



A G E N D A

Durham Public Schools Board of Education
May Committee Work Session
May 8, 2014
Fuller Administration Building
511 Cleveland Street, Durham, NC

1. Call to Order 2:00 p.m.
2. Moment of Silence
3. Agenda Review and Approval
4. General Public Comment
5. Committee Meeting Minutes
 - I. April 10, 2014 – April Committee Work Session Minutes
6. Reports of the Superintendent
 - a. Proposed Increase in Attorney Fees
 - b. Review of Board of Education Budget
7. Reports of the Committees
 - I. Support Services Committee
 - a. Revised Policy 4131 – *Program Magnet Schools* – First Reading
 - b. Follow Up Items
 - II. Instructional Services Committee
 - a. Wellness Program Update
 - b. Follow Up Items
 - III. Administrative Services Committee
 - a. Child Nutrition Services – Universal Free Breakfast
 - b. E-Rate Applications for 2014-15
 - c. Eno Valley Elementary School – Bids for HVAC System Installation
 - d. Eno Valley Elementary School – Purchase Order for HVAC Equipment
 - e. Y. E. Smith Elementary School – Bids for Kitchen Hood Replacement
 - f. Construction Management Services – 2014-15 Contract Extension
 - g. Follow Up Items
8. Adjournment

Mission Statement

In collaboration with our community and parents, the mission of Durham Public Schools is to provide all students with an outstanding education that motivates them to reach their full potential and enables them to discover their interests and talents, pursue their goals and dreams, and succeed in college, in the workforce and as engaged citizens.

**Durham Public Schools
BOARD OF EDUCATION COMMITTEE
PRECIS**

Agenda Item: Board of Education Committee Minutes

Staff Liaison Present:

Phone #:

Main Points:

Attached for committee consideration and approval is a draft copy of the following minutes:

- April 10, 2014 – Board Committee Work Session

Fiscal Implications:

- None

Strategic Plan Alignment:

- N/A

Purpose

Information

Discussion

Action

Consent

Reviewed by:

Finance _____

Attorney _____

**MINUTES
DURHAM PUBLIC SCHOOLS
BOARD OF EDUCATION
APRIL COMMITTEE WORK SESSION
APRIL 10, 2014**

The Durham Public Schools Board of Education held the April Committee Work Session on April 10, 2014, at 2:00 p.m. in the Fuller Administration Building, 511 Cleveland Street, Durham, North Carolina.

Board Members present:

Heidi Carter, Chair; Minnie Forte-Brown, Vice Chair; Natalie Beyer; Nancy Cox; Omega Curtis Parker; Pastor Fredrick Davis; and Leigh Bordley were present.

Administration present:

Hugh Osteen, Interim Superintendent; Evia Nelson, Executive Director of Construction & Capital Planning; Aaron Beaulieu, Chief Financial Officer; and Paul LeSieur, Executive Director of Budget Management Services; and Chip Sudderth, Director of Public Information.

Attorney present: Ken Soo

Call to Order

Chair Carter called the meeting to order and presided over a moment of silence.

Agenda Review and Approval

Chair Carter asked if there were any changes to the agenda. Ms. Forte-Brown made a motion to amend the agenda and add an item regarding the new Superintendent's salary. Mr. Soo, board attorney explained that because since the agenda item was not posted within 48 hours prior of the item being added he would not add the item for action but could be added for discussion only.

Ms. Forte-Brown restated her motion. Mrs. Forte-Brown made a motion to have further discussion regarding advertised salary for the new Superintendent; seconded by Ms. Parker; motion passed unanimously.

General Public Comment: None

Committee Meeting Minutes

Presented for approval:

- March 4, 2014 – Support Services Committee (including Instructional Services)
- March 13, 2014 – Administrative Services Committee

Ms. Bordley moved to approve the minutes as written. Ms. Carter seconded and the motion was adopted.

