



AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Special Order Request	
<input type="radio"/> Yes	<input checked="" type="radio"/> No
Time	
Open Agenda	
<input checked="" type="radio"/> Yes	<input type="radio"/> No

MEETING DATE	Mar 3 2015 10:15AM - Regular School Board Meeting
AGENDA ITEM	OPEN ITEMS
CATEGORY	EE. OFFICE OF STRATEGY & OPERATIONS
DEPARTMENT	Procurement & Warehousing Services

TITLE: RFP Recommendation of \$500,000 or Greater - 15-090E - Network and Telecommunication Goods and Services (E-Rate)

REQUESTED ACTION:
 Approve the recommendation to award the above contract. Contract Term: July 1, 2015, through June 30, 2020, 5 Years; User Department: Information & Technology; Award Amount: \$144,000,000; Vendors Awarded: Universal Cabling System; JDL Technologies, Inc.; and AT&T Corp.; M/WBE Vendors(s): See supporting documents for M/WBE participation

SUMMARY EXPLANATION AND BACKGROUND:
 The School Board of Broward County, Florida, received eight (8) proposals for 15-090E - Network and Telecommunication Goods and Services (E-Rate). This RFP was developed to provide a consolidated, E-Rate compliant, competitive bid opportunity for a broad scope of network and telecommunication goods and services. The RFP was divided into seven commodity groups; each encompass a number of goods and services needed to ensure successful operations of the District's educational programs and business activities while leveraging E-Rate funding support where available. See Supporting Docs for continuation of Summary Explanation and Background. A copy of the RFP documents are available online at: <http://www.broward.k12.fl.us/supply/docs/contracts/RFP-15-090E-Network.pdf>.
 These Agreements has been reviewed and approved as to form and legal content by the Office of the General Counsel .

SCHOOL BOARD GOALS:

Goal 1: High Quality Instruction **Goal 2: Continuous Improvement** **Goal 3: Effective Communication**

FINANCIAL IMPACT:
 The estimated financial impact for the five (5) year term of the contract will be \$144,000,000. The source of these funds will include annual capital dollar appropriations; appropriations related to capital funding projects, and the annual IT District's Telecommunications budget.

EXHIBITS: (List)
 (1) Continuation of Summary Explanation and Background (2) Agreements-3 (3) Recommendation Tabulation (4) Financial Analysis Worksheet (5) Supplier Evaluation

BOARD ACTION:

APPROVED

(For Official School Board Records Office Only)

SOURCE OF ADDITIONAL INFORMATION:

Name: Ed Hinline	Phone: 754-321-0288
Name: Ruby Crenshaw	Phone: 754-321-0501

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Senior Leader & Title
 Maurice L. Woods - Chief Strategy & Operations Officer

Signature

Maurice Woods
 Tue Feb 24 16:37:06 2015

Approved In Open Board Meeting On: **MAR 03 2015**

By: *Donna Kow*
 School Board Chair

AGREEMENT

THIS AGREEMENT is made and entered into as of this 3rd day of March, 2015, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

AT&T CORP.

(hereinafter referred to as "AT&T."),
whose principal place of business is
2001 NW 64 Street, Suite 100, Ft. Lauderdale, Florida 33309

SBBC and AT&T are referred to collectively as Parties.

WHEREAS, SBBC issued a request for proposal, identified as RFP 15-090E- Network and Telecommunication Goods and Services (E-Rate) dated November 19, 2014, and amended by Addendum No. 1, dated November 21, 2014, Addendum No. 2, dated November 25, 2014, Addendum No. 3, dated December 5, 2014, Addendum No. 4, dated December 9, 2014, Addendum No. 5, dated December 10, 2014, Addendum 6, dated December 12, 2014, Addendum No. 7, dated December 15, 2014, Addendum 8, dated December 16, 2014, and Addendum No. 9 dated December 18, 2014 (herein referred to collectively as "RFP"), which is incorporated by reference herein, for the purpose of receiving proposals for certain network telecommunications, internal connections and internet equipment and goods services; and

WHEREAS, AT&T, on its own behalf and behalf of its service-providing affiliates, has submitted proposals in response to RFP (hereinafter referred to as "PROPOSALS"), incorporated by reference, as the highest ranked proposer on Group 4 Voice Equipment, Group 5 Voice-Circuit- Switched, Group 6 Voice Packet- Switched, and Group 7 Voice- Cellular and Data.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals.** The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01. **Definitions.** The following definitions shall be used within this Agreement.

- a) "Affiliate" of a party means any entity that controls, is controlled by or is under common control with such party.
- b) "Extended Term" shall mean each term after the initial term of the Agreement is complete.
- c) "Hazardous Materials" means any substance or material capable of posing an unreasonable risk to health, safety or property or whose use, transport, storage, handling, disposal, or release is regulated by any law related to pollution, protection of air, water, or soil, or health and safety.
- d) "Initial Term" shall mean the first term of the Agreement.
- e) "Pricing Schedule(s)" identifies the Services AT&T may provide to SBBC, the price (including discounts, if applicable) for each Service and the term during which such prices are in effect.
- f) "Service(s)" shall mean the specific Services that AT&T has agreed to provide to SBBC in accordance with the terms and conditions of this Agreement.
- g) "Service Component" shall mean an individual component of a Service provided under this Agreement.
- h) "Service Guides" shall mean the description, pricing, and other terms and conditions for the Service not covered by a Tariff or Guidebook may be contained in a Service Guide, which may be found at <http://att.com/servicepublications> or other locations AT&T may designate.
- i) "Service Level Agreement(s) 'SLA'" shall mean a part of a Service contract where the level of Service is formally defined.
- j) "Tariffs and Guidebooks" "Tariffs" are documents containing the standard descriptions, pricing, and other terms and conditions for a Service that AT&T files with regulatory commissions. "Guidebooks" are documents containing the standard descriptions, pricing, and other terms and conditions for a Service that were, but no

longer are, filed with the regulatory commissions. Tariffs and Guidebooks may be found at <http://att.com/servicepublications> or other locations AT&T may designate.

- k) “User” means anyone who uses or accesses any Service provided to SBBC. SBBC will cause Users to comply with this Agreement, and SBBC agrees that SBBC is responsible for User’s use of Services, unless expressly provided to the contrary in applicable Service Publications.

ARTICLE 2 – SPECIAL CONDITIONS

2.02 **Term of Agreement.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on July 1, 2015, and conclude on June 30, 2020 (hereinafter referred to as “Initial Term”). The Initial Term of this Agreement may be extended, if needed, for 180 days beyond the expiration of the Initial Term. If SBBC, desires to extend this Agreement beyond the Initial Term, SBBC shall send, through its Procurement & Warehousing Servicing notice to AT&T thirty (30) days prior to the end of the current contract period. Upon mutual agreement by SBBC and AT&T to extend this Agreement, as stated above, an amendment to Agreement will be placed on a School Board Agenda for approval by SBBC.

2.03 **Pricing.** **The pricing sheets found in the Proposal Responses for Groups 4, 6 and 7 are incorporated herein as the prices for those Groups. Exhibit C is the revised pricing sheet for Group 5 and is incorporated herein.** A Pricing Schedule (including related attachments) identifies the Services AT&T may provide to SBBC, the price (including applicable discounts) for each Service and the terms during which such prices are in effect. Any future Pricing Schedule(s) that is/are necessitated by the introduction of a new Service that is accompanied by terms and conditions that differ from the terms and conditions herein to will require a contract amendment and approval. Any Additional Services that receive E-Rate approval may be procured under this Agreement by SBBC.

SBBC understands that in the future, new goods and Services may have unique terms and conditions; however, AT&T will make every effort to have the related Pricing Schedule(s) agree with terms and conditions of this Agreement.

2.04 **Goods and Services.** As currently contemplated by the Parties, AT&T shall provide telecommunication Services, as described in AT&T’S response to the RFP. SBBC at its discretion may purchase additional goods and Services in accordance with the terms hereof and subject to the requirements for new Services set forth in Section 2.02 above. SBBC authorizes the superintendent or his designee to place orders for such additional goods and services as are needed by the school district.

2.05 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: **Exhibit A, to this Agreement;** then

- Second: This Agreement including Exhibits B & C; then
- Third: Addendum Nos. 9, 8, 7, 6, 5, 4, 3, 2 and 1; then
- Fourth: RFP 15-090E “Network and Telecommunications Goods and Services (E-Rate)”; then
- Fifth: Proposals submitted in response to the RFP by AT&T

Notwithstanding anything herein to the contrary, with respect to Service Level Agreements (“SLA”), SLAs set forth in the response to the RFP by AT&T shall take precedence over all other references to Service SLAs in this Agreement.

2.05.1 **E-Rate Rider.** The E-Rate Rider is incorporated herein as Exhibit D.

2.06 **Acceptable Use Policy.** AT&T’s Acceptable Use Policy (AUP) applies to Services provided over or accessing the Internet. The AUP may be found at <http://att.com/aup> or other locations AT&T may designate.

2.07 **Indemnification.**

A. By SBBC: SBBC agrees to be fully responsible for its acts of negligence or its agent’s acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence. Nothing herein shall be construed as a waiver by SBBC of sovereign immunity or of any rights or limitations of liability existing under Section 768.28, Florida Statutes.

B. By AT&T: AT&T agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney’s fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or Services furnished by AT&T, its agents, servants or employees; the equipment of AT&T, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of AT&T or the negligence of AT&T agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC’s property, and injury or death of any person whether employed by AT&T, SBBC or otherwise.

2.09 **Price Adjustments:** Prices set forth in the Pricing Schedule **Exhibit C** as applicable shall remain fixed for the first year of the Initial Term of the Agreement and may be adjusted annually on the contract anniversary date by amendment of this Agreement. SBBC will accept price reductions for all goods and Services at any time during the term of the Agreement. AT&T must justify any request for a price increase. Such justification may include, but not limited to, an industry-wide increase in prices for comparable Services or changes in economic conditions that adversely affect AT&T. Any request for price adjustment shall be accompanied with proper justification and be submitted, in writing to Educational Technology Services Department, 7720 West Oakland Park Boulevard, 2nd Floor, Sunrise, Florida 33351 with a copy

to the Purchasing Agent, Procurement & Warehousing Services Department, 7720 West Oakland Park Boulevard, Suite 323, Sunrise, Florida 33351, thirty (30) days prior to the anniversary date of the agreement and shall only be effective upon written approval to AT&T from SBBC. Price adjustments shall be negotiated in good faith. SBBC reserves the right to reject any request for a price adjustment and cancel the renewal of any contract with an increase in prices. SBBC reserves the right to consult the U.S. Department of Labor, Bureau of Labor Statistics indices or any commercial or commodity-based index technology goods and Services as a basis for reviewing price adjustments.

During the Contract term, if AT&T offers lower prices for the same, or nearly the same, services to other similar sized schools in the State of Florida under the same or similar terms and conditions, SBBC expects that the costs for contracted goods and services will be adjusted downward accordingly by AT&T on a prospective basis. In determining whether terms and conditions are "similar" for purposes of the above, only those terms and conditions that have a reasonable relationship to the price of the service should be considered so as to bring about the reasonable purpose of this requirement.

2.10 **Proposals Are Not Confidential:** This agreement and all documents are referenced herein are not confidential or trade secrets and are public records subject to public inspection under applicable law.

2.11 **Privacy Laws:** Each party is responsible for complying with the privacy laws applicable to its business. If SBBC does not want AT&T personnel to comprehend SBBC's data to which they may have access in performing Services, SBBC should encrypt such data so that it will be unintelligible. Until directed otherwise by SBBC in writing, if AT&T designates a dedicated account representative as SBBC's primary contact with AT&T, SBBC authorizes that representative to discuss and disclose SBBC's customer proprietary network information (CPNI) to any employee or agent of SBBC without a need for further authentication or authorization.

2.12 **Termination.** This Agreement may be terminated with or without cause by SBBC during the term hereof upon thirty (30) days written notice to VENDOR of its desire to terminate this Agreement. In the event of such termination, SBBC shall pay VENDOR for all services rendered through the effective date of termination. Further, SBBC reserves the right to terminate at any individual site or group of sites at any time business operations require circuit disconnection without adverse effect on the remainder of the Agreement.

2.13 **New Goods/Services:** SBBC expects, during the term of this Agreement, as new business needs are identified and as technologies change, that SBBC will identify different goods and Services to procure. SBBC realizes that AT&T may introduce new goods and Services during the term of this Agreement. SBBC reserves the right to procure these goods and/or Services as part of this Agreement through written quotation by AT&T and amendment of this Agreement. SBBC and AT&T reserve the right to negotiate pricing and transactional documents, including but not limited to, Pricing Schedule or Pricing Exhibit(s), as applicable for new goods and services.

