documentation, and software (including without limitation applets, animations, and application software) required to support the PM System provided by PM as part of the Subscription are licensed to Customer as follows: PM grants Customer a non-exclusive, non-transferable license during the Agreement Term to access and use the PM System for internal educational and training purposes solely in connection with this Agreement.

e. Artistic and Content Control. Except as expressly provided otherwise under the Agreement, Customer shall have exclusive artistic and editorial control over the Site, including the Site design and integration of Customer content. Any changes made to the artistic and editorial content of the Site following Customer's initial acceptance of the Site, will be subject to a SCR executed by the parties.

f. PM's Reservation of Rights. The content, documentation, code, software, workflow processes, user interface, website, designs, design concepts, know-how, methodologies, used in or as part of the PM System are the sole property of PM and its licensors, and all right, title and interest in and to such items, including all associated intellectual property rights, remain solely with PM and its licensors. Customer may not remove or modify any proprietary marking or restrictive legends in the PM System. PM reserves all other rights not expressly granted to Customer in this Agreement.

7. MUTUAL CONFIDENTIALITY.

a. Definition of Confidential Information. Confidential Information means all non-public information including Personally Identifiable Information ("PII") as defined by applicable law, that is disclosed by a party ("Discloser") to the other party ("Recipient"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure ("Confidential Information"). PM's Confidential Information includes without limitation its user interface design and layout, pricing information, the Products, the Services or any deliverables.

b. Protection of Confidential Information. The Recipient must use the same degree of care that it uses to protect the confidentiality of its own confidential information (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Discloser for any purpose outside the scope of this Agreement. The Recipient must make commercially reasonable efforts to limit access to Confidential Information of Discloser to those of its employees and contractors who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with Recipient no less restrictive than the confidentiality terms of this Agreement.

c. Exclusions. Confidential Information *excludes* information that: (i) is or becomes generally known to the public without breach of any obligation owed to Discloser, (ii) was known to the Recipient prior to its disclosure by the Discloser without breach of any obligation owed to the Discloser, (iii) is received from a third party without breach of any obligation owed to Discloser, or (iv) was independently developed by the Recipient without use or access to the Confidential Information. The Recipient may disclose Confidential Information to the extent required by law or court order, but will provide the non-disclosing party with advance notice to seek a protective order.

8. INDEMNIFICATION.

a. PM will defend or settle any third party claim against Customer to the extent that such claim alleges that PM technology used to provide the Site, Services or Products violates a copyright, patent, trademark or other intellectual property right, if Customer, promptly notifies PM of the claim in writing, cooperates with PM in the defense, and allows PM to solely control the defense or settlement of the claim. PM will pay infringement claim defense costs, PM-negotiated settlement amounts, and court awarded damages incurred as part of its obligations under this Agreement. If such a claim appears likely, then PM may modify the Site, Services or Products, procure the necessary rights, or replace the infringing part of the Site, Services or Products with a functional equivalent. If PM determines that none of these are reasonably available, then PM may terminate access to the Site, Services or Products and refund any prepaid and unused fees. PM has no obligation for any claim, in whole or in part, arising from information, items or technology not provided by PM or for any third party web services not owned by PM. THIS SECTION CONTAINS CUSTOMER'S EXCLUSIVE REMEDIES AND PM'S SOLE LIABILITY FOR INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS.

b. To the extent permitted under applicable law, Customer will defend, indemnify and hold harmless PM from and against any third party claims, losses, damages, settlements, penalties, fines, costs, or expenses (including reasonable attorneys' fees) that arise from or relate to (i) Customer's negligence, misconduct or breach of this Agreement, (ii) any Customer Data or third party content, products, services or systems, including their integration or their required third party integration with the Service, and (III) any Customer violation of applicable law which results in third party claim against PM.

9. WARRANTY AND WARRANTY EXCLUSION.

a. Compliance Warranty. Each party will comply with, and will cause each of its employees, agents, and contractors to comply with all laws applicable to its performance under this Agreement, including without limitation the Family Educational Rights and Privacy Act ("FERPA") and the Children's Online Privacy Protection Act ("COPPA").

b. PM Service Warranty. PM warrants that commercially reasonable efforts will be made to maintain the online availability of the Site, Services or Products. CUSTOMER'S EXCLUSIVE REMEDY AND PM'S ENTIRE LIABILITY UNDER THIS WARRANTY WILL BE FOR PM TO REPAIR THE NON-CONFORMING SERVICES OR PRODUCT, OR IF PM CANNOT MAKE SUCH REPAIR WITHIN A REASONABLE PERIOD OF TIME, THEN PM MAY TERMINATE ACCESS TO THE SITE, SERVICES OR PRODUCTS AND REFUND THE PORTION OF THE FEE ATTRIBUTABLE TO SUCH NON-CONFORMING SERVICE.

c. DISCLAIMERS. ALL PRODUCT AND SOFTWARE IS PROVIDED "AS IS" AND WITH ALL FAULTS. EXCEPT FOR THE ABOVE WARRANTIES, THE SITE, SERVICES AND PRODUCTS ARE PROVIDED ON AN "AS-IS" AND "WHEN AVAILABLE" BASIS. ALL OTHER REPRESENTATIONS AND WARRANTIES CONCERNING THE SITE, SERVICES OR PRODUCTS ARE HEREBY EXPRESSLY DISCLAIMED TO THE EXTENT ALLOWED BY LAW, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THERE IS NO WARRANTY THAT THE OPERATION OR CONNECTIVITY OF THE SITE, SERVICES OR PRODUCTS WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT THE SITE, SERVICES OR PRODUCTS WILL BE FREE OF ALL POSSIBLE METHODS OF UNAUTHORIZED ACCESS, ATTACK, OR INTRUSION.

10. LIMITATIONS OF LIABILITY.

a. EXCLUSION OF INDIRECT DAMAGES. PM IS NOT LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, COSTS OF DELAY; LOSS OF DATA, RECORDS OR INFORMATION; AND LOST PROFITS), EVEN IF IT KNOWS OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS.

b. TOTAL LIMIT ON LIABILITY. PM'S TOTAL LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER IN CONTRACT, TORT OR OTHERWISE) DOES NOT EXCEED THE AMOUNT PAID BY CUSTOMER WITHIN THE 12-MONTH PERIOD PRIOR TO THE EVENT THAT GAVE RISE TO THE LIABILITY.

11. GENERAL.

a. Assignment. This Agreement will bind and inure to the benefit of each party's permitted successors and assigns. Neither party may assign this Agreement, in whole or in part, without the other party's prior written consent; provided however that PM may assign this Agreement to a purchaser of all or substantially all of its assets or its business provided that the assignee agrees to be bound by all of PM's duties and obligations under this Agreement. Any attempt to assign this Agreement without such consent will be null and void.

b. Severability. In the event that any provision of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, that provision will be enforced to the fullest extent permitted by law, and the remaining provisions shall remain in full force and effect.

c. Force Majeure. Except for payments due under this Agreement, neither party will be responsible for any failure to perform due to causes beyond its reasonable control including acts of God, war, riot, embargoes, acts of civil or military authorities, denial of or delays in processing of export license applications, fire, floods, earthquakes, accidents, strikes, failure of the internet, or fuel crises, provided that such party gives prompt written thereof to the other party. The time for performance will be extended for a period equal to the duration of the Force Majeure, but in no event longer than sixty (60) days, at which time this Agreement will be deemed terminated by mutual consent of the parties subject to each party's post-termination obligations set forth in this Agreement.

d. Notices. All notices under this Agreement will be deemed given when delivered personally, sent by confirmed facsimile transmission, or sent by certified or registered U.S. mail, return-receipt requested, or nationally recognized express courier, to the address shown above, attention the parties' authorized representative, or as may otherwise be specified by either party.

e. Independent Contractors. The parties to this Agreement are independent contractors. There is no relationship of partnership, joint venture, employment, franchise, or agency between the parties. Neither party will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent.

f. Waiver. No failure of either party to exercise or enforce any of its rights under this Agreement will act as a waiver of such rights.

g. Export Control. The sale, resale, or other disposition of Products and any related technology or documentation are subject to the export control laws, regulations, and orders of the United States of America and may be subject to the export and/or import control laws, regulations, and orders of other countries. Customer agrees to comply with all such laws, regulations, and orders and acknowledges that it shall not directly or indirectly export or import any Products to any country to which such export, import, or transmission is restricted or prohibited. Customer acknowledges and agrees that Customer is responsible to obtain any license to export, re-export, import, or transmit as may be required.

h. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the state of Florida. In the event of any litigation arising from this agreement, the parties agree that the exclusive state court forum for said litigation shall be in Suwannee County, in the court of appropriate jurisdiction.

The parties hereby knowingly, voluntarily and intentionally waive any right it may have to a trial by jury with respect to any litigation related to or arising out of, under, or in conjunction with this agreement.

i. Money Damages Insufficient. Any breach by a party of this Agreement or violation of the other party's intellectual property rights could cause irreparable injury or harm to the other party. The other party may seek a court order to stop any breach or avoid any future breach.

k. Entire Agreement; Amendment. This Agreement and the attached Exhibits A and B comprise the complete agreement between the parties with respect to the subject matter hereof, superseding and replacing any and all prior agreements, communications, and understandings (both written and oral) regarding such subject matter. This Agreement may only be modified by a written agreement executed by both parties.

l. Sovereign Immunity. Nothing contained in the Agreement shall be interpreted or construed to mean that the Client waives its common law sovereign immunity or the limits of liability set forth in Florida statutes.

Accepted as of the Effective Date.

Suwannee County School Board		**Performance Matters LLC**	
By:	_____	By:	_____
Name:	_____	Name:	Ted L. Roush
Title:	_____	Title:	Superintendent of Schools
Date:	_____	Date:	_____

_____
Chairperson, Suwannee County School Board

"Approved as to Form and Sufficiency
BY_____
Leonard J. Dietzen, III
Rumberger, Kirk & Caldwell, P.A.
Suwannee School Board Attorney"

performance matters

EXHIBIT A

FEES, IMPLEMENTATION REQUIREMENTS and PRICING

District Pricing Summary:

a. The Products are provided with "AS IS" functionality available on the Effective Date of this Agreement.
b. No custom work is included in the listed price.

1. **SITE IMPLEMENTATION FEES**. The Site Implementation Fees are based on the standard hours required by PM to perform the Baseline Site setup. Any additional hours needed to complete the Baseline Site setup will be addressed in a SCR to be agreed upon and executed by the parties. Implementation fees are detailed in the chart below:

Site Implementation Services	Hours	Fee
NA	0	$0.00
Total of all Site Implementation Services:		$0.00

2. **TRAINING SERVICES**. All Training Services must be scheduled and performed within the first twelve months of the initial Term of this Agreement.

Training Services	Quantity	Fee
NA	0	$0.00
Total of all Training Services:		$0.00

3. **SUBSCRIPTION FEES**.
Subscription Fees listed in the chart below are for Year 1 of the Agreement and include hosting services. All subscription fees will be increased by five percent (5%) annually on the anniversary of the Effective Date for the term of the Agreement.

Product	Per User Cost	Subscription Term	Subscription Fee
Student Growth Solution – Unify Assessment & Analytics - 5,900 Students	$6.50	July 1, 2017 – June 30, 2018	$38,350.00
		Total Subscriptions	**$38,350.00**

4. **INVOICING**:

Milestone	Fee Due Upon Milestone Completion	Due Date	Invoice Terms
Contract Execution –Subscription Fees for Year 1 of the agreement.	$38,350.00	July 1, 2017	NET 30

performance matters

Exhibit B
Form of Service Change Request ("SCR")

Performance Matters LLC ("PM") a Utah limited liability company, located at: 7730 South Union Park Avenue, Suite 500 Sandy, Utah 84047		***Customer Name*** **("Customer")** located at: Address1 City, State Zip Code	
SCR Effective Date		**SCR Number**	
PM contact:		**Client contact:**	

Effective on the SCR Effective Date, this SCR is incorporated by this reference into the [***insert name of Agreement***] dated _____, 20__ ("Agreement") by and between the parties and is governed by the terms and provisions of that Agreement. Except as amended or supplemented by this SCR, the terms and conditions of the Agreement remain in full force and effect.

1. The Payment Remittance Address is Performance Matters, Accounts Receivable, 8860 East Chaparral Road, Suite 100, Scottsdale, AZ 85250. All payments should be directed to Accounts Receivable at this address. Any billing questions may be sent via email to <accounting@performancematters.com>.

Description of SCR Change to Agreement:

Accepted and Agreed as of SCR Effective Date.

[*Customer*]	**Performance Matters LLC**
Signed:	Signed:
Name:	Name:
Title:	Title:
Date:	Date:

performance matters

Student Growth Solutions – Service Descriptions

Author		Description
X	Collaboration	Collaborate with others inside or outside of your organization to author, review, rate and approve assessment content.
X	Blueprint	Design a complete standards-based blueprint for any course or choose from the broad selection of blueprints available.
X	Design Studio	Build innovative items and assessments; build assessments from existing item banks or choose from a broad selection of existing assessments.

Administer		Description
X	Performance Scoring	Interactive scoring of constructed student responses in media, print or text using bracketed rubrics and anchors.
X	ScanEngine	Testing via plain paper Scan Form using any modern scanner or multi-function printing technology.
X	OnLineAssessment (OLA)	Student online testing platform that incorporates the new Technology Enhanced Items. *Requires Performance Scoring to score constructive response questions.
	GradeCam	Administer classroom assessments via Unify using GradeCam's camera-based capture software.

Analyze		Description
X	Student Item Analysis	Interactive item analysis of Unify assessments to evaluate student performance and item quality.
X	Baseball Card and Scoreboard Analytics	Powerful ad hoc and comparative reporting for a wide range of measures and attributes including local, state and third party assessments.
X	Baseball Card Basic	Powerful ad hoc reporting for local assessments administered in Unify.
X	MyUnify Home Page	Educators Home Page that provides relevant information with on demand connections to assessment, intervention, and curriculum resources.
	Early Warning Indicators	Customized business rules that drive the identification of students at risk among a broad range of measures.
X	Item Statistics	Item discrimination, test validity and distractor analysis that connect to item edit and review workflow to continuously improve assessment content.
	Educator Analytics	Longitudinal analysis of state test performance and teacher observation results.

Act		Description
X	Response to Intervention	Administration and progress monitoring tool to support academic and behavioral interventions.
	Student Learning Objectives	Rationale, administration, reporting and roster verification tool for Student Learning Objectives (SLOs).
	Progress Monitoring Plan	Set data driven flags to identify students for intervention.

Service		Description
X	ScanEngine Setup	Configuration and Testing of one unit each of the scanner device types to be used.
X	SIS Integration	Integration of SIS scheduling info using PM record layouts.
X	Active Directory	Integration with customer Active Directory via SAML.

3rd Party Item Bank		Description
	Key Data Systems	Assessment content for Math, Reading, Science and Social Studies.
	Measured Progress (MP) Bundle	Bundle includes Item Bank, Testlets and Benchmark Assessments.
	MP Item Bank	Originally written Common Core content item bank for Reading and Math.
	MP Benchmarks	Completed Common Core benchmark tests for Reading and Math.
	MP Testlets	Completed formative mini assessments for individual Common Core standards in Reading and Math.
	Certica (formerly NWEA)	Assessment content for Math, Reading, Science and Social Studies.
	Progress Testing	Assessment content for Math, Reading, Science, Social Studies and CTAE.

Training		Description
	Onsite	Six hours of instructor-led onsite professional development for either one full-day or two half-day sessions held on the same day for up to 20 participants per session.
	Virtual	Six hours of instructor-led virtual professional development with hands-on practice for up to 15 participants per session.
	Webinar	One-hour webinar presentation for up to 1000 attendees.
	Video	3-5 minute custom video delivered as an MP4 video stored on the platform.
	Documentation	Client-specific custom documentation.
X	Context Sensitive Online Help	Searchable database of help articles with printable PDF QuickDocs and User Guides
X	Video Tutorial Library	Library of 3-5 minute video tutorials on basic product usage
	Certification (onsite, private virtual or public virtual)	Data Analyst Test Designer Item Writer Unify Administrator Unify Power User Unify User

SUWANNEE COUNTY SCHOOL DISTRICT

702 – 2nd Street, NW • Live Oak, Florida 32064
Telephone: (386) 647-4600 • Fax: (386) 364-2635
www.suwannee.k12.fl.us

TED L. ROUSH
Superintendent of Schools

"Suwannee County School District will be a system of excellence ensuring all students are prepared for personal success."

JERRY TAYLOR
DISTRICT 1
CATHERINE CASON
DISTRICT 2
TIM ALCORN
DISTRICT 3
ED DA SILVA
DISTRICT 4
RONALD WHITE
DISTRICT 5
LEONARD J. DIETZEN, III
BOARD ATTORNEY

MEMORANDUM

TO: Ted L. Roush, Superintendent of Schools TR/BB

FROM: Janene Fitzpatrick, Assistant Superintendent of Instruction

THRU: Vickie DePratter, Chief Financial Officer VD

DATE: July 31, 2017

RE: Agenda Item for August 8, 2017, Special Board Meeting

RECOMMENDATION:

The Superintendent recommends approval of the following Agreement:

#2018-68 Virtual Classroom & Web Administrators Agreement between the Suwannee County School District and Edgenuity, Inc. for the 2017-2018 school year. (REVISED/RENEWAL)

BACKGROUND:

This agreement is to form a relationship between the School/District and Edgenuity, Inc. for unlimited virtual classrooms and web administrator site licenses. It will also include one on-site professional development day. This will be funded through the instructional materials budget.

VIRTUAL CLASSROOM & WEB ADMINISTRATOR AGREEMENT

This Virtual Classroom & Web Administrator Agreement for services ("**Agreement**") is made and entered into by and between Edgenuity Inc. (hereinafter "**Provider**" or "**Edgenuity**") having principal offices at 8860 East Chaparral Road, Suite 100, Scottsdale, Arizona 85250 and the School Board of Suwannee County (hereinafter "**Suwannee County Schools**") located at 1729 Walker Avenue, SW, Ste. 200, Live Oak, FL 32064.

Provider desires to enter this Agreement as a Virtual Classroom provider for Suwannee County Schools. The parties, by signature of their authorized representatives below, enter into this Agreement as of July 1, 2017 (the "**Effective Date**").

Suwannee County Schools elects to use the Virtual Classroom for meeting its district-specific needs for core and/or elective curriculum, credit recovery, grade and/or concept remediation, career and technical education, special populations, summer school, incarcerated youth, and/or blended learning models.

Edgenuity shall provide the Virtual Classroom products and services detailed in Attachment A, Price Quote for Services, # 12137. Suwannee County Schools will purchase the services at the costs shown on Attachment A pursuant to the Subscription Agreement and Standard Terms and Conditions attached hereto as Attachment B. The attachments are incorporated herein by this reference and made part of this Agreement. This Agreement shall replace any other agreements previously between the parties as to the virtual classroom and web administration.

EDGENUITY INC., a Nevada Corporation	**THE SCHOOL BOARD OF SUWANEE COUNTY FLORIDA**
_____	_____
Signature	Signature
_____	_____
Title	Title Ted L. Roush, Superintendent of Schools
_____	_____
Date	Date

_____
Chairperson, Suwannee County School Board

"Approved as to Form and Sufficiency
BY_____
Leonard J. Dietzen, III
Rumberger, Kirk & Caldwell, P.A.
Suwannee School Board Attorney"

ATTACHMENT A

SCSB 2018-68 (REVISED/RENEWAL)

Edgenuity

Price Quote for Services

Suwannee County School District

Live Oak FL

Edgenuity Inc.
8860 E. Chaparral Road
Suite 100
Scottsdale AZ 85250
480-423-0118

Date 4/12/2017
Quote # 12137
Vendor #

Payment Schedule	Pricing Expires	Contract Start	Contract End
3 Years Billed Annually	5/26/2017	7/1/2017	6/30/2020

Header	Quantity	Description	Per Unit	Amount
District Unlimited	1	Virtual Classroom and Web Administrator Site Licenses - All schools and all courses.	75,000.00	75,000.00
Discount		Discount - 3 Year Commitment	-11,250.00	-11,250.00
Professional Develop...	1	On-Site Professional Development Day	2,500.00	2,500.00
			Total	**$66,250.00**

This quote is subject to Edgenuity Inc. Standard Terms and Conditions ("Terms and Conditions"). These Terms and Conditions are available at http://www.edgenuity.com/edgenuity-standard-terms-and-conditions-of-sale.pdf, may change without notice and are incorporated by this reference. By signing this quote or by submitting a purchase order or form purchasing document, Customer explicitly agrees to these Terms and Conditions resulting in a legally binding agreement.

If this Quote includes any Sophia® Learning Inc. courses for purchase, the following language applies to any such purchase (and this language is also found in the above linked Terms and Conditions): "Use of any Sophia course is prohibited for all students under the age of 13 years."

