



AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

ITEM No.:

EE-4.

MEETING DATE	2019-02-05 10:05 - School Board Operational Meeting
AGENDA ITEM	ITEMS
CATEGORY	EE. OFFICE OF STRATEGY & OPERATIONS
DEPARTMENT	Grants Administration

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

TITLE:

Agreement with National Center for Research in Advanced Information and Digital Technologies

REQUESTED ACTION:

Approve the Agreement between The School Board of Broward County, Florida, and National Center for Research in Advanced Information and Digital Technologies (referred to as Digital Promise). The Agreement begins February 5, 2019 and ends on September 30, 2020.

SUMMARY EXPLANATION AND BACKGROUND:

Broward County Public Schools will join the Computational Thinking for Next Generation Science Standards (NGSS) Challenge Collaborative along with three additional League of Innovative Schools districts. The Collaborative will focus on designing and implementing a professional learning experience and instructional materials to support the integration of computational thinking into middle school instruction.
The Agreement 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 positive financial impact is \$4,000 to the District and up to \$10,000 as stipend payments directly to teachers. There is no additional financial impact to the District.

EXHIBITS: (List)

(1) Executive Summary (2) Digital Promise Contract

BOARD ACTION:
APPROVED
(For Official School Board Records Office Only)

SOURCE OF ADDITIONAL INFORMATION:	
Name: Dr. Daryl Diamond	Phone: 754-321-2630
Name: Dr. Lisa Milenkovic	Phone: 754-321-2623

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
Senior Leader & Title

Maurice L. Woods - Chief Strategy & Operations Officer

Signature

Maurice Woods
 1/22/2019, 11:26:13 AM

Electronic Signature
Form #4189 Revised 08/04/2017
RWR/ MLW/SRW:dt

Approved In Open Board Meeting On:

By:

FEB 05 2019

School Board Chair

AGREEMENT EXECUTIVE SUMMARY

Grant Program	Computational Thinking for Next Generation Science Standards (NGSS) Challenge Collaborative				
Financial Impact Statement	The positive financial impact is \$4,000 provided through two annual payments of \$2,000 plus approximately \$10,000 to be provided as a \$500 stipend to each participating educator. The source of funds is and National Center for Research in Advanced Information and Digital Technologies (referred to as Digital Promise). There is no additional financial impact to the District.				
Schools Included	Teachers were invited from all BCPS middle schools. The following middle schools are currently registered for the professional learning experience: Coral Springs, Deerfield Beach, Forest Glen, Gulfstream Academy K-8, Lauderdale Lakes, Seminole, Silver Trail, Sunrise, Walter C. Young, Westglades				
Managing Department	Innovative Learning				
Source of Additional Information	<table style="width: 100%; border: none;"> <tr> <td style="width: 70%;">1. Dr. Daryl Diamond, Director – Innovative Learning</td> <td style="width: 30%; text-align: right;">754-321-2630</td> </tr> <tr> <td>2. Dr. Lisa Milenkovic, Supervisor, STEM+Computer Science – Applied Learning</td> <td style="text-align: right;">754-321-2623</td> </tr> </table>	1. Dr. Daryl Diamond, Director – Innovative Learning	754-321-2630	2. Dr. Lisa Milenkovic, Supervisor, STEM+Computer Science – Applied Learning	754-321-2623
1. Dr. Daryl Diamond, Director – Innovative Learning	754-321-2630				
2. Dr. Lisa Milenkovic, Supervisor, STEM+Computer Science – Applied Learning	754-321-2623				
Project Description	<p>The Computational Thinking for NGSS Challenge Collaborative will bring together district leaders and teachers from five League of Innovative Schools districts (Broward County Public Schools (FL), Compton Unified School District (CA), Iowa City Community School District (IA), Talladega County Schools (AL), and Vancouver Public Schools (WA) to focus on designing and implementing a professional learning experience and instructional materials to support the integration of Computational Thinking into middle school science instruction. In partnership with coaches, curriculum designers, experts, and researchers from Digital Promise, district staff members and lead teachers will come together (in person and online) to design the professional learning experience and instructional materials. Middle school science teachers will then participate in the experience, provide feedback, and earn micro-credentials capturing their new skills and competencies. Participation in this Challenge Collaborative fits in well with the work that Broward County Public Schools is currently conducting regarding Coding and Computer Science and will enhance both while extending professional development and curriculum development in Computational Thinking. Coding is the skill of writing instructions that a computer can execute. Computer science is an academic field of study that covers hardware, software, algorithms, and their applications and impacts on society. Computational thinking is a set of overlapping problem-solving skills, which can be used in a variety of different settings. For example:</p> <ul style="list-style-type: none"> • Gathering and organizing data to investigate questions and communicate findings • Expressing procedures as algorithms (that is, a series of logical, precise, repeatable steps that delivers an expected result) to reliably create and analyze processes • Creating computational models that use data and algorithms to simulate complex systems • Using and comparing computational models to develop new insights about a subject <p>The implications of computational thinking stand to impact learning across ages and disciplines in K-12 education. For more information about Digital Promise League of Innovative Schools and Computational Thinking Challenge Collaborative please go to https://digitalpromise.org/initiative/computational-thinking/.</p>				
Alignment with Strategic Plan	This grant is aligned to District Strategic Goal 1: High-Quality Instruction (Middle Grades Learning); District Strategic Goal 2: Continuous Improvement (Innovative				