2.14 **Right to Audit Provision.** AT&T and its subcontractor's (Partner in Engagement) records shall include, but not be limited to, accounting records pertaining to delivery of goods and Services, invoices and billing information, payroll time sheets as related to invoices for contract staffing to substantiate payment rates, credit payments to SBBC resulting from billing errors or any other reasons, written policies and procedures, subcontractor's files and any other supporting evidence necessary to substantiate payments and credit payments to SBBC resulting in billing errors or any other reasons related to this Agreement (all the foregoing herein after referred to as "records") shall be open to inspection and subject to audit and/or reproduction, during normal working hours (or mutually convenient times upon reasonable prior notice), by SBBC's agent or its authorized representative to the extent necessary to adequately permit evaluation and verification of any invoices, payments or claims submitted by AT&T or any of its subcontractors pursuant to this Agreement. Subject to legal and regulatory requirements applicable to AT&T, SBBC can request records relevant to the disputed charges. Such records subject to examination shall also include, but not limited to, those records necessary to evaluate and verify payments and any other matters or items associated with this Agreement. There shall be no charge from AT&T to SBBC to perform this audit.

For the purpose of such audits, inspections, examinations and evaluations, SBBC's agent or authorized representative shall have access to said records from the effective date of this Agreement, for the duration of the work and until five (5) years after the final payment by SBBC pursuant to this Agreement, subject to applicable legal and regulatory requirements. All subcontractor work which cannot be documented as paid by AT&T as required by this Agreement and/or found not to be in compliance with the provisions of this Agreement shall be reimbursed to SBBC.

Subject to legal and regulatory requirements applicable to AT&T, SBBC's agent or authorized representative shall have access to AT&T's facilities, shall have access to all necessary records and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with this article. SBBC's agent or its authorized representative shall give AT&T reasonable advance notice of intended audits.

AT&T will verify that invoice pricing is accurate and correct on each invoice. If an audit identifies discrepancies, such as an overpayment, AT&T will be required to reimburse SBBC for the discrepancy within 60 days of confirmation by a credit issued on SBBC's account and a reimbursement check made payable to: The School Board of Broward County, Florida for any remaining balance. Any challenges to the discrepancies of the audit must be addressed, in writing, to the Chief Auditor of SBBC.

2.15 **LIMITATION OF LIABILITY.** AT&T'S ENTIRE LIABILITY, AND SBBC'S EXCLUSIVE REMEDY, FOR DAMAGES ARISING OUT OF MISTAKES, OMISSIONS, INTERRUPTIONS, DELAYS, ERRORS OR DEFECTS IN THE SERVICES AND NOT CAUSED BY SBBC'S NEGLIGENCE, SHALL IN NO EVENT EXCEED AN AMOUNT EQUIVALENT TO THE PROPORTIONATE CHARGE TO SBBC FOR THE PERIOD OR SERVICE DURING WHICH SUCH MISTAKE, OMISSION, INTERRUPTION, DELAY, ERROR OR DEFECT IN THE SERVICES OCCURS AND CONTINUES OR THE AMOUNT

OF FEES BY SBBC TO AT&T UNDER THIS AGREEMENT, IN NO EVENT SHALL ANY OTHER LIABILITY ATTACH TO AT&T.

THIS LIMITATION OF LIABILITY WILL NOT APPLY TO: (I) BODILY INJURY, DEATH, OR DAMAGE TO REAL OR TANGIBLE PROPERTY DIRECTLY CAUSED BY AT&T'S NEGLIGENCE; (II) BREACH OF SECTIONS, CONFIDENTIAL INFORMATION, PUBLICITY OR TRADEMARKS; (III) SETTLEMENT, DEFENSE OR PAYMENT OBLIGATIONS FOR THIRD PARTY CLAIMS; OR (IV) DAMAGES ARISING FROM AT&T'S NEGLIGENCE OR MISCONDUCT.

NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, RELIANCE, OR SPECIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, ADVANTAGE, SAVINGS AND REVENUES OR INCREASED COST OF OPERATIONS.

2.16 **DISCLAIMER OF LIABILITY.** AT&T WILL NOT BE LIABLE FOR ANY DAMAGES, EXCEPT TO THE EXTENT CAUSED BY AT&T'S NEGLIGENCE OR MISCONDUCT, ARISING OUT OF OR RELATING TO INTEROPERABILITY, ACCESS OR INTERCONNECTION OF THE SERVICES WITH APPLICATIONS, EQUIPMENT, CONTENT, OR NETWORKS PROVIDED BY SBBC OR THIRD PARTIES; SERVICE DEFECTS, SERVICE LEVELS, DELAYS OR INTERRUPTIONS (EXCEPT FOR LIABILITY FOR SUCH EXPLICITLY SET FORTH IN THIS AGREEMENT); ANY INTERRUPTION OR ERROR IN ROUTING OR COMPLETING CALLS OR OTHER TRANSMISSIONS (INCLUDING 911 CALLS OR ANY SIMILAR EMERGENCY RESPONSE NUMBER); LOST OR ALTERED MESSAGES OR TRANSMISSIONS; OR UNAUTHORIZED ACCESS TO OR THEFT, ALTERATION, LOSS OR DESTRUCTION OF SBBC'S, ITS AFFILIATES, USERS' OR THIRD PARTIES' APPLICATIONS, CONTENT, DATA, PROGRAMS, NETWORK OR SYSTEMS.

2.17 **M/WBE COMMITMENT.** Throughout the term of the Agreement, AT&T shall take commercially reasonable steps and use commercially reasonable resources to identify SBBC-certified M/WBE vendors who may be engaged to fulfill various aspects of the Agreement, including, for instance, without limitation, M/WBE vendors to provide fuel for fleet services, construction and maintenance services for cell towers, electrical suppliers, and construction and engineering resources, and to begin engaging those vendors on a commercially reasonable basis, where feasible. AT&T agrees to provide monthly reports and to conduct quarterly meetings with SBBC to discuss progress in meeting the SBBC's objectives regarding M/WBE participation, including dollars spent on M/WBE vendors for the quarter; and to continue to assess throughout the Term of the Agreement new possibilities for M/WBE vendor participation suggested by SBBC. If at any time during the Term the parties agree that it is reasonably feasible to include a specific dollar figure for M/WBE participation, the Agreement shall be amended to include the dollar participation objective.

2.18 **Inspection of AT&T'S Records by SBBC.** AT&T shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All AT&T

Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by AT&T or any of AT&T payees pursuant to this Agreement. *AT&T* Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. *AT&T* Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) AT&T Records Defined. For the purposes of this Agreement, the term "AT&T Records" shall include, without limitation, and any supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to *AT&T* Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to AT&T pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide *AT&T* reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to *AT&T* facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by AT&T to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any *AT&T* claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by AT&T in excess of ten percent (10%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by AT&T, provided that the audit fees must be customary and reasonable and proportionate to the size of the billing error. If the audit discloses billings or charges to which AT&T is not contractually entitled, AT&T shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to AT&T and its personnel. The parties agree that the failure of AT&T to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. AT&T agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from AT&T failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor.** The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision.** The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Property Upon Termination.** SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its

property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds.** Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC with interest calculated from the date of the erroneous payment or overpayment. Interest shall be calculated using the interest rate for judgments under Section 55.03, Florida Statutes, applicable at the time the erroneous payment or overpayment was made by SBBC.

3.09 **Public Records.** Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to

SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records:** Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, of **Exhibit B** and of Florida Statutes; FERPA, and of any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws.** Each party shall comply with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance.** All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment.** Neither this Agreement or any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party.

There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC. Notwithstanding the foregoing, AT&T may assign all or part of the Award of the Agreement to a corporate affiliate of AT&T.

3.17 **Incorporation by Reference.** Exhibits A, B, C, and D attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions.** The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability.** In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement.** The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments.** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver.** The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure.** Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival.** All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and

audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration:** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

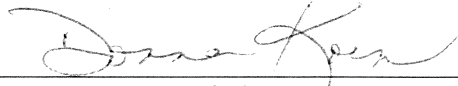
3.26 **Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

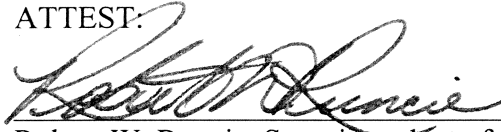
FOR SBBC

(Corporate Seal)

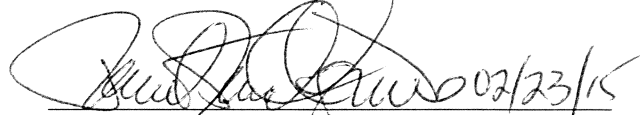
THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

By 
DONNA P. KORN, Chair

ATTEST:


Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:


Office of the General Counsel

FOR AT&T

(Corporate Seal)

AT&T Corp.

ATTEST:

By *John D. Irwin, Jr.*
John D. Irwin, Jr., Senior Vice President
Government, Education & Healthcare

, Secretary

-or-

Annex S Bell
Witness

Subara Sartin
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF *Georgia*

COUNTY OF *Gwinnett*

The foregoing instrument was acknowledged before me this 20 day of February, 2015 by JOHN D. IRWIN JR of AT&T Name of Person, on behalf of the corporation/agency. Name of Corporation or Agency

He/She is personally known to me or produced GA ID as identification and did/did not first take an oath. Type of Identification

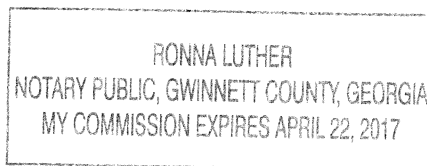
My Commission Expires: April 22, 2017

Ronna Luther
Signature - Notary Public

RONNA LUTHER
Printed Name of Notary

(SEAL)

W-00170129
Notary's Commission No.



**EXHIBIT A
NEGOTIATED ITEMS**

	The following apply to Groups 4, 5, 6, and 7.
6.3.3	AT&T agrees to withdraw its original response. AT&T has offered and SBBC has accepted the following: "Limits not less than \$3,000,000 per claim or wrongful act in the annual aggregate covering services provided under this Agreement."
6.3.5	Replace proposal response language with: AT&T has read and agrees.
6.3.7	<p>AT&T has automatic coverage for additional insured when required by written contract, and therefore will not include as a specific endorsement.</p> <p>All required liability policies are primary of all other valid and collectable coverage maintained by the School Board of Broward County, Florida.</p>
6.3.8	CANCELLATION OF INSURANCE: Vendors are prohibited from providing services under this contract with SBBC without the minimum required insurance coverage and must notify SBBC at least 30 days in advance of any cancellation of any required coverage that is not replaced.
6.4.3	AT&T agrees subject to AT&T's reasonable security requirements, no more than once every 12 months and at SBBC's own expense.
6.4.4	AT&T will credit SBBC for any overpayments and will refund those overpayments, in the form of a credit (and with no interest included), within two billing cycles of the overpayment.
6.4.5	AT&T agrees to withdraw its request for a \$10,000 cap in exchange for language providing that the audit fees must be customary and reasonable and proportionate to the size of the billing error.
6.6	Section 6.6 (Copyright Indemnification) is revised to include the following: This obligation should not apply where any alleged infringement arises out of or results from: (a) Customer's, its Affiliate's or a User's content; (b) modifications to the Service by Customer, its Affiliate or a third party, or combinations of the Service with any non-AT&T services or products by Customer or others; (c) AT&T's adherence to Customer's or its Affiliate's written requirements; or (d) use of a Service in violation of this Agreement. AT&T has read and agrees to Section 6.6 as revised.
7.11	<p>AT&T can support an Electronic Funds Transfer (EFT) payment arrangement. AT&T will accept ACH transactions from SBBC that are in either CCD+ or CTX format. These formats include both remittance information and addenda records.</p> <p>SBBC will be asked to complete an ECF11 Registration form prior to the establishment of the EFT payment arrangement. AT&T legal requirements prohibit AT&T from using any SBBC provided enrollment form. Additionally, not all of the proposed AT&T services may use the EFT payment process. AT&T will identify those services eligible to accept ACH</p>

	payments upon award of the RFP. SBBC will be required to provide a list of the Remit to PO Boxes to AT&T for review.
7.14	Section 7.14 (Patents and Royalties) is revised to include the following: The obligations set forth in Paragraph 7.14 Patents and Royalties, of the RFP, shall not apply where any alleged infringement arises out of or results from: (a) Customer's, its Affiliate's or a User's content; (b) modifications to the Service by Customer, its Affiliate or a third party, or combinations of the Service with any non-AT&T services or products by Customer or others; (c) AT&T's adherence to Customer's or its Affiliate's written requirements; or (d) use of a Service in violation of this Agreement. AT&T has read and agrees to Section 7.14 as revised.
7.18	AT&T has read and agrees to Section 7.1 (Indemnification). In addition, AT&T will be responsible for obtaining licenses and permits required for its work at its costs, and SBBC will be responsible for obtaining any easements, rights-of-way or other consents required, at SBBC's cost.
7.19	AT&T's proposal Response takes precedence over the RFP.
7.26	Notwithstanding the foregoing, Vendor may assign all or part of the Award of Agreement to a corporate affiliate of Vendor.
7.27	The parties agree to a 30 day cure period, instead of a five (5) day cure period, to be in-line with the cure period for contract breach.
7.43	The parties agree to the following: During the Contract term, if VENDOR offers lower prices for the same, or nearly the same, services to other similar sized schools in the State of Florida under the same or similar terms and conditions, SBBC expects that the costs for contracted goods and services will be adjusted downward accordingly by the VENDOR on a prospective basis. In determining whether terms and conditions are "similar" for purposes of the above, only those terms and conditions that have a reasonable relationship to the price of the service should be considered so as to bring about the reasonable purpose of this requirement."
7.46	AT&T has developed and maintains AT&T Security Policy and Requirements (ASPR), a comprehensive set of security control standards based in part on leading industry security standards (e.g., COBIT, ISO/IEC 27001:2005, etc.). AT&T's Security Policy is ISO27000 certified. The certification encompasses all functions and services within the business, including our network operations centers, all AT&T IDCs, and AT&T's Hosting & Cloud Services. Making any changes to our policy could jeopardize this certification. Given the dynamic environments that AT&T supports, ASPR content is continually re-evaluated and modified as industry standards evolve and as circumstances require. In addition, operating procedures, tools and other protective measures are regularly reviewed to ensure the highest standards of security are observed throughout the corporation. AT&T uses a shared environment in which systems, equipment, software and data (including databases) utilized in the provision of the Services to Customer are additionally utilized for the benefit of other AT&T customers other than Customer (the "Shared Environment").
7.52	AT&T excepts to 7.52 and has included fees in the prices quoted.