Please sign quote and send accompanying PO back to me. ($198,750 is 3YR Total, billed annually at $66,250) Quote does not include training.

Customer

Signature

Print Name

Title

Date

Edgenuity Inc. Representative
D. Greg Guy, Ed.S.
850 445-5617
greg.guy@edgenuity.com

Not valid unless accompanied by a purchase order.
Please specify a shipping address if applicable.

Please e-mail this quote, the purchase order and order documentation to AR@edgenuity.com or fax to 480-423-0213.

ATTACHMENT B

Edgenuity

STANDARD TERMS AND CONDITIONS

These Terms and Conditions govern the provision of products and services as set forth in the applicable Edgenuity quote, customer-accepted proposal, or purchase order (collectively the "Quote," and with these Terms and Conditions, the "Agreement"). These Standard Terms are updated from time-to-time by Edgenuity and the current version can be found at http://www.edgenuity.com/edgenuity-standard-terms-and-conditions.pdf

1. DEFINITIONS.

a. **Subscription** refers to Edgenuity's internet based learning management software as a service. The Subscription includes assess to the **Licensed Material** (defined below) and **Third Party Services** (defined in Attachment A)

b. **Licensed Material** refers to Edgenuity Courseware which may include audio, video and other content, curriculum, documentation and software including applets and animations.

c. **Professional Development** refers to all implementation planning, program design, administrative and instructional training, consulting and coaching for education professionals provided by Edgenuity as described in the applicable Quote. Professional Development services are also subject to the additional terms contained in Attachment B.

d. **Instructional Services** refers to services provided by Edgenuity including student access to teachers and coaches, the development and implementation of policies and procedures for purposes of improving student outcomes, and other services as stated in the applicable Quote. Instructional Services are also subject the additional terms contained in Attachment B.

2. LICENSE and SERVICES.

a. **License.** Edgenuity grants Customer a non-exclusive, non-transferable license to access and use Licensed Material for internal educational and training purposes solely for the Subscription as set forth in the Quote. This Agreement provides only Customer and Customer's specifically authorized instructors, administrators, students and parents ("End Users") access to and use of the Subscription solely for internal education- and training-related purposes.

b. **Services.** If set forth in the Quote, Edgenuity will also provide Professional Development and/or Instructional Services, subject to the additional terms and conditions in Attachment B. Customer's access to any Professional Development or Instructional Services will expire at the end of the Term set forth in the applicable Quote, or if the Subscription is terminated for any reason.

c. **Edgenuity Technical and Customer Support.** Edgenuity will provide technical and customer support for the Service under the terms of Edgenuity's support policies found at www.edgenuity.com/support including all updates, bug fixes, and enhancements when generally made available.

3. USE OF SUBSCRIPTION.

a. **Customer Owned Data.** All data and materials uploaded or entered during use of the Subscription by Customer remains the property of Customer (**Customer Data**). Customer grants Edgenuity the right to use the Customer Data solely for purposes of performing under this Agreement. During the term of this Agreement, Customer may export Customer Data to the extent allowed by functionality within the Subscription. Customer represents and warrants that it has appropriate rights to any Customer Data. For training and demonstration purposes, Edgenuity may use and share Customer Data, including protected student data, but will share only with supervisors, instructors and other Customer employees who have appropriate authorization.

b. **Customer Responsibilities.** Customer must (i) keep its passwords secure and confidential; (ii) be solely responsible for Customer Data and all activity in its account; (iii) use commercially reasonable efforts to prevent unauthorized access to its account and notify Edgenuity promptly of any such unauthorized access; and (iv) use the Subscription as described in Edgenuity's written technical guides. Customer authorizes its integrators or other third party vendors and Edgenuity to conduct initial setup and allow continued access to the Subscription for the sole benefit of Customer. Customer will provide Edgenuity the name and contact information for all third parties authorized by Customer necessary for Customer to use the Subscription. Customer is solely responsible for compliance with all federal, state and local privacy laws and regulations, and for compliance by its authorized integrators or other third party vendor(s).

4. WARRANTIES and DISCLAIMERS.

a. **Compliance Warranty.** Edgenuity will comply with, and will cause each of its employees, agents, and contractors to comply with, all state, federal and municipal laws and regulations applicable to its performance under this Agreement ("Applicable Laws"), including without limitation the Family Educational Rights and Privacy Act ("**FERPA**") and Children's Online Privacy Protection Act ("**COPPA**"). Edgenuity's Privacy Policy may be found at http://www.edgenuity.com/Information/Privacy/. Customer is responsible for providing notice of its privacy policy to parents of its student and for obtaining any necessary parental consents for students to use the Subscription as may be required by Applicable Law.

b. **Professional Development and Instructional Services Warranty.** Edgenuity warrants that it will provide Professional Development and/or Instructional Services in a professional, workmanlike manner consistent with the terms of this Agreement and under generally accepted industry standards.

c. **Edgenuity Service Warranty.** Edgenuity warrants that commercially reasonable efforts will be made to maintain the online availability of the Subscription. CUSTOMER'S EXCLUSIVE REMEDY AND EDGENUITY'S ENTIRE LIABILITY UNDER THIS WARRANTY WILL BE FOR EDGENUITY TO REPAIR THE NON-CONFORMING SERVICE, OR IF EDGENUITY CANNOT MAKE SUCH

REPAIR WITHIN A REASONABLE PERIOD OF TIME, THEN EDGENUITY MAY TERMINATE ACCESS TO THE SUBSCRIPTION AND REFUND A PORTION OF THE FEE.

d. **DISCLAIMERS.** THE SUBSCRIPTION IS PROVIDED "AS IS" AND WITH ALL FAULTS. EXCEPT FOR THE ABOVE WARRANTIES, THE SUBSCRIPTION AND ANY PROFESSIONAL DEVELOPMENT AND INSTRUCTIONAL SERVICES ARE PROVIDED ON AN "AS-IS" AND "WHEN AVAILABLE" BASIS. ALL OTHER REPRESENTATIONS AND WARRANTIES CONCERNING THE SUBSCRIPTION AND SERVICES ARE HEREBY EXPRESSLY DISCLAIMED TO THE EXTENT ALLOWED BY LAW, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THERE IS NO WARRANTY THAT THE OPERATION OR CONNECTIVITY OF THE SUBSCRIPTION WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT THE SUBSCRIPTION WILL BE FREE OF ALL POSSIBLE METHODS OF UNAUTHORIZED ACCESS, ATTACK, OR INTRUSION.

5. **PAYMENT, INVOICING AND TAXES.** Unless otherwise provided in the Quote, Customer will pay the amount of each invoice net 30 days after the invoice date. Except to the extent that Customer provides Edgenuity with a valid tax exemption certificate authorized by the appropriate taxing authority, Customer must pay any taxes, impositions, or other charges imposed or levied by any governmental authority, including any sales, use, value-added, or withholding taxes, in connection with the Quote, excluding Edgenuity income and payroll taxes.

6. **MUTUAL CONFIDENTIALITY.**

a. **Definition of Confidential Information.** Confidential Information means all non-public information including Personally Identifiable Information ("**PII**") as defined by Applicable Law, disclosed by a party ("**Discloser**") to the other party ("**Recipient**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure ("**Confidential Information**"). Edgenuity's Confidential Information includes without limitation the Service, its user interface design and layout, pricing information, and the Licensed Material.

b. **Protection of Confidential Information.** The Recipient must use the same degree of care that it uses to protect the confidentiality of its own confidential information (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Discloser for any purpose outside the scope of this Agreement. The Recipient must make commercially reasonable efforts to limit access to Confidential Information of Discloser to those of its employees and contractors who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with Recipient no less restrictive than the confidentiality terms of this Agreement.

c. **Exclusions.** Confidential Information excludes information that: (i) is or becomes generally known to the public without breach of any obligation owed to Discloser; (ii) was known to the Recipient before its disclosure by the Discloser without breach of any obligation owed to the Discloser; (iii) is received from a third party without breach of any obligation owed to Discloser; or (iv) was independently developed by the Recipient without use or access to the Confidential Information. The Recipient may disclose Confidential Information to the extent required by law or court order, but will provide Discloser with advance written notice to seek a protective order.

7. **EDGENUITY PROPERTY.**

a. **Reservation of Rights.** The content, documentation, software, workflow processes, user interface, designs, know-how and other items provided by Edgenuity as part of the Subscription and/or any Instructional Services or Professional Development are the proprietary property of Edgenuity and its licensors, and all right, title and interest in and to such items, including all associated intellectual property rights, remain only with Edgenuity and its licensors. Customer may not remove or modify any proprietary marking or restrictive legends in the Edgenuity Courseware. Edgenuity reserves all rights unless expressly granted in this Agreement.

b. **Restrictions.** Customer may not (i) sell, resell, rent or lease the access to the Subscription or use it in a service provider capacity; (ii) use the Subscription to store or transmit infringing, unsolicited marketing emails, libelous, or otherwise objectionable, unlawful or tortious material, or to store or transmit material in violation of third-party rights; (iii) interfere with or disrupt the integrity or performance of the Subscription or attempt to gain unauthorized access to the Subscription or its related systems or networks; (vi) use the Subscription for other than internal Customer educational purposes; (v) reproduce, frame, mirror, modify, translate, enhance, decompile, disassemble, copy, download or reverse engineer the Subscription or modify, create derivative works based on the Subscription; or (vi) access the Subscription to build a competitive service or product, or copy any feature, function or graphic for competitive purposes.

8. **TERM AND TERMINATION.**

a. **Term.** The Term of this Agreement and Customer's access to the Subscription, Services, and any instructional Services or Professional Development services will continue for the period indicated on the applicable Quote, unless terminated by Edgenuity for material breach.

b. **Funding-Out Clause.** Customer's payment obligation is conditioned upon the availability of funds that are appropriated or allocated by the applicable government agency. If funds are not allocated, Customer may terminate this Agreement at the end of the period for which funds are available. Customer must notify Edgenuity in writing within thirty (30) calendar days before termination. Upon termination, Edgenuity will be entitled to a pro-rata portion of the fees for Service performed up to the date of termination.

c. **Non-payment of Fees.** Edgenuity may terminate the Agreement and access to the Subscription in a Quote within ten (10) days after Customer receipt of a notice of non-payment of amounts owed under that Quote.

d. **Mutual Termination for Material Breach.** Except for 7(c), if either party is in material breach of this Agreement, the non-breaching party may terminate this Agreement at the end of a written thirty (30) calendar day notice and cure period, if the breach has not been cured.

e. **Return of Customer Data.** For a period of up to sixty (60) days after termination, upon request, Edgenuity will make the Subscription available for Customer to export Customer Data.

f. **Suspension for Violations of Law.** Edgenuity may temporarily suspend the Subscription or remove the applicable Customer Data, or both, if it in good faith believes that, as part of using the Subscription, Customer has violated a law. Edgenuity will attempt to contact Customer in advance.

g. **Return or Destroy Edgenuity Property Upon Termination.** Upon expiration or termination of this Agreement for any reason, Customer must pay Edgenuity for any amounts owed, and destroy or return all property of Edgenuity. Customer will confirm its compliance with this destruction or return requirement in writing upon request of Edgenuity.

9. **LIABILITY LIMIT.**

a. **EXCLUSION OF INDIRECT DAMAGES.** EDGENUITY IS NOT LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, COSTS OF DELAY; LOSS OF DATA, RECORDS OR INFORMATION; AND LOST PROFITS), EVEN IF IT KNOWS OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS.

b. **TOTAL LIMIT ON LIABILITY.** EDGENUITY'S TOTAL LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER IN CONTRACT, TORT OR OTHERWISE) DOES NOT EXCEED THE AMOUNT PAID BY CUSTOMER WITHIN THE 12-MONTH PERIOD BEFORE THE EVENT THAT GAVE RISE TO THE LIABILITY.

10. **INDEMNITY.**

a. Edgenuity will defend or settle any third party claim against Customer to the extent that such claim alleges that Edgenuity technology used to provide the Subscription violates a copyright, patent, trademark or other intellectual property right. Customer must promptly notify Edgenuity of any such claim in writing, cooperates with Edgenuity in the defense, and allow Edgenuity to solely control the defense or settlement of the claim. If such a claim appears likely, then Edgenuity may modify the Subscription, procure the necessary rights, or replace the infringing part of the Subscription with a functional equivalent. If Edgenuity determines that none of these are reasonably available, then Edgenuity may terminate the Subscription and refund any prepaid and unused fees. Edgenuity has no obligation for any claim, in whole or in part, arising from information, items or technology not provided by Edgenuity or for any third party services not owned by Edgenuity. THIS SECTION CONTAINS CUSTOMER'S EXCLUSIVE REMEDIES AND EDGENUITY'S SOLE LIABILITY FOR INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS.

b. To the extent permitted under Applicable Law, each party will defend, indemnify and hold harmless the other party from and against any third party claims, injuries, losses, damages, settlements, penalties, fines, costs, or expenses (including reasonable attorneys' fees) that arise from or relate to (i) the indemnifying party's negligence, misconduct or breach of this Agreement; and (ii) an indemnifying party's violation of Applicable Law.

11. **OTHER TERMS.**

a. **Governing Law.** Any action related to this Agreement shall be governed by and construed in accordance with the laws of the state of Florida, without reference to conflicts of laws principles that would result in the application of the laws of another jurisdiction. The State courts of the Third Judicial District of Suwannee County, Florida shall have exclusive jurisdiction and venue over any dispute arising hereunder or related hereto, and the parties hereby consent to the personal jurisdiction and venue of these courts. Notwithstanding the foregoing, Edgenuity shall have the right to seek injunctive or pre-judgment relief in any court of competent jurisdiction to prevent or enjoin the misappropriation, misuse, infringement or unauthorized disclosure of Edgenuity's Confidential Information or intellectual property rights. No Federal Acquisition Regulations shall be construed to apply to Edgenuity without Edgenuity's written agreement thereto. The United Nations Convention for the International Sale of Goods shall not apply to this Agreement.

b. **Entire Agreement and Changes.** These Terms and Conditions (and any Attachments) and the Quote constitute the entire agreement between the parties and supersede any prior or contemporaneous negotiations or agreements, whether oral or written, related to this subject matter. Customer is not relying on any representation concerning this subject matter, oral or written, not included in this Agreement. This Agreement may only be modified in writing signed by both parties.

c. **No Assignment.** Neither party may assign or transfer this Agreement or a Quote to a third party, except that this Agreement with all Quotes may be assigned, without the consent of the other party as part of a merger or sale of all or substantially all the assets of a party.

d. **Independent Contractors.** The parties to this Agreement are independent contractors, and this Agreement does not create any partnership, joint venture, employment, franchise, or agency between the parties. Neither party will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent.

e. **Feedback.** By submitting ideas, suggestions or feedback to Edgenuity regarding the Subscription, Customer agrees that items submitted do not contain confidential or proprietary information; and Customer grants Edgenuity an irrevocable, unlimited, royalty-free and fully-paid perpetual license to use such items for any business purpose.

f. **Enforceability and Force Majeure.** If any term of this Agreement is invalid or unenforceable, the other terms remain in effect. Except for the payment of fees, neither party is liable for events beyond its reasonable control, including, without limitation force majeure events, failure of Internet services, any third party service and telecommunications services.

g. **Money Damages Insufficient.** Any breach by a party of this Agreement or violation of the other party's intellectual property rights could cause irreparable injury or harm to the other party. The other party may seek a court order to stop any breach or avoid any future breach.

h. **No Additional Terms and Order of Precedence.** This Agreement supersedes any additional or conflicting terms of any Customer form-purchasing document. If there is an inconsistency between these Terms and Conditions and any Quote, the Quote will prevail only with respect to pricing, duration and service specific terms.

i. **Survival of Terms.** Sections 5 through 10, 11(a) (e) (g) (h) and (i) shall survive termination of this Agreement.

Attachment A
Third Party Terms

1. **Third Party Services** refer to web based software, content or services licensed by Edgenuity from a third party for use by Edgenuity for the Subscription or Hardware. Customer's use of Third Party Services may be subject to additional terms from the third parties, some of which are listed below or can be found at the web links indicated:

a. **ExploreLearning.** Access to and use of any ExploreLearning *Gizmos* (Gizmos) provided by Edgenuity are governed by the following additional terms: (i) Neither Customer nor any of its users are authorized to access or use any Gizmos, except: (a) users who are students and who are authorized by Customer to access and use the Service that includes or incorporates the Gizmos; and (b) users who are teachers of those same students, provided that such teachers may use the Gizmos only for the purposes of assigning and managing assignments for those students; (ii) A Gizmo may only be used in connection with the Service with which that particular Gizmo has been provided, and may not be used in connection with any other class, program, application, or software; and (iii) Customer understands and agrees that any access to or use of any Gizmo provided by Edgenuity by Customer or any of its users in contravention of the foregoing terms constitutes a material breach of the Agreement, and that if Customer desires to use a Gizmo in a manner that is not authorized by the Agreement, it is solely the responsibility of Customer (and not of Edgenuity) to obtain authorization for such use from the appropriate third party.

b. **Education Testing Services (ETS) *e-rater*® Scoring Service.** If the Agreement includes any ETS services, Customer agrees as follows: (i) the score and/or feedback received from the e-rater® technology should be considered as one piece of evidence about a student's writing ability. When a score from the e-rater® engine is being used for an important decision about a student's performance, instructors should review and evaluate the score and/or feedback to ensure that the appropriate decision about placement or performance has been made; (ii) the user understands and agrees that the Scoring Service may not be used for any other purpose, or provided to any other party, than as described herein. As permitted under state or federal law, user shall indemnify and hold Edgenuity and/or Educational Testing Service (ETS) harmless from any and all claims arising out of the use of the Scoring Service or use of the scores and/or feedback to determine placement of, or grades for students, or any other purpose; (iii) THE E-RATER® SCORING SERVICE (SCORE AND GRAMMAR CHECKING FEATURE) PROVIDED BY ETS IS PROVIDED "AS-IS", WITHOUT WARRANTIES OF ANY KIND AND ETS DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE E-RATER® SCORING SERVICE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, TITLE, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT WILL ETS BE LIABLE TO CLIENT OR ANY THIRD PARTY FOR ANY DIRECT, INDIRECT, PUNITIVE, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE THIRD PARTY PRODUCTS, EVEN IF THEY HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES; and (iv) with regard to essays submitted to the site, you (Customer) hereby grant to ETS a non-exclusive, royalty-free, world-wide, irrevocable license to reproduce, transmit, display, disclose, archive and otherwise use any such files you submit to the site for the purposes of scoring and providing feedback. ETS will not retain any personally-identifiable information that may be associated with the essays. This license shall survive the termination of any license granted herein to ETS but in no event longer than 18 months. Any cessation of use of the site shall not result in the termination of any license you grant herein to ETS. Nothing herein shall preclude ETS from using information independently created by ETS.

c. **Sophia® Learning Inc.** If this Agreement includes any Sophia Learning Inc. courses for use, the following term applies to any such purchase or use: "Customer agrees that the use of any Sophia course is prohibited for all students under the age of 13 years."

d. **CompassLearning Third Party Information.** (i) CKEditor (© 2003-2013 CKSource – Frederico Knabben, all rights reserved), is a third party software text editor, licensed pursuant to the CKEditor Enterprise OEM License 2.3.2 and the GNU Lesser General Public License Version 3 ("LGPL"), available at http://www.gnu.org/licenses/gpl.html; (ii) SSHNET (© 2010 RENCI, all rights reserved), is a third party secure connectivity software tool, licensed pursuant to the terms found at https://sshnet.codeplex.com/license; (iii) Agilix Labs, Inc.'s xLi platform, (© Agilix Labs, Inc., all rights reserved), is distributed with other licensed third party components under the MIT License and/or the Apache License found at https://jquery.org/license/ and http://cdn.mathjax.org/mathjax/2.0-latest/LICENSE.

2. Hardware refers to any equipment with any pre-installed software marketed or supplied by Edgenuity and identified on a Quote. Edgenuity is not the manufacturer of Hardware and it is provided subject to the separate sale terms provided by the manufacturer (including without limitation, return and exchange terms). Customer grants Edgenuity permission to provide remote technical support for setup and diagnostic purposes for any Hardware if required. Customer owns the Hardware and has a license to any pre-installed software, subject to the applicable license agreement. During the term of this Agreement, if Customer modifies Hardware in any way, it may void the manufacturer's warranty. Upon expiration or termination of the Agreement, Edgenuity will remotely remove any and all Edgenuity content and software from the Hardware.