AGREEMENT EXECUTIVE SUMMARY

	Learning/Digital Promise League of Innovative Schools); District Strategic Goal 3: Effective Communication (Applied Learning).
Level of Support provided by GAGP	GAGP staff provided level 3 contract support in negotiating contract language with the funder, guiding the contract through local legal review and execution, developing documentation for the board agenda, preparing a hard copy of the file for record keeping, and tracking the grant through the grants management system.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 5th day of February, 2019, 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

National Center for Research in Advanced Information and Digital Technologies
(hereinafter referred to as "Digital Promise"),
whose principal place of business is
1001 Connecticut Avenue NW, Suite 935, Washington, DC 20036.

WHEREAS, The Computational Thinking for NGSS Challenge Collaborative will bring together district leaders and teachers from four League of Innovative Schools districts to focus on designing and implementing a professional learning experience and instructional materials to support the integration of Computational Thinking into Next Generation Science Standards instruction; and

WHEREAS, In partnership with coaches, curriculum designers, experts, and researchers from Digital Promise, one district staff member and one lead teacher or coach and teachers will come together (in person and online) to design the professional learning experience and instructional materials; and

WHEREAS, Middle school science teachers will then participate in the experience, provide feedback, and earn micro-credentials capturing their new skills and competencies.

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 **Term of Agreement.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence upon the execution of all parties and shall conclude on September 30, 2020.

2.02 **Digital Promise Responsibilities.** Digital Promise shall:

- a) Provide a computational thinking coach to support participating teachers' pedagogical practice and curricular design, and a researcher to support continuous improvement of the work.
- b) Facilitate in-person and online meetings with district program design representatives.
- c) Provide travel and lodging for two (2) district program design representatives to two 2-day in-person meetings each school year.
- d) Supply participating districts with a monetary stipend as described in section 2.03 Payment Terms to support teacher stipends, release time and substitute teachers, and other associated district costs.
- e) Support districts in implementing a micro-credential pilot program for participating teachers.
- f) Provide guidance and support for selecting or creating resources, materials, and practices for leveraging computational thinking in middle school Next Generation Science courses.
- g) Implement an annual in-person workshop for participating teachers and support an on-going professional learning network, including as needed individual or small group coaching via webinar/teleconference.
- h) Prepare and publish the developed professional learning experience, instructional materials, and any other findings under a Creative Commons license.

2.03 **Payment Terms.** Digital Promise shall provide SBBC an annual stipend of Two Thousand Dollars and 00/100 Cents (\$2,000.00) and Five Hundred Dollars and 00/100 Cents (\$500.00) per participating educator to SBBC as specifically stated herein.