7.54	<p>For purposes of this Proposal, the identification of certain services as “eligible” or “non-eligible” for Universal Service (“E-Rate”) funding is not dispositive, nor does it suggest that this or any other services in this Proposal will be deemed eligible for such funding. Any conclusions regarding the eligibility of services for E-Rate funding must be based on several factors, many of which have yet to be determined relative to the proposed services and equipment described herein. Such factors will include, without limitation, the ultimate design configuration of the network, the specific products and services provisioned to operate the network, and the type of customer, and whether the services are used for eligible educational purposes at eligible locations. In its proposal, AT&T will take guidance from the “Eligible Services List” and the specific sections on product and service eligibility on the Schools and Libraries Division (“SLD”) of the Universal Service Administrative Company (“USAC”) website www.usac.org/sl. This site provides a current listing of eligible products and services, as well as conditionally eligible and ineligible services. This guidance notwithstanding, the final determination of eligibility will be made by the SLD after a review of the customer’s E-Rate application for this proposal. If AT&T is awarded the bid for this project, AT&T will provide assistance on the E-Rate application solely on matters relative to the functionality of the services and products which comprise the network. Nevertheless, the responsibility for the E-Rate application is with the customer. AT&T is not responsible for the outcome of the SLD’s decision on these matters.</p>
Group 4	The following only apply to this group.
G4.3.12	Avaya is unable to commit to this requirement; therefore, neither can AT&T. AT&T or the manufacturer do commit to offering the replacement product at the same discount off list price as the discontinued product.
G4.3.21	Replace current proposal response language with “AT&T is not able to provide the requested information directly upon invoices. However, we will provide itemized pricing, and serial numbers for items greater than \$1000, under separate cover, which can be affixed to their corresponding invoices. For items priced at \$1000 or lower, AT&T will provide itemized pricing and serial numbers, where available and upon request, also under separate cover, which can be affixed to their corresponding invoices.”
G4.3.22	Replace current proposal response language with: AT&T has read and agrees.
G4.3.27	Replace current proposal response language with the following language with which SBBC expressed his acceptance: “AT&T has read and agrees. AT&T is unable to make a specific commitment, but we will make all reasonable efforts to accommodate an acceptable temporary solution in the event of inability to receive equipment from a manufacturer. Under no circumstance will AT&T’s failure to order equipment in a timely manner excuse AT&T from its obligation to provide equipment on a timely basis pursuant to the terms of the RFP.”
G4.3.9	AT&T’s proposal Response takes precedence over the RFP.
G4.3.10	AT&T’s proposal Response takes precedence over the RFP.
G4.3.11	AT&T’s proposal Response takes precedence over the RFP.
G4.3.16	AT&T’s proposal Response takes precedence over the RFP.
G4.3.19	AT&T’s proposal Response takes precedence over the RFP.
G4.3.33	AT&T’s proposal Response takes precedence over the RFP.

Group 5	The following apply only to this group.
G5.3.14	AT&T's proposal Response takes precedence over the RFP.
G5.3.15	AT&T's proposal Response takes precedence over the RFP.
Group 6	The following apply only to this group.
G6.3.6	AT&T's proposal Response takes precedence over the RFP.
G6.3.28	AT&T's proposal Response takes precedence over the RFP.
Group 7	The following apply only to this group.
G7.3.14	AT&T's proposal Response takes precedence over the RFP.
G7.3.21	AT&T's proposal Response takes precedence over the RFP.
G7.3.22	AT&T's proposal Response takes precedence over the RFP.

EXHIBIT "B"

Safeguarding the Confidentiality of Student Records and Information

The parties acknowledge that Sections 1002.022, 1002.221 and 1002.222, Fla. Stat. and the Family Educational Rights and Privacy Act (FERPA, 20 U.S.C. § 1232g) and its implementing regulations (34 C.F.R. Part 99), protect the privacy rights of students and their parents with respect to information and records created and/or maintained by public schools. The student personally identifiable information (PII) may be disclosed only in compliance with FERPA. Pursuant to FERPA, the information provided by SBBC shall be limited to that which is necessary to effectively serve the student.

Each party participating in this Agreement further agrees to:

(1) Hold the student records and information in strict confidence and not use or disclose except as required by this Agreement or as required or permitted by law unless the parent of a student provides prior written consent for their release. All shared student records will be disclosed only to those who have a need to access the information in order to perform their assigned duties in the performance of this Agreement. Absent consent from the parent or eligible student, student records and information will not be disclosed except as allowed by the aforementioned laws.

(2) Safeguard the student records through administrative, physical and technological safety standards to ensure adequate controls are in place to protect the student information in accordance with FERPA's privacy requirements.

(3) Continually monitor its operations and take all actions necessary to assure that the student information and records are safeguarded in accordance with the terms of this Agreement, and

(4) Ensure that all employees, appointees or agents of each party to this Agreement who are granted access to shared student records will have successfully completed (1) the background screening requirements under Section 435.04, Florida Statutes, under Level 2 screening standards and (2) the FERPA training webinars, as they may become available, at the U.S. Department of Education, Privacy Technical Assistance Center website:

<http://www2.ed.gov/policy/gen/guid/ptac/index.html>, <http://ptac.ed.gov/> including, but not limited to, <http://www2.ed.gov/policy/gen/guid/ptac/pdf/slides.pdf>

Each party to this Agreement agrees to notify the other party immediately upon discovery of a breach of confidentiality of student information and to take all necessary notification steps as may be required by federal and Florida law. A breach of the confidentiality requirements shall constitute grounds for immediate termination of this Agreement without advance notice. Any provisions within this Agreement concerning the resolution of disputes shall not be applicable to a breach of the requirements of this **Exhibit "B."**

This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such student records are returned to The School Board of Broward

County, Florida ("SBBC") or disposed of in compliance with the applicable Florida Retention Schedules and a written acknowledgment of said disposition is provided to SBBC.

S:/v/allwork/contracts/review/1415year/ferpaaddendum

EXHIBIT C: REVISED PRICING LIST FOR GROUP 5 ONLY

Items to be procured...	Unit Cost (monthly recurring charge)	In what representative quantities...	Resulting in a representative extended cost...	Summary Cost for Evaluation Scoring
SBBC Enterprise Voice Services				
Centrex, provided for the three exchanges(754-321, 322, 323)	684	2	1368	
Network Access Registers (NARs)	18.37	1432	26305.84	
Centrex PRI (Primary Rate (SDN) Digital circuit	342.22	372	127305.84	
Centrex Station Line(analog)	10.39	1516	15751.24	
DSL up to 6.0M x 512K(Max Downstream/Upstream)	115	14	1610	
Direct Inward Dial telephone numbers (DID)	0.04	21,000	840	
Reserved telephone numbers within the three exchanges (754-321,322,& 323)	0.04	9,000	360	
Video T1 (Broadcast Quality) from Location 201 NW 84th Ave. to 6600 Nova Drive Davie, FL	815.49	1	815.49	
Video T1 (Broadcast Quality) from Location 8000 NW 44th St. Sunrise, FL to 6600 Nova Drive Davie, FL	1334.08	1	1334.08	
Video T1 (Broadcast Quality) from Location 600 SE 3rd Ave. Ft. Lauderdale to 6600 Nova Drive Davie, FL	1677.16	1	1677.16	
Long Distance Voice Services				
Long distance Service Outbound - Intra State, cost per minute	0.0479	150,000	7185	
Long distance Service Outbound - Inter State cost per minute	0.0342	50,000	1710	
Long distance Service Outbound - International cost per minute		1,000	0	
Long distance Service inbound - Intra State (800 service) cost per minute	0.0479	60	2.874	
Long distance Service inbound - Inter-State (800 service) cost per minute	0.0342	120	4.104	
Total RFP Cost for Scoring				

REQUIRED: Proposers are required to submit a complete listing of all International per-minute prices for all international markets served as an attachment to their proposal.

Exhibit D

(E-RATE RIDER)



E-rate Rider

ATTACHMENT TO THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA ("Customer") 7/1/2015 ("Agreement") FOR SERVICES AND/OR PRODUCTS SUBJECT TO UNIVERSAL SERVICES ("E-RATE") FUNDING

This Attachment ("Attachment"), entered into by AT&T Corp. from Agreement ("AT&T") and The School Board of Broward County, Florida ("Customer") and effective as of the date above ("Effective Date"), is an attachment to the Agreement. This Attachment shall have the same term as the Agreement. If there are any inconsistencies between the Agreement and this Attachment with respect to the Service for which E-rate funding is sought, the terms and conditions of this Attachment shall control.

TERMS AND CONDITIONS APPLICABLE TO E-RATE FUNDED PRODUCTS AND SERVICES

Customer may seek funding through the Federal Universal Service Fund program known as "E-Rate" for some or all of the Services or Service Components purchased under the Agreement. E-Rate is administered by the Schools and Libraries Division ("SLD") of the Universal Service Fund Administrative Company ("USAC") (Sometimes collectively or individually referred to herein as "USAC/SLD"). The Federal Communications Commission ("FCC") has promulgated regulations that govern the participation in the E-Rate program. Both Parties agree to adhere to FCC regulations as well as the rules established by SLD and USAC regarding participation in the E-Rate program. The Parties further agree:

1. Reimbursement of USAC/SLD. If USAC/SLD seeks reimbursement from AT&T of E-Rate funds as a result of Customer's failure to comply with the E-Rate rules or regulations, including Customer delays in submitting required forms or contracts; or, if USAC/SLD determines that Services which it had previously approved for discounts are not eligible and funds must be returned (a "ComAd") (other than as the result of AT&T's failure to comply with the E-Rate requirements), then Customer shall reimburse AT&T for any such funds AT&T must return to USAC/SLD within ninety (90) days of notice from USAC/SLD seeking reimbursement. In addition, Customer agrees and acknowledges that a determination of ineligibility does not affect the obligations set forth in the Agreement, including those obligations related to payments and early termination fees.
2. Eligibility of Products and Services. The eligibility or ineligibility of products or services for E-Rate funding is solely the responsibility of the USAC/SLD and/or the FCC. AT&T makes no representations or warranties regarding such eligibility.
3. Service Substitutions. Customer acknowledges that USAC/SLD funding commitments are based upon the products, services and locations set forth in the Form 471 and that any modification to the products and services and/or the locations at which the products or services are to be installed and/or provided, requires Customer to file a service substitution with USAC/SLD, seeking permission to receive alternative service or receive the service to an alternative location. If Customer intends to make any such service substitutions, then Customer agrees to pursue them, and file any and all requisite documentation, diligently. AT&T will provide Services and Service Components only as approved by the SLD and may suspend activities pending approval of service substitution requests.
4. Requested Information. If requested, Customer will promptly provide AT&T with final copies of the following E-Rate-related materials (including all attachments) prepared by or for Customer: (i) Form 471 and Item 21 Attachment; if appropriate, (ii) Form 486; (iii) Form 500; (iv) Service Substitution Request; (v) Service Certification Form; and, (vi) Form 472-BEAR. If the Customer issues purchase orders, Customer shall clearly delineate between eligible and non-eligible Services on those orders.
5. Representations, Warranties and Indemnities. Each Party represents and warrants that it has and will comply with all laws and the requirements applicable to the E-Rate Program. In addition to any indemnification obligations set forth in the Agreement and to the extent permitted by law, each Party agrees to indemnify and hold harmless the other Party (its employees, officers, directors and agents, and its parents and affiliates under common control) from and against all third party claims (including FCC or USAC/SLD claims) and related loss, liability, damage and expense (including reasonable attorney's fees) arising out of the indemnifying Party's violation of the E-Rate Requirements or breach of the representations, warranties, and terms contained in this Attachment.