3. **DISCLAIMERS.** ALL THIRD PARTY SERVICES AND HARDWARE ARE PROVIDED BY EDGENUITY "AS IS." EDGENUITY MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED. Edgenuity transfers to Customer, to the extent transferable, warranties and indemnities Edgenuity receives from the manufacturer of the Hardware or Third Party Service. Edgenuity's sole obligation with respect to Hardware and Third Party Service will be to use reasonable commercial efforts to facilitate warranty and indemnification claims that Customer makes against the manufacturer of the Hardware or Third Party Service. Customer, recognizing that Edgenuity is not the manufacturer of Hardware or Third Party Service, expressly waives any claim that Customer may have against Edgenuity for product liability or infringement of any intellectual property right with respect to any Hardware or Third Party Service, as well as any right to indemnification from Edgenuity on account of any such claim made against Customer by a third party.

Attachment B

Additional Terms for Instructional Services & Professional Development

1. **APPLICABILITY.** These additional terms and conditions apply if the Quote includes the purchase of Instructional or Professional Development Services from Edgenuity. In the event of a conflict between these additional terms and the Edgenuity Standard Terms and Conditions, these additional terms shall control, but solely with respect to the provision of Instructional and/or Professional Development Services.

2. **CUSTOMER LIAISON.** Customer will designate an individual to serve as its primary liaison to Edgenuity for all communications related to the provision of Instructional and Professional Development Services, setting up access for End Users, and use of the Subscription.

3. **HOURS OF AVAILABILITY.** Edgenuity Instructional and Professional Development Services will be available during the business hours specified by Edgenuity, or if Customer requires Instructional Services for certain times or additional hours, such requirements must be specified in the Quote prior to the beginning of the Subscription. Requests for access to Instructional or Professional Development Services not already provided for in the Quote must be made or approved by the Customer Liaison, and may result in additional charges.

4. **NO GUARANTY OF OUTCOMES.** Edgenuity cannot make any guarantees, representations or warranties as to any student, teacher, or other End User outcomes or results from the Instructional or Professional Development Services.

5. **INSTRUCTIONAL SERVICES.** If specified in the Quote, Edgenuity will provide virtual access to teachers or coaches (or both) ("Edgenuity Instructors") who are hired, trained, supervised, and paid by Edgenuity, and who will assist in the virtual delivery of the Licensed Material to students and their use of the Subscription (the "Virtual Programs"). Customer shall be responsible for (a) providing secure internet access for End Users to use the Virtual Programs, (b) all day-to-day management of the Virtual Programs, subject in all cases to compliance with Applicable Law and Customer policies; (c) obtaining all necessary consents for the provision of Instructional Services where they will involve direct contact between Edgenuity Instructors and students and parents; (d) determining appropriate student courses and verifying student schedules; (e) monitoring student attendance and insuring compliance with applicable state requirements; and (f) assisting students not making adequate progress.

   a. **Instructor Requirements.** Customer shall be responsible for advising Edgenuity of any special certification, training, background checks, insurance, fingerprinting or similar requirements for the Edgenuity Instructors as may be imposed by Applicable Law ("Instructor Requirements"). Edgenuity shall be solely responsible for all decisions regarding hiring, supervision, discipline, and dismissal of Edgenuity Instructors, and for insuring that all Edgenuity Instructors meet and comply with Instructor Requirements.

   b. **Exceptional Student Services.** If Customer is a public entity receiving federal funds, Customer is considered the "Local Educational Agency," or LEA, as that term is defined by Applicable Law, and Customer is solely responsible for the provision of any special education services. Edgenuity's services do not include (i) providing special education services; (ii) creating, implementing or providing Individualized Education Programs (**IEP**); (iii) providing reasonable accommodations or any services to insure compliance with the Individuals with Disabilities Education Act (IDEA), the Americans with Disabilities Act (ADA), section 504 of the Rehabilitation Act, or any other Applicable Law. Notwithstanding the foregoing, Edgenuity will discuss, formulate and make reasonable adjustments and accommodations in furtherance of student IEPs or reasonable accommodations established by Customer, provided that Customer provides necessary IEPs and section 504 documentation to Edgenuity. Customer shall be solely responsible for the costs of any required adjustments or accommodations.

   c. **State Testing.** Customer is responsible for providing appropriate accommodations for the administration of any state-mandated standardized testing by End Users. Customer is also responsible for receiving, distributing, administering, proctoring and returning any and all state-mandated standardized tests under applicable state law, policies and procedures.

   d. **Reporting and Withdrawal of Students/End Users.** Where reporting of student results is required by Applicable Law, Customer shall be responsible for insuring the accuracy and completeness of student information used, relied upon, or reported by Edgenuity in providing the Instructional Services, and shall promptly notify Edgenuity if any student information needs to be corrected or updated. Upon notice to Customer, Edgenuity reserves the right to withdraw End User access for students who fail to take required tests or maintain adequate progress.

6. **PROFESSIONAL DEVELOPMENT SERVICES.** If included in the Quote, Edgenuity may also provide Professional Development Services, ("PD Services") which may include training and instruction to Customer's instructors and administrators on the implementation and use of the Subscription, curriculum workshops, use of student information to monitor progress, and other related topics as may be specified in the Quote. Customer shall be solely responsible for providing necessary equipment and secure internet access to facilitate the PD Services, and for scheduling the PD Services at least two (2) weeks in advance.

   a. **Charges for PD Services.** Before delivering Professional Development Services, Edgenuity must receive a signed Quote specifying the number of hours included and the cost of the services provided, and all necessary setup and implementation services required to demonstrate and use the Subscription must be completed. PD Services will be available for use by Customer only during the Term of the Subscription. PD Services purchased but not scheduled and delivered within the first year of the Term may be forfeited without notice. If there are any changes or cancellations of PD services less than 72 hours prior to the scheduled delivery date, Customer agrees to reimburse Edgenuity for travel and other out-of-pocket expenses incurred. Any grace periods or extension of time for delivery of PD Services must be agreed to in writing signed by both parties.

   b. **Use of Customer's Facilities.** If Professional Development services are to be provided by Edgenuity at Customer's premises, Customer shall advise Edgenuity in advance of any Instructor Requirements for Edgenuity personnel, and Edgenuity will be responsible for insuring that all Professional Development personnel meet and comply with all such requirements.

SUWANNEE COUNTY SCHOOL DISTRICT

702 – 2nd Street, NW • Live Oak, Florida 32064
Telephone: (386) 647-4600 • Fax: (386) 364-2635
www.suwannee.k12.fl.us

TED L. ROUSH
Superintendent of Schools

"Suwannee County School District will be a system of excellence ensuring all students are prepared for personal success."

JERRY TAYLOR
DISTRICT 1
CATHERINE CASON
DISTRICT 2
TIM ALCORN
DISTRICT 3
ED DA SILVA
DISTRICT 4
RONALD WHITE
DISTRICT 5
LEONARD J. DIETZEN, III
BOARD ATTORNEY

MEMORANDUM

TO: Ted L. Roush, Superintendent of Schools TR/BB

FROM: Janene Fitzpatrick, Assistant Superintendent of Instruction

THRU: Vickie DePratter, Chief Financial Officer

DATE: July 31, 2017

RE: Agenda Item for August 8, 2017, Special Board Meeting

RECOMMENDATION:

The Superintendent recommends approval of the following Agreement:

#2018-69 Virtual Instructional Program Agreement between the Suwannee County School District and Edgenuity, Inc. for the 2017-2018 school year. (REVISED/RENEWAL)

BACKGROUND:

This agreement is to form a relationship between the School/District and Edgenuity, Inc. for a Virtual Instructional Program (VIP). Edgenuity, Inc. will invoice the school district for each billable enrollment at: $225.00 per semester course enrollment, $1,750.00 for full-time enrollment per semester. This will be paid out of the general fund.

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VIRTUAL INSTRUCTION PROVIDER AGREEMENT

This Agreement for services ("**Agreement**") made and entered into by and between Edgenuity Inc. (hereinafter, "**VIRTUAL INSTRUCTION PROVIDER**," or "**Edgenuity**") having principal offices at 8860 E. Chaparral Road, Suite 100, Scottsdale, AZ, 85250; and Suwannee County Schools (hereinafter "**CLIENT**"), having principal offices at 1729 Walker Avenue, SW, Suite 200 Live Oak, FL 32064.

This Agreement supersedes and cancels any prior agreements and/or understandings between the parties concerning the subject matter. There are no provisions, representations, undertakings, agreements, or collateral agreements between the parties other than as set forth in this Agreement.

The parties by their authorized representatives have entered into this Agreement as of July 1st, 2017 (the "**Effective Date**").

CLIENT and VIRTUAL INSTRUCTION PROVIDER agree to the Description of Work contained in Attachment A ("Description"); Attachment B (Payment Terms and Conditions); Attachment C (Detailed Curriculum Plan); Attachment D (the Terms and Conditions) and all incorporated herein as part of the Agreement, as true and accurate.

This contract shall be effective upon the date upon which it is signed by both the CLIENT and the VIRTUAL INSTRUCTION PROVIDER, whichever is later.

TERM

This Agreement shall be effective on the Effective Date for a period of one (1) year and shall be terminable in accordance with the requirements herein, with the option of one year renewal after written acceptance and approval from both parties.

EDGENUITY INC.	**CLIENT:**
Signature:	Signature:
Printed Name:	Printed Name: Ted L. Roush
Title:	Title: Superintendent of Schools
Date:	Date:
Address: 8860 East Chaparral Road, Suite 100 Scottsdale, AZ 85250	Address: 1729 Walker Ave., SW, Ste, 200 Live Oak, FL 32064

Chairperson, Suwannee County School Board

"Approved as to Form and Sufficiency
BY_____
Leonard J. Dietzen, III
Rumberger, Kirk & Caldwell, P.A.
Suwannee School Board Attorney"

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ATTACHMENT A
Description of Work

As more fully set forth in Attachment B, the VIRTUAL INSTRUCTION PROVIDER is to assist in the operation of a K - 12 virtual school that provides a free-to-students, full-time 180-day online instructional program to eligible students during the 2017/18 school year. The VIRTUAL INSTRUCTION PROVIDER is to provide each student with all necessary online courseware and instructional support provided as set forth in Attachment B, and as further defined by the Virtual Instruction Provider's Terms and Conditions, and through any subsequent changes established by joint written agreement between CLIENT and VIRTUAL INSTRUCTION PROVIDER. Any instructional staff provided by VIRTUAL INSTRUCTION PROVIDER must be highly qualified as identified by NCLB standards and hold valid Florida teaching certificates under provisions of Chapter 1012, Florida Statutes. The VIRTUAL INSTRUCTION PROVIDER will ensure all employees and contracted personnel undergo background screening as required by s. 1012.32, Florida Statutes, using state and national criminal history records and will provide a list of instructional employees to the CLIENT for verification of compliance according to the VIRTUAL INSTRUCTION PROVIDER's standard procedures. If additional background checks are required by CLIENT, CLIENT will so state in writing to VIRTUAL INSTRUCTION PROVIDER. VIRTUAL INSTRUCTION PROVIDER will provide information as requested by Client Liaison as described below in #9 in regards to monitoring. All curriculum and course content must align to the Florida Standards. The VIRTUAL INSTRUCTION PROVIDER agrees to comply with any student progression plan, student calendar and other standard policies to support a virtual program in compliance with applicable Florida Statutes except as described in the Virtual Instruction Provider's Terms and Conditions attached hereto as **Attachment D** and incorporated herein. As required in s. 1002.45, a detailed curriculum plan is provided in **Attachment C** that illustrates how students will be provided services and be measured for attainment of proficiency in the Florida Standards for each grade level and subject. For districts who select the provision of a full-time virtual instruction program to students in grade 9-12, the VIRTUAL INSTRUCTION PROVIDER will report the successful completion of courses to the CLIENT and it is the CLIENT's responsibility to confirm that a student has satisfied the requirements for graduation in s. 1003.428,
s. 1003.429, or s. 1003.43. The VIRTUAL INSTRUCTION PROVIDER will establish a standard schedule for providing data for required state reporting that enables timely submission to the Department of Education. Using the data provided to VIRTUAL INSTRUCTION PROVIDER by CLIENT, VIRTUAL INSTRUCTION PROVIDER will use commercially reasonable efforts to provide timely, accurate and complete education data. While the education data is under the control of VIRTUAL INSTRUCTION PROVIDER, VIRTUAL INSTRUCTION PROVIDER will use commercially reasonable security measures and controls as required by FERPA.

Role of the CLIENT

1. Assign virtual school students at school number 7001 under the appropriate provider by code and other actions required by the Florida Department of Education.
2. Verify the enrolled students are eligible to participate in the virtual school.
3. Provide testing locations for all students for any required testing and to administer any required testing; to provide readiness screening for students entering grade K.
4. Provide any required services to support a student's IEP consistent with the legal requirements for serving students with special needs in a virtual school.
5. Provide an English Language Learner ("ELL") certified teacher for students requiring ELL education that will meet all ELL eligibility requirements, unless otherwise agreed by both parties in writing. Provider may make recommendations for ELL accommodations within the Provider courses or offer other services and elective courses to meet this need.

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6. Manage the student admissions process, consistent with school policies and applicable law. Such administration shall include the management of the student application and enrollment process and fielding all communications with students and their parents regarding the application and enrollment process.
7. Create and manage all marketing and promotional materials, collateral, advertisements or solicitations associated with recruiting, registering, and orienting students to the Virtual School.
8. Provide administrators and/or counselors to provide student and/or parent counseling/administrative support as needed.
9. Designate to the VIRTUAL INSTRUCTION PROVIDER, a CLIENT Liaison to act for the CLIENT in all matters pertaining to this contract, including but not limited to monitoring compliance pursuant to State and Client policy, and to accept and approve all deliverables and invoices.
10. Client (i) must keep its passwords secure and confidential; (ii) is solely responsible for its Data and all activity in its account in the Service; (iii) must use commercially reasonable efforts to prevent unauthorized access to its account, and notify Provider promptly of any such unauthorized access; and (iv) may use the Service only in accordance with the Service's written technical guides and applicable law. Client may allow authorized third parties to access the Service in compliance with the terms of this Agreement, so long as the access is for the sole benefit of Client. Client is responsible for compliance by such Client authorized third parties with this Agreement.
11. Accept standard publications of the VIRTUAL INSTRUCTION PROVIDER for all compliance and documentation purposes (i.e., program guide for information and data about the curriculum, student handbook for school policies and procedures and hours of personnel availability, state reporting for certification status and physical location of personnel, monthly school report for student-teacher ratios, teacher load limits, state data submissions and state report cards for completion, promotion, and other accountability outcomes).
12. Provide the VIRTUAL INSTRUCTION PROVIDER with a district liaison so that VIRTUAL INSTRUCTION PROVIDER can provide accurate student completion course completion to CLIENT.
13. Accurately code all required data for virtual students to the Florida Department of Education.
14. Provide the VIRTUAL INSTRUCTION PROVIDER with student data so the provider can meet Florida Department of Education reporting requirements to include gender, grade, ethnicity, ELL status, special education, FSA ELA and math assessment results, EOC data, and graduation data or other data as requested.
15. For payment, report to the state all students served under this Agreement as reported to the CLIENT by the VIRTUAL INSTRUCTION PROVIDER.
16. Pay the VIRTUAL INSTRUCTION PROVIDER in accordance with Attachment B.
17. Provide any required information to parents and students about their right to participate in CLIENT's virtual school.
18. Provide a diploma for graduating seniors.
19. Fulfill the requirements of a virtual school set forth in s. 1002.45, F.S., that are not specifically identified as responsibilities of the VIRTUAL INSTRUCTION PROVIDER under the terms of this Agreement.

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ATTACHMENT B
Payment Terms and Conditions

Edgenuity Curriculum and Instructional Services FLORIDA VIRTUAL INSTRUCTION PROVIDER Pricing	
Edgenuity Instructional Services is a FLORIDA VIRTUAL INSTRUCTION PROVIDER approved provider and offers to schools and districts the flexibility to partner with Edgenuity to provide instructional teaching services and courseware to support their Florida VIRTUAL INSTRUCTION PROVIDER program needs. A comprehensive FL VIRTUAL INSTRUCTION PROVIDER course list is provided.	
Instructional Services Program Options	**Pricing**
Course enrollment options - includes courseware and FL certified teacher	
Teaching Services/Supplemental - part-time course enrollment (per semester)*	**$225.00**
Teaching Services - full-time enrollment (per semester)	**$1750.00**
SIS Only Course Fee/ Teaching Service Only Course Fee	**$10/$50**
VS Teaching Services - per semester course enrollment	
This service provides students with an Edgenuity semester course for a five (5) month enrollment period and an academic support team comprised of highly qualified and state certified instructors and on demand concept coaching: • Instructors augment course content via remediation, modification and enrichment through web meetings, virtual office hours, and email communication. Instructors also grade course assignments and projects. • Concept coaches perform on demand concept demonstration using interactive technology tools for core courses, ELA, Math, Social Studies, and Science. • The academic support team monitors student progress and proactively communicates with students, parents, and school staff.	
Teaching Services - full-time semester enrollment - per semester/monthly	
• This service provides full-time students with up to six (6) Edgenuity semester courses for a five (5) month enrollment period and an academic support team comprised of highly qualified and certified instructors, concept coaches, and success coaches. • Instructors augment course content via remediation, modification and enrichment through web meetings, virtual office hours, and email communication. Instructors also grade course assignments and projects. • Concept coaches perform on demand concept demonstration using interactive technology tools for core courses, ELA, Math, Social Studies, and Science • The academic support team monitors student progress and proactively communicates with students, parents, and school staff. • The full-time student will also receive a dedicated Success Coach. The Success Coach is a mentor who provides guidance for students enrolled full-time in online Edgenuity courses. They provide orientation services for students and parents, create individualized learning plans with students, monitor overall student progress and attendance, and partner with the entire academic support team and school to ensure students are on track and successful in their courses.	

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Terms and Conditions – attached hereto as Attachment D and incorporated by reference into this Agreement.

Payment Terms and Conditions

Quarterly Billing:

- Edgenuity will provide enrollment rosters on October 5, December 5, February 5, and June 5 on all active enrollments to be invoiced.
- The customer will have an opportunity to review and provide updated information to Edgenuity by the 15th of the billing month.
- Invoices will be sent on the 16th of each billing month and the term is net 30.
- AP courses may have a non-refundable $125 materials fee associated with the enrollment

Teaching Service Only Course Fee

- Edgenuity will invoice the cost of the stated, applicable cost of the course if a student does not successfully complete the Teaching Service Only Course but has completed at least 20% of the course, or has been enrolled at least 28 days, whichever occurs first.

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Attachment B – Continued

I. VIRTUAL INSTRUCTION PROVIDER shall provide the Curriculum and Instructional Services identified in the **"Payment Terms and Conditions"** pricing table (the "**Deliverables**").

II. VIRTUAL INSTRUCTION PROVIDER will commit to a student-teacher ratio consistent with the Florida Virtual School program, which is one teacher per 65 students for grades 6 – 8 and one teacher per 200 students for grades 9 – 12.

III. To the best of the VIRTUAL INSTRUCTION PROVIDER's knowledge, the VIRTUAL INSTRUCTION PROVIDER further warrants that as to each Deliverable produced pursuant to this Contract, VIRTUAL INSTRUCTION PROVIDER's production of the Deliverable and the CLIENT's use of the Deliverable, will not infringe on the copyrights of any third party. This provision applies to each work of authorship in which copyrights subsist pursuant to 17 U.S.C. Section 102-105 and to each exclusive right established in 17 U.S.C. Section 106. To the best of the VIRTUAL INSTRUCTION PROVIDER's knowledge, in furtherance of this provision, the VIRTUAL INSTRUCTION PROVIDER warrants that:

a. As to each work of software or other "information technology" as identified in s. 287.012(15), Florida Statutes, in which copyrights subsist, the VIRTUAL INSTRUCTION PROVIDER has acquired the rights by conveyance or license to any third party software or other information technology, which was used to produce the Deliverables.

b. As to each image and sound recording incorporated into a Deliverable, the VIRTUAL INSTRUCTION PROVIDER has acquired the necessary rights, releases and waivers from the person whose image or sound is included, or form the holder of the copyrights subsisting in the literary, musical, dramatic, pantomime, choreographic, pictorial, graphic, sculptural, motion pictures, audiovisual, work or sound recording from which the included image or sound was taken.

IV. If there is a modification to the rules and regulations approved by the Florida Board of Education in contradiction to the terms outlined in this contract, the Parties will amend the contract as necessary to bring the contract into accord with the rules and regulations so long as such change does not materially change the Deliverables as currently defined.

V. VIRTUAL INSTRUCTION PROVIDER will implement, maintain, and use appropriate administrative, technical, or physical security measures to the full extent required by Title 20, Section 1232g, United State Code, The Family Educational Right and Privacy Act (FERPA), in order to maintain the confidentiality of student/education records.

VI. VIRTUAL INSTRUCTION PROVIDER has filed for or is the owner of various trademarks and logos. The CLIENT will be granted the use of such logos and trademarks in connection with its virtual school offering but use of such trademark and logos shall be used only in connection with those services provided under this contract.