Reports of the Committees

I. Administrative Services Committee

Ms. Beyer, Administrative Services Committee Chair recognized Evia Nelson, Executive Director of Construction & Capital Planning.

a. Burton Elementary School – Bids for Renovations

Ms. Nelson stated that the reallocated 2007 Bond funds will provide for renovation including partial roof replacement, intercom/fire/alarm upgrades, kitchen hood and freezer replacement.

Ms. Nelson shared that bids were received on March 18, 2014 from six qualified bidders. Ms. Nelson stated that the lowest, responsive, responsible bidder is Lomax Construction, Inc. with a total bid of \$614,350. Ms. Nelson explained the contract is within the project budget and Minority Business Enterprise participation is 19.68%.

Pastor Davis made a motion to move this item to the agenda for action; seconded by Ms. Forte-Brown; motion passed unanimously.

b. Bethesda Elementary School – Bids for Asphalt Paving

Ms. Nelson stated the reallocated 2007 Bond funds will provide new asphalt paving on the bus drive, bus parking lot and car parking lot.

Ms. Nelson shared that bids were received on March 3, 2014 from eight qualified bidders. Ms. Nelson stated that the lowest, responsive, responsible bidder is Fred Smith Company with a total bid of \$270,348. Ms. Nelson explained that the contract is within the project budget and Minority Business Enterprise participation is 2.6%.

Pastor Davis made a motion to move this item to the consent agenda; seconded by Ms. Forte-Brown; motion passed unanimously.

c. Carrington Middle School – Bids for Restroom Upgrades

Ms. Nelson stated that the reallocated 2007 Bond funds will provide restroom upgrades including renovation of group restrooms and minor upgrades to restrooms for ADA accessibility.

Ms. Nelson shared that bids were received on March 20, 2014 from three qualified bidders. Ms. Nelson stated the lowest, responsive, responsible bidder is Riggs-Harrod Builders, Inc. with a total bid of \$178,828.

Ms. Nelson explained the contract is within the project budget and Minority Business Enterprise participation is 2.75%.

Ms. Carter made a motion to move this item to the consent agenda; seconded by Ms. Forte-Brown; motion passed unanimously.

d. E.K. Powe Elementary School – Bids for Kitchen Hood Replacement

Ms. Nelson stated that reallocated 2007 Bond funds will provide for complete replacement of the kitchen hood including associated piping and wiring.

Ms. Nelson shared that bids were received on February 26, 2014 from five qualified bidders. Ms. Nelson stated the lowest, responsive, responsible bidder is Comfort Systems USA (MidAtlantic) LLC with a total bid of \$110,900.

Ms. Nelson explained that the contract is within the project budget and Minority Business Enterprise participation is 4.33%.

Ms. Bordley made a motion to move this item to the consent agenda; seconded by Ms. Cox; motion passed unanimously.

e. George Watts Elementary School – Bids for Cafeteria Renovations

Ms. Nelson stated the reallocated 2007 Bond funds will provide for renovation of the cafeteria to include concrete repairs, floor replacement and kitchen hood placement.

Ms. Nelson shared that bids were received on March 19, 2014 from four qualified bidders. Ms. Nelson stated that the lowest, responsive, responsible bidder is L. A. Downey & Son with a total bid of \$251,092.

Ms. Nelson explained that the contract is within the project budget and Minority Business Enterprise participation is 0.94%.

Pastor Davis made a motion to move this item to the consent agenda; seconded by Ms. Forte-Brown; motion passed unanimously.

f. Glenn Elementary School – Bids for Asphalt Paving

Ms. Nelson stated that Lottery Funds will provide new asphalt paving in the bus area and repairs/pavement upgrades in other parking areas.

Ms. Nelson shared that bids were received on March 12, 2014 from six qualified bidders. Ms. Nelson stated the lowest, responsive, responsible bidder is Ruston Paving Company, Inc. with a total bid of \$157,888.