CONFIDENTIAL INFORMATION

*This agreement is for use by the authorized employees of the parties hereto only
and is not for general distribution within or outside the companies.*



E-rate Rider

6. **Non-Appropriations.** By executing the Agreement, Customer warrants that Customer has funds appropriated and available to pay all amounts due hereunder through the end of Customer's current fiscal period. Customer further agrees to request all appropriations and funding necessary to pay for the Services for each subsequent fiscal period through the end of the Agreement Term. In the event Customer is unable to obtain the necessary appropriations or funding for the Services provided under this Attachment, Customer may terminate the Services without liability for the termination charges upon the following conditions: (i) Customer has taken all actions necessary to obtain adequate appropriations or funding; (ii) despite Customer's best efforts funds have not been appropriated and are otherwise unavailable to pay for the Services; and (iii) Customer has negotiated in good faith with AT&T to develop revised terms, an alternative payment schedule or a new agreement to accommodate Customer's budget. Customer must provide AT&T thirty (30) days' written notice of its intent to terminate the Services. Termination of the Services for failure to obtain necessary appropriations or funding shall be effective as of the last day for which funds were appropriated or otherwise made available. If Customer terminates the Services under this Attachment, Customer agrees as follows: (i) it will pay all amounts due for Services incurred through date of termination, and reimburse all unrecovered non-recurring charges; and (ii) it will not contract with any other provider for the same or substantially similar services or equipment for a period equal to the original Agreement Term.

Customer Must Choose A or B

A.) [OPTION "A" IS AVAILABLE FOR NEW OR EXISTING SERVICES]

CUSTOMER DIRECTS AT&T TO COMMENCE OR CONTINUE SERVICES EVEN IF FUNDING COMMITMENT DECISION LETTER ("FCDL") HAS NOT BEEN RECEIVED FROM USAC/SLD. CUSTOMER ACKNOWLEDGES ITS OBLIGATION TO PAY FOR THE SERVICE IF FUNDING IS DENIED OR USAC/SLD COMMITMENT IS NOT RECEIVED.

1. Scope: *Customer desires that Services commence on or about July 1, 2015.*

Customer intends to seek funding from the USAC/SLD, but acknowledges that it may not receive an FCDL prior to this date and that it is possible that USAC/SLD may not approve funding or may delay its decision.

2. E-rate Funding Delay or Denial: CUSTOMER ACKNOWLEDGES THAT THERE IS NO RIGHT TO TERMINATE THE SERVICES OR SERVICE COMPONENTS THAT ARE PROVIDED UNDER THIS ATTACHMENT IF E-RATE FUNDING IS DELAYED OR DENIED.

Customer should refer to the E-Rate Rules and Regulations regarding USAC/SLD payments for eligible services delivered after the beginning of the E-Rate year (July 1st) but before receipt of an FCDL.

B.) [OPTION "B" IS APPROPRIATE FOR NEW SERVICES]

SERVICES WILL NOT COMMENCE AND/OR EQUIPMENT WILL NOT SHIP UNTIL AT&T RECEIVES NOTIFICATION THAT E-RATE FUNDS HAVE BEEN COMMITTED; IF E-RATE FUNDING FOR SERVICES AND/OR EQUIPMENT IS DENIED, AGREEMENT WILL TERMINATE AS TO THOSE SERVICES AND/OR EQUIPMENT UNLESS AND UNTIL A NEW ATTACHMENT (REPLACING THIS ATTACHMENT) IS EXECUTED.

1. Scope: Customer agrees to use best efforts to obtain funding from the USAC/SLD AT&T will not begin work related to the Services and/or equipment (including, without limitation, construction, installation or activation activities) until after AT&T receives Customer notification to proceed with the order, and verification of funding approval, and, for Internal Connections (IC), a verification of Form 486 approval by the USAC/SLD. AT&T will commence Service(s) as soon as is practical following the receipt of the appropriate documentation.

2. Funding Denial Agreement Termination: if a funding request is denied by the USAC/SLD, the Agreement, with respect to such Service(s) and/or equipment, shall terminate sixty (60) days from the date of the FCDL in which E-Rate funding is denied or on the 30th day following the final appeal of such denial, and Customer will not incur termination liability. In the event Services and/or equipment are to be provided

CONFIDENTIAL INFORMATION

2 of 3

This agreement is for use by the authorized employees of the parties hereto only and is not for general distribution within or outside the companies.



E-rate Rider

pursuant to a multi-year arrangement (whether by contract or tariff), this termination right applies only to the first year of the multi-year agreement.

3. IF CUSTOMER WISHES TO CHANGE ITS SELECTION AND WISHES AT&T TO COMMENCE SERVICES REGARDLESS OF FUNDING COMMITMENT FROM THE USAC/SLD, CUSTOMER WILL EXECUTE A NEW (REPLACEMENT) ATTACHMENT, AND AGREE TO THE TERMS SET FORTH IN "A" ABOVE. Upon execution of the Replacement Attachment, the Parties will mutually agree upon a Service Commencement Date.

This provision does not apply to Services that were initially approved for funding and subsequently deemed ineligible by USAC/SLD after commencement of Service

Customer acknowledges its obligation to designate the method by which it will receive E-Rate discounts. With respect to each discount method, Customer agrees as follows:

Billed Entity Application Reimbursement ("BEAR") – Form 472:

Customer agrees to submit to AT&T complete and accurate BEAR – Form 472 requests for certification at least five (5) business days prior to the FCC Invoice Deadline date for the Funding Request Number(s) ("FRN") being submitted on that Form 472. AT&T cannot ensure that the Form 472 will be reviewed prior to the deadline if not received at least five (5) business days prior. Upon receipt of USAC/SLD check in the amount of the certified Form 472, AT&T will remit payment to Customer within twenty (20) business days after receipt of payment from USAC/SLD. It is solely Customer's responsibility to ensure the accuracy of this submission and the amounts sought to be recovered through the E-Rate program.

Service Provider Invoice form - ("SPI") – Form 474:

After AT&T has received notification of approved funding, an approved Form 486, and Customer has confirmed the appropriate Billed Accounts to be discounted per Funding Request Number, AT&T will then provide E-rate program discounts and will file a Form 474 SPI. Customer agrees to promptly submit any AT&T or USAC/SLD Forms needed to support requests for payment of Services rendered. In the event SLD denies payment, Customer will be responsible for repayment of all funds provided to Customer by AT&T associated with this process.

FCC RULES REQUIRE THAT PRIOR TO SUBMISSION OF A FORM 471 APPLICATION FOR FUNDING THE PARTIES MUST HAVE ENTERED INTO A BINDING CONTRACT FOR THE SERVICES MADE THE SUBJECT OF THE APPLICATION. IT IS THE CUSTOMER'S RESPONSIBILITY TO ENSURE THAT STATE LAW REQUIREMENTS FOR A BINDING CONTRACT HAVE BEEN MET PRIOR TO THE SUBMISSION OF A FORM 471.

THIS ATTACHMENT REPLACES THE E-RATE RIDER ATTACHMENT BETWEEN THE PARTIES

CONFIDENTIAL INFORMATION

3 of 3

This agreement is for use by the authorized employees of the parties hereto only and is not for general distribution within or outside the companies.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 3rd day of March, 2015, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

JDL TECHNOLOGIES INC
(hereinafter referred to as "JDL."),
whose principal place of business is
5450 NW 33 Avenue, Suite 106, Ft. Lauderdale, Florida 33309

SBBC and JDL are referred to collectively as Parties.

WHEREAS, SBBC issued a request for proposal, identified as RFP 15-090E- Network and Telecommunications Goods and Services (E-Rate) dated November 19, 2014, and amended by Addendum No. 1, dated November 21, 2014, Addendum No. 2, dated November 25, 2014, Addendum No. 3, dated December 5, 2014, Addendum No. 4, dated December 9, 2014, Addendum No. 5, dated December 10, 2014, Addendum 6, dated December 12, 2014, Addendum No. 7, dated December 15, 2014, Addendum 8, dated December 16, 2014, and Addendum No. 9 dated December 18, 2014. (herein referred to collectively as "RFP"), which is incorporated by reference herein, for the purpose of receiving proposals for certain network telecommunications, internal connections and internet equipment and goods services; and

WHEREAS, JDL has submitted proposals in response to RFP (hereinafter referred to as "PROPOSALS"), incorporated by reference, as the highest ranked proposer on Group 2 Network Equipment, Group 3 Network Equipment Core.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals.** The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01. **Definitions.** The following definitions shall be used within this Agreement.

- a) "Affiliate" of a party means any entity that controls, is controlled by or is under common control with such party.
- b) "Extended Term" shall mean each term after the initial term of the Agreement is complete.
- c) "Hazardous Materials" means any substance or material capable of posing an unreasonable risk to health, safety or property or whose use, transport, storage, handling, disposal, or release is regulated by any law related to pollution, protection of air, water, or soil, or health and safety.
- d) "Initial Term" shall mean the first term of the Agreement.
- e) "Pricing Schedule(s)" identifies the Services JDL may provide to SBBC, the price (including discounts, if applicable) for each Service and the term during which such prices are in effect.
- f) "Service(s)" shall mean the specific Services that JDL has agreed to provide to SBBC in accordance with the terms and conditions of this Agreement.
- g) "Service Component" shall mean an individual component of a Service provided under this Agreement.
- h) "Service Guides" shall mean the description, pricing, and other terms and conditions for the Service not covered by a Tariff or Guidebook may be contained in a Service Guide, which may be found at <http://att.com/servicepublications> or other locations JDL may designate.
- i) "Service Level Agreement(s) 'SLA'" shall mean a part of a Service contract where the level of Service is formally defined.
- j) "Tariffs and Guidebooks" "Tariffs" are documents containing the standard descriptions, pricing, and other terms and conditions for a Service that JDL files with regulatory commissions. "Guidebooks" are documents containing the standard descriptions, pricing, and other terms and conditions for a Service that were, but no

longer are, filed with the regulatory commissions. Tariffs and Guide books may be found at <http://att.com/servicepublications> or other locations JDL may designate.

- k) "User" means anyone who uses or accesses any Service provided to SBBC. SBBC will cause Users to comply with this Agreement, and SBBC agrees that SBBC is responsible for User's use of Services, unless expressly provided to the contrary in applicable Service Publications.

ARTICLE 2 – SPECIAL CONDITIONS

2.02 **Term of Agreement.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on July 1, 2015, and conclude on June 30, 2020 (hereinafter referred to as "Initial Term"). For JDL fully integrated services for Group 2 & 3, see RFP for services listed. The Initial Term of this Agreement may be extended 180 days beyond the expiration date. If SBBC, desires to extend this Agreement beyond the Initial Term or any Extended Term, SBBC shall send, through its Procurement & Warehousing Servicing notice to JDL thirty (30) days prior to the end of the current contract period. Upon mutual agreement by SBBC and JDL to extend this Agreement, as stated above, an amendment to Agreement will be placed on a School Board Agenda for approval by SBBC.

2.03 **Price Schedules.** **Exhibit A** is the revised pricing schedule for Group 3 mutually agreed to by SBBC and JDL and incorporated herein as "Pricing Schedules". The Pricing Schedule identifies the Services JDL may provide to SBBC, the price (including applicable discounts) for each Service and the terms during which such prices are in effect. Any future Pricing Schedule(s) that is/are necessitated by the introduction of a new Service that is an accompanied by terms and conditions that differ from the terms and conditions herein to will require a contract amendment and approval. Any additional Services that receive E-Rate approval may be procured under this Agreement by SBBC.

SBBC understands that in the future, new goods and Services may have unique terms and conditions; however, JDL will make every effort to have the related Pricing Schedule(s) terms and conditions to match the terms and conditions of this Agreement.

2.04 **Goods and Services.** This Agreement and **Exhibit A** will apply to all Services and equipment that JDL may provide to SBBC during the Initial Term and during any Extended Term. As currently contemplated by the Parties, JDL shall provide telecommunication Services, as described in JDL'S response to the RFP. SBBC at its discretion may purchase additional goods and Services in accordance with the terms hereof and subject to the requirements for new Services set forth in Section 2.02 above. SBBC authorizes the superintendent or his designee to place orders for such additional goods and services as are needed by the school district.

2.05 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

2.05 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

- First: This Agreement including **Exhibit A and B**; then
- Second: Addendum Nos. 9, 8, 7, 6, 5, 4, 3, 2 and 1; then
- Third: RFP 15-090E “Network and Telecommunications Goods and Services (E-Rate)”;
- Fourth: Proposals submitted in response to the RFP by JDL

Notwithstanding anything herein to the contrary, with respect to Service Level Agreements (“SLA”), SLAs set forth in the response to the RFP by JDL shall take precedence over all other references to Service SLAs in this Agreement.

2.06 **Acceptable Use Policy.** **OMITTED.**

2.07 **Indemnification.**

A. By SBBC: SBBC agrees to be fully responsible for its acts of negligence or its agent’s acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence. Nothing herein shall be construed as a waiver by SBBC of sovereign immunity or of any rights or limitations of liability existing under Section 768.28, Florida Statutes.

B. By JDL: JDL agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney’s fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or Services furnished by JDL, its agents, servants or employees; the equipment of JDL, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of JDL or the negligence of JDL agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC’s property, and injury or death of any person whether employed by JDL, SBBC or otherwise.