VII. VIRTUAL INSTRUCTION PROVIDER will maintain and keep in force Worker's Compensation, Liability and Property Damage Insurance to protect it from claims under worker's compensation claims for personal injury, including death, and claims for damages to any property of the CLIENT, or of the public, which may arise from operations under this Agreement, whether such operations be by VIRTUAL INSTRUCTION PROVIDER, or by any subcontractor or anyone directly or indirectly employed by VIRTUAL INSTRUCTION PROVIDER.

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VIII. In no event will the CLIENT, CLIENT members, CLIENT officers, employees, or agents be responsible or liable for the debts, acts or omissions of the VIRTUAL INSTRUCTION PROVIDER, its officers, employees, or agents. This does not excuse the CLIENT from paying any obligations incurred resulting from this contract, or from the payment of any debts incurred under this contract for lawfultermination.

IX. **CONFLICT RESOLUTION** – Any dispute concerning performance of the contract shall be decided by the CLIENT's designated contract manager, who shall reduce the decision to writing and serve a copy to the VIRTUAL INSTRUCTION PROVIDER. The decision shall be CLIENT's final decision unless within ten (10) days from the date of receipt, the VIRTUAL INSTRUCTION PROVIDER files a petition with the CLIENT for administrative hearing pursuant to Chapter 120 of the Florida Statutes. Exhaustion of administrative remedies is an absolute condition precedent to the VIRTUAL INSTRUCTION PROVIDER's ability to pursue any other form of dispute resolution; provided, however, that the parties may employ the alternative dispute resolution procedures outlined in Chapter 120.

X. After exhaustion of administrative remedies or for any claim not cognizable under Chapter 120, Florida Statutes, the exclusive venue of any legal or equitable action that arises out of or relates to the Agreement shall be the appropriate state or federal court with jurisdiction over Suwannee County, Florida; in any such action, Florida law shall apply and the parties waive any right to jury trial.

XI. **TERMINATION** – This contract may only be terminated before its expiration as follows: a) both Parties agree in writing to the termination; or b) if either Party materially breaches the contract and fail to cure such breach within ninety (90) days following written notification of such breach from the other Party, the non-breaching Party may elect to terminate.

XII. **DEBT RESPONSIBILITY** – As required by Florida Statute, the Virtual Instruction Program is responsible for all debts for CLIENT's virtual instruction program that arise out of the VIRTUAL INSTRUCTION PROVIDER's performance of this contract if the contract is not renewed or is terminated. This does not excuse the CLIENT from paying any obligations incurred resulting from this contract, or from the payment of any debts incurred under this contract for lawful termination.

XIII. VIRTUAL INSTRUCTION PROVIDER is required to comply with all requirements of Section 1002.45, Florida Statutes and will comply with disclosure requirements adopted in rule by the Florida Board of Education.

XIV. **PUBLIC RECORD** – Client agrees that all of Edgenuity's Confidential Information, as defined below, is a trade secret, as defined in Section 812.081, Fla. Stat., and is therefore exempt from disclosure as public records under Chapter 119, Florida Statutes. Client agrees to take all commercially-reasonable steps necessary to prevent unauthorized disclosure of Edgenuity's Confidential Information and Confidential Materials, as defined below. Such steps shall include without limitation, Client's agreement to promptly notify Edgenuity of any public records request that, if fulfilled, would result in disclosure of any of Edgenuity's Confidential Information. Client's notification will occur before releasing such Confidential Information and in sufficient time to allow Edgenuity to assert any pertinent public records exemption before any necessary agency, court, forum, or tribunal. Edgenuity will be solely responsible for the legal defense and cost of asserting the exemption(s) in any proceeding in which the exemption(s) is contested. Client agrees that Edgenuity has taken all necessary measures to prevent disclosure to unauthorized persons of Edgenuity's Confidential Information in Client's possession and that no further warning or labeling is necessary.

"Confidential Information" means any information relative to Edgenuity, its business, or its operations, that is clearly marked "confidential" or "proprietary", or that ought to be treated as confidential under the circumstances surrounding the disclosure, provided that Confidential Information shall not include

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information that: (i) at the time of disclosure, or thereafter, becomes publicly known through means other than a party's breach of this Agreement; (ii) was known to the CLIENT as of the time of its disclosure without any obligation of confidentiality, the proof of such knowledge to be the burden of the CLIENT; (iii) was independently developed by the CLIENT without the use of any of the Edgenuity's Confidential Information; (iv) was subsequently learned from a third party not under a confidentiality obligation to Edgenuity or any other party; or (v) is public record pursuant to applicable state law. "Confidential Materials" means all tangible materials containing Confidential Information, including written or printed documents and computer disks or tapes, whether machine or use readable. Edgenuity's Confidential Information includes the contents of any Edgenuity Licensed Content, the Software, the Documentation, the Deliverables, Copyright Materials, and other Trade Secret Materials.

XV. **JESSICA LUNSFORD ACT** – Edgenuity and its employees are non-instructional contractors as defined in Sections 1012.467(1)(a), Fla. Stat., and 1012.468(1), Fla. Stat. Edgenuity and its employees will comply with Sections 1012.465, Fla. Stat., and 1012.467, Fla. Stat., in accordance with Section XVII.M. of the Standard Terms.

XVI. **SOVEREIGN IMMUNITY** – The parties acknowledge and agree that Client is an agency of the State of Florida for purposes of sovereign immunity and immune from suit except to the extent such immunity has been waived by the state.

XVII. **EQUAL OPPORTUNITY** – Edgenuity shall comply with all federal and state laws prohibiting discrimination, including the Florida Civil Rights Act of 1992 and the Florida Educational Equity Act. Client acknowledges that Client and not Edgenuity decide which students are allowed use of Edgenuity's Licensed Content.

XVIII. **FLORIDA ETHICS LAWS** – Edgenuity will comply with all applicable provisions contained in Chapter 112, F.S. None of Client's employees or board members has a material interest (as defined in Section 112.312(15), Fla. Stat.) in Edgenuity.

XIX. **SALES TAX EXEMPTION** – Except to the extent Client provides Edgenuity with a valid Form DR-14, Consumer's Certificate of Exemption pursuant to Section 212.08, Fla. Stat., Edgenuity will invoice Client for, and Client agrees to promptly pay, sales tax levied by the State of Florida in connection with this Agreement.

XX. **FIREARMS** – Edgenuity's employees will not bring a firearm or prohibited weapon onto Client's property.

XXI. **AUDIT** – Client may audit Edgenuity under this Agreement for compliance matters upon reasonable written notice to Edgenuity. Any such audit will be conducted under normal business hours and days of operation.

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Attachment C
Detailed Curriculum Plan

The VIRTUAL INSTRUCTION PROVIDER will provide courses and instructional services for the District's programs under the Virtual School:

- Full-time Student Program
- Supplemental Course Program

The attached current list of courses meets FL VIP requirements and is aligned to Florida Standards for each grade level and subject and courses that meet requirements for the District's Students Progression Plan for Middle School and High School. Additionally, the District may choose to collaborate with the VIRTUAL INSTRUCTION PROVIDER to create district specific courses for the Supplemental Program. The courses may be Honors, Advanced, and/or courses that are aligned to the District's curriculum pacing guides. Edgenuity updates courses regularly due to changing standards and customer requests.



Florida Course List



Edgenuity has proudly met the high expectations required by the state of Florida to become a Virtual Instruction Program (VIP) provider for grades six through twelve. Edgenuity is approved through 2019.

Our engaging curriculum and powerful online tools enable Florida students to be self-directed learners and prepare for future college and career success.



Ask us about **Edgenuity MyPath™**

An award-winning intervention solution to help students catch up, keep up, and get ahead, with content for grades 3–11 skill levels.

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Florida Course List

Core Courses - Middle School

ENGLISH LANGUAGE ARTS

- ☐ 1001010 – M/J Language Arts 1
- ☐ 1001020 – Advanced M/J Language Arts 1
- ☐ 1001040 – M/J Language Arts 2
- ☐ 1001050 – Advanced M/J Language Arts 2
- ☐ 1001070 – M/J Language Arts 3
- ☐ 1001080 – Advanced M/J Language Arts 3
- ☐ 1008010 – M/J Reading 1
- ☐ 1000010 – M/J Intensive Reading

MATHEMATICS

- ☐ 1205010 – M/J Grade 6 Mathematics
- ☐ 1205020 – M/J Grade 6 Mathematics Advanced
- ☐ 1205040 – M/J Grade 7 Mathematics
- ☐ 1205050 – M/J Grade 7 Mathematics Advanced
- ☐ 1205070 – M/J Grade 8 Pre-Algebra
- ☐ 1204000 – M/J Intensive Math

SCIENCE

- ☐ 2000010 – M/J Life Science
- ☐ 2001010 – M/J Earth/Space Science
- ☐ 2003010 – M/J Physical Science
- ☐ 2002040 – M/J Comprehensive Science 1
- ☐ 2002050 – M/J Comprehensive Science 1 Advanced
- ☐ 2002070 – M/J Comprehensive Science 2
- ☐ 2002080 – M/J Comprehensive Science 2 Advanced
- ☐ 2002100 – M/J Comprehensive Science 3
- ☐ 2002110 – M/J Comprehensive Science 3 Advanced

SOCIAL STUDIES

- ☐ 2109010 – M/J World History
- ☐ 2106010 – M/J Civics
- ☐ 2100010 – M/J United States History
- ☐ 2100015 – M/J United States History & Career Planning
- ☐ 2103010 – M/J World Geography

WORLD LANGUAGES

- ☐ 0701000 – M/J French, Beginning
- ☐ 0701010 – M/J French, Intermediate
- ☐ 0702000 – M/J German, Beginning
- ☐ 0702010 – M/J German, Intermediate
- ☐ 0707000 – M/J Chinese, Beginning
- ☐ 0707010 – M/J Chinese, Intermediate
- ☐ 0708000 – M/J Spanish, Beginning
- ☐ 0708010 – M/J Spanish, Intermediate

ELECTIVES

- ☐ 0102040 – M/J Creative Photography 1*•
- ☐ 1508000 – M/J Fitness 6*•
- ☐ 1508600 – M/J Comprehensive 6/7*•
- ☐ 1508700 – M/J Comprehensive 7/8*•
- ☐ 1700060 – M/J Career Research and Decision Making*
- ☐ 8000400 – Orientation to Career Clusters*

State Test Preparation - Middle School

- ☐ FSA Grade 6 English Language Arts Δ
- ☐ FSA Grade 7 English Language Arts Δ
- ☐ FSA Grade 8 English Language Arts Δ
- ☐ FSA Grade 6 Mathematics Δ
- ☐ FSA Grade 7 Mathematics Δ
- ☐ FSA Grade 8 Mathematics Δ
- ☐ EOC Civics Grade 7 Δ
- ☐ SSA Grade 8 Science Δ

Core Courses - High School

ENGLISH LANGUAGE ARTS

- ☐ 1001310 – English 1
- ☐ 1001315 – English 1 for Credit Recovery
- ☐ 1001320 – English Honors 1
- ☐ 1001340 – English 2
- ☐ 1001345 – English 2 for Credit Recovery
- ☐ 1001350 – English Honors 2
- ☐ 1001370 – English 3
- ☐ 1001375 – English 3 for Credit Recovery
- ☐ 1001380 – English Honors 3
- ☐ 1001400 – English 4
- ☐ 1001402 – English 4 for Credit Recovery
- ☐ 1001405 – English 4: Florida College Prep
- ☐ 1001410 – English Honors 4
- ☐ 1000410 – Intensive Reading
- ☐ 1006300 – Journalism 1*•
- ☐ 1007300 – Speech 1•
- ☐ 1008350 – Reading for College Success*
- ☐ 1009300 – Writing 1*
- ☐ 1009370 – Writing for College Success*

Core Courses - High School, continued

MATHEMATICS

- ☐ 1200310 – Algebra 1
- ☐ 1200315 – Algebra 1 for Credit Recovery
- ☐ 1200320 – Algebra 1 Honors
- ☐ 1200370 – Algebra 1-A
- ☐ 1200375 – Algebra 1-A for Credit Recovery
- ☐ 1200380 – Algebra 1-B
- ☐ 1200385 – Algebra 1-B for Credit Recovery
- ☐ 1206300 – Informal Geometry
- ☐ 1206310 – Geometry
- ☐ 1206315 – Geometry for Credit Recovery
- ☐ 1206320 – Geometry Honors
- ☐ 1200330 – Algebra 2
- ☐ 1200335 – Algebra 2 for Credit Recovery
- ☐ 1200340 – Algebra 2 Honors
- ☐ 1202340 – Precalculus Honors
- ☐ 1200410 – Mathematics for College Success*
- ☐ 1200700 – Mathematics for College Readiness
- ☐ 1207300 – Liberal Arts Mathematics 1
- ☐ 1207310 – Liberal Arts Mathematics 2
- ☐ 1200400 – Intensive Mathematics
- ☐ 1298310 – Advanced Topics in Mathematics

SCIENCE

- ☐ 2000310 – Biology 1
- ☐ 2000315 – Biology 1 for Credit Recovery
- ☐ 2000320 – Biology 1 Honors
- ☐ 2001310 – Earth/Space Science
- ☐ 2001340 – Environmental Science
- ☐ 2000350 – Anatomy and Physiology •
- ☐ 2002400 – Integrated Science 1
- ☐ 2002405 – Integrated Science 1 for Credit Recovery
- ☐ 2002420 – Integrated Science 2
- ☐ 2002425 – Integrated Science 2 for Credit Recovery
- ☐ 2002440 – Integrated Science 3
- ☐ 2002445 – Integrated Science 3 for Credit Recovery
- ☐ 2002480 – Forensic Science 1 •
- ☐ 2003310 – Physical Science
- ☐ 2003340 – Chemistry 1
- ☐ 2003345 – Chemistry 1 for Credit Recovery
- ☐ 2003350 – Chemistry 1 Honors
- ☐ 2003380 – Physics 1
- ☐ 2003385 – Physics for Credit Recovery
- ☐ 2003390 – Physics 1 Honors

SOCIAL STUDIES

- ☐ 2100310 – United States History
- ☐ 2100315 – United States History for Credit Recovery
- ☐ 2100320 – United States History Honors
- ☐ 2102310 – Economics*
- ☐ 2102315 – Economics for Credit Recovery*
- ☐ 2102335 – Economics with Financial Literacy*
- ☐ 2102340 – Economics with Financial Literacy for Credit Recovery*
- ☐ 2102345 – Economics with Financial Literacy Honors*
- ☐ 2103300 – World Cultural Geography
- ☐ 2106310 – United States Government*
- ☐ 2106315 – United States Government for Credit Recovery*
- ☐ 2106320 – United States Government Honors*
- ☐ 2107300 – Psychology 1*
- ☐ 2107310 – Psychology 2*
- ☐ 2108300 – Sociology*
- ☐ 2109310 – World History
- ☐ 2109315 – World History for Credit Recovery
- ☐ 2109320 – World History Honors

ADVANCED PLACEMENT®

- ☐ 0701380 – AP French Language & Culture
- ☐ 0708400 – AP Spanish Language & Culture
- ☐ 1001420 – AP English Language & Composition
- ☐ 1001430 – AP English Literature & Composition
- ☐ 1202310 – AP Calculus AB
- ☐ 2001380 – AP Environmental Science
- ☐ 2100330 – AP U.S. History
- ☐ 2103400 – AP Human Geography
- ☐ 2106420 – AP U.S. Government & Politics* (Coming December 2016)
- ☐ 2107350 – AP Psychology
- ☐ 2109420 – AP World History

GENERAL ELECTIVES

- ☐ 0100310 – Introduction to Art History*
- ☐ 0100320 – Art in World Cultures*
- ☐ 0800300 – Health 1: Life Management Skills*
- ☐ 0800300 – Health 2: Personal Health*•
- ☐ 0800320 – First Aid and Safety*•
- ☐ 0800330 – Personal, Social, and Family Relationships*•
- ☐ 1501300 – Personal Fitness*
- ☐ 1501310 – Fitness for Lifestyle Design*
- ☐ 1501340 – Weight Training 1*•
- ☐ 1502410 – Individual and Dual Sports 1*•
- ☐ 1502470 – Recreational Activities Individual Sports*•
- ☐ 1502470 – Recreational Activities Walking Fitness*•
- ☐ 1502470 – Recreational Activities – Running*•
- ☐ 1503350 – Team Sports 1*•
- ☐ 1700370 – Critical Thinking and Study Skills*
- ☐ 3026010 – HOPE – Core

Core Courses - High School, continued

CAREER ELECTIVES

- ☐ 3027010 – Biotechnology I •
- ☐ 8100320 – Fundamentals of Agriscience •
- ☐ 8121510 – Introductory Horticulture 2 •
- ☐ 1501380 – Personal Fitness Trainer •
- ☐ 1502470 – Sports Officiating* •
- ☐ 1700380 – Career Research and Decision Making (9–12)*
- ☐ 8207310 – Introduction to Information Technology
- ☐ 8417100 – Health Science 1
- ☐ 8417110 – Health Science 2
- ☐ 8417211 – Nursing Assistant 3 Δ
- ☐ 8418220 – Pharmacy Tech 2 Δ
- ☐ 8418300 – Practical Nursing •
- ☐ 8500120 – Personal and Family Finance*
- ☐ 8500355 – Nutrition and Wellness •
- ☐ 8800510 – Introduction to Culinary Arts* •
- ☐ 8827400 – Sports & Entertainment Marketing*•
- ☐ 8900330 – Principles of Public Service*•
- ☐ 8918010 – Criminal Justice Operations*•
- ☐ 8812110 – Principles of Entrepreneurship
- ☐ 8827110 – Marketing Essentials

National Core Courses - High School

CAREER ELECTIVES

- ☐ 3D Art I – Modeling*
- ☐ 3D Art II – Animation*
- ☐ Computer Applications: Office 2010
- ☐ Computer Science*
- ☐ Digital Arts*
- ☐ Engineering Design*
- ☐ Medical Terminology*
- ☐ Microsoft® Office® Specialist
- ☐ Online Learning and Digital Citizenship*

WORLD LANGUAGES

- ☐ 0708340 – Spanish 1
- ☐ 0708350 – Spanish 2
- ☐ 0708360 – Spanish 3 Honors
- ☐ 0701320 – French 1
- ☐ 0701330 – French 2
- ☐ 0701340 – French 3 Honors
- ☐ 0702320 – German 1
- ☐ 0702330 – German 2
- ☐ 0711300 – Chinese 1
- ☐ 0711310 – Chinese 2
- ☐ 0706300 – Latin 1
- ☐ 0706310 – Latin 2

Dual Credit Courses Provided by Sophia®

Priced separately by student enrollment

- ☐ Accounting*
- ☐ Approaches to Studying Religions*
- ☐ College Algebra*
- ☐ Conflict Resolution*
- ☐ Human Biology*
- ☐ Introduction to Art History*
- ☐ Introduction to Psychology*
- ☐ Introduction to Sociology*
- ☐ Introduction to Statistics*
- ☐ Macroeconomics*
- ☐ Microeconomics*
- ☐ Project Management*
- ☐ Visual Communications*

Test Preparation - High School

FLORIDA TEST PREPARATION

- ☐ FCAT Reading
- ☐ FCAT Writing
- ☐ PERT Reading
- ☐ PERT Writing
- ☐ PERT Math
- ☐ EOC Algebra I
- ☐ EOC Geometry
- ☐ EOC Biology
- ☐ EOC U.S. History
- ☐ FSA English Language Arts 1
- ☐ FSA English Language Arts 2
- ☐ FSA English Language Arts 3

NATIONAL TEST PREPARATION

- ☐ SAT® ☐ PSAT®
- ☐ ACT® ☐ GED®

* One-semester course

• Available with Edgenuity Instructional Services only

Δ Not available with Edgenuity Instructional Services

Notes

AP®, Advanced Placement®, SAT®, and PSAT® are registered trademarks of the College Board; ACT® is a registered trademark of ACT, Inc.; GED® is a registered trademark of the American Council on Education.

World language courses provided by **powerspeak**

FOR MORE INFORMATION CONTACT:

877.7CLICKS | solutions@edgenuity.com

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ATTACHMENT D

Edgenuity

STANDARD TERMS AND CONDITIONS

These Terms and Conditions govern the provision of products and services as set forth in the applicable Edgenuity quote, customer-accepted proposal, or purchase order (collectively the "Quote," and with these Terms and Conditions, the "Agreement"). These Standard Terms are updated from time-to-time by Edgenuity and the current version can be found at http://www.edgenuity.com/edgenuity-standard-terms-and-conditions.pdf

1. **DEFINITIONS.**

   a. **Subscription** refers to Edgenuity's internet based learning management software as a service. The Subscription includes assess to the **Licensed Material** (defined below) and **Third Party Services** (defined in Attachment A)

   b. **Licensed Material** refers to Edgenuity Courseware which may include audio, video and other content, curriculum, documentation and software including applets and animations.

   c. **Professional Development** refers to all implementation planning, program design, administrative and instructional training, consulting and coaching for education professionals provided by Edgenuity as described in the applicable Quote. Professional Development services are also subject to the additional terms contained in Attachment B.

   d. **Instructional Services** refers to services provided by Edgenuity including student access to teachers and coaches, the development and implementation of policies and procedures for purposes of improving student outcomes, and other services as stated in the applicable Quote. Instructional Services are also subject the additional terms contained in Attachment B.