Ms. Nelson explained that the contract is within the project budget and the Minority Business Enterprise participation is 1.27%.

Ms. Carter made a motion to move this item to the consent agenda; seconded by Ms. Cox; motion passed unanimously.

g. 2007 Bond Project Transfer

Ms. Nelson stated the 2007 Bond Project for restroom upgrades at Brogden Middle School and roofing replacement of a classroom building and office area at Eno Valley Elementary School are in need of additional funding to complete renovations.

Ms. Nelson shared that four projects (Sandy Ridge, Easley, Riverside and Hillside) are complete with costs under budget. Ms. Nelson requested budget adjustments to complete the projects.

Ms. Cox made a motion to move this item to the consent agenda; seconded by Ms. Forte-Brown; motion passed unanimously.

h. Brogden Middle School – Bids for Restroom Upgrades

Ms. Nelson stated the reallocated 2007 Bond funds will provide several restroom upgrades including restrooms in the main gym and auditorium.

Ms. Nelson shared that bids were received on March 12, 2014 from six qualified bidders. Ms. Nelson shared that the lowest, responsive, responsible bidder is Riggs-Harrod Builders, Inc. with a total bid of \$265,435.

Ms. Nelson explained the contract is within the project budget and the Minority Business Enterprise participation is 18.32%.

Ms. Forte-Brown made a motion to move the item to the consent agenda; seconded by Ms. Cox, motion passed unanimously.

i. Eno Valley Elementary School – Bids for Roofing

Ms. Nelson stated that lottery funds will provide for partial roof replacement including the office area and a portion of the 1992 classroom building. Ms. Nelson explained the existing roof is badly in need of replacement.

Ms. Nelson shared that bids were received on March 11, 2014 from three qualified bidders. Ms. Nelson stated the lowest, responsive, responsible bidder is Owens Roofing, Inc. with a total bid of \$716,322.

Ms. Nelson explained the contract is within in the project budget and Minority Business Enterprise participation is 0.4%.

Ms. Carter made a motion to move this item to the consent agenda; seconded by Ms. Cox; motion passed unanimously.

j. Acquisition of Adjacent Lot at W.G. Pearson Middle School

Mr. Osteen stated that following recent discussions with the County, they have approved donating a parcel at W. G. Pearson Middle School to Durham Public Schools. Mr. Osteen shared that the lot is at 606 E. Umstead Street. Mr. Osteen explained that on February 24, 2014 the County approved selling the lot to Durham Public Schools for \$44.32 and because it is technically a sale it must receive board approval.

Pastor Davis made a motion to move this item to the consent agenda; seconded by Ms. Cox; motion passed unanimously.

k. Naming Rights at School Facilities

Mr. Osteen stated that while schools are trying to cover every manner in which to raise funds, school districts are exploring the sale of naming rights on physical school features such as gymnasium, sport fields, scoreboards, etc.

Mr. Osteen explained while financially profitable, there are legal risks involved if a school chooses to sell naming rights. Mr. Osteen shared the practice is a delicate one, with significant risks of litigation and claims of free speech by entities. Mr. Osteen stated that political, religious and many social issues may make the Board uncomfortable and could come front and center in a public, free speech debate.

Pastor Davis recommended that a needs assessment of band uniforms and equipment be completed and a plan brought back to the Board.

Ms. Forte-Brown recommended an assessment of athletic facilities be completed through the school's Athletic Directors. Ms. Forte-Brown suggested that trainers and coaches be surveyed to gather their input about needs for equipment and facilities.

This is for the Board's information.

l. Budget Resolution Amendment #2 (2013-2014)

Ms. Beaulieu stated that the Budget Resolution Amendment #2 gives the Board an update on the status of the adopted budget through the current year – June 30, 2014. Mr. Beaulieu reviewed the budget sections in detail with the Board.

Ms. Carter made a motion to move this item to the consent agenda; seconded by Ms. Forte-Brown; motion passed unanimously.

m. Follow Up Items

Energy Savings Plan – Aaron/Hugh working on this.