2.09 **Price Adjustments:** Prices set forth in the Pricing Schedule **Exhibit A** as applicable shall remain fixed for the first year of the Initial Term of the Agreement and may be adjusted annually on the contract anniversary date by amendment of this Agreement. SBBC will accept price reductions for all goods and Services at any time during the term of the Agreement. JDL must justify any request for a price increase. Such justification may include, but not limited to, an industry-wide increase in prices for comparable Services or changes in economic conditions that adversely affect JDL. Any request for price adjustment shall be accompanied with proper justification and be submitted, in writing to Educational Technology Services Department, 7720 West Oakland Park Boulevard, 2nd Floor, Sunrise, Florida 33351 with a copy to the Purchasing Agent, Procurement & Warehousing Services Department, 7720 West Oakland

Park Boulevard, Suite 323, Sunrise, Florida 33351, thirty (30) days prior to the anniversary date of the agreement and shall only be effective upon written approval to JDL from SBBC. Price adjustments shall be negotiated in good faith. SBBC reserves the right to reject any request for a price adjustment and cancel the renewal of any contract with an increase in prices. SBBC reserves the right to consult the U.S. Department of Labor, Bureau of Labor Statistics indices or any commercial or commodity-based index technology goods and Services as a basis for reviewing price adjustments.

If SBBC solicits a quotation from another service provider for Service(s) that are same or similar to those contained in the Price Schedule(s) for reasons of cost reduction(s), SBBC will contact JDL to provide a thirty (30) day price match opportunity. It is understood that competing price offers will only be considered by SBBC if the terms and conditions associated with the price offered is materially and substantially the same or similar to the terms and conditions of this Agreement.

If JDL accepts the price match option, JDL will provide to SBBC a revised Price Schedule within 30 days of acceptance to be incorporated into this Agreement by revised price listing. If JDL chooses not to meet the competitive price level(s) then SBBC reserves the right to terminate the contract, in whole or in part as further defined in Section 2.12.

2.10 **Proposals Are Not Confidential:** This agreement and all documents are referenced herein are not confidential or trade secrets and are public records subject to public inspection under applicable law.

2.11 **Privacy Laws:** Each party is responsible for complying with the privacy laws applicable to its business. If SBBC does not want JDL personnel to comprehend SBBC's data to which they may have access in performing Services, SBBC should encrypt such data so that it will be unintelligible. Until directed otherwise by SBBC in writing, if JDL designates a dedicated account representative as SBBC's primary contact with JDL, SBBC authorizes that representative to discuss and disclose SBBC's customer proprietary network information (CPNI) to any employee or agent of SBBC without a need for further authentication or authorization.

2.12 **Specific Termination.** This Agreement may be terminated by SBBC without cause and for convenience, with thirty (30) days written notice. SBBC reserves the right to terminate the Agreement in its entirety, or individually by awarded group(s), for a specific Service within a group or by individual site location without adverse affect upon the remainder of the Agreement. SBBC will pay JDL for Services rendered through the effective date of termination. SBBC will not be liable to JDL for any termination charges as a result of this action. In addition, SBBC reserves the right to terminate any contract Service(s) in whole or part as herein described for cause, convenience, or competitive cost advantage.

2.13 **New Goods/Services:** SBBC expects, during the term of this Agreement, as new business needs are identified and as technologies change, that SBBC will identify different goods and Services to procure. SBBC realizes that JDL may introduce new goods and Services during the term of this Agreement. SBBC reserves the right to procure these goods and/or Services as part of this Agreement through written quotation by JDL and amendment of this Agreement.

SBBC and JDL reserve the right to negotiate pricing and transactional documents, including but not limited to, Pricing Schedule or Pricing Exhibit(s), as applicable for new goods and services.

2.14 **Right to Audit Provision.** JDL and its subcontractor's (Partner in Engagement) records shall include, but not be limited to, accounting records pertaining to delivery of goods and Services, invoices and billing information, payroll time sheets as related to invoices for contract staffing to substantiate payment rates, credit payments to SBBC resulting from billing errors or any other reasons, written policies and procedures, subcontractor's files and any other supporting evidence necessary to substantiate payments and credit payments to SBBC resulting in billing errors or any other reasons related to this Agreement (all the foregoing herein after referred to as "records") shall be open to inspection and subject to audit and/or reproduction, during normal working hours (or mutually convenient times upon reasonable prior notice), by SBBC's agent or its authorized representative to the extent necessary to adequately permit evaluation and verification of any invoices, payments or claims submitted by JDL or any of its subcontractors pursuant to this Agreement. Subject to legal and regulatory requirements applicable to JDL, SBBC can request records relevant to the disputed charges. Such records subject to examination shall also include, but not limited to, those records necessary to evaluate and verify payments and any other matters or items associated with this Agreement. There shall be no charge from JDL to SBBC to perform this audit.

For the purpose of such audits, inspections, examinations and evaluations, SBBC's agent or authorized representative shall have access to said records from the effective date of this Agreement, for the duration of the work and until five (5) years after the final payment by SBBC pursuant to this Agreement, subject to applicable legal and regulatory requirements. All subcontractor work which cannot be documented as paid by JDL as required by this Agreement and/or found not to be in compliance with the provisions of this Agreement shall be reimbursed to SBBC.

Subject to legal and regulatory requirements applicable to JDL, SBBC's agent or authorized representative shall have access to JDL's facilities, shall have access to all necessary records and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with this article. SBBC's agent or its authorized representative shall give JDL reasonable advance notice of intended audits.

JDL will verify that invoice pricing is accurate and correct on each invoice. If an audit identifies discrepancies, such as an overpayment, JDL will be required to reimburse SBBC for the discrepancy within 60 days of confirmation by a credit issued on SBBC's account and a reimbursement check made payable to: The School Board of Broward County, Florida for any remaining balance. Any challenges to the discrepancies of the audit must be addressed, in writing, to the Chief Auditor of SBBC.

2.15 **LIMITATION OF LIABILITY.** JDL'S ENTIRE LIABILITY, AND SBBC'S EXCLUSIVE REMEDY, FOR DAMAGES ARISING OUT OF MISTAKES, OMISSIONS, INTERRUPTIONS, DELAYS, ERRORS OR DEFECTS IN THE SERVICES AND NOT CAUSED BY SBBC'S NEGLIGENCE, SHALL IN NO EVENT EXCEED AN AMOUNT

EQUIVALENT TO THE PROPORTIONATE CHARGE TO SBBC FOR THE PERIOD OR SERVICE DURING WHICH SUCH MISTAKE, OMISSION, INTERRUPTION, DELAY, ERROR OR DEFECT IN THE SERVICES OCCURS AND CONTINUES OR THE AMOUNT OF FEES BY SBBC TO JDL UNDER THIS AGREEMENT, IN NO EVENT SHALL ANY OTHER LIABILITY ATTACH TO JDL.

THIS LIMITATION OF LIABILITY WILL NOT APPLY TO: (I) BODILY INJURY, DEATH, OR DAMAGE TO REAL OR TANGIBLE PROPERTY DIRECTLY CAUSED BY JDL'S NEGLIGENCE; (II) BREACH OF SECTIONS, CONFIDENTIAL INFORMATION, PUBLILITY OR TRADEMARKS; (III) SETTLEMENT, DEFENSE OR PAYMENT OBLIGATIONS FOR THIRD PARTY CLAIMS; OR (IV) DAMAGES ARISING FROM JDL'S NEGLIGENCE OR MISCONDUCT.

NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, RELIANCE, OR SPECIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, ADVANTAGE, SAVINGS AND REVENUES OR INCREASED COST OF OPERATIONS.

2.16 **DISCLAIMER OF LIABILITY.** JDL WILL NOT BE LIABLE FOR ANY DAMAGES, EXCEPT TO THE EXTENT CAUSED BY JDL'S NEGLIGENCE OR MISCONDUCT, ARISING OUT OF OR RELATING TO INTEROPERABILITY, ACCESS OR INTERCONNECTION OF THE SERVICES WITH APPLICATIONS, EQUIPMENT, CONTENT, OR NETWORKS PROVIDED BY SBBC OR THIRD PARTIES; SERVICE DEFECTS, SERVICE LEVELS, DELAYS OR INTERRUPTIONS (EXCEPT FOR LIABILITY FOR SUCH EXPLICITLY SET FORTH IN THIS AGREEMENT); ANY INTERRUPTION OR ERROR IN ROUTING OR COMPLETING CALLS OR OTHER TRANSMISSIONS (INCLUDING 911 CALLS OR ANY SIMILAR EMERGENCY RESPONSE NUMBER); LOST OR ALTERED MESSAGES OR TRANSMISSIONS; OR UNAUTHORIZED ACCESS TO OR THEFT, ALTERATION, LOSS OR DESTRUCTION OF SBBC'S, ITS AFFILIATES, USERS' OR THIRD PARTIES' APPLICATIONS, CONTENT, DATA, PROGRAMS, NETWORK OR SYSTEMS.

2.17 **M/WBE COMMITMENT.** Once mutual agreed SBBC Certified Minority-Owned / Women-Owned Business Enterprise ("M/WBE") vendor(s) are chosen by the Parties, JDL will achieve a minimum goal of 10% utilization of M/WBE vendor(s) for subcontracting services under this Agreement. The Office of Supplier Diversity and Outreach will request documents from Apple and the M/WBE to report "Throughout the term of the Agreement,

2.18 **Inspection of JDL'S Records by SBBC.** JDL shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All JDL Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by JDL or any of

Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) JDL Records Defined. For the purposes of this Agreement, the term “JDL Records” shall include, without limitation, and any supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC’s agent or authorized representative shall have access to JDL Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to JDL pursuant to this Agreement.

(c) Notice of Inspection. SBBC’s agent or its authorized representative shall provide *JDL* reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC’s agent or its authorized representative shall have access to JDL facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by JDL to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any JDL claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by JDL in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC’s audit shall be paid by JDL. If the audit discloses billings or charges to which JDL is not contractually entitled, JDL shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor’s Records. JDL: shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as “Payees”) providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by JDL to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee’s costs from amounts payable by SBBC to JDL pursuant to this Agreement and such excluded costs shall become the liability of JDL.

Payee's costs from amounts payable by SBBC to JDL pursuant to this Agreement and such excluded costs shall become the liability of JDL

(h) Inspector General Audits. JDL shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.19 Notice. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC: Superintendent of Schools
The School Board of Broward County, Florida
600 Southeast Third Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director of Educational Technology Services
The School Board of Broward County, Florida
7720 West Oakland Park Boulevard, Second Floor
Sunrise, Florida 33351

To JDL: Scott Fluegge
President & General Manager
JDL
5450 NW 33 Avenue, Suite 106
Ft. Lauderdale, Florida 33309

2.20 Background Screening: JDL agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of JDL or its personnel providing any services under the conditions described in the previous sentence. JDL shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to JDL and its personnel. The parties agree that the failure of JDL to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. JDL agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from JDL failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor.** The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision.** The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Property Upon Termination.** SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party

additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds.** Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC with interest calculated from the date of the erroneous payment or overpayment. Interest shall be calculated using the interest rate for judgments under Section 55.03, Florida Statutes, applicable at the time the erroneous payment or overpayment was made by SBBC.

3.09 **Public Records.** Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records:** Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the

requirements of Sections 1002.22 and 1002.221, of **Exhibit B** and of Florida Statutes; FERPA, and ~~or~~ any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws.** Each party shall comply with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance.** All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment.** Neither this Agreement or any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference.** Exhibits attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions.** The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the

scope or intent of such articles or sections of this Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration**: SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of

the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

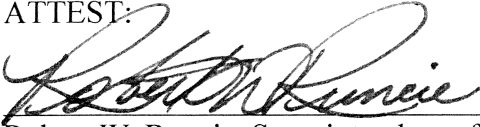
FOR SBBC

(Corporate Seal)


THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

By 
DONNA P. KORN, Chair

ATTEST:


Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:


Office of the General Counsel

FOR JDL

(Corporate Seal)

JDL Technologies Inc.

ATTEST:

By *Scott Flegge*

_____, Secretary

Witness *Kyle*

Witness *Vigie Kelly*

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 3rd day of February, 2014 by Scott Flegge of

Name of Person

JDL Technologies Inc, on behalf of the corporation/agency.

Name of Corporation or Agency

He/She is personally known to me or produced personally known as identification and did/did not first take an oath.

Type of Identification

My Commission Expires:

Wilma A. Lebron
Signature – Notary Public

(SEAL)

Wilma A. Lebron
Printed Name of Notary

FF 002179
Notary's Commission No.