2. **LICENSE and SERVICES.**

   a. **License.** Edgenuity grants Customer a non-exclusive, non-transferable license to access and use Licensed Material for internal educational and training purposes solely for the Subscription as set forth in the Quote. This Agreement provides only Customer and Customer's specifically authorized instructors, administrators, students and parents ("End Users") access to and use of the Subscription solely for internal education- and training-related purposes.

   b. **Services.** If set forth in the Quote, Edgenuity will also provide Professional Development and/or Instructional Services, subject to the additional terms and conditions in Attachment B. Customer's access to any Professional Development or Instructional Services will expire at the end of the Term set forth in the applicable Quote, or if the Subscription is terminated for any reason.

   c. **Edgenuity Technical and Customer Support.** Edgenuity will provide technical and customer support for the Service under the terms of Edgenuity's support policies found at www.edgenuity.com/support including all updates, bug fixes, and enhancements when generally made available.

3. **USE OF SUBSCRIPTION.**

   a. **Customer Owned Data.** All data and materials uploaded or entered during use of the Subscription by Customer remains the property of Customer (**Customer Data**). Customer grants Edgenuity the right to use the Customer Data solely for purposes of performing under this Agreement. During the term of this Agreement, Customer may export Customer Data to the extent allowed by functionality within the Subscription. Customer represents and warrants that it has appropriate rights to any Customer Data. For training and demonstration purposes, Edgenuity may use and share Customer Data, including protected student data, but will share only with supervisors, instructors and other Customer employees who have appropriate authorization.

   b. **Customer Responsibilities.** Customer must (i) keep its passwords secure and confidential; (ii) be solely responsible for Customer Data and all activity in its account; (iii) use commercially reasonable efforts to prevent unauthorized access to its account and notify Edgenuity promptly of any such unauthorized access; and (iv) use the Subscription as described in Edgenuity's written technical guides. Customer authorizes its integrators or other third party vendors and Edgenuity to conduct initial setup and allow continued access to the Subscription for the sole benefit of Customer. Customer will provide Edgenuity the name and contact information for all third parties authorized by Customer necessary for Customer to use the Subscription. Customer is solely responsible for compliance with all federal, state and local privacy laws and regulations, and for compliance by its authorized integrators or other third party vendor(s).

4. **WARRANTIES and DISCLAIMERS.**

   a. **Compliance Warranty.** Edgenuity will comply with, and will cause each of its employees, agents, and contractors to comply with, all state, federal and municipal laws and regulations applicable to its performance under this Agreement ("Applicable Laws"), including without limitation the Family Educational Rights and Privacy Act ("**FERPA**") and Children's Online Privacy Protection Act ("**COPPA**"). Edgenuity's Privacy Policy may be found at http://www.edgenuity.com/Information/Privacy/. Customer is responsible for providing notice of its privacy policy to parents of its student and for obtaining any necessary parental consents for students to use the Subscription as may be required by Applicable Law.

   b. **Professional Development and Instructional Services Warranty.** Edgenuity warrants that it will provide Professional Development and/or Instructional Services in a professional, workmanlike manner consistent with the terms of this Agreement and under generally accepted industry standards.

   c. **Edgenuity Service Warranty.** Edgenuity warrants that commercially reasonable efforts will be made to maintain the online availability of the Subscription. CUSTOMER'S EXCLUSIVE REMEDY AND EDGENUITY'S ENTIRE LIABILITY UNDER THIS WARRANTY WILL BE FOR EDGENUITY TO REPAIR THE NON-CONFORMING SERVICE, OR IF EDGENUITY CANNOT MAKE SUCH

REPAIR WITHIN A REASONABLE PERIOD OF TIME, THEN EDGENUITY MAY TERMINATE ACCESS TO THE SUBSCRIPTION AND REFUND A PORTION OF THE FEE.

d. **DISCLAIMERS.** THE SUBSCRIPTION IS PROVIDED "AS IS" AND WITH ALL FAULTS. EXCEPT FOR THE ABOVE WARRANTIES, THE SUBSCRIPTION AND ANY PROFESSIONAL DEVELOPMENT AND INSTRUCTIONAL SERVICES ARE PROVIDED ON AN "AS-IS" AND "WHEN AVAILABLE" BASIS. ALL OTHER REPRESENTATIONS AND WARRANTIES CONCERNING THE SUBSCRIPTION AND SERVICES ARE HEREBY EXPRESSLY DISCLAIMED TO THE EXTENT ALLOWED BY LAW, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THERE IS NO WARRANTY THAT THE OPERATION OR CONNECTIVITY OF THE SUBSCRIPTION WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT THE SUBSCRIPTION WILL BE FREE OF ALL POSSIBLE METHODS OF UNAUTHORIZED ACCESS, ATTACK, OR INTRUSION.

5. **PAYMENT, INVOICING AND TAXES.** Unless otherwise provided in the Quote, Customer will pay the amount of each invoice net 30 days after the invoice date. Except to the extent that Customer provides Edgenuity with a valid tax exemption certificate authorized by the appropriate taxing authority, Customer must pay any taxes, impositions, or other charges imposed or levied by any governmental authority, including any sales, use, value-added, or withholding taxes, in connection with the Quote, excluding Edgenuity income and payroll taxes.

6. **MUTUAL CONFIDENTIALITY.**

a. **Definition of Confidential Information.** Confidential Information means all non-public information including Personally Identifiable Information ("**PII**") as defined by Applicable Law, disclosed by a party ("**Discloser**") to the other party ("**Recipient**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure ("**Confidential Information**"). Edgenuity's Confidential Information includes without limitation the Service, its user interface design and layout, pricing information, and the Licensed Material.

b. **Protection of Confidential Information.** The Recipient must use the same degree of care that it uses to protect the confidentiality of its own confidential information (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Discloser for any purpose outside the scope of this Agreement. The Recipient must make commercially reasonable efforts to limit access to Confidential Information of Discloser to those of its employees and contractors who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with Recipient no less restrictive than the confidentiality terms of this Agreement.

c. **Exclusions.** Confidential Information excludes information that: (i) is or becomes generally known to the public without breach of any obligation owed to Discloser; (ii) was known to the Recipient before its disclosure by the Discloser without breach of any obligation owed to the Discloser; (iii) is received from a third party without breach of any obligation owed to Discloser; or (iv) was independently developed by the Recipient without use or access to the Confidential Information. The Recipient may disclose Confidential Information to the extent required by law or court order, but will provide Discloser with advance written notice to seek a protective order.

7. **EDGENUITY PROPERTY.**

a. **Reservation of Rights.** The content, documentation, software, workflow processes, user interface, designs, know-how and other items provided by Edgenuity as part of the Subscription and/or any Instructional Services or Professional Development are the proprietary property of Edgenuity and its licensors, and all right, title and interest in and to such items, including all associated intellectual property rights, remain only with Edgenuity and its licensors. Customer may not remove or modify any proprietary marking or restrictive legends in the Edgenuity Courseware. Edgenuity reserves all rights unless expressly granted in this Agreement.

b. **Restrictions.** Customer may not (i) sell, resell, rent or lease the access to the Subscription or use it in a service provider capacity; (ii) use the Subscription to store or transmit infringing, unsolicited marketing emails, libelous, or otherwise objectionable, unlawful or tortious material, or to store or transmit material in violation of third-party rights; (iii) interfere with or disrupt the integrity or performance of the Subscription or attempt to gain unauthorized access to the Subscription or its related systems or networks; (vi) use the Subscription for other than internal Customer educational purposes; (v) reproduce, frame, mirror, modify, translate, enhance, decompile, disassemble, copy, download or reverse engineer the Subscription or modify, create derivative works based on the Subscription; or (vi) access the Subscription to build a competitive service or product, or copy any feature, function or graphic for competitive purposes.

8. **TERM AND TERMINATION.**

a. **Term.** The Term of this Agreement and Customer's access to the Subscription, Services, and any instructional Services or Professional Development services will continue for the period indicated on the applicable Quote, unless terminated by Edgenuity for material breach.

b. **Funding-Out Clause.** Customer's payment obligation is conditioned upon the availability of funds that are appropriated or allocated by the applicable government agency. If funds are not allocated, Customer may terminate this Agreement at the end of the period for which funds are available. Customer must notify Edgenuity in writing within thirty (30) calendar days before termination. Upon termination, Edgenuity will be entitled to a pro-rata portion of the fees for Service performed up to the date of termination.

c. **Non-payment of Fees.** Edgenuity may terminate the Agreement and access to the Subscription in a Quote within ten (10) days after Customer receipt of a notice of non-payment of amounts owed under that Quote.

d. **Mutual Termination for Material Breach.** Except for 7(c), if either party is in material breach of this Agreement, the non-breaching party may terminate this Agreement at the end of a written thirty (30) calendar day notice and cure period, if the breach has not been cured.

e. **Return of Customer Data.** For a period of up to sixty (60) days after termination, upon request, Edgenuity will make the Subscription available for Customer to export Customer Data.

f. **Suspension for Violations of Law.** Edgenuity may temporarily suspend the Subscription or remove the applicable Customer Data, or both, if it in good faith believes that, as part of using the Subscription, Customer has violated a law. Edgenuity will attempt to contact Customer in advance.

g. **Return or Destroy Edgenuity Property Upon Termination.** Upon expiration or termination of this Agreement for any reason, Customer must pay Edgenuity for any amounts owed, and destroy or return all property of Edgenuity. Customer will confirm its compliance with this destruction or return requirement in writing upon request of Edgenuity.

9. LIABILITY LIMIT.

a. **EXCLUSION OF INDIRECT DAMAGES.** EDGENUITY IS NOT LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, COSTS OF DELAY; LOSS OF DATA, RECORDS OR INFORMATION; AND LOST PROFITS), EVEN IF IT KNOWS OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS.

b. **TOTAL LIMIT ON LIABILITY.** EDGENUITY'S TOTAL LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER IN CONTRACT, TORT OR OTHERWISE) DOES NOT EXCEED THE AMOUNT PAID BY CUSTOMER WITHIN THE 12-MONTH PERIOD BEFORE THE EVENT THAT GAVE RISE TO THE LIABILITY.

10. INDEMNITY.

a. Edgenuity will defend or settle any third party claim against Customer to the extent that such claim alleges that Edgenuity technology used to provide the Subscription violates a copyright, patent, trademark or other intellectual property right. Customer must promptly notify Edgenuity of any such claim in writing, cooperates with Edgenuity in the defense, and allow Edgenuity to solely control the defense or settlement of the claim. If such a claim appears likely, then Edgenuity may modify the Subscription, procure the necessary rights, or replace the infringing part of the Subscription with a functional equivalent. If Edgenuity determines that none of these are reasonably available, then Edgenuity may terminate the Subscription and refund any prepaid and unused fees. Edgenuity has no obligation for any claim, in whole or in part, arising from information, items or technology not provided by Edgenuity or for any third party services not owned by Edgenuity. THIS SECTION CONTAINS CUSTOMER'S EXCLUSIVE REMEDIES AND EDGENUITY'S SOLE LIABILITY FOR INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS.

b. To the extent permitted under Applicable Law, each party will defend, indemnify and hold harmless the other party from and against any third party claims, injuries, losses, damages, settlements, penalties, fines, costs, or expenses (including reasonable attorneys' fees) that arise from or relate to (i) the indemnifying party's negligence, misconduct or breach of this Agreement; and (ii) an indemnifying party's violation of Applicable Law.

11. OTHER TERMS.

a. **Governing Law.** Any action related to this Agreement shall be governed by and construed in accordance with the laws of the state of Florida, without reference to conflicts of laws principles that would result in the application of the laws of another jurisdiction. The State courts of the Third Judicial District of Suwannee County, Florida shall have exclusive jurisdiction and venue over any dispute arising hereunder or related hereto, and the parties hereby consent to the personal jurisdiction and venue of these courts. Notwithstanding the foregoing, Edgenuity shall have the right to seek injunctive or pre-judgment relief in any court of competent jurisdiction to prevent or enjoin the misappropriation, misuse, infringement or unauthorized disclosure of Edgenuity's Confidential Information or intellectual property rights. No Federal Acquisition Regulations shall be construed to apply to Edgenuity with Edgenuity's written agreement thereto. The United Nations Convention for the International Sale of Goods shall not apply to this Agreement.

b. **Entire Agreement and Changes.** These Terms and Conditions (and any Attachments) and the Quote constitute the entire agreement between the parties and supersede any prior or contemporaneous negotiations or agreements, whether oral or written, related to this subject matter. Customer is not relying on any representation concerning this subject matter, oral or written, not included in this Agreement. This Agreement may only be modified in writing signed by both parties.

c. **No Assignment.** Neither party may assign or transfer this Agreement or a Quote to a third party, except that this Agreement with all Quotes may be assigned, without the consent of the other party as part of a merger or sale of all or substantially all the assets of a party.

d. **Independent Contractors.** The parties to this Agreement are independent contractors, and this Agreement does not create any partnership, joint venture, employment, franchise, or agency between the parties. Neither party will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent.

e. **Feedback.** By submitting ideas, suggestions or feedback to Edgenuity regarding the Subscription, Customer agrees that items submitted do not contain confidential or proprietary information; and Customer grants Edgenuity an irrevocable, unlimited, royalty-free and fully-paid perpetual license to use such items for any business purpose.

f. **Enforceability and Force Majeure.** If any term of this Agreement is invalid or unenforceable, the other terms remain in effect. Except for the payment of fees, neither party is liable for events beyond its reasonable control, including, without limitation force majeure events, failure of Internet services, any third party service and telecommunications services.

g. **Money Damages Insufficient.** Any breach by a party of this Agreement or violation of the other party's intellectual property rights could cause irreparable injury or harm to the other party. The other party may seek a court order to stop any breach or avoid any future breach.

h. **No Additional Terms and Order of Precedence.** This Agreement supersedes any additional or conflicting terms of any Customer form-purchasing document. If there is an inconsistency between these Terms and Conditions and any Quote, the Quote will prevail only with respect to pricing, duration and service specific terms.

i. **Survival of Terms.** Sections 5 through 10, 11(a) (e) (g) (h) and (i) shall survive termination of this Agreement.

IN WITNESS WHEREOF, the Parties have entered into this Agreement effective as of the Effective Date.

Customer: School Board of Suwannee County	**Edgenuity Inc.**
Signature:	Signature:
Printed Name: Ted L. Roush	Printed Name:
Title: Superintendent of Schools	Title:
Date:	Date:
Address: 1729 Walker Ave., SW, Ste. 200 Live Oak, FL 32064	Address: 8860 East Chaparral Road, Suite 100 Scottsdale, AZ 85250

Chairperson, Suwannee County School Board

"Approved as to Form and Sufficiency

BY_____

Leonard J. Dietzen, III

Rumberger, Kirk & Caldwell, P.A.

Suwannee School Board Attorney"

Attachment A
Third Party Terms

1. **Third Party Services** refer to web based software, content or services licensed by Edgenuity from a third party for use by Edgenuity for the Subscription or Hardware. Customer's use of Third Party Services may be subject to additional terms from the third parties, some of which are listed below or can be found at the web links indicated:

a. **ExploreLearning.** Access to and use of any ExploreLearning *Gizmos* (Gizmos) provided by Edgenuity are governed by the following additional terms: (i) Neither Customer nor any of its users are authorized to access or use any Gizmos, except: (a) users who are students and who are authorized by Customer to access and use the Service that includes or incorporates the Gizmos; and (b) users who are teachers of those same students, provided that such teachers may use the Gizmos only for the purposes of assigning and managing assignments for those students; (ii) A Gizmo may only be used in connection with the Service with which that particular Gizmo has been provided, and may not be used in connection with any other class, program, application, or software; and (iii) Customer understands and agrees that any access to or use of any Gizmo provided by Edgenuity by Customer or any of its users in contravention of the foregoing terms constitutes a material breach of the Agreement, and that if Customer desires to use a Gizmo in a manner that is not authorized by the Agreement, it is solely the responsibility of Customer (and not of Edgenuity) to obtain authorization for such use from the appropriate third party.

b. **Education Testing Services (ETS) *e-rater*® Scoring Service.** If the Agreement includes any ETS services, Customer agrees as follows: (i) the score and/or feedback received from the e-rater® technology should be considered as one piece of evidence about a student's writing ability. When a score from the e-rater® engine is being used for an important decision about a student's performance, instructors should review and evaluate the score and/or feedback to ensure that the appropriate decision about placement or performance has been made; (ii) the user understands and agrees that the Scoring Service may not be used for any other purpose, or provided to any other party, than as described herein. As permitted under state or federal law, user shall indemnify and hold Edgenuity and/or Educational Testing Service (ETS) harmless from any and all claims arising out of the use of the Scoring Service or use of the scores and/or feedback to determine placement of, or grades for students, or any other purpose; (iii) THE E-RATER® SCORING SERVICE (SCORE AND GRAMMAR CHECKING FEATURE) PROVIDED BY ETS IS PROVIDED "AS-IS", WITHOUT WARRANTIES OF ANY KIND AND ETS DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE E-RATER® SCORING SERVICE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, TITLE, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT WILL ETS BE LIABLE TO CLIENT OR ANY THIRD PARTY FOR ANY DIRECT, INDIRECT, PUNITIVE, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE THIRD PARTY PRODUCTS, EVEN IF THEY HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES; and (iv) with regard to essays submitted to the site, you (Customer) hereby grant to ETS a non-exclusive, royalty-free, world-wide, irrevocable license to reproduce, transmit, display, disclose, archive and otherwise use any such files you submit to the site for the purposes of scoring and providing feedback. ETS will not retain any personally-identifiable information that may be associated with the essays. This license shall survive the termination of any license granted herein to ETS but in no event longer than 18 months. Any cessation of use of the site shall not result in the termination of any license you grant herein to ETS. Nothing herein shall preclude ETS from using information independently created by ETS.

c. **Sophia® Learning Inc.** If this Agreement includes any Sophia Learning Inc. courses for use, the following term applies to any such purchase or use: "Customer agrees that the use of any Sophia course is prohibited for all students under the age of 13 years."

d. **CompassLearning Third Party Information.** (i) CKEditor (© 2003-2013 CKSource – Frederico Knabben, all rights reserved), is a third party software text editor, licensed pursuant to the CKEditor Enterprise OEM License 2.3.2 and the GNU Lesser General Public License Version 3 ("LGPL"), available at http://www.gnu.org/licenses/gpl.html; (ii) SSHNET (© 2010 RENCI, all rights reserved), is a third party secure connectivity software tool, licensed pursuant to the terms found at https://sshnet.codeplex.com/license; (iii) Agilix Labs, Inc.'s xLi platform, (© Agilix Labs, Inc., all rights reserved), is distributed with other licensed third party components under the MIT License and/or the Apache License found at https://jquery.org/license/ and http://cdn.mathjax.org/mathjax/2.0-latest/LICENSE.

2. Hardware refers to any equipment with any pre-installed software marketed or supplied by Edgenuity and identified on a Quote. Edgenuity is not the manufacturer of Hardware and it is provided subject to the separate sale terms provided by the manufacturer (including without limitation, return and exchange terms). Customer grants Edgenuity permission to provide remote technical support for setup and diagnostic purposes for any Hardware if required. Customer owns the Hardware and has a license to any pre-installed software, subject to the applicable license agreement. During the term of this Agreement, if Customer modifies Hardware in any way, it may void the manufacturer's warranty. Upon expiration or termination of the Agreement, Edgenuity will remotely remove any and all Edgenuity content and software from the Hardware.

3. **DISCLAIMERS.** ALL THIRD PARTY SERVICES AND HARDWARE ARE PROVIDED BY EDGENUITY "AS IS." EDGENUITY MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED. Edgenuity transfers to Customer, to the extent transferable, warranties and indemnities Edgenuity receives from the manufacturer of the Hardware or Third Party Service. Edgenuity's sole obligation with respect to Hardware and Third Party Service will be to use reasonable commercial efforts to facilitate warranty and indemnification claims that Customer makes against the manufacturer of the Hardware or Third Party Service. Customer, recognizing that Edgenuity is not the manufacturer of Hardware or Third Party Service, expressly waives any claim that Customer may have against Edgenuity for product liability or infringement of any intellectual property right with respect to any Hardware or Third Party Service, as well as any right to indemnification from Edgenuity on account of any such claim made against Customer by a third party.