Montessori Pre-K – Issue on free vs. paid. In progress.

Pastor Davis concerned about constituents who say they are still being told that DPS has a hiring freeze. How can we communicate that differently?

The Administrative Services Committee Meeting adjourned at 3:50 p.m. and the Support Services Committee began their presentations.

II. Support Services Committee

Ms. Omega Curtis Parker, Committee Chair for Support Services, began the presentations.

a. Substance Use: Education, Awareness, and Prevention

Michelle Hedgepeth-Smith, Pamela Taylor, Theresa McGowan and Larry McDonald provided an update on Substance Use. The update included information on the goals and objectives of anti-substance use, discussion of Policy 4401 – Alcohol and Substance Abuse Prevention, the healthful living curriculum, support programs and the roles of counselors and social workers, and community partnerships. Also joining the discussion were teachers Amy Brubaker from Northern High School and Marva Shuler from Hillside New Tech.

Board Members had a full discussion regarding the Substance Use update. This agenda item was presented for information.

b. Specialty Calendar Approval 2014-2015

Dr. Pitman introduced Kendra O’Neal-Williams to discuss the 2014-2015 school calendars for small specialty high schools. The administration recommended the calendars for the small specialty high schools that have been developed and aligned with a community college or university schedule that will permit DPS students to accelerate their program of study and receive higher education credit. The administration discussed the following school calendars – City of Medicine Academy (Durham Technical Community College), J. D. Clement Early High School (North Carolina Central University) and Middle College High School (Durham Technical Community College)

Board Members had a full discussion regarding the recommendation. This agenda item was moved and seconded, unanimously, to be placed on the consent agenda at the April Full Board meeting.

c. Follow Up Items

- 1) Invite Judge Morey to share information about the minor misdemeanor court diversion program to Support Services Committee.
- 2) Share analysis of discipline data by type of incidence, consequences, gender, and race.
- 3) Provide current number of counselors, and social workers with DPS caseload compared to national recommended caseloads.

III. Instructional Services Committee

a. Exceptional Children’s Program Update

Dr. Kristin Bell provided an update on the district’s Exceptional Children’s programs. The update included an overview of the department’s structure, legislation and policies, areas of eligibility and related services, data regarding students identified with disabilities, and major

initiatives and service delivery options. Dr. Bell also provided information on program highlights and areas of focus as well as challenges and opportunities.

Board Members had a full discussion regarding this update presented for information.

b. Follow Up Items

None

Reports of the Board

a. Superintendent Search Salary Discussion

The Superintendent Search Update was added to the agenda to discuss salary. Vice Chair Minnie Forte-Brown provided information regarding salaries for Superintendents. The Board had a full discussion and it was decided that this agenda item would be moved to a future BOE closed session for further discussion.

Having no further business, the meeting adjourned at approximately 5:50 p.m.

Heidi Carter, Chair
Durham Public Schools Board of Education

Hugh Osteen, Interim Superintendent
Durham Public Schools



One Vision. One Durham.

Date: May 8, 2014

Durham Public Schools ADMINISTRATIVE SERVICES COMMITTEE PRECIS

Agenda Item: Proposed Increase in Attorney Fees

Staff Liaison Present: Hugh Osteen
Ken Soo

Phone # 560-3831
821-4711

Main Points:

- Tharrington-Smith has proposed a slight increase in billing rates for the 2014 and 2015 fiscal years.
- Each year will increase \$5.00 per hour for Partners, Associates and Paralegals. The monthly retainer will remain \$1,500.00.

Administration submits this increase for discussion and subsequent approval.