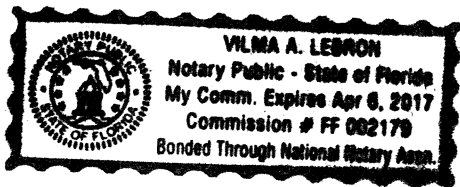


Exhibit A: Revised Pricing Group 3

Items to be procured ...	Unit Cost	In what representative quantities...	Resulting in a representative extended cost...	Summary Cost for Evaluation Scoring
Services:				
Switch				
Cisco Nexus 93128TX with 8XQSFP-40G-SR-BD	16139.59			
DCNM for LAN ADV EDTN for NEXUS 9300 Switches	525	12	193675.08	
LAN ENT LICs for NEXUS 9300 Platform	4097.56	12	6300	
SMARTNET 24X7X4 for Nexus 93128TX	4106.57	12	49170.72	
			49278.84	
Cisco Nexus 9396PX with 4XQSFT-40G-SR-BD	13240	2	26480	
DCNM for LAN ADV EDTN for NEXUS 9300 Switches	525	2	1050	
LAN ENT LICs for NEXUS 9300 Platform	4097.56	2	8195.12	
SMARTNET 24X7X4 for Nexus 9396TX	4374.57	2	8749.14	
10GBASE ACTIVE OPTICAL SFP+ CABLE 7M	136.5	10	1365	
10GBASE ACTIVE OPTICAL SFP+ CABLE 3M	110.25	10	1102.5	
10GBASE ACTIVE OPTICAL SFP+ CABLE 10M	136.5	25	3412.5	
10GBASESR SFP+ MODULE	522.38	25	13059.5	
Next Generation Firewall (NGFW)				
Fortinet Fortigate FG5140B Chassis	27997.5	5	139987.5	
Fortinet Fortigate FG 5001C Blade	66534.43	66	4391272.38	
Fortinet Fortigate FG 5055B Power Shelf with 4 PSU-5000B Power Supplies	6237.5	5	31187.5	
Fortinet FortiController 5103B	34997.5	10	349975	
Forticare 1 YEAR GOLD PREMIUM SUPPORT SERVICE	62500	1	62500	
Load Balancing				
F5 BIGIP 5000S - BETTER	55829.17	6	334975.02	
1 Year Premium 24x7 for BIGIP LEVEL 1-3 HWR PG3	10274.9	6	61649.4	
Transparent Caching				
Peerapp Ultraband 6000 Dell AC Cache Engine	9826.32	10	98263.2	
Ultraband load license to process up to 1 Gbps of traffic	15175.48	40	607019.2	
Premium 1 Year Support	97533.47	1	97533.47	
Network Access Control				
Bradford Network Sentry 2200 RX2	6559.88	2		
Bradford Network Sentry 9200 RX2	6559.88	2		
Bradford SMA License for 10,000 Concurrent endpoint devices	70875	2		
1 Year Gold Support	22398.6	1		
UPS				
APC SMT 1500	530.73	135		
APC AP9631 Card (Temp Probe and Network Management)	419.04	135		
APC Smart-UPS X 1500VA Rack/Tower	712.58	270		
APC AP9631 Card (Temp Probe and Network Management)	419.04	270		
APC SMX48RMBP2U (Additional Battery)	505.98	270		

Items to be procured...	Unit Cost	In what representative quantities ...	Resulting in a representative extended cost...	Summary Cost for Evaluation Scoring
Web Content Filtering (Pricing for this section should be based on a per unit cost per student)				
Lightspeed Software: WF x 225,000 students inclusive of all items below.	6.24		225,000	
Lightspeed Software: MBC X 225,000 students				
Lightspeed Traffic Bridge Rocket Appliance SYS-G-LSS-BRTB				
Lightspeed Load Balancer Rocket Appliance NIAGRA-4224D-NOSFP				
Lightspeed 10G Policy Rocket Appliance SYS-G-LSS-WF-10G-SR				
Lightspeed Parent Policy Rocket Appliance SYS-G-LSS-WF-PP				
Lightspeed Advanced Reporting Rocket Appliance SYS-G-LSS-ADVRPT				
Enterprise operational intelligence and reporting				
Splunk Enterprise Perpetual License 150GB/day	220263.16	1		
Splunk Enterprise Support Program 1 year	45473.68	1		
Other Services				
After Hours / Emergency Engineering Service (Price per hour)	175	200		
Total RFP Cost for Scoring				
				555,000.00

EXHIBIT "B"

Safeguarding the Confidentiality of Student Records and Information

The parties acknowledge that Sections 1002.022, 1002.221 and 1002.222, Fla. Stat. and the Family Educational Rights and Privacy Act (FERPA, 20 U.S.C. § 1232g) and its implementing regulations (34 C.F.R. Part 99), protect the privacy rights of students and their parents with respect to information and records created and/or maintained by public schools. The student personally identifiable information (PII) may be disclosed only in compliance with FERPA. Pursuant to FERPA, the information provided by SBBC shall be limited to that which is necessary to effectively serve the student.

Each party participating in this Agreement further agrees to:

(1) Hold the student records and information in strict confidence and not use or disclose except as required by this Agreement or as required or permitted by law unless the parent of a student provides prior written consent for their release. All shared student records will be disclosed only to those who have a need to access the information in order to perform their assigned duties in the performance of this Agreement. Absent consent from the parent or eligible student, student records and information will not be disclosed except as allowed by the aforementioned laws.

(2) Safeguard the student records through administrative, physical and technological safety standards to ensure adequate controls are in place to protect the student information in accordance with FERPA's privacy requirements.

(3) Continually monitor its operations and take all actions necessary to assure that the student information and records are safeguarded in accordance with the terms of this Agreement, and

(4) Ensure that all employees, appointees or agents of each party to this Agreement who are granted access to shared student records will have successfully completed (1) the background screening requirements under Section 435.04, Florida Statutes, under Level 2 screening standards and (2) the FERPA training webinars, as they may become available, at the U.S. Department of Education, Privacy Technical Assistance Center website:

<http://www2.ed.gov/policy/gen/guid/ptac/index.html>, <http://ptac.ed.gov/> including, but not limited to, <http://www2.ed.gov/policy/gen/guid/ptac/pdf/slides.pdf>

Each party to this Agreement agrees to notify the other party immediately upon discovery of a breach of confidentiality of student information and to take all necessary notification steps as may be required by federal and Florida law. A breach of the confidentiality requirements shall constitute grounds for immediate termination of this Agreement without advance notice. Any provisions within this Agreement concerning the resolution of disputes shall not be applicable to a breach of the requirements of this Exhibit "B."

This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such student records are returned to The School Board of Broward County, Florida ("SBBC") or disposed of in compliance with the applicable

Florida Retention Schedules and a written acknowledgment of said disposition is provided to SBBC.

S:/v/allwork/contracts/review/1415year/ferpaaddendum

AGREEMENT

THIS AGREEMENT is made and entered into as of this 3rd day of March, 2015, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

UNIVERSAL CABLING SYSTEM, INC
(hereinafter referred to as "UCS."),
whose principal place of business is
914 Fern Street, West Palm Beach Florida 33401
with offices at:
13790 NW 4th Street, Suite 103
Sunrise, FL 33325

SBBC and UCS are referred to collectively as Parties

WHEREAS, SBBC issued a request for proposal, identified as RFP 15-090E- Network and Telecommunications Goods and Services (E-Rate) dated November 19, 2014, and amended by Addendum No. 1, dated November 21, 2014, Addendum No. 2, dated November 25, 2014, Addendum No. 3, dated December 5, 2014, Addendum No. 4, dated December 9, 2014, Addendum No. 5, dated December 10, 2014, Addendum 6, dated December 12, 2014, Addendum No. 7, dated December 15, 2014, Addendum 8, dated December 16, 2014, and Addendum No. 9 dated December 18, 2014 (herein referred to collectively as "RFP"), which is incorporated by reference herein, for the purpose of receiving proposals for certain network telecommunications, internal connections and internet equipment and goods services; and

WHEREAS, UCS has submitted proposals in response to RFP (hereinafter referred to as "PROPOSALS"), incorporated by reference, as the highest ranked proposer on Group 1 Structure Cabling.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals.** The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01. **Definitions.** The following definitions shall be used within this Agreement.

- a) "Affiliate" of a party means any entity that controls, is controlled by or is under common control with such party.
- b) "Extended Term" shall mean each term after the initial term of the Agreement is complete.
- c) "Hazardous Materials" means any substance or material capable of posing an unreasonable risk to health, safety or property or whose use, transport, storage, handling, disposal, or release is regulated by any law related to pollution, protection of air, water, or soil, or health and safety.
- d) "Initial Term" shall mean the first term of the Agreement.
- e) "Pricing Schedule(s)" identifies the Services UCS may provide to SBBC, the price (including discounts, if applicable) for each Service and the term during which such prices are in effect.
- f) "Service(s)" shall mean the specific Services that UCS has agreed to provide to SBBC in accordance with the terms and conditions of this Agreement.
- g) "Service Component" shall mean an individual component of a Service provided under this Agreement.
- h) "Service Guides" shall mean the description, pricing, and other terms and conditions for the Service not covered by a Tariff or Guidebook may be contained in a Service Guide, which may be found at <http://att.com/servicepublications> or other locations UCS may designate.
- i) "Service Level Agreement(s) 'SLA'" shall mean a part of a Service contract where the level of Service is formally defined.
- j) "Tariffs and Guidebooks" "Tariffs" are documents containing the standard descriptions, pricing, and other terms and conditions for a Service that UCS files with regulatory commissions. "Guidebooks" are documents containing the standard descriptions, pricing, and other terms and conditions for a Service that were, but no

regulatory commissions. "Guidebooks" are documents containing the standard descriptions, pricing, and other terms and conditions for a Service that were but, no longer are, filed with the regulatory commissions. Tariffs and Guide books may be found at <http://att.com/servicepublications> or other locations UCS may designate.

- 1) "User" means anyone who uses or accesses any Service provided to SBBC. SBBC will cause Users to comply with this Agreement, and SBBC agrees that SBBC is responsible for User's use of Services, unless expressly provided to the contrary in applicable Service Publications.

ARTICLE 2 – SPECIAL CONDITIONS

2.02 **Term of Agreement.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on July 1, 2015, and conclude on June 30, 2020 (hereinafter referred to as "Initial Term"). For UCS fully intergraded services for Group 1, See RFP for services listed. The Initial Term of this agreement may be extended for 180 days beyond the expiration date. If SBBC, desires to extend the this Agreement beyond the Initial Term or any Extended Term, SBBC shall send, through its Procurement & Warehousing Servicing notice to UCS thirty (30) days prior to the end of the current contract period. Upon mutual agreement by SBBC and UCS to extend this contract, as stated above, an amendment to agreement will be placed on a School Board Agenda for approval by SBBC.

2.03 **Price Schedules.** **Exhibits A** is revised pricing scheduled amended for Group 1, mutually agreed to by SBBC and UCS and incorporated herein as "Pricing Schedules". **Exhibits A**, are incorporated herein as "Pricing Exhibits". A Pricing Schedule (including related attachments) identifies the Services UCS may provide to SBBC, the price (including applicable discounts) for each Service and the terms during which such prices are in effect. Any future Pricing Schedule(s) that is/are necessitated by the introduction of a new Service that is accompanied by terms and conditions that differ from the terms and conditions herein to will require a contract amendment and approval. However, new Services that fall under the existing categories and Pricing Schedules may be procured by SBBC by adding those new Services under the existing Pricing Schedule(s).

SBBC understands that in the future, new goods and Services may have unique terms and conditions; however, UCS will make every effort to have the related Pricing Schedule(s) terms and conditions to match the terms and conditions of this Agreement.

2.04 **Goods and Services.** This Agreement and the attachment Price Schedule(s) will apply to all Services and equipment that UCS may provide to SBBC during the Initial Term and during any Extended Term. As currently contemplated by the Parties, UCS shall provide telecommunication Services, as described in UCS'S response to the RFP. SBBC at its discretion may purchase additional goods and Services in accordance with the terms hereof and subject to the requirements for new Services set forth in Section 2.02 above. SBBC authorizes the superintendent or his designee to place orders for such additional goods and services as are needed by The School District.

2.05 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

- First: This Agreement including **Exhibits A and B**; then
- Second: Addendum Nos. 9, 8, 7, 6, 5, 4, 3, 2 and 1; the
- Third: RFP 15-090E “Network and Telecommunications Goods and Services (E-Rate)””; then
- Fourth: Proposals submitted in response to the RFP by UCS.

Notwithstanding anything herein to the contrary, with respect to Service Level Agreements (“SLA”), SLAs set forth in the response to the RFP by UCS shall take precedence over all other references to Service SLAs in this Agreement.

2.06 **Acceptable Use Policy.** Omitted

2.07 **Indemnification.**

A. By SBBC: SBBC agrees to be fully responsible for its acts of negligence or its agent’s acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence. Nothing herein shall be construed as a waiver by SBBC of sovereign immunity or of any rights or limitations of liability existing under Section 768.28, Florida Statutes.

B. By UCS: UCS agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney’s fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or Services furnished by UCS, its agents, servants or employees; the equipment of UCS, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of UCS or the negligence of UCS agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC’s property, and injury or death of any person whether employed by UCS, SBBC or otherwise.