Attachment B
Additional Terms for Instructional Services & Professional Development

1. **APPLICABILITY.** These additional terms and conditions apply if the Quote includes the purchase of Instructional or Professional Development Services from Edgenuity. In the event of a conflict between these additional terms and the Edgenuity Standard Terms and Conditions, these additional terms shall control, but solely with respect to the provision of Instructional and/or Professional Development Services.

2. **CUSTOMER LIAISON.** Customer will designate an individual to serve as its primary liaison to Edgenuity for all communications related to the provision of Instructional and Professional Development Services, setting up access for End Users, and use of the Subscription.

3. **HOURS OF AVAILABILITY.** Edgenuity Instructional and Professional Development Services will be available during the business hours specified by Edgenuity, or if Customer requires Instructional Services for certain times or additional hours, such requirements must be specified in the Quote prior to the beginning of the Subscription. Requests for access to Instructional or Professional Development Services not already provided for in the Quote must be made or approved by the Customer Liaison, and may result in additional charges.

4. **NO GUARANTY OF OUTCOMES.** Edgenuity cannot make any guarantees, representations or warranties as to any student, teacher, or other End User outcomes or results from the Instructional or Professional Development Services.

5. **INSTRUCTIONAL SERVICES.** If specified in the Quote, Edgenuity will provide virtual access to teachers or coaches (or both) ("Edgenuity Instructors") who are hired, trained, supervised, and paid by Edgenuity, and who will assist in the virtual delivery of the Licensed Material to students and their use of the Subscription (the "Virtual Programs"). Customer shall be responsible for (a) providing secure internet access for End Users to use the Virtual Programs, (b) all day-to-day management of the Virtual Programs, subject in all cases to compliance with Applicable Law and Customer policies; (c) obtaining all necessary consents for the provision of Instructional Services where they will involve direct contact between Edgenuity Instructors and students and parents; (d) determining appropriate student courses and verifying student schedules; (e) monitoring student attendance and insuring compliance with applicable state requirements; and (f) assisting students not making adequate progress.

   a. **Instructor Requirements.** Customer shall be responsible for advising Edgenuity of any special certification, training, background checks, insurance, fingerprinting or similar requirements for the Edgenuity Instructors as may be imposed by Applicable Law ("Instructor Requirements"). Edgenuity shall be solely responsible for all decisions regarding hiring, supervision, discipline, and dismissal of Edgenuity Instructors, and for insuring that all Edgenuity Instructors meet and comply with Instructor Requirements.

   b. **Exceptional Student Services.** If Customer is a public entity receiving federal funds, Customer is considered the "Local Educational Agency," or LEA, as that term is defined by Applicable Law, and Customer is solely responsible for the provision of any special education services. Edgenuity's services do not include (i) providing special education services; (ii) creating, implementing or providing Individualized Education Programs (**IEP**); (iii) providing reasonable accommodations or any services to insure compliance with the Individuals with Disabilities Education Act (IDEA), the Americans with Disabilities Act (ADA), section 504 of the Rehabilitation Act, or any other Applicable Law. Notwithstanding the foregoing, Edgenuity will discuss, formulate and make reasonable adjustments and accommodations in furtherance of student IEPs or reasonable accommodations established by Customer, provided that Customer provides necessary IEPs and section 504 documentation to Edgenuity. Customer shall be solely responsible for the costs of any required adjustments or accommodations.

   c. **State Testing.** Customer is responsible for providing appropriate accommodations for the administration of any state-mandated standardized testing by End Users. Customer is also responsible for receiving, distributing, administering, proctoring and returning any and all state-mandated standardized tests under applicable state law, policies and procedures.

   d. **Reporting and Withdrawal of Students/End Users.** Where reporting of student results is required by Applicable Law, Customer shall be responsible for insuring the accuracy and completeness of student information used, relied upon, or reported by Edgenuity in providing the Instructional Services, and shall promptly notify Edgenuity if any student information needs to be corrected or updated. Upon notice to Customer, Edgenuity reserves the right to withdraw End User access for students who fail to take required tests or maintain adequate progress.

6. **PROFESSIONAL DEVELOPMENT SERVICES.** If included in the Quote, Edgenuity may also provide Professional Development Services, ("PD Services") which may include training and instruction to Customer's instructors and administrators on the implementation and use of the Subscription, curriculum workshops, use of student information to monitor progress, and other related topics as may be specified in the Quote. Customer shall be solely responsible for providing necessary equipment and secure internet access to facilitate the PD Services, and for scheduling the PD Services at least two (2) weeks in advance.

   a. **Charges for PD Services.** Before delivering Professional Development Services, Edgenuity must receive a signed Quote specifying the number of hours included and the cost of the services provided, and all necessary setup and implementation services required to demonstrate and use the Subscription must be completed. PD Services will be available for use by Customer only during the Term of the Subscription. PD Services purchased but not scheduled and delivered within the first year of the Term may be forfeited without notice. If there are any changes or cancellations of PD services less than 72 hours prior to the scheduled delivery date, Customer agrees to reimburse Edgenuity for travel and other out-of-pocket expenses incurred. Any grace periods or extension of time for delivery of PD Services must be agreed to in writing signed by both parties.

   b. **Use of Customer's Facilities.** If Professional Development services are to be provided by Edgenuity at Customer's premises, Customer shall advise Edgenuity in advance of any Instructor Requirements for Edgenuity personnel, and Edgenuity will be responsible for insuring that all Professional Development personnel meet and comply with all such requirements.

SUWANNEE COUNTY SCHOOL DISTRICT

702 – 2nd Street, NW • Live Oak, Florida 32064
Telephone: (386) 647-4600 • Fax: (386) 364-2635
www.suwannee.k12.fl.us

TED L. ROUSH
Superintendent of Schools

"Suwannee County School District will be a system of excellence ensuring all students are prepared for personal success."

JERRY TAYLOR
DISTRICT 1
CATHERINE CASON
DISTRICT 2
TIM ALCORN
DISTRICT 3
ED DA SILVA
DISTRICT 4
RONALD WHITE
DISTRICT 5
LEONARD J. DIETZEN, III
BOARD ATTORNEY

MEMORANDUM

TO: Ted L. Roush, Superintendent of Schools

FROM: John Olson, Director of Curriculum and Instruction

THRU: Vickie DePratter, Chief Financial Officer
Janene Fitzpatrick, Assistant Superintendent of Instruction

DATE: August 1, 2017

RE: Agenda Item for the August 8, 2017, Special Board Meeting

RECOMMENDATION:

#2018-70 The Superintendent recommends approval of the State of Florida Statewide Voluntary Prekindergarten Provider Contract between the Early Learning Coalition of Florida's Gateway and Suwannee County School District (RENEWAL)

BACKGROUND:

The purpose of this contract is to approve the implementation of the Voluntary Prekindergarten Program at Branford Elementary School, Suwannee Primary School and RIVEROAK Technical College.

JO/jh

STATE OF FLORIDA
STATEWIDE VOLUNTARY PREKINDERGARTEN PROVIDER CONTRACT
FORM OEL-VPK 20

I. PARTIES AND TERMS OF CONTRACT

1. **Parties.** This Contract is made and entered into this 19 day of July, 2017, by and between the Early Learning Coalition of Florida's Gateway (herein referred to as "COALITION"), and Suwannee County School Board (herein referred to as "PROVIDER"), with its principal offices located at 1729 Walker Avenue, SW, Ste. 200, Live Oak, FL 32064.

   a. **Multiple Public School Locations.** If PROVIDER is a school district executing a single Contract on behalf of multiple public school Voluntary Prekindergarten (VPK) Education Program providers, a list of their names and their physical addresses are included in Exhibit 1: Provider Location List. Thereafter PROVIDER shall include each entity listed in Exhibit 1.

   b. **Multiple Private Provider Locations.** If PROVIDER is executing a single Contract on behalf of multiple private VPK provider sites within COALITION's service area, a list of their names and their physical addresses are included in Exhibit 1: Provider Location List. Thereafter PROVIDER shall include each entity listed in Exhibit 1.

2. **Purpose.** This Contract is designed to inform PROVIDER of the requirements of participation in the VPK Program. Payment is not conveyed to PROVIDER through this Contract. Instead, PROVIDER must agree to comply with the terms and conditions of this Contract in order to be eligible to participate in the VPK Program. This Contract is to engage an eligible provider to provide VPK services to eligible VPK children. PROVIDER will receive payment based on Legislative appropriations, the Office's Uniform Attendance Policy for Payment (Rule 6M-8.204, Florida Administrative Code (F.A.C.), and a child's attendance certified by the parent and provider (Rule 6M-8.305, F.A.C.).

3. **Term.** This Contract applies to the 2017 - 2018 VPK program year. PROVIDER shall offer a school-year program and/or a summer program. This Contract begins on August 8, 2017, or on the date on which the Contract is signed and dated by the last party required to sign the Contract, whichever occurs last, and expires upon completion of the VPK instructional hours and completion of the requirements outlined in this Contract or termination of this Contract under Section XI.

   A school-year VPK program shall be 540 instructional hours and a summer VPK program shall be 300 instructional hours. In the event there is a transfer of ownership before all instructional hours are completed, PROVIDER may schedule only the remaining instructional hours of the program for the VPK class(es) previously enrolled under the prior ownership.

4. **Payment Limitations.** PROVIDER will not receive nor be entitled to payment for VPK program services before this Contract is fully executed by both parties or after expiration of the Contract.

5. **Applicable Law.** PROVIDER and COALITION agree that the following, including any revision made after the execution of this Contract, are the provisions governing the VPK program and that PROVIDER and COALITION will be bound by the same:
   - Chapter 1002, Florida Statutes (F.S.);
   - Chapter 6M-8, Florida Administrative Code (F.A.C.); and
   - Rules 6A-1.09433 & 6A-6.03033, F.A.C.

6. **Not Transferrable.** This Contract is not transferrable or assignable to another entity. A change in ownership requires execution of a new contract. In the event of a change of ownership, sale, sale of assets, conveyance of ownership or other transfer of ownership interest, the provider shall notify the coalition no later than 30 calendar days prior to the transfer of ownership.

II. PROVIDER ELIGIBILITY

7. **General Eligibility.**

a. Provider Type. To be eligible to deliver the VPK Program, PROVIDER must be either a public school or a private provider (a licensed child care facility, a licensed family day care home, a licensed large family child care, a non-public school exempt from licensure, or a faith-based child care provider exempt from licensure).

A charter school that includes VPK in its charter is a public school and shall only execute this Contract with the approval and oversight of the school district. A charter school that does not include VPK in its charter must meet the requirements to be a private provider to be eligible to deliver the VPK Program.

Check the box to indicate PROVIDER's type:

■ A public school (Form OEL-VPK 20PS must be completed as an authorized attachment to this Contract.)

☐ A private provider (Form OEL-VPK 20PP must be completed as an authorized attachment to this Contract.)

b. Eligibility pursuant to s. 1002.91(5), F.S. PROVIDER represents that PROVIDER, or an owner, officer, or board director thereof, has not been convicted of, found guilty of, or pled guilty or nolo contendere to, regardless of adjudication, public assistance fraud pursuant to s. 414.39, F.S., within the last five (5) years and is not acting as the beneficial owner for someone who has been convicted of, found guilty of, or pled guilty or nolo contendere to, regardless of adjudication, public assistance fraud pursuant to s. 414.39, F.S., within the last five (5) years.

c. Eligibility pursuant to s. 1002.91(7), F.S. PROVIDER represents that PROVIDER is not on the United States Department of Agriculture National Disqualified List nor does PROVIDER share an officer or board director with a provider that is on the United States Department of Agriculture National Disqualified List.

d. Eligibility pursuant to the successful completion of terms of prior contract. PROVIDER agrees to successfully complete corrective action due to noncompliance determinations from a prior Contract, as applicable, for the duration of this Contract.

8. **Required Forms.** PROVIDER certifies that it has registered with COALITION on forms prescribed by the Office of Early Learning, that any information supplied by PROVIDER is accurate and complete, and that it will notify COALITION in accordance with the notification requirements in Paragraph 63 of any change in the information submitted on those forms. Changes implemented by PROVIDER prior to notification to COALITION that fail to comply with all VPK qualifications and requirements shall result in financial consequences referenced in Paragraph 51 and corrective action referenced in Paragraph 53.

III. PROVIDER RESPONSIBILITIES AND SCOPE OF WORK

9. **Child Enrollment.** PROVIDER agrees to enroll eligible children for the VPK Program only with authorization from COALITION. PROVIDER agrees to obtain and complete, with parent, an eligibility certificate form (Form OEL-VPK 02 or Form OEL-VPK 04). In the event that PROVIDER has multiple locations, PROVIDER may only change the location where the child is served in accordance with the reenrollment requirements established in Rule 6M-8.210, F.A.C.

10. **Adherence to Requirements.** PROVIDER agrees to deliver the VPK Program in accordance with all of the requirements which are set forth in applicable statutes, rules, and this Contract.

11. **Assessment.** PROVIDER agrees to implement the Voluntary Prekindergarten pre- and post-assessment in accordance with s. 1002.67(3), F.S., and rules 6A-1.09433 and 6M-8.620, F.A.C. Individuals administering the pre- and post-assessment shall meet the qualifications established in rule. PROVIDER must register each year to access the Bright Beginnings website at https://brightbeginningsfl.org/Register.aspx. If PROVIDER does not have a provider ID, the PROVIDER shall request one by going to https://brightbeginningsfl.org/RequestAssistance/RequestAssistance.aspx, and entering the required information. The PROVIDER shall order pre- and post-assessment materials as needed and submit assessment scores by logging into the Bright Beginnings website by the deadlines established in rule which are based on the PROVIDER's VPK class schedule approved by the COALITION. VPK child assessment records shall be maintained in accordance with Paragraph 33 of this Contract.

12. **Curricula**. PROVIDER agrees that it will implement curricula to deliver VPK Program instruction which:
    - **a.** Are developmentally appropriate;
    - **b.** Are designed to prepare children for early literacy;
    - **c.** Enhance the age-appropriate progress of children in attaining each of the performance standards approved for use in VPK; and
    - **d.** Prepare children to be ready for kindergarten.

13. **Required Parent Information.** PROVIDER agrees that PROVIDER will provide a copy of its attendance policy to the COALITION before contract execution and to the parent of each child at the time the child is admitted into PROVIDER's VPK Program. The PROVIDER may adopt its own, but in accordance with s. 1002.71, F.S., the attendance policy must require parents to verify each month, the child's attendance on forms prescribed by the Office of Early Learning in Rule 6M-8.305, F.A.C. PROVIDER agrees to not amend its VPK program attendance policy for the duration of this Contract.

14. **Fees Prohibited**. PROVIDER agrees that, in accordance with s. 1002.71(8)(a), F.S., PROVIDER shall not require payment of a fee or charge for services provided for a child in the VPK Program during instructional hours reported for funding. PROVIDER shall not require a fee or payment as a condition of enrollment or participation in the VPK Program.

15. **Supplemental Services.** PROVIDER agrees that, in accordance with section 1002.71(8)(b), F.S., PROVIDER shall not require a child to enroll for, or require the payment of any fee or charge for, supplemental services (e.g., "extended-day," "extended-year," "wrap-around," or "full-day" services) as a condition of admitting the child in the VPK Program. PROVIDER agrees to schedule all VPK hours offered for any VPK class so that parents are not constructively required to enroll child in supplemental services or pay any fee or charge (e.g., scheduling instructional hours in a day with a break in instructional time, for which parents would be required to pay for supplemental services for care).

16. **Parent Not Responsible for Financial Consequences.** PROVIDER agrees that, if PROVIDER does not receive payment from COALITION for offering VPK Program instruction to a child, PROVIDER shall not require the child's parent to pay for the services.

17. **Instructor Requirements.** PROVIDER agrees that at all times each of its VPK instructor(s) and substitute instructor(s):
    a. Has provided documentation to be maintained in the files of PROVIDER and COALITION documenting that the individual has undergone a Level 2 background screening within the previous five (5) years in accordance with section 435.04, F.S., including a federal (Federal Bureau of Investigation) and state (Florida Department of Law Enforcement) screening which demonstrates that the individual is not ineligible to act as a VPK instructor;
    b. Is eligible to be employed as a VPK instructor in accordance with section 435.06, F.S.;
    c. Is not ineligible to teach in a public school because his or her educator certificate is suspended or revoked;
    d. Is qualified to act as a VPK instructor or substitute in accordance with sections 1002.55, 1002.61 and 1002.63, F.S.

18. **VPK Class Staffing.** PROVIDER agrees to maintain proper staffing as required by VPK statutes. A properly credentialed instructor must be present for all VPK classes. For school-year classes that are composed of 12-20 children, an additional adult instructor must be present who is eligible to work in the VPK provider's setting. The VPK class size shall not exceed the approved capacity of the physical space where instruction is provided.

19. **Substitute Instructors.** PROVIDER agrees that substitute instructors who meet the requirements of Rule 6M-8.410, F.A.C. may replace a lead VPK instructor, when the VPK lead instructor is not present at the facility. The time that any substitute instructors that do not meet the credentials of a lead instructor may replace a lead instructor is limited to 30 percent of the VPK Program's total instructional hours in a VPK class.

21. **Prohibited Forms of Discipline.** In accordance with s. 1002.55(5), F.S., PROVIDER agrees to implement minimum standards for child discipline practices that are age-appropriate and consistent with the requirements in s. 402.305(12), F.S. Such standards must provide that children not be subjected to discipline that is severe, humiliating or frightening. The discipline must not be associated with food, rest or toileting. Spanking or any other form of physical punishment is prohibited. Children may not be denied active play as a consequence of misbehavior.

22. **Statewide Information System.** PROVIDER agrees to utilize the statewide information system as referenced in s. 1002.82(2)(n), F.S., as available, to submit information and updates regarding the VPK Program. The PROVIDER shall execute this Contract on the Provider Portal found on https://providerservices.floridaearlylearning.com.

23. **VPK Logo.** PROVIDER may use the registered VPK logo in conjunction with the operation of the VPK program in advertisements, letterhead, educational and promotional materials. PROVIDER agrees to comply with the VPK Logotype Usage and Brand Guidelines (Form OEL-VPK 20B) and must cease use of the VPK logo once services under this contract are suspended or terminated. Form OEL-VPK 20B can be found at the following web address: http://www.floridaearlylearning.com/sites/www/Uploads/files/Providers/VPK/VPK%20Guidelines_PDF_ADA.pdf

24. **Provider Deliverables**

Deliverable	Provider Type	Task and Activities	Due Date
VPK instructional hours; 540 for school year programs and/or 300 for summer programs	Private and Public	Child enrollment activities per paragraph 9	For the term of this Contract
		Implementation of curricula per the requirements in paragraph 12	
		Instructor Requirements per paragraphs 17-19	
VPK Child Attendance	Private and Public	Completion of Child Attendance and Parental Choice Certificate forms (OEL-VPK 03S and OEL-VPK 03L) per paragraph 37	Monthly
		Monthly Certification of Child Attendance by Provider per paragraph 43	
		Certification of annual cumulative child attendance per paragraph 41	
Information change notification	Private and Public	Compliance with notification requirements per paragraph 63	See paragraph 63
Liability insurance notification	Private	Notification of cancellation of changes to general liability coverage	Within 10 calendar days of cancellation or changes to general liability coverage
Implementation of VPK pre- and post-assessment	Private and Public	Administration of Assessment Period One items per paragraph 11	Within the first 30 calendar days of the VPK class schedule

		Submission of Assessment Period One data the per paragraph 11	No later than first 45 calendar days of the VPK class schedule
		Administration of Assessment Period Three items per paragraph 11	Within the last 30 calendar days of the VPK class schedule
		Submission of Assessment Period One data the per paragraph 11	No later than 15 calendar days after the last day of the VPK class schedule

IV. COALITION RESPONSIBILITIES

25. **Forms Approved**. COALITION has reviewed the documents submitted by PROVIDER and, based on the information submitted, has determined that PROVIDER has completed the forms, meeting necessary requirements established in ss. 1002.55(3)(h), 1002.61(8), or 1002.63(8), F.S., as applicable.

26. **Technical Assistance.** COALITION will offer technical assistance for providers on probation. The technical assistance will be designed to facilitate the development and implementation of an improvement plan. The technical assistance will be offered in a manner and schedule prescribed by the coalition or school district.

27. **Child Eligibility.** COALITION has the responsibility for determining the eligibility of children enrolling in the VPK Program. COALITION will issue a *child certificate of eligibility* (Form OEL-VPK 02), as described in Rule 6M-8.201, F.A.C. or a *certificate of eligibility for reenrollment* (Form OEL-VPK 04), as described in Rule 6M-8.210, F.A.C., for each eligible child who's parent applies for the VPK program or a reenrollment through the Family Portal.