Fiscal Implications: None

Strategic Plan Alignment: None

Purpose

Information **Discussion** **Action** **Consent**

Reviewed by: **Finance** _____ **Attorney** Ken Soo

March 18, 2014

Heidi Carter
Board Chair
Durham Public Schools Board of Education
Post Office Box 30002
Durham, NC 27702

Hugh Osteen
Interim Superintendent
Durham Public Schools
Post Office Box 30002
Durham, NC 27702

Re: Retainer Rates

Dear Heidi and Hugh:

In recognition of the financial challenges facing our school district clients in recent years, we have been fortunate to maintain the same flat rate since January 2012 for our retainer clients. Unfortunately, our expenses have continued to increase. In order to continue to hire and retain high quality staff and to maintain our level of services, we have scheduled two modest \$5.00 rate increases over the next two years, effective at the start of the fiscal calendars. These new rates will be as follows:

	<u>Effective July 1, 2014</u>	<u>Effective July 1, 2015</u>
Partners	\$190.00	\$195.00
Associates	\$175.00	\$180.00
Paralegals	\$ 95.00	\$100.00

Please know that the \$1,500.00 monthly retainer amount has remained the same since 1992, and we did not increase that amount in this proposed agreement.

I am attaching a proposed retainer agreement to reflect this change and would ask that the item be added to the agenda at an upcoming meeting. It has been our pleasure to serve the Durham Public Schools Board of Education over the past years and we look forward to continuing to work with you. If you have any questions, please do not hesitate to call.

Very truly yours,

THARRINGTON SMITH, L.L.P.

Kenneth A Soo

**AGREEMENT BETWEEN
DURHAM PUBLIC SCHOOLS BOARD OF EDUCATION
AND THARRINGTON SMITH
FOR THE PROVISION OF LEGAL SERVICES**

The law firm of Tharrington Smith, L.L.P. agrees to continue to serve as attorneys to the Durham Public Schools County Board of Education under the following terms and conditions:

1. **Retainer and General Services.** The Durham Public Schools Board of Education will pay a retainer of one thousand five hundred dollars (\$1,500.00) per month billed at the beginning of each month. This retainer will cover the attendance at up to two board meetings per month as designated by the Chairman of the Board of Education or Superintendent; and brief telephone or email communication. The Board of Education will be billed at the beginning of each month and bills will include a statement of charges for additional services for the preceding one-month period.

2. **Additional Services and Litigation.** Additional legal and paralegal services not covered by the retainer will be billed according to the following rate schedule:

Time Period	Partners	Associates	Paralegals
Current - June 30, 2014	\$185	\$170	\$90
July 1, 2014 - June 30, 2015	\$190	\$175	\$95
July 1, 2015 - June 30, 2016	\$195	\$180	\$100

3. **Costs.** Any out-of-pocket expenses, including travel, copies, court costs, title insurance, telephone calls, conventions or conferences approved by the Superintendent will be billed at our cost.

4. **Contract Revisions.** Upon mutual agreement the contract may be revised at any time.

5. **Term.** The contract will continue in effect unless terminated by either party upon (60) sixty days notice.

THARRINGTON SMITH

**DURHAM PUBLIC SCHOOLS
BOARD OF EDUCATION**

Kenneth A. Soo

Heidi Carter, Board Chairman

Date: _____

Date: _____

Hugh Osteen, Interim Superintendent

Date: _____

This instrument has been preaudited in the manner required by the School Budget and Fiscal Control Act.

Finance Officer

Date



One Vision. One Durham.

Date: May 8, 2014

Durham Public Schools ADMINISTRATIVE SERVICES COMMITTEE PRECIS

Agenda Item: Review of Board of Education Budget

Staff Liaison Present: Hugh Osteen
Aaron Beaulieu

Phone # 560-3831
560-3544

Main Points:

- The Board of Education maintains a budget covering its operations, travel, training and related expenses.
- The budget also includes board and district-wide attorney fees.

Administration provides the attached budget overview for information.

Fiscal Implications:

- This review will update the board on its expense budget.