- a) The stipend for Two Thousand Dollars and 00/100 Cents (\$2,000.00) shall be provided to SBBC within 30 days of a fully executed Agreement and the identification of the district administration lead who will serve as the point of contact.
- b) The stipend for Five Hundred Dollars and 00/100 Cents (\$500.00) shall be provided to SBBC within 30 days of October 1, 2019.
- c) If this Agreement is terminated early, SBBC will return to Digital Promise the unused portion of this funding.

2.04 **SBBC Responsibilities.** SBBC shall:

- a) Prioritize the participation of the district teams in the Computational Thinking for NGSS Challenge Collaborative for the duration of the project.
- b) Identify a district administrator and lead teacher/coach to participate in the Challenge Collaborative convenings.
- c) Identify and recruit a minimum of 12 middle school science teachers who will participate in the professional learning experience and provide feedback.

- d) Support the Digital Promise team in obtaining any district-required research permissions.
- e) Send the two (2) district representatives to two (2) day in-person meetings each school year (exact dates and location to be determined).
- f) Develop, in partnership with Digital Promise, an incentive structure for the micro-credentials teachers earn.
- g) Dedicate time for teacher interviews, surveys, and artifact collection with Digital Promise researchers and staff.
- h) Provide space and logistical support for two (2) on site professional learning workshops with participating teachers from the district (one per year).
- i) Provide access to teachers and classrooms for site visits upon request.
- j) Make any needed accommodations for piloting the Computational Thinking materials in the participating teachers' classrooms.

2.05 **SBBC Disclosure of Education Records.** Although no student education records shall be disclosed pursuant to this Agreement, should Digital Promise come into contact with education records during the course of contracted responsibilities, these records are confidential and protected by the Family Educational Rights and Privacy Act (FERPA) and state laws and may not be used or re-disclosed. Any use or re-disclosure may violate applicable federal and state laws.

2.06 **SBBC Disclosure of Employee Information.**

- a) SBBC will provide Digital Promise the records listed in this section for program evaluation and continuous improvement.
- b) SBBC will provide Digital Promise with the following employee records: name of employee; school name; as well as a pre-, mid-, and post-professional development course survey.
- c) SBBC will obtain consent from each employee prior to disclosing the records listed above. Digital Promise shall not use the employee records listed in this section for any purpose other than those listed or re-disclose the records to any outside source without the prior written consent of the employee, except as required or allowable by law.

2.07 **Safeguarding Confidential Employee Records.** Notwithstanding any provision to the contrary within this Agreement, Digital Promise shall 1) fully comply with the requirements of state or federal law or regulation regarding the confidentiality of employee records, 2) hold the employee records in strict confidence and not use or disclose same except as required by this Agreement or as required or permitted by law, 3) only share employee records with those who have a need to access the information in order to perform their assigned duties in the performance of this Agreement, 4) protect employee records through administrative, physical and technological safeguards to ensure adequate controls are in place to protect the employee's records and information, 5) notify SBBC immediately upon discovery of a breach of confidentiality of employee records by telephone at 754-321-0300 (Manager, Information Security), and 754-321-1900 (Privacy Officer), and email at privacy@browardschools.com; and take all necessary notification steps as may be required by federal and Florida law, including, but not limited to, those required by Section 501.171, Florida Statutes, 6) prepare and distribute, at its own cost, any and all required notifications, under federal and Florida Law, or reimburse SBBC any direct costs incurred by SBBC for doing so, and 7) be responsible for any fines or penalties

for failure to meet notice requirements pursuant to federal and/or Florida law. This section shall survive the termination of all performance or obligations under this Agreement.