28. **Limitations on Authority.** COALITION shall not impose any requirement on PROVIDER that exceeds the authority provided under Chapter 1002, F.S., or rules adopted pursuant to Chapter 1002, F.S.

V. MONITORING, AUDITING, AND ACCESS

29. **Monitoring**. PROVIDER understands that the provisions of this Contract are required to fulfill its obligation to offer the VPK Program, and that COALITION or school district (as applicable) will monitor PROVIDER for compliance with the requirements of offering the VPK Program.

30. **Physical Access.** PROVIDER agrees to allow the Office of Early Learning and COALITION staff or sub-contractors immediate access to the facilities and spaces used to offer the VPK Program during normal business hours.

31. **Records Access.** PROVIDER agrees to allow COALITION staff or sub-contractors and the Office of Early Learning to inspect and copy records pertaining to the VPK Program during normal business hours and upon request by COALITION or the Office of Early Learning.

VI. MAINTENANCE OF RECORDS, DATA, AND CONFIDENTIALITY

32. **Record Confidentiality.** PROVIDER agrees to protect the confidentiality of child and family records. Information associated with the VPK Program shall only be made available in accordance with the restrictions of s. 1002.72, F.S. For the purposes of records of children enrolled in the VPK Program, this Contract is considered an interagency agreement for the purpose of implementing the VPK Program as described in s. 1002.72 (3)(a), F.S. Accordingly, to the extent that PROVIDER receives VPK records in order to carry out its official functions, PROVIDER must maintain and protect the data as required in s. 1002.72, F.S., and as explained below. Individuals and organizations eligible to receive records include PROVIDER, the parent, COALITION, Office of Early Learning, and other entities identified in s. 1002.72, F.S.

33. **Record Maintenance.** PROVIDER agrees to maintain records, including enrollment and attendance records for children funded by the VPK Program; records of each VPK child, VPK instructor, substitute instructor, or VPK director; and other fiscal records for audit purposes for a period of five (5) years from the date of the last payment for that fiscal year or until the resolution of any audit findings or any litigation related to this Contract, whichever occurs last. PROVIDER may maintain records in an electronic medium and if the PROVIDER does so, then the PROVIDER shall back up records on a regular basis to safeguard against loss.

34. **Record Transfer on Termination.** In the event that PROVIDER permanently ceases to offer the VPK Program before the conclusion of the retention period for VPK records as described in Paragraph 33, whether as a result of unilateral or mutual termination of PROVIDER's eligibility to offer the VPK Program or as a result of PROVIDER ceasing to do business, PROVIDER shall transfer all VPK records required to be maintained under Paragraph 33 to COALITION no later than the close of business on the day PROVIDER ceases to offer the VPK Program. Failure to remit all VPK records required to be maintained will result in COALITION withholding final payment until the requirements of this paragraph are met.

VII. COMPENSATION AND FUNDING

35. **Notification of Enrollment.** PROVIDER agrees that it will notify COALITION upon admitting a child to PROVIDER's VPK Program class in accordance with the procedures of COALITION and the rules of the Office of Early Learning. PROVIDER understands that it may be ineligible to receive payment if PROVIDER does not notify COALITION that the child has been admitted in accordance with the rules of the Office of Early Learning. PROVIDER agrees that PROVIDER may not receive payment for VPK instruction for a child who has not been determined eligible for enrollment in the VPK Program.

36. **Attendance Documentation.** PROVIDER agrees to document the daily attendance, to certify the monthly attendance, and to certify the annual cumulative attendance of each child admitted to PROVIDER's VPK Program class(es) in accordance with rules of the Office of Early Learning. PROVIDER agrees that, after the annual cumulative attendance has been certified, the certified annual cumulative attendance may not be disputed for payment purposes.

37. **Parent Attendance Certification.** PROVIDER agrees to require that the parent of each child in the VPK Program verify, each month, the child's attendance on the prior month's certified child

attendance, in accordance with the requirements of s. 1002.71(6)(b)2., F.S. PROVIDER agrees to maintain the Child Attendance and Parental Choice Certificates (Forms OEL-VPK 03L or OEL-VPK 03S) which have been signed each month by a parent for each child admitted into PROVIDER's VPK Program class(es) in accordance with the rules of the Office of Early Learning.

38. **Direct Deposit.** PROVIDER agrees to provide information necessary to facilitate direct deposit in order to receive VPK reimbursement for services rendered. PROVIDER agrees to provide alternative reimbursement arrangements if PROVIDER chooses to opt out of Direct Deposit, however the reimbursement may be delayed up to 21 calendar days should the PROVIDER choose to opt out.

39. **Payment Rate.** PROVIDER understands that payments for each child may not exceed the amount of funding for one full-time equivalent (FTE) student, as established by the Florida Legislature, except for extreme hardship reenrollment circumstances described in Rule 6M-8.210, F.A.C. The amount of funding for one FTE student is calculated by multiplying the base student allocation provided in the General Appropriations Act by the county's district cost differential. The formula for FTE calculation is subject to revision by the Legislature during the course of the program year.

40. **Advance Payment Option.** PROVIDER understands that PROVIDER will receive monthly payments in accordance with the rules of the Office of Early Learning. PROVIDER further understands that PROVIDER may elect to receive monthly advance payments based on the number of children enrolled in the PROVIDER's VPK Program class(es) by checking the following box:

☐ PROVIDER elects to receive monthly advance payments and understands that advance payments will be reconciled and adjusted in accordance with the rules of the Office of Early Learning.

41. **Final Payment.** PROVIDER understands that COALITION will not issue a final payment to PROVIDER for the VPK program year until PROVIDER certifies the annual cumulative attendance of each child enrolled in PROVIDER's VPK Program in accordance with the rules of the Office of Early Learning.

42. **Overpayment**. PROVIDER agrees that, if the end-of-year reconciliation of payments reveals that PROVIDER received payments in excess of the amount owed to PROVIDER, COALITION will offset the overpayment against the final payment owed to PROVIDER for the program year and any future payments issued to PROVIDER for early learning programs. If PROVIDER ceases to offer early learning programs before the overpayment is fully offset, PROVIDER agrees to return the funds it was overpaid. If PROVIDER fails to return the funds it was overpaid, PROVIDER will be subject to collection efforts.

43. **Attendance Documentation Submission.** PROVIDER agrees to submit monthly attendance certification in accordance with Rule 6M-8.305, F.A.C., for payment. PROVIDER agrees to submit all required attendance records to COALITION on or before the 3rd business day of each month. If the due date falls on a holiday, PROVIDER agrees to submit all required attendance records to COALITION on the preceding business day. Records submitted late will be processed and paid in the next payment cycle.

44. **Reimbursement Summary Review.** PROVIDER agrees to review the reimbursement summary provided with the monthly reimbursement statement. PROVIDER agrees to report to COALITION any discrepancy, overpayment, or underpayment within sixty (60) calendar days of transmission of the reimbursement summary.

45. **Closures.** PROVIDER agrees compensation for temporary closures will be handled in accordance with Office of Early Learning Rule 6M-8.204(5), F.A.C.

46. **Disallowed Costs.** PROVIDER understands expenditures submitted for reimbursement shall be disallowed if PROVIDER does not adhere to the provisions governing the VPK Program as described in paragraph 5. Any disallowed expenditure may be deducted from any future reimbursement. PROVIDER agrees to return to COALITION any funds received as a result of error or overpayment or disallowed cost. If PROVIDER ceases to offer the VPK Program before the payment is fully recovered, PROVIDER agrees to return the funds it was overpaid. If PROVIDER fails to return the funds it was overpaid, PROVIDER will be subject to collection efforts and fraud restitution.

47. **Head Start Agencies.** If PROVIDER is a Head Start Agency, PROVIDER understands that, in accordance with federal law, PROVIDER's Head Start programs must be "in addition to, and not in substitution for, comparable services previously provided without Federal assistance." (42 U.S.C., s. 9835(c))

48. **Title 20 Schools.** If PROVIDER receives federal funds under Title 20, United States Code, ss. 6311-6322, PROVIDER understands that, in accordance with federal law, PROVIDER may use "Federal funds to supplement, [but] not [to] supplant non-Federal funds." (20 U.S.C., s. 6314(a)(3)(B))

VIII. PROVISIONS FOR PROVIDER PROBATION

49. **Readiness Rates.** PROVIDER understands that, in accordance with s. 1002.69(5), F.S., the Office of Early Learning will annually issue kindergarten readiness rates to each PROVIDER. PROVIDER understands that if it, or any of its providers listed in Exhibit 1, receives a kindergarten readiness rate which falls below the minimum readiness rate established by the Office of Early Learning, in accordance with s. 1002.67(4)(c)1., F.S., PROVIDER or any of its PROVIDERS listed in Exhibit 1 will be placed on probation and must submit an improvement plan and/or annual progress report for approval to either the school district or COALITION in accordance with rules adopted by the Office of Early Learning or be removed from eligibility to offer the program type for five (5) years. In the event that PROVIDER fails to meet the minimum readiness rate for a program type (school-year or summer) three consecutive times, in accordance with s. 1002.67(4)(c)3, F.S., PROVIDER will be removed from eligibility to offer the program type for five (5) years unless PROVIDER is granted a good cause exemption by the Office of Early Learning. If a PROVIDER is removed from summer eligibility, then this Contract is considered void for that PROVIDER's summer program type of the program year.

50. **Probation.** PROVIDER understands that in accordance with s. 1002.67(4)(c)2, F.S., PROVIDER on probation must continue the corrective actions in its improvement plan, including the use of an approved curriculum or a staff development plan, until PROVIDER meets the readiness rate. Failure to do so will result in the termination of PROVIDER's contract and the PROVIDER losing eligibility to deliver the VPK Program for five (5) years.

IX. FINANCIAL CONSEQUENCES

51. **Financial Consequences.** As a result of PROVIDER's failure to provide the minimum level of services required by this Contract, COALTION shall temporarily withhold reimbursement, disallow all or part of services not in compliance with the terms of this Contract, or terminate the Contract.

X. NONDISCRIMINATION

52. **Discrimination Prohibited.** PROVIDER agrees to comply with the antidiscrimination requirements of 42 U.S.C. s. 2000d, regardless of whether PROVIDER receives federal financial assistance. PROVIDER agrees not to discriminate against a parent or child, including the refusal to admit a child for enrollment in the VPK Program, in violation of the antidiscrimination requirements.

XI. TERMINATION AND NONCOMPLIANCE

53. **Noncompliance Determination and Corrective Action Notice.** If COALITION determines PROVIDER has failed to comply with the provisions governing the VPK Program as described in paragraph 5. or the requirements of this Contract, and COALITION concludes that corrective action will resolve the failure to comply, COALITION must notify PROVIDER in writing. ("Corrective action" means implementation of specific action(s) designed to correct the failure to meet a specific requirement.) The notice must identify the specific requirement(s) which PROVIDER failed to meet and describe how PROVIDER failed to meet each requirement. In addition, the notice must provide a detailed description of any required corrective action and set a deadline for completion of the corrective action. Finally, the notice must state that PROVIDER may request a review of the determination as described in paragraph 60. Upon determining that the PROVIDER has completed the corrective action, the COALITION shall notify the PROVIDER in writing. If the PROVIDER has not satisfactorily implemented its corrective actions by the end of this Contract, the PROVIDER will still be held accountable for implementing the remainder of the corrective actions if the PROVIDER remains eligible to deliver VPK and executes a new contract with the COALITION.

54. **Termination for Cause.**

a. Basis of Termination for Cause. PROVIDER agrees that COALITION has the right to terminate this Contract for cause at any time. The following are grounds for termination for cause: (a) Action, or lack of action, which threatens the health, safety or welfare of children; (b) The material failure to comply with one or more of the terms of this Contract, including failure to implement corrective action; (c) The refusal to accept any notice described under this Contract which COALITION is required to send to PROVIDER; or (d) Reasonable or probable cause for COALITION to suspect that fraud has been committed by PROVIDER as described in paragraph 59.

b. Notice of Termination for Cause. In order to terminate PROVIDER for cause, COALITION must send a written notice of termination for cause to PROVIDER. Such notice must be sent, with proof of delivery, at least five (5) business days before termination. The notice must state the date of, and the specific basis for, termination. Finally, the notice must state that PROVIDER may request a review of the determination as described in paragraph 60. Notwithstanding PROVIDER's refusal of delivery of the notice, this Contract shall be terminated on the date identified in the notice. COALITION shall document any refusal of delivery.

55. **Emergency Termination.** COALITION must immediately terminate this Contract on an emergency basis upon a notification by the Department of Children and Families (DCF) or local licensing agency or accreditation body actions or inactions of a PROVIDER that pose an immediate and serious danger to the health, safety, or welfare of children. COALITION will terminate this Contract on an emergency basis by sending PROVIDER written notice of emergency termination at least twenty-four (24) hours prior to termination. The written notice must specifically state the basis of COALITION's emergency termination. Finally, the notice must state that PROVIDER may request a review of the determination as described in paragraph 60.

56. **Revocation of Eligibility.**

a. In accordance with s. 1002.67(4)(b), F.S., if PROVIDER's Contract is terminated under paragraph 54 or 55, COALITION may revoke PROVIDER's eligibility to deliver the VPK Program for a period of five (5) years. The only statutorily authorized period of revocation is for five (5) years (s.1002.67(4), F.S.). In determining whether to revoke PROVIDER'S eligibility, the COALITION shall consider the following factors: the severity of the PROVIDER'S actions leading to the termination of the contract, the health, safety and welfare of children enrolled at the PROVIDER, the financial impact of the PROVIDER'S actions, the impact that the revocation would have upon the local community, consistency with COALITION'S actions against other PROVIDERS for similar violations of the Contract or program requirements, the length of time that PROVIDER provided services under the contract with the COALITION, and whether the PROVIDER had previously violated the terms of this Contract and prior contracts with the COALITION. COALITION shall provide notice of its intent to revoke PROVIDER'S eligibility at the same time that it provides written notice of intent to terminate the contract to PROVIDER.

b. The PROVIDER agrees that in the event that this contract is terminated under the provisions of paragraphs 54 or 55, and the PROVIDER's eligibility is not revoked for a period of five (5) years under paragraph 56 part a, the parties may not enter into another contract for VPK services for the remainder of the contract term of this contract.

57. **Termination of Contract by Provider.** PROVIDER and COALITION may agree to terminate this Contract by mutual consent or PROVIDER may unilaterally terminate this Contract at will. Written notice of termination must be given at least thirty (30) calendar days before the termination date in order for the COALITION to make alternative arrangements for uninterrupted services for children served under this Contract. If sufficient notice of termination is not provided, COALITION may refuse to issue the final reimbursement payment to PROVIDER. If PROVIDER unilaterally terminates this Contract during the pendency of an inquiry due to suspected noncompliance with part V or part VI of chapter 1002, of the Florida Statutes or chapter 6M-4, 6M-8, or rules 6A-1.09433 and 6A-6.03033, F.A.C., the COALITION may revoke the PROVIDER'S eligibility to offer the VPK program for a period of 5 years in accordance with s. 1002.67(4) and 1002.88(2), F.S. if the noncompliance is upheld by the early learning coalition review committee.

58. **Legislative Appropriation.** Any obligation for payment under this Contract is contingent upon an appropriation by the Florida Legislature. If funds required to finance this Contract are unavailable, COALITION shall terminate this Contract after providing written notice, with proof of delivery, at least twenty-four (24) hours before termination of this Contract. In the event of

termination of this Contract under this paragraph, PROVIDER shall be paid for the documented VPK hours completed prior to termination of this Contract.

59. **Fraud.**

a. Suspension for Suspected Fraud. In accordance with s. 1002.91(4), F.S., COALITION may suspend or terminate PROVIDER from participation in the VPK Program when it has reasonable cause to believe that PROVIDER has committed fraud. PROVIDER may request a review of COALITION's determination to suspend PROVIDER as described in paragraph 60. This review shall be limited to a determination of whether the COALITION has reasonable belief fraud occurred. If suspended, PROVIDER shall remain suspended until the completion of any investigation by the Office of Early Learning, the Department of Financial Services, or any other state or federal agency, and any subsequent prosecution or other legal proceeding.

b. Termination for Fraud. In accordance with s. 1002.91(5), F.S., if PROVIDER, or an owner, officer, or board director thereof, is convicted of, found guilty of, or pleads guilty or nolo contendere to, regardless of adjudication, public assistance fraud pursuant to s. 414.39, F.S., or is acting as the beneficial owner for someone who has been convicted of, found guilty of, or pleads guilty or nolo contendere to, regardless of adjudication, public assistance fraud pursuant to s. 414.39, F.S., the COALITION shall refrain from contracting with, or using the services of, PROVIDER for a period of 5 years. In addition, COALITION shall refrain from contracting with, or using the services of, any provider that shares an officer or director with a provider that is convicted of, found guilty of, or pleads guilty or nolo contendere to, regardless of adjudication, public assistance fraud pursuant to s. 414.39, F.S. for a period of five (5) years.

c. Termination for National Disqualification. In accordance with s. 1002.91(7), F.S., if PROVIDER is placed on the United States Department of Agriculture National Disqualified List, COALITION must terminate this Contract for cause. In addition, if PROVIDER shares an officer or board director with a provider that is on the United States Department of Agriculture National Disqualified List, COALITION must terminate this Contract for cause.

60. **Due Process Procedures.** PROVIDER may request a review of determinations made by COALITION under this Contract. Reviews will be conducted in accordance with Exhibit 2, Due Process Procedures. While a request for a review is being examined, PROVIDER is not required to implement corrective action. In accordance with s. 1002.75(1), PROVIDER may not offer any VPK Program services while a request for a review regarding termination of PROVIDER's VPK Statewide Contract is being examined.

61. **Severability of Provider Location.** If PROVIDER has executed this Contract on behalf of multiple locations and one or more of the locations is terminated pursuant to Section XI of this Contract, then in lieu of re-executing a new contract for the remaining locations, COALITION may modify Exhibit I to indicate which location(s) previously part of this Contract has been removed by striking through the location(s), initialing and dating in the "official use only" column. COALITION shall provide a copy of Exhibit 1 showing any stricken locations to PROVIDER. This Contract will remain in force and effect as to all locations in Exhibit 1 which are not stricken.

62. **Litigation and Venue.** In the event that PROVIDER believes that this Contract has been inappropriately terminated, or in the event of a breach of this Contract, any available remedies may be pursued in a court of competent jurisdiction. COALITION and PROVIDER agree that

any litigation related to this Contract which is brought by COALITION or PROVIDER will be brought in a county within COALITION's geographical service area.

XII. NOTIFICATION

63. **Information Change Notification.** PROVIDER agrees that it will comply with each of the following notification requirements:
   - **a.** Providing notice of class transfers of children at the same provider location within fourteen (14) calendar days;
   - **b.** Providing notice of changes to information provided on Forms OEL-VPK 10, OEL-VPK 11A, and OEL-VPK 11B within fourteen (14) calendar days after the information changes in accordance with Rule 6M-8.300, F.A.C.;
   - **c.** Submitting documentation demonstrating temporary closure by the close of business on the first day that a closing occurs and submitting documentation demonstrating subsequent reopening within two (2) business days after reopening;
   - **d.** Providing notice and documentation specifying reasons for dismissal of children within fourteen (14) calendar days;

64. **CCR&R Participation.** PROVIDER agrees to provide program and business information annually for inclusion in the Child Care Resource and Referral (CCR&R) Network and is responsible for ensuring that COALITION has up-to-date business and contact (including emergency contact) information. This information may be provided in the Provider Portal.

65. **Unusual Incident Notification.** PROVIDER agrees to report unusual incidents to COALITION by no later than the close of business on the next business day of the unusual incident and to submit a written report to COALITION within three (3) business days from the date of the incident. For licensed providers, sending a copy of the incident report submitted for DCF to COALITION shall constitute compliance with this paragraph. An unusual incident is any significant event involving the health and safety of children under PROVIDER's care. Examples of unusual incidents include: accusations of abuse or neglect against PROVIDER or PROVIDER's staff; the injury of a child which requires professional medical attention at PROVIDER's site or written notification from the child's parent that the child received professional medical attention; and when PROVIDER receives notice of litigation where PROVIDER is a named party or defendant that relates to PROVIDER's operation of VPK services.

66. **Notification of Disqualification or Public Assistance Fraud.**

a. PROVIDER shall notify COALITION within five (5) calendar days if PROVIDER is placed on the United States Department of Agriculture National Disqualified List, or if PROVIDER shares an officer or board director with a provider that is on the United States Department of Agriculture National Disqualified List.

b. PROVIDER shall notify COALITION within five (5) calendar days if PROVIDER, or an owner, officer, or board director thereof, is convicted of, found guilty of, or pleads guilty or nolo contendere to, regardless of adjudication, public assistance fraud pursuant to s. 414.39, F.S., or is acting as the beneficial owner for someone who has been convicted of, found guilty of, or pleads guilty or nolo contendere to, regardless of adjudication, public assistance fraud pursuant to s. 414.39, F.S.