Strategic Plan Alignment: None

Purpose

Information **Discussion** **Action** **Consent**

Reviewed by: **Finance** _____ **Attorney** _____



DPS Board of Education Budget Review

Related Policies

1140 -BOARD MEMBER REIMBURSEMENT

The Durham Public Schools Board of Education shall establish annually a specific amount of money to be included in the school budget to cover Board member stipends and reimbursement of expenses incurred in the performance of duties. Members of the Board of Education shall be paid: A regular monthly stipend; and Travel expenses (not to exceed the amount predetermined by the Board) incurred for attending workshops or conferences or for conducting official Board business.

1130 -BOARD MEMBER OPPORTUNITIES FOR DEVELOPMENT

Individual Board members are expected to be familiar with state school laws, regulations of the State Department of Public Instruction, and current district policies, rules, and regulations. Each Board member shall undergo at least 12 hours of training each year relevant to the duties of the Board of Education. The Superintendent shall assist Board members in attending training and shall assist Board members in keeping track of their compliance with this policy. All expenses of such training shall be reimbursed.

Comparisons

Durham County

“I put \$20,000 in our travel/training line item for my Board and each member gets \$4,000. My Deputy prepares a monthly report that all board members receive which shows how much is left in each members’ account monthly and where the money was spent. Other than that, the Board follows the County’s travel policy as far as per diem for travel and meals. Although they are permitted to make their own reservations and get reimbursed, my Deputy normally handles travel arrangements and uses his Procurement card. None of the board members have procurement cards. There is no limit on the number of conferences etc. (as long as there is money). I try to encourage them to make choices. There are yearly state and national conferences they usually prefer to attend as well as regional workshops that may come up during the year. As far as other benefits, each commissioner has an iPad, laptop, receives local travel allowance, and technology allowance. We do provide designated parking spaces for each commissioner.

- We provide health insurance benefits for commissioners
- Commissioners receive \$3,000 in travel allowance for local travel
- Currently, the Commissioners receive an annual salary of \$21,494 and the Chair receives \$25,303.”

City of Durham

The Mayor and Council have a travel and miscellaneous expense allowance to pay for expenses incurred for travel/conferences, accommodations, meals, publications. Council members get a monthly car allowance of \$200. As a council member, each can get health, dental and vision according to our benefit plan. Travel for Mayor and Council Members.

They are provided a parking space at City Hall, which is budgeted. Each member of council is provided an iPad; if they choose they can have a city cell phone or cell phone allowance of \$30.00 per month. Also, if they choose they can have a city fax machine installed at their home.

Travel for Mayor and Council Members Mayor Bell - \$1,400/yr; Mayor Tempore - \$7,000/yr; other Council members - \$5,000; all members provided with a parking pass which is budgeted. Also provided with an IPAD. If they choose, they can have a cell phone or a cell phone allowance (\$30/mo), and a fax machine installed in their home.

Wake Public Schools

The members of the Wake County Board of Education shall be reimbursed for the actual cost of expenses for all expenses incurred by them related to performance of their duties as members of the Wake County Board of Education.

A. Travel

1. All out-of-county travel on behalf of the Wake County Board of Education by an individual Board member shall receive prior approval by the Chair of the Board.
2. Request for reimbursement of out-of-county travel, including sufficient documentation and approved travel authorization form, shall be submitted to the Board Chair no later than forty-five (45) days after the expense has been incurred.
3. The travel expense reimbursement request shall be processed promptly and delivered to the Board member as soon as possible.

B. Advance

1. An advancement of funds not to exceed the estimated travel expense, with a limit of five hundred dollars (\$500), may be made to an individual Board member provided the Board member makes a written request to the Chair of the Board one month prior to the anticipated date of travel.
2. The advance will be forwarded to the Board member making the request no more than five (5) working days prior to the scheduled departure date.
3. The advance will be forwarded to the Board member making the request no more than five (5) working days prior to the scheduled departure date.