2.08 **Research Studies.** Research or program evaluation studies conducted by Digital Promise that impact the daily activities of students, parents or staff, or require use of data from same individuals must submit a Research Request to the District's Institutional Review Board (IRB) for review and approval prior to the initiation of any study-related activities. The District's IRB and Research Review Process reviews the design, procedures, and potential impact on school and district operations to ensure: (a) the purpose, scope, limitations, and duration of study is clearly outlined; (b) the protection of human subjects in the research process; (c) personally identifiable information (PII) is only used for purposes of the identified study; (d) PII is only used by representatives of the organization identified in this agreement; and (e) the safe and confidential storage and transmittal of education records. The purposes and scope of the study/studies must align with the stated objectives of this agreement, and must be conducted during the term of this agreement. Digital Promise agrees that any disclosed information will be destroyed or returned to SBBC when no longer needed for the purposes for which the study is to be conducted. Digital Promise agrees to comply with all requirements of the District's IRB and Research Review Process. Questions regarding this process may be directed to BCPS.IRB@browardschools.com.

2.09 **Inspection of Digital Promise's Records by SBBC.** Digital Promise 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 Digital Promise's applicable 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 the applicable business records of Digital Promise directly relating to this Agreement in order to verify the accuracy of invoices provided to SBBC. Such audit shall be no more than one (1) time per calendar year.

a) **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 Digital Promise's 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 Digital Promise pursuant to this Agreement.

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

c) **Audit Site Conditions.** SBBC's agent or its authorized representative shall have access to Digital Promise's 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.

d) **Failure to Permit Inspection.** Failure by Digital Promise 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 SBBC's denial of some or all of any Digital Promise's claims for payment.

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

f) Inspection of Subcontractor's Records. If applicable, Digital Promise 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 Digital Promise 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 Payees' costs from amounts payable by SBBC to Digital Promise pursuant to this Agreement and such excluded costs shall become the liability of Digital Promise.

g) Inspector General Audits. Digital Promise 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.

2.10 Inspection of Digital Promise's Records by SBBC. Digital Promise shall establish and maintain books, records and documents (including electronic storage media) related to this Agreement. All of Digital Promise's 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 agent or its authorized representative. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to Digital Promise's Records from the effective date of this Agreement, for the duration of the term of the 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 Digital Promise pursuant to this Agreement. SBBC's agent or its authorized representative shall provide Digital Promise with reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction. SBBC's agent or its authorized representative shall have access to the Digital Promise's facilities and to any and all records related to the Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section. Digital Promise 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.

2.11 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
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With a Copy to: Daryl Diamond, PhD
Director of Innovative Learning
The School Board of Broward County, Florida
600 Southeast Third Avenue
Fort Lauderdale, Florida 33301

To Digital Promise: Chief Operating Officer
Digital Promise
1001 Connecticut Avenue NW, Suite 935
Washington, DC 20036

With a Copy to: Josh Weisgrau
Director of Learning Experience Design
1001 Connecticut Avenue NW, Suite 935
Washington, DC 20036

2.12 **Background Screening.** Digital Promise shall 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 Digital Promise or its personnel providing any services under the conditions described in the previous sentence. Digital Promise 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 Digital Promise and its personnel. The parties agree that the failure of Digital Promise 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. Digital Promise 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 Digital Promise's failure to comply with the requirements of this section or with Sections 1012.32 and 1012.465, Florida Statutes.

2.13 **Public Records.** 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.

2.14 **Liability.** 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.

a) **By SBBC:** SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

b) **By Digital Promise:** Digital Promise 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 Digital Promise, its agents, servants or employees; the equipment of Digital Promise, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of Digital Promise or the negligence of Digital Promise's 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 Digital Promise, SBBC or otherwise.

2.15 **Insurance Requirements.** Digital Promise shall comply with the following insurance requirements throughout the term of this Agreement:

a) **General Liability.** Digital Promise shall maintain General Liability insurance during the term of this Agreement with limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate; and limits not less than \$1,000,000 for Products/Completed Operations Aggregate.

b) **Acceptability of Insurance Carriers.** The insurance policies required under this Agreement shall be issued by companies qualified to do business in the State of Florida and having a rating of at least A- VI by AM Best or Aa3 by Moody's Investor Service.