2.09 **Price Adjustments:** Prices set forth in the Pricing Schedule or **Exhibit A** as applicable shall remain fixed for the first year of the Initial Term of the Agreement and may be adjusted annually on the contract anniversary date by amendment of this Agreement. SBBC will accept price reductions for all goods and Services at any time during the term of the Agreement. UCS must justify any request for a price increase. Such justification may include, but not limited to, an industry-wide increase in prices for comparable Services or changes in economic conditions that adversely affect UCS. Any request for price adjustment shall be accompanied with proper justification and be submitted, in writing to Educational Technology Services Department, 7720 West Oakland Park Boulevard, 2nd Floor, Sunrise, Florida 33351 with a copy to the Purchasing Agent, Supply Management and Logistics Department, 7720 West Oakland

Park Boulevard, Suite 323, Sunrise, Florida 33351, thirty (30) days prior to the anniversary date of the agreement and shall only be effective upon written approval to UCS from SBBC. Price adjustments shall be negotiated in good faith. SBBC reserves the right to reject any request for a price adjustment and cancel the renewal of any contract with an increase in prices. SBBC reserves the right to consult the U.S. Department of Labor, Bureau of Labor Statistics indices or any commercial or commodity-based index technology goods and Services as a basis for reviewing price adjustments.

If SBBC solicits a quotation from another service provider for Service(s) that are same or similar to those contained in the Price Schedule(s) for reasons of cost reduction(s), SBBC will contact UCS to provide a thirty (30) day price match opportunity. It is understood that competing price offers will only be considered by SBBC if the terms and conditions associated with the price offered is materially and substantially the same or similar to the terms and conditions of this Agreement.

If UCS accepts the price match option, UCS will provide to SBBC a revised Price Schedule within 30 days of acceptance to be incorporated into this Agreement by revised price listing. If UCS chooses not to meet the competitive price level(s) then SBBC reserves the right to terminate the contract, in whole or in part as further defined in Section 2.12.

2.10 **Proposals Are Not Confidential:** This Agreement and all documents are referenced herein are not confidential or trade secrets and are public records subject to public inspection under applicable law.

2.11 **Privacy Laws:** Each party is responsible for complying with the privacy laws applicable to its business. If SBBC does not want UCS personnel to comprehend SBBC's data to which they may have access in performing Services, SBBC should encrypt such data so that it will be unintelligible. Until directed otherwise by SBBC in writing, if UCS designates a dedicated account representative as SBBC's primary contact with UCS, SBBC authorizes that representative to discuss and disclose SBBC's customer proprietary network information (CPNI) to any employee or agent of SBBC without a need for further authentication or authorization.

2.12 **Specific Termination.** This Agreement may be terminated by SBBC without cause and for convenience, with thirty (30) days written notice. SBBC reserves the right to terminate the Agreement in its entirety, or individually by awarded group(s), for a specific Service within a group or by individual site location without adverse affect upon the remainder of the Agreement. SBBC will pay UCS for Services rendered through the effective date of termination. SBBC will not be liable to UCS for any termination charges as a result of this action. In addition, SBBC reserves the right to terminate any contract Service(s) in whole or part as herein described for cause, convenience, or competitive cost advantage.

2.13 **New Goods/Services:** SBBC expects, during the term of this Agreement, as new business needs are identified and as technologies change, that SBBC will identify different goods and Services to procure. SBBC realizes that UCS may introduce new goods and Services during the term of this Agreement. SBBC reserves the right to procure these goods and/or Services as part of this Agreement through written quotation by UCS and amendment of this Agreement.

SBBC and UCS reserve the right to negotiate pricing and transactional documents, including but not limited to, Pricing Schedule or Pricing Exhibit(s), as applicable for new goods and services.

2.14 **Right to Audit Provision.** UCS and its subcontractor's (Partner in Engagement) records shall include, but not be limited to, accounting records pertaining to delivery of goods and Services, invoices and billing information, payroll time sheets as related to invoices for contract staffing to substantiate payment rates, credit payments to SBBC resulting from billing errors or any other reasons, written policies and procedures, subcontractor's files and any other supporting evidence necessary to substantiate payments and credit payments to SBBC resulting in billing errors or any other reasons related to this Agreement (all the foregoing herein after referred to as "records") shall be open to inspection and subject to audit and/or reproduction, during normal working hours (or mutually convenient times upon reasonable prior notice), by SBBC's agent or its authorized representative to the extent necessary to adequately permit evaluation and verification of any invoices, payments or claims submitted by UCS or any of its subcontractors pursuant to this Agreement. Subject to legal and regulatory requirements applicable to UCS, SBBC can request records relevant to the disputed charges. Such records subject to examination shall also include, but not limited to, those records necessary to evaluate and verify payments and any other matters or items associated with this Agreement. There shall be no charge from UCS to SBBC to perform this audit.

For the purpose of such audits, inspections, examinations and evaluations, SBBC's agent or authorized representative shall have access to said records from the effective date of this Agreement, for the duration of the work and until five (5) years after the final payment by SBBC pursuant to this Agreement, subject to applicable legal and regulatory requirements. All subcontractor work which cannot be documented as paid by UCS as required by this Agreement and/or found not to be in compliance with the provisions of this Agreement shall be reimbursed to SBBC.

Subject to legal and regulatory requirements applicable to UCS, SBBC's agent or authorized representative shall have access to UCS's facilities, shall have access to all necessary records and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with this article. SBBC's agent or its authorized representative shall give UCS reasonable advance notice of intended audits.

UCS will verify that invoice pricing is accurate and correct on each invoice. If an audit identifies discrepancies, such as an overpayment, UCS will be required to reimburse SBBC for the discrepancy within 60 days of confirmation by a credit issued on SBBC's account and a reimbursement check made payable to: The School Board of Broward County, Florida for any remaining balance. Any challenges to the discrepancies of the audit must be addressed, in writing, to the Chief Auditor of SBBC.

2.15 **LIMITATION OF LIABILITY.** UCS'S ENTIRE LIABILITY, AND SBBC'S EXCLUSIVE REMEDY, FOR DAMAGES ARISING OUT OF MISTAKES, OMISSIONS, INTERRUPTIONS, DELAYS, ERRORS OR DEFECTS IN THE SERVICES AND NOT CAUSED BY SBBC'S NEGLIGENCE, SHALL IN NO EVENT EXCEED AN AMOUNT

EQUIVALENT TO THE PROPORTIONATE CHARGE TO SBBC FOR THE PERIOD OR SERVICE DURING WHICH SUCH MISTAKE, OMISSION, INTERRUPTION, DELAY, ERROR OR DEFECT IN THE SERVICES OCCURS AND CONTINUES OR THE AMOUNT OF FEES BY SBBC TO UCS UNDER THIS AGREEMENT, IN NO EVENT SHALL ANY OTHER LIABILITY ATTACH TO UCS.

THIS LIMITATION OF LIABILITY WILL NOT APPLY TO: (I) BODILY INJURY, DEATH, OR DAMAGE TO REAL OR TANGIBLE PROPERTY DIRECTLY CAUSED BY UCS'S NEGLIGENCE; (II) BREACH OF SECTIONS, CONFIDENTIAL INFORMATION, PUBLILITY OR TRADEMARKS; (III) SETTLEMENT, DEFENSE OR PAYMENT OBLIGATIONS FOR THIRD PARTY CLAIMS; OR (IV) DAMAGES ARISING FROM UCS'S NEGLIGENCE OR MISCONDUCT.

NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, RELIANCE, OR SPECIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, ADVANTAGE, SAVINGS AND REVENUES OR INCREASED COST OF OPERATIONS.

2.16 **DISCLAIMER OF LIABILITY.** UCS WILL NOT BE LIABLE FOR ANY DAMAGES, EXCEPT TO THE EXTENT CAUSED BY UCS'S NEGLIGENCE OR MISCONDUCT, ARISING OUT OF OR RELATING TO INTEROPERABILITY, ACCESS OR INTERCONNECTION OF THE SERVICES WITH APPLICATIONS, EQUIPMENT, CONTENT, OR NETWORKS PROVIDED BY SBBC OR THIRD PARTIES; SERVICE DEFECTS, SERVICE LEVELS, DELAYS OR INTERRUPTIONS (EXCEPT FOR LIABILITY FOR SUCH EXPLICITLY SET FORTH IN THIS AGREEMENT); ANY INTERRUPTION OR ERROR IN ROUTING OR COMPLETING CALLS OR OTHER TRANSMISSIONS (INCLUDING 911 CALLS OR ANY SIMILAR EMERGENCY RESPONSE NUMBER); LOST OR ALTERED MESSAGES OR TRANSMISSIONS; OR UNAUTHORIZED ACCESS TO OR THEFT, ALTERATION, LOSS OR DESTRUCTION OF SBBC'S, ITS AFFILIATES, USERS' OR THIRD PARTIES' APPLICATIONS, CONTENT, DATA, PROGRAMS, NETWORK OR SYSTEMS.

2.17 **M/WBE COMMITMENT.** A minimum of 20% of the amounts paid by SBBC under the Agreement will be utilized by SBBC minority vendors for subcontracting services as needed from an active SBBC Certified M/WBE vendor. The Office of Supplier Diversity and Outreach will request documents from UCS and the M/WBE to confirm participation.

2.18 **Inspection of UCS'S Records by SBBC.** UCS shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All UCS Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by UCS or any of UCS payees pursuant to this Agreement. UCS Records subject to examination shall include,

2.18 **Inspection of UCS'S Records by SBBC.** UCS shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All UCS Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by UCS or any of UCS payees pursuant to this Agreement. UCS Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. UCS Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) **UCS Records Defined.** For the purposes of this Agreement, the term "UCS Records" shall include, without limitation, and any supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) **Duration of Right to Inspect.** For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to UCS Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to UCS pursuant to this Agreement.

(c) **Notice of Inspection.** SBBC's agent or its authorized representative shall provide UCS reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) **Audit Site Conditions.** SBBC's agent or its authorized representative shall have access to UCS facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) **Failure to Permit Inspection.** Failure by UCS to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any UCS claims for payment by SBBC.

(f) **Overcharges and Unauthorized Charges.** If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by UCS in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by UCS. If the audit discloses billings or charges to which UCS is not

2.20 **Background Screening:** UCS agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of UCS or its personnel providing any services under the conditions described in the previous sentence. UCS shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to UCS and its personnel. The parties agree that the failure of UCS to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. UCS agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from UCS failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor.** The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision.** The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Property Upon Termination.** SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds.** Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC with interest calculated from the date of the erroneous payment or overpayment. Interest shall be calculated using the interest rate for judgments under Section 55.03, Florida Statutes, applicable at the time the erroneous payment or overpayment was made by SBBC.

3.09 **Public Records.** Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any

records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records:** Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, of **Exhibit B** and of Florida Statutes; FERPA, and ~~or~~ any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or subcontractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws.** Each party shall comply with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance.** All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the

matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment.** Neither this Agreement or any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference.** Exhibits attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions.** The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability.** In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement.** The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments.** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver.** The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure.** Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense (“Force Majeure”). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival.** All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration:** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26 **Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

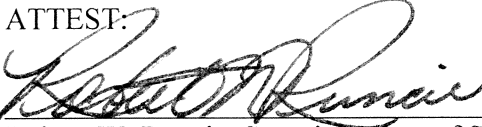
FOR SBBC

(Corporate Seal)

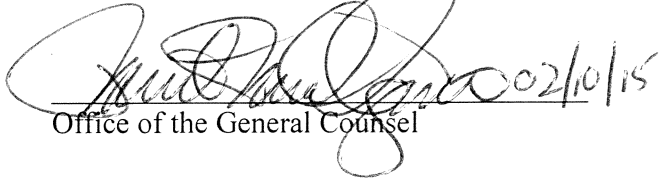
THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

By 
DONNA P. KORN, Chair

ATTEST:


Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

 02/10/15
Office of the General Counsel

FOR UCS

(Corporate Seal)

Universal Cabling System,

ATTEST:

By *Ronald Dubeau*
Ronald Dubeau
Vice President/ Secretary

, Secretary

-or-

Susan Dubeau
Witness Susan Dubeau

Robert Herron
Witness Robert Herron

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 4th day of February, 2015 by Ronald Dubeau of _____
Name of Person

Universal Cabling Systems, Inc., on behalf of the corporation/agency.
Name of Corporation or Agency

He/She is personally known to me or produced _____ as identification and ~~did~~/did not first take an oath. _____
Type of Identification

My Commission Expires: 12/14/2018

Krista McNevin
Signature – Notary Public

Krista McNevin
Printed Name of Notary

FF176073
Notary's Commission No.

(SEAL)

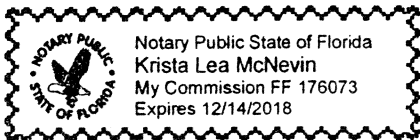


EXHIBIT A: REVISED PRICING SCHEDULE GROUP 1

Items to be procured...	Unit Cost For specified items without installation (For Information Purposes Only)	Unit cost with Installation (For Evaluation Scoring Purposes)	In what representative quantities...	Resulting in a representative extended cost...	Summary Cost for Evaluation Scoring
Category 6 Communications Outlet (CO) to include: Essex CAT6 CMP cable, Ortronics Faceplate, Ortronics Icons, Surface mount box, termination, testing, labeling, installation					
Quad Communication Outlet (CO) (based on 180' avg)		314.45	177	55,657.65	
Quad Communication Outlet (CO) (based on 250' avg)		428.47	49	20,995.03	
Dual Communication Outlet (CO) (based on 180' avg)		185.68	147	27,294.96	
Dual Communication Outlet (CO) (based on 250' avg)		263.42	99	26,078.58	
Quad Communications Outlet Gel-Filled (CO) (based on 180' avg)		341.75	4	1,367.00	
Quad Communications Outlet Gel-Filled (CO) (based on 250' avg)		218.14	14	3,053.96	
Dual Communications Outlet Gel-Filled (CO) (based on 180' avg)		246.91	2	493.82	
Dual Communications Outlet Gel-Filled (CO) (based on 250' avg)		255.94	10	2,559.40	
Single Communications Outlet (CO) (based on 180' avg) for elevator		133.94	1	133.94	
Category 6 Communications Outlet (CO) to include: Essex CAT6 CMP cable, Ortronics Series II CAT16 jack, Ortronics Tracjack Surface Box, Ortronics Icons, termination, testing, labeling, installation					
Quad Communication Outlet (CO) (based on 180' avg)		448.14	12	5,377.68	
Quad Communication Outlet (CO) (based on 250' avg)		474.42	4	1,895.68	
Dual Communication Outlet (CO) (based on 180' avg)		233.6	119	27,798.40	
Dual Communication Outlet (CO) (based on 250' avg)		407.66	27	11,006.82	
Black Cable-Installed P.E. 89 filled, 24 AWG Terminated, Installed					
6 Pair CAT3 Black Cable installed per linear foot		0.59	2500	1,475.00	
12 Pair CAT3 Black Cable installed per linear foot		1.07	3000	3,210.00	
25 Pair CAT3 Black Cable installed per linear foot		1.22	1000	1,220.00	
50 Pair CAT3 Black Cable installed per linear foot		1.97	1000	1,970.00	
100 Pair CAT3 Black Cable installed per linear foot		3.44	1000	3,440.00	
Solid State Protector Units - Installed					
Portia 6 Pair Protection - each end		134.35	3	403.05	
Portia 12 Pair Protection - each end		268.66	8	2,149.28	
Portia 25 Pair Protection - each end		408.37	1	408.37	
Portia 50 Pair Protection - each end		482.09	1	482.09	
Portia 100 Pair Protection - each end		738.66	1	738.66	
Backbone Riser Cable - Installed					
12 Pair Plenum Exposed, Terminated - per foot		0.7	100	70.00	
12 Pair in Conduit, Terminated - per foot		0.65	450	292.50	
Optical Fiber - Installed					
6 Strand Essex Loose Tube 10 Gig 50/125um, OM3, MultiMode Building to Building installed, tested with OTDR Light Source & Power Meter each strand each end and terminated at each end - Per foot Part # 13006NG01		1.19	2000	2,380.00	
12 Strand Essex Loose Tube 10 Gig 50/125um, OM3, MultiMode Building to Building installed, tested with OTDR Light Source & Power Meter each strand each end and terminated at each end - Per Foot Part # 13012NG01		1.5	7000	10,500.00	

Items to be procured...	Unit Cost For specified items without Installation (For Information Purposes Only)	Unit cost with Installation (For Evaluation Scoring Purposes)	In what representative quantities...	Resulting in a representative extended cost...	Summary Cost for Evaluation Scoring
6 Strand Essex Loose Tube 10 Gig 50/125um, OM4, MultiMode Building to Building installed tested with OTDR Light Source & Power Meter each strand each end and terminated at each end - Per Foot. Part # 13006PG01		2.25	1200	2,700.00	
12 Strand Essex Loose Tube 10 Gig 50/125um, OM4, MultiMode Building to Building installed, tested with OTDR Light Source & Power Meter each strand each end and terminated at each end - Per Foot. Part # 13012PG01		2.46	3000	7,380.00	
6 Strand Essex Loose Tube 8/125um Single Mode building to Building installed, tested with OTDR Light Source & Power Meter each strand each end and terminated at each end - Per Foot. Part # 130063101		1.21	1200	1,452.00	
12 Strand Essex Loose Tube 8/125um Single Mode building to Building installed, tested with OTDR Light Source & Power Meter each strand each end and terminated at each end - Per Foot. Part # 130123T01		1.26	1200	1,512.00	
Rack Mount Fiber Distribution Center - Loaded - Installed					
6 Fiber Termination with SC connectors		246.38	1	246.38	
12 Fiber Termination with SC connectors		302.69	8	2,421.52	
144 Fiber Termination with SC connectors		1516.67	1	1,516.67	
1" In Building EMT Suspended Conduit with Pull String and Firestop - Installed		5.02	150	753.00	
Fire Rated Penetrations Through Concrete Walls and Slabs with Firestop - Installed					
1" Core Bore	8	63.05	15	945.75	
2" Core Bore	16	64.02	12	768.24	
3" Core Bore	30	77.6	3	232.80	
4" Core Bore	30	106.7	1	106.70	
1" EMT Sleeve	28.98	49.47	15	742.05	
2" EMT Sleeve	45.36	69.2	12	830.40	
3" EMT Sleeve	52.1	69.94	3	209.82	
4" EMT Sleeve	73.75	90.94	1	90.94	
Essex CA 6 CMP Cable per foot (Without Installation) Part # 66-240-7B	0.34		1000	0.00	
Essex CAT6 Gel-Filled Cable per foot (Without Installation) Part # 04-001-68	0.32		1000	0.00	
Ortronics Series II CAT6 jack (Without Installation) Part # OR-S22600	14.52		100	0.00	
Ortronics CAT6 Traciack (Without Installation) Part # OR-TJ600	7.25		100	0.00	
Ortronics Traciack blanks 10 pack (Without Installation) Part # OR-42100002	3.32		100	0.00	
Par # Ortronics Single Gang Series II Faceplate (Without Installation) Part # OR-40300158	1.57		100	0.00	
Ortronics CAT6 12 Port High Density Patch Panel with associated hardware 110 Hardware Termination (With Installation and Without Installation) Part # OR-PMP61289	132.65	155.84	4	623.36	
Ortronics CAT6 24 Port High Density Patch Panel with associated hardware 110 Hardware Termination (With Installation and Without Installation) Part # OR-PHD66U24	192	279.36	38	10,615.68	
Ortronics CAT6 48 Port High Density Patch Panel with associated hardware 110 Hardware Termination (With Installation and Without Installation) Part # OR-PHD66U48	332.34	462.05	56	25,874.80	
Ortronics CAT6 96 Port High Density Patch Panel with associated hardware 110 Hardware Termination (With Installation and Without Installation) Part # OR-PHD66U96	753.79	876.68	9	7,890.12	
Ortronics Homaco 7' floor mount communications rack, 19" equipment mountable, grounded with all associated hardware including rack mount power strip complete (With Installation and Without Installation) Part # OR-19-84-1ZSDB	197.82	312.17	12	3,746.04	

Items to be procured...	Unit Cost For specified items without installation (For Information Purposes Only)	Unit cost with Installation (For Evaluation Scoring Purposes)	In what representative quantities...	Resulting in a representative extended cost...	Summary Cost for Evaluation Scoring
Open D-ring style vertical wire management assembly, per unit (With installation and Without installation)	166.32	170.07	24	4,081.68	
Open D-ring style horizontal wire management assembly, per unit(With installation and Without installation)	49.14	55.43	64	3,547.52	
Chaisworth 12" width ladder rack assembly with brackets per linear foot (With installation and Without installation)	10.2	12.25	65	796.25	
3/4" x 6" Cable Raceway permanently attached to wall, per linear foot (With installation and Without installation)	4.1	4.48	50	224.00	
1 1/4" x 6" Cable Raceway permanently attached to wall, per linear foot (With installation and Without installation)	3.25	3.52	50	176.00	
1 3/4" x 6" Cable Raceway permanently attached to wall, per linear foot (With installation and Without installation)	2.9	3.12	50	156.00	
3/4" Wire Molding, per linear foot (With installation and Without installation)	1.19	2.14	100	214.00	
1 1/4" Wire Molding, per linear foot (With installation and Without installation)	1.7	3.11	100	311.00	
1 3/4" Wire Molding, per linear foot (With installation and Without installation)	2.39	3.2	100	320.00	
3" Wire Molding, per linear foot (With installation and Without installation)	3.65	4.9	20	98.00	
Single gang steel back junction box (With installation and Without installation)	5.48	9.2	50	460.00	
Double gang steel back junction box (With installation and Without installation)	9.45	13.05	121	1,579.05	
Electrical ground bus bar with all connection hardware installed	96.02	112.54	12	1,350.48	
10' Communications/Power Pole installed	327.75	366.42	2	732.84	
12' Communications/Power Pole installed	396.75	433.35	2	866.70	
7' CAT6 Patch Cables RJ45-RJ45 connectors Part #OR-MC607-08	8.31		300	0.00	
10' CAT6 Patch Cables RJ45-RJ45 connectors Part # OR-MC610-08	9.89		125	0.00	
14' CAT6 Patch Cables RJ45-RJ45 connectors Part # OR-MC614-08	11.97		119	0.00	
25' CAT6 Patch Cables RJ45-RJ45 connectors Part #OR-MC625-08	17.51		121	0.00	
J-Hooks (With installation and Without installation)	2.94	6.25	6500	40,625.00	
As-Built drawings	130	237.65	5	1,188.25	
Extron Complete Audio/Visual System					
Extron PoleVault 200D to include voicelift microphones (1handheld and 1 pendent) and page interrupt (With installation and Without installation)	3665.43	4412.93	50	220,646.50	
Extron PoleVault 400D to include voicelift microphones (1handheld and 1 pendent) and page interrupt (With installation and Without installation)	4232.12	4979.62	50	248,981.00	
Extron WallVault 210D to include voicelift microphones (1handheld and 1 pendent) and page interrupt (With installation and Without installation)	3592.21	4224.71	50	211,235.50	
Extron WallVault 410D to include voicelift microphones (1handheld and 1 pendent) and page interrupt (With installation and Without installation)	4158.91	4791.41	50	239,570.50	
Dedicated Technician Services					
Dedicated Wiring and Audio Visual Technician Services 1- Technician (Annual Rate)	95,448	(Calculated at 10% of annual Rate for Scoring)		9,544.80	
Percentage of Quantity Discount					
Total Technician Services Requested (@: 2 -5 Technicians	5%			(For Information Purposes Only)	

Items to be procured...	Unit Cost For specified items without Installation (For Information Purposes Only)	Unit cost with Installation (For Evaluation Scoring Purposes)	In what representative quantities...	Resulting in a representative extended cost...	Summary Cost for Evaluation Scoring
Total RFP Cost for Scoring					269,805.21

EXHIBIT "B"

Safeguarding the Confidentiality of Student Records and Information

The parties acknowledge that Sections 1002.022, 1002.221 and 1002.222, Fla. Stat. and the Family Educational Rights and Privacy Act (FERPA, 20 U.S.C. § 1232g) and its implementing regulations (34 C.F.R. Part 99), protect the privacy rights of students and their parents with respect to information and records created and/or maintained by public schools. The student personally identifiable information (PII) may be disclosed only in compliance with FERPA. Pursuant to FERPA, the information provided by SBBC shall be limited to that which is necessary to effectively serve the student.

Each party participating in this Agreement further agrees to:

(1) Hold the student records and information in strict confidence and not use or disclose except as required by this Agreement or as required or permitted by law unless the parent of a student provides prior written consent for their release. All shared student records will be disclosed only to those who have a need to access the information in order to perform their assigned duties in the performance of this Agreement. Absent consent from the parent or eligible student, student records and information will not be disclosed except as allowed by the aforementioned laws.

(2) Safeguard the student records through administrative, physical and technological safety standards to ensure adequate controls are in place to protect the student information in accordance with FERPA's privacy requirements.

(3) Continually monitor its operations and take all actions necessary to assure that the student information and records are safeguarded in accordance with the terms of this Agreement, and

(4) Ensure that all employees, appointees or agents of each party to this Agreement who are granted access to shared student records will have successfully completed (1) the background screening requirements under Section 435.04, Florida Statutes, under Level 2 screening standards and (2) the FERPA training webinars, as they may become available, at the U.S. Department of Education, Privacy Technical Assistance Center website:

<http://www2.ed.gov/policy/gen/guid/ptac/index.html>, <http://ptac.ed.gov/> including, but not limited to, <http://www2.ed.gov/policy/gen/guid/ptac/pdf/slides.pdf>

Each party to this Agreement agrees to notify the other party immediately upon discovery of a breach of confidentiality of student information and to take all necessary notification steps as may be required by federal and Florida law. A breach of the confidentiality requirements shall constitute grounds for immediate termination of this Agreement without advance notice. Any provisions within this Agreement concerning the resolution of disputes shall not be applicable to a breach of the requirements of this Exhibit "B."

This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such student records are returned to The School Board of Broward County, Florida ("SBBC") or disposed of in compliance with the applicable

Florida Retention Schedules and a written acknowledgment of said disposition is provided to SBBC.

S:/v/allwork/contracts/review/1415year/ferpaaddendum