C. Reimbursement

1. Request for reimbursement of other expenses shall be submitted to the Board Chair in a timely manner with sufficient documentation.
2. Board members with prior approval by the Chair of the Board of Education may request reimbursement for expenses incurred while hosting guests of the school system. This will include those expenses incurred inside and outside of Wake County.
3. Reimbursement to a Board member sharing a room with his/her family shall be limited to the single occupancy rate and reimbursement for food charges shall be limited to those incurred by and for the Board member.

Procedures

Once a year, we have our secretary make a list of the major NCSBA and NSBA events with dates and estimated costs. We all then let the Secretary know which ones we plan to go to and she double checks that we are within budget. If someone wants to spend more than her budget, those of us who are under budget can offer to share. We then pass the plan at our meeting.

Guilford County Public Schools

Board Participation in Community Activities

The Guilford County Board of Education believes that it is essential to creating a sense of community that the Board attends certain community activities for which a fee is charged. To that end, the Board shall provide annually through the budgeting process a sum of money to be used by the Board for attendance at community non-profit or public events of significance. In order to be eligible for the community activity funds, the activity must promote community improvement in the areas of education, health and safety, cultural awareness and/or tolerance, and at least three Board members must commit to attend the function. The Chair and Vice Chair shall have final approval of all community activities funded by the Board.

Total Budget

Currently, our board chair has a budget of \$5,150 and board members have a budget of \$3,100 each for the fiscal year. Members are allowed to share funds with other members In budget: \$11,400 stipend per member. Board members also receive a laptop.

From budget: \$3,000 each member for travel

New Board Member Orientation

The Board of Education is responsible for providing orientation to new Board members in a timely manner. The Board chairperson, or his/her designee, with assistance from the Superintendent and senior staff will be responsible for providing orientation and appropriate information to all new Board members as soon as practical after the swearing in or Board appointment.

New Board members or members-elect shall be given the proper measure of courtesy, cooperation and accommodation by the Board and district staff. Every reasonable effort shall be made to assist the new member to become fully informed about the Board's functions, policies, procedures and current issues.

In the interim between appointment/election and actually assuming office, the new member will be invited to attend meetings and functions of the Board and is to receive all reports and communications that are public records as they are normally sent to Board members.

Chapel-Hill Carrboro Schools

Total Budget for Board Expenses

Budgeted \$ 65,000 total Board expenses

" I think we each get \$1,200 which doesn't go far. I think only one board member has gone to the national conference in the last few years." (M. Burroughs via email)

Revised 2012 Policy Code 2123.

Board Member Opportunities for Development

The quality of the Chapel Hill-Carrboro City Schools is improved through an informed and educated elected board of education. The expense of board development, including the associated travel, is an appropriate expense for the school system to incur. It is the responsibility of the board to provide new board members a thorough orientation to board policies, practices and duties. Each board member will fulfill the legal requirement to receive a minimum of 12 hours of training annually. All board members must receive a minimum of two hours of ethics education within 12 months after initial election or appointment to office and again within 12 months after each subsequent election or appointment to office. This education must address laws and principles that govern conflicts of interest and ethical standards for local governments officials. The superintendent shall maintain records verifying that each board member has participated in the required ethics education. The ethics education required under this paragraph may be counted towards the annual 12-hour training requirement. Unless otherwise approved by the Board, such training must be provided by the following entities: the school system, the NCSBA, the School of Government or the Department of Public Instruction. If a board member wishes to receive training credit or be reimbursed for attending training offered by another entity, he/she must obtain approval from the board or board chair. It is expected that an individual traveling on official business will exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business and expending personal funds. Board members shall be reimbursed for actual, documented expenses incurred while participating in board development activities. Reimbursement for alcoholic beverages or personal entertainment is strictly prohibited. Requests for reimbursement, including required receipts, will be submitted within thirty (30) days of incurring the expenses. All new board members will be provided funds to attend new board member orientation provided by NCSBA. In addition, a board member may be requested to attend a meeting to represent the Board or a meeting to which board members are invited. The board can decide that this cost is not charged against the board member's development allocation. The remaining funds available for board development will be divided equally among the board members. By September 30th of each year, the Board will approve a development plan for board members. Funds may be used for state or national conferences, NCSBA or other workshops, or for other Board approved meetings. Board members whose

terms expire in November of the current fiscal year, will not commit more than 50% of their allocation prior to December 1. A member may authorize the assignment of an unexpected portion of that member's travel expenses allotment to a pool that other board members can draw from upon approval of the board chair, who will notify board members of the additional funds. Board members who attend a major conference are expected to provide a report of the conference to fellow board members.

Procedures

Once a year, we have our secretary make a list of the major NCSBA and NSBA events with dates and estimated costs. We all then let the Secretary know which ones we plan to go to and she double checks that we are within budget. If someone wants to spend more than her budget, those of us who are under budget can offer to share. We then pass the plan at our meeting.

Board Orientation

See policy above

Orange County Schools

Board members are encouraged to participate in professional development activities designed for them. New board members will have the opportunity and new members will have the opportunity and will be encouraged to attend orientation programs for new board members sponsored by the state and national school board associations. It is the responsibility of the board to provide new board members with a thorough orientation to board policies, practices and duties. Each board member will fulfill the legal requirement - 12/hrs training annually. Funds budgeted annually and reimbursement made in accordance with law and board policy. 2004. Encouraged to attend orientation programs for new board members.

Budget

Went from \$50,000 to \$90,000 this year for total

BOARD OF EDUCATION PRC 890 (Salaries, Benefits, Contracted Services, Workshops, Travel and Supplies) Travel = 766.00/7 would = \$1,093 each ; workshops = \$16000; supplies \$8,500

Charlotte-Mecklenburg Schools

Policy Code: BID Board Members Compensation and Expenses

Members of the Board of Education shall be authorized compensation as provided by North Carolina law. Increases in compensation for Board members should not exceed the average percentage increases in Charlotte Mecklenburg Schools' teacher salaries for the same budget year.

Board members shall be reimbursed for expenses incurred while participating in activities related to the performance of their duties as members of the Board of Education and while attending

meetings related to board duties (as described in Policy [BIBA](#), Development Opportunities for Board Members), up to the amount authorized in the applicable year's budget. The yearly budget shall include a travel expense allotment for Board members that is sufficient to cover costs incurred by members in attending the annual meeting of the National School Boards Association and certain meetings of the North Carolina School Boards Association

A member may authorize the assignment of an unexpended portion of that member's travel expense allotment to the travel expense allotment of another Board member.

Date of Adoption: 10/24/67

Revised: 12/11/84, 8/14/01

Legal Reference: Chapter 235, Session Laws of 1981, [N.C.G.S 115C-38](#), [153A-92](#)

Previous CMS Policy #: 8230

Budget for travel

Board chair has a budget of \$5,150 and board members have a budget of \$3,100 each for the fiscal year. Members are allowed to share funds with other members. Before I joined the board the budget was \$10,250 (chair) and \$4,100 for members. (E. Ellis-Stewart via email)

Procedures

TIME		DEPARTED (City of departure)	BREAKFAST (include tax) MAX	LUNCH (include tax) \$15.00 MAX	DINNER (include tax) MAX \$16.00 (include \$2.00 cut of STATE)	BUSINESS MEALS OR GROUP FUNCTIONS* (Phone for name and purpose)	HOTEL (List amount only) * If alternate location (List name)	PLANE, TRAIN, RENTAL CAR (attach contract)	AUTOMOBILE		OTHER* (Business Calls, Parking, Registration (attach copy of brochure), etc)	TOTAL
DATE 2014 (List month and day)	RETURNED (City of return)								# MILES	\$ AMOUNT (\$ per mile)		
											EXPENSE RECAP:	
											TOTAL EXPENSES:	
											MADE	
											ADVANCE:	
											