c) **Verification of Coverage.** Proof of the required insurance must be furnished by Digital Promise to SBBC's Risk Management Department by Certificate of Insurance within fifteen (15) days of the date of this Agreement. To streamline this process, SBBC has partnered with EXIGIS Risk Management Services to collect and verify insurance documentation. All certificates (and any required documents) must be received and approved by SBBC's Risk Management Department before any work commences to permit Digital Promise to remedy any deficiencies. Digital Promise must verify its account information and provide contact details for its Insurance Agent via the link provided to it by email.

d) **Required Conditions.** Liability policies must include the following terms on the Certificate of Insurance:

- 1) The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.
- 2) All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida.
- 3) Certificate Holder: The School Board of Broward County, Florida, c/o EXIGIS Risk Management Services, P.O. Box 4668-ECM, New York, New York 10163-4668.

e) **Cancellation of Insurance.** Digital Promise is prohibited from providing services under this Agreement with SBBC without the minimum required insurance coverage and must notify SBBC within two (2) business days if required insurance is cancelled.

f) SBBC reserves the right to review, reject or accept any required policies of insurance, including limits, coverage or endorsements, herein throughout the term of this Agreement.

2.16 **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.

2.17 **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.

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 Agreement.

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 **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.

3.05 **Termination.** This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. In the event of such termination, SBBC shall be entitled to a *pro rata* refund of any pre-paid amounts for any services scheduled to be delivered after the effective date of such 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 **Compliance with Laws.** Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.07 **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.

3.08 **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 exclusively to the jurisdiction of the State

courts of the Seventeenth Judicial Circuit of Broward County, Florida or to the jurisdiction of the United States District Court for the Southern District of Florida. Each party agrees and admits that the state courts of the Seventeenth Judicial Circuit of Broward County, Florida or the United States District Court for the Southern District of Florida shall have jurisdiction over it for any dispute arising under this Agreement.

3.09 **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.

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

3.11 **Assignment.** Neither this Agreement nor 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.

3.12 **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 affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.13 **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.

3.14 **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.

3.15 **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.

3.16 **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.

3.17 **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.

3.18 **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.

3.19 **Agreement 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.

3.20 **Counterparts and Multiple Originals.** This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Agreement.

3.21 **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.

[THIS SPACE INTENTIONALLY LEFT BLANK; SIGNATURE PAGES FOLLOW]



(Corporate Seal)

ATTEST:



Robert W. Runcie, Superintendent of Schools

FOR SBBC:

THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

By 
Heather P. Brinkworth, Chair

Approved as to Form and Legal Content:


Digitally signed by Kathelyn Jacques-Adams, Esq. - kathelyn.jacques-adams@gbrowardschools.com
Reason: National Center for Research in Advanced Information and Digital Technologies
Date: 2019.01.17 15:30:20 -05'00'

Office of the General Counsel

[THIS SPACE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS]

FOR DIGITAL PROMISE:

(Corporate Seal)

National Center for Research in Advanced Information and Digital Technologies

ATTEST:

By [Signature]

Kathryn Petrillo-Smith,
Chief Operating Officer

, Secretary

-or-

[Signature]
Witness

[Signature]
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.

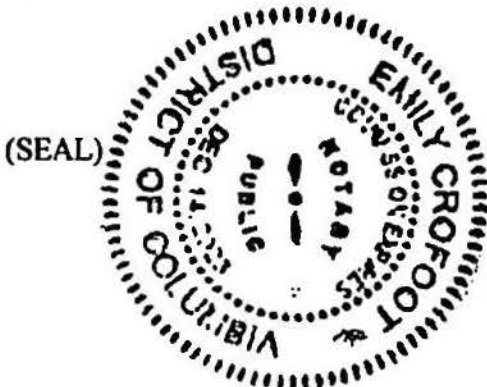
STATE OF District of Columbia

COUNTY OF District of Columbia

The foregoing instrument was acknowledged before me this 17th day of January, 2019 by Kathryn Petrillo-Smith of Digital Promise on behalf of the corporation/agency.

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

My Commission Expires:



[Signature]
Signature - Notary Public

Emily Crofoot
Printed Name of Notary

N/A
Notary's Commission No.