XIII. INDEMNIFICATION

67. **Indemnification.** PROVIDER shall be fully liable for and indemnify, defend and hold harmless COALITION, Office of Early Learning and all of their officers, directors, agents, contractors, subcontractors and employees from and against any and all third-party claims, suits, actions, damages, judgments and costs that arise whether in law or in equity, from any of the PROVIDER's agents, subcontractors or employees' acts, actions, neglect or omission during the performance or operations under this Contract or any subsequent modification thereof. This includes attorney's fees and costs. This indemnification holds whether liability is direct or indirect and whether damage is to any person or real or personal tangible or intangible property. If PROVIDER is a state agency or a subdivision thereof, as defined in s. 768.28(2), this paragraph is limited to the extent permitted by s. 768.28, F.S.

XIV. SEVERABILITY

68. **Severability.** If any provision of this Contract is held to be unenforceable by a court of competent jurisdiction, the remaining terms and conditions remain in full force and effect.

XV. AMENDMENTS

69. **Only Authorized Amendments.** Only authorized attachments, amendments, or supplements to this Contract are authorized or permitted including those specifically incorporated by reference in this form, such as Exhibit 1, Provider Location List; Exhibit 2, Due Process Procedures; Form OEL-VPK 20A, Amendment to the Statewide Voluntary Prekindergarten Provider Contract; and Form OEL-VPK 20PP or Form OEL-VPK 20PS, as described in paragraph 7.

XV. EXECUTION OF CONTRACT

In accordance with ss. 1002.55(3)(i), 1002.61(3)(b), and 1002.63(3)(b), F.S., PROVIDER has caused this Contract to be executed as of the date set forth in Paragraph 1. By signing below, PROVIDER hereby certifies that PROVIDER has read and understood this Contract. PROVIDER certifies that all information provided is true and correct and agrees that noncompliance with the requirements of the VPK Program, which include the requirements of this Contract, and all Exhibits and authorized attachments, shall result in corrective action, withholding of funds, or termination of this Contract at the discretion of COALITION, in accordance with Section XI.

Warranty of Authority. Each person signing this contract warrants that he or she is dually authorized to do so and to bind the respective party to the contract.

	Ted L. Roush
Signature of President/Vice President/ Secretary/Officer/Owner/Principal/or Other Authorized Representative ☐ By Electronic Signature	**Print Name**
Superintendent of Schools	
Title	**Date**
	Jerry Taylor
Provider's Additional Signatory (If required by the Provider) ☐ By Electronic Signature	**Print Name**
Chairman	
Title	**Date**
Provider's Additional Signatory (If required by the Provider) ☐ By Electronic Signature	**Print Name**
Title	**Date**

"Approved as to Form and Sufficiency
BY
Leonard J. Dietzen, III
Rumberger, Kirk & Caldwell, P.A.
Suwannee School Board Attorney"

COALITION has caused this Contract to be executed as of the date set forth in Paragraph 1.

Signature of Authorized Coalition Representative ☐ By Electronic Signature	**Print Name**
Title	**Date**

STATE OF FLORIDA
STATEWIDE VOLUNTARY PREKINDERGARTEN PROVIDER CONTRACT
FORM OEL-VPK 20

Exhibit 1: Provider Location List

Provider Legal Name: Suwannee County School Board

If PROVIDER is executing this Contract on behalf of one physical location, mark this Exhibit "Not Applicable" in the box below.

☐ **Not Applicable**

If PROVIDER is a school district executing a single Contract on behalf of multiple public school VPK providers or if PROVIDER is executing a single Contract on behalf of multiple private VPK sites within COALITION's service area, PROVIDER shall complete a Provider Location List in a table format with the following columns:

A. Location Number (optional)
B. Location Legal Name
C. Doing Business As Name (if applicable)
D. Physical Address
E. Employer Identification Number (EIN)
F. School Year (Y/N)
G. Summer (Y/N)
H. Official Use Only (for coalition use)

If COALITION determines a location to be ineligible to offer the VPK Program, COALITION will mark which program type, school year (SY) or summer (S) is ineligible and date titled "Official Use Only" under the location and send a revised copy to PROVIDER.

Exhibit 2: Due Process Procedures

Provider Legal Name: Suwannee County School Board

1. Purpose of Exhibit. Early Learning Coalitions are responsible for the local implementation of early learning programs funded with state and federal funds, such as the School Readiness Program and Voluntary Prekindergarten Education Program. Providers of such early learning programs may request a review of determinations made by an Early Learning Coalition in accordance with the due process procedures described below.

2. Request for Review Hearing. If a provider disputes any action taken by the Coalition pursuant to the terms of the Statewide Voluntary Prekindergarten Provider Contract, the provider may request a review hearing in writing by sending it to the contact person listed in the Coalition's action. A review hearing is a "meeting" for the purposes of the Sunshine Law which is subject to public notice. During a review hearing, the provider will have a reasonable opportunity to address Coalition staff-persons or sub-contractor staff regarding the Coalition's action and to present supporting evidence before a Review Hearing Committee. Provider may have an attorney present at the review hearing to represent or advise the provider.

a. Content of Request for Review Hearing. The request for review hearing must state: the name and contact information of an individual authorized to provide information and binding responses on behalf of provider; the specific action by the Coalition that the provider disputes, the specific reasons for the provider's belief; and whether the provider will be represented by an attorney or another individual during the review hearing.

b. Request Time. The provider's request for a review hearing must be submitted in writing to the Coalition within five (5) business days of receipt of notice of the determination which the provider believes to be incorrect.

c. Supporting Documentation. The provider must send copies of any written documentation supporting the claims of the provider. Examples of relevant documentation may include, but are not limited to, attendance documentation, notarized attestations from parents, documentation from licensing or accrediting bodies, documents demonstrating dates of information submission, and a proposed corrective action plan.

3. Implementation of Review. If the Coalition receives a request for review hearing from the provider, the Coalition must address the request by taking the following steps.

a. Assignment of Review Hearing Committee. Within three (3) business days of receipt of a request for review hearing, the. The Coalition must assign a Review Hearing Committee to complete the review. The Review Hearing Committee must be composed of at least three but no more than five members of the Coalition Board. The Chair of the ELC shall appoint the Review Hearing Committee and shall name the chair of the committee. At least one of the members must be a mandatory member as set forth in section 1002.83(4) and at least one other member shall be one of the provider representative members. If no provider representative is available to participate, a waiver is possible if documented in the deliberations of the review hearing committee.

b. Response to Request for Review Hearing. Within five (5) business days of receipt of the request for review hearing, the Coalition must respond to the provider in writing, return receipt requested. The notice must include at least three (3) proposed dates and times for the review hearing which must be within forty-five (45) days of the date of receipt of the request for review hearing. The notice must also state that the review hearing may be conducted in person at a location designated by the Coalition or via any method of telecommunications, as long as the public is given reasonable access to observe and, when appropriate, participate. Finally, the notice must state whether or not all of the Coalition staff persons or sub-contractor staff whom the provider wishes to have present during the hearing will be made available. If any individual who the provider requested to have present is not available, the Coalition must make available an individual who is qualified to address the subjects the provider wished the individual to address.

c. Date and Location Selection. Within five (5) business days of receipt of the response to a request for review hearing, the provider must inform the Coalition of the date and time which it selects for the review hearing and whether the provider will attend the meeting in person or via a method of telecommunication. Within five (5) business days of receipt of the response to a request for review hearing, if the provider is unable to attend any of the proposed dates and times for the review hearing, the provider must submit written notice which states the specific reasons that provider is unable to attend and must contact the Coalition to select a mutually agreed upon date for the review hearing. If the provider does not inform the Coalition of the date and time within the required time period, then the process is considered complete and the request is denied.

d. Conducting the Review Hearing. The Review Hearing Committee shall assess the claim(s) the provider made in its request for review by examining all information and documentation submitted by the provider. The provider must be given a reasonable opportunity to question Coalition staff-persons or sub-contractor staff regarding the determinations of the Coalition and to present evidence before the Review Hearing Committee. The Coalition will also be provided a reasonable opportunity to submit evidence to rebut any claims made by the provider.

e. Notice of Review Hearing Committee Decision. Following completion of the presentation by the provider and the Coalition, the Review Hearing Committee will vote regarding each of the provider's claims. The decision of the Review Hearing Committee is final. In its' deliberations, the Review Hearing Committee must determine:

i. If the determination made by the Coalition was correct, in whole or in part, or incorrect.

ii. If no part of the determination made by the Coalition was correct, then the provider is not required to take further action.

iii. If any part of the determination made by the Coalition is correct, the Committee must identify the portion(s) determined to be correct and as applicable, decide:

A. If corrective action is necessary, that the provider must take corrective action in regard to the part(s) which the Review Hearing Committee determines to be correct; and the revised deadlines for completion of the corrective action(s); or

B. If the provider's eligibility to offer the Voluntary Prekindergarten Education Program will be terminated, the date of termination.

f. Notice of Review Hearing Conclusion. The Chair of the Review Hearing Committee shall ensure a written notice of the review hearing conclusion is prepared. The written notice must state the outcome of the Review Hearing Committee's vote regarding each of the provider's claims. In addition, the notice must specifically state the reasons supporting the Review Hearing Committee's conclusions. The dates for either corrective action to be completed, or termination of eligibility to offer the Voluntary Prekindergarten Education Program shall be included in the notice. The Chair of the Review Hearing Committee shall approve the notice and ensure it is made public within ten business days of the conclusion of the Review Hearing.

SUWANNEE COUNTY SCHOOL DISTRICT

702 – 2nd Street, NW • Live Oak, Florida 32064
Telephone: (386) 647-4600 • Fax: (386) 364-2635
www.suwannee.k12.fl.us

TED L. ROUSH
Superintendent of Schools

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CATHERINE CASON
DISTRICT 2
TIM ALCORN
DISTRICT 3
ED DA SILVA
DISTRICT 4
RONALD WHITE
DISTRICT 5
LEONARD J. DIETZEN, III
BOARD ATTORNEY

MEMORANDUM

TO: Ted L. Roush, Superintendent of Schools TR/BB

FROM: Mark A. Carver, Director of Facilities MAC

THRU: Bill Brothers, Assistant Superintendent of Administration BB
Vickie Music DePratter, Chief Financial Officer VMD

DATE: August 3, 2017

RE: Agenda Item for August 8, 2017 Special Board Meeting

RECOMMENDATION:

The Superintendent recommends approval of resolution SCSB 2018-04R for property described as part of the Southeast ¼ of the Southwest ¼ of Section 26, Township 2 South range 13 East Suwannee County, Florida.

BACKGROUND:

Resolution to declare that property described as part of the Southeast ¼ of the Southwest ¼ of Section 26, Township 2 South range 13 East, Suwannee County, Florida, is no longer eligible or practical for educational and ancillary purposes and should be disposed of by the most economic means.

RESOLUTION OF THE SCHOOL BOARD OF SUWANNEE COUNTY, FLORIDA DETERMINING THAT PROPERTY DESCRIBED AS PART OF THE SOUTHEAST ¼ OF THE SOUTHWEST ¼ OF SECTION 26, TOWNSHIP 2 SOUTH, RANGE 13 EAST, SUWANNEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR POINT OF REFERENCE COMMENCE AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF U.S. HIGHWAY 129 AND THE NORTH LINE OF SAID SOUTHEAST ¼ OF THE SOUTHWEST ¼, THENCE RUN SOUTH 89°12'35" WEST ALONG SAID NORTH LINE A DISTANCE OF 287.87 FEET TO THE NORTHWEST CORNER OF THE EAST 315.00 FEET OF SAID SOUTHEAST ¼ OF THE SOUTHWEST ¼ AND THE POINT OF BEGINNING; THENCE RUN SOUTH 00°28'06" WEST, A DISTANCE OF 274.77 FEET; THENCE RUN SOUTH 89°12'35" WEST, A DISTANCE OF 158.57 FEET; THENCE RUN NORTH 00°28'06" EAST, A DISTANCE OF 274.77 FEET TO SAID NORTH LINE; THENCE RUN NORTH 89°12'35" EAST ALONG SAID NORTH LINE A DISTANCE OF 158.57 FEET TO THE POINT OF BEGINNING. CONTAINING 1.00 ACRES MORE OR LESS. MORE PARTICULARLY DESCRIBED HEREIN IS NO LONGER ELIGIBLE OR PRACTICAL FOR EDUCATIONAL AND ANCILLARY PURPOSES AND SHOULD BE DISPOSED OF BY THE MOST ECONOMIC MEANS.

WHEREAS, the School Board of Suwannee County, Florida, wants to dispose of certain land described as Part of the Southeast ¼ of the Southwest ¼ of Section 26, Township 2 South, Range 13 East, Suwannee County, Florida, being more particularly described as follows:

For point of reference, commence at the intersection of the West right-of-way line of U.S. Highway 129 and the North line of said Southeast ¼ of the Southwest ¼; Thence run South 89°12'35" West along said North line, a distance of 287.87 feet to the Northwest corner of the East 315.00 feet of said Southeast ¼ of the Southwest 1.4 and the point of beginning; Thence run South 00°28'06" West, a distance of 158.57 feet; Thence run South 89°12'35" West, a distance of 158.57 feet; Thence run North 00°28'06" east, a distance of 274.77 feet to said North line; Thence run North 89°12'35" East along said North line, a distance of 158.57 feet to the point of beginning. Containing 1.00 acres more or less.

WHEREAS, §1013.28, *Florida Statutes*, requires a determination that said property is unusable for educational purposes and ancillary purposes;

WHEREAS, the State of Florida Attorney General has advised in Advisory Legal Opinion Number: AGO 2006-28, dated June 29, 2006, that Rule 6A-2.0010, Florida Administrative Code, which addresses educational facilities, incorporates, among other things, Volume I of the State Requirements for Educational Facilities. Section 1.4(4) of the State Requirements for Educational Facilities provides:

"A board may dispose of any land or other real property by resolution of such board, if recommended in an educational plant survey, and if determined to be unnecessary for educational or ancillary purposes. A board shall take diligent measures to dispose of educational property only in the best interest of the public. This section does not apply to granting of easements, rights-of-way, or leases of board property. The board may dispose of such property by one of the following methods:

(a) Transfer. Transfer to another governmental agency for whatever consideration the board deems to be in its best interest.

(b) Trade. The board may trade, to a public or private entity or person, land or other real property.

1. The board may trade land or other real property that has been appraised to be at least of equal dollar value.

2. The board may trade land or other real property not of equal value if the board deems the trade to be in its best interest.

3. There shall be no limit on the value of land or other real property which may be traded by the board.

(c) Sale of Property under $100,000. When, in the opinion of the board, the property has an estimated value of less than one hundred thousand dollars ($100,000) the board may dispose of the property by either public or private sale for whatever consideration the board deems to be in its best interest.

(d) Sale of Property over $100,000. When, in the opinion of the board, the property to be sold has an estimated value in excess of one hundred thousand dollars ($100,000), the board shall dispose of the property by public sale. Such sale shall be advertised for a minimum of once a week for three (3) consecutive weeks in a newspaper having general circulation in the district.

1. For property with an estimated value from one hundred thousand dollars ($100,000) to five hundred thousand dollars ($500,000), the board shall obtain an appraisal from at least one (1) qualified real estate appraiser to determine a fair market value, prior to or concurrent with receiving bids.

2. For property with an estimated value exceeding five hundred thousand dollars ($500,000), the board shall obtain appraisals from at least two (2) qualified real estate appraisers to determine a fair market, prior to or concurrent with receiving bids.

3. The board may sell the property if the bid price is within ten (10) percent of the lowest appraised value.

4. The board shall have the authority to reject any or all bids. If there are no bids, the board may dispose of the property by other approved means.

5. After disposal of any land or real property, funds received shall be expended on capital outlay projects.

6. When the property is obtained through the use of federal funds or under specified conditions, all prior covenants shall be met.

7. Upon disposal of any land or other real property, the board shall provide written notification of the action to the Office for deletion from Florida Inventory of School Houses (FISH) files.

8. When surplus property has been determined to be a liability by the board, after obtaining appraisals, advertising the property for public sale, and opening bids, if the highest bid is less than (10) percent of the lowest appraised value, the board may by extraordinary vote, dispose of the property to the highest bidder.

(e) Lease-Purchase Contracts. A board may dispose of any land owned by it, through a lease with an option to purchase or a lease-purchase agreement, to any person or entity, as the board determines to be in its best interest. A determination that the land, facility, or educational plant is unnecessary for educational purposes is not a prerequisite for the lease or lease-purchase. The board shall advertise the proposal as required by law and prior to entering into such agreement shall hold a public meeting. A copy of the final agreement shall be available for inspection and review by the public. The intent to enter into a lease with an option to purchase or a lease-purchase agreement shall be published three (3) times in a local newspaper as required by law."

WHEREAS, it is in the best interest of the School Board to dispose of said property by the most economical means negotiated by Suwannee County School District personnel;

BE IT RESOLVED by the School Board of Suwannee County, Florida, that the land described above is not usable for education and ancillary purposes and in the best interest of the public should and shall be disposed of by the most economic means. The School Board of Suwannee County, Florida, directs the Superintendent and his designees to negotiate, subject to Board approval, the disposition of the subject land, structures and property described above in accordance with one of the methods or procedures noted by the Florida Attorney General in his

opinion construing the provisions of §1013.28, *Florida Statutes* and Rule 6A-2.0010(1), Florida Administrative Code.

PASSED, APPROVED AND ADOPTED this _____ day of _____ 2017.

SCHOOL BOARD OF SUWANNEE COUNTY, FLORIDA

(SEAL)

By:_____
Jerry Taylor, Chairperson

ATTEST:

_____
Ted L. Roush, Superintendent

"Approved as to Form and Sufficiency
BY_____
Leonard J. Dietzen, III
Rumberger, Kirk & Caldwell, P.A.
Suwannee School Board Attorney"

SUWANNEE COUNTY SCHOOL DISTRICT

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TED L. ROUSH
Superintendent of Schools

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RONALD WHITE
DISTRICT 5
LEONARD J. DIETZEN, III
BOARD ATTORNEY

MEMORANDUM

TO: Ted L. Roush, Superintendent of Schools TR/BB

FROM: Walter Boatright, Director of Human Resources WB/BB

DATE: August 3, 2017

RE: Personnel Changes List for August 8, 2017, Special Meeting

RECOMMENDATION:

Pursuant to Section 1012.27 (1A) (1B), *Florida Statutes*, the Superintendent hereby submits the following written personnel recommendations. Approval of each is respectfully requested.

SUWANNEE COUNTY SCHOOL BOARD
Personnel Changes
August 8, 2017
Special Meeting

TO: District School Board of Suwannee County
FROM: Ted Roush/BS
Ted L. Roush, Superintendent of Schools

Pursuant to Section 1012.27 (1A) (1B), Florida Statutes, I hereby submit the following written personnel recommendations. Approval of each is respectfully requested.

RECOMMENDATIONS 2017-2018 SCHOOL YEAR:

RECOMMENDATIONS INSTRUCTIONAL:

Branford High School:
*Michele Roundtree, Teacher, effective August 3, 2017
REPLACES: Deanna Burkett

**Correction of name from the July 25, 2017 Regular Meeting*

Suwannee High School:
*Alexander Franklin, Teacher, effective July 31, 2017
REPLACES: Robert Marski

**Correction of effective date from the July 25, 2017 Regular Meeting*

TRANSFERS/REASSIGNMENTS:

NAME	FROM: SITE/POSITION	TO: SITE/POSITION	EFFECTIVE	REPLACES
Lisa Gray	SES/Teacher	SMS/Teacher	8/03/2017	
Natalie Haney	SIS/Gifted Teacher	SMS/Gifted Teacher	8/03/2017	
Mary (Mimi) Johnson	SHS/Teacher	SIS/Teacher	8/03/2017	
Lynda Owens	SHS/Teacher	SES/Teacher	8/03/2017	
Susan Ratliff	SES/Teacher	SMS/Teacher	8/03/2017	Colleen Welsh

RECOMMENDATIONS: NON-INSTRUCTIONAL/SCHOOL RELATED:

Suwannee Elementary School:
*James (Chip) Thomas, Paraprofessional, Temporary, effective August 9, 2017

**Correction of effective date from the June 27, 2017 Regular Meeting*

TRANSFERS/REASSIGNMENTS:

NAME	FROM: SITE/POSITION	TO: SITE/POSITION	EFFECTIVE	REPLACES
Nahjawan Dukes	SHS/Paraprofessional	SIS/Paraprofessional	08/09/2017	
Tammy Johns	RTC/School Secretary	Transportation/Admin.Sec. I	10/17/2017	Ernestine Fleming
Martha Jones	BHS/ELL Paraprofessional	SMS/ELL Paraprofessional	08/09/2017	Yaniris Perez

End of List
2017-2018
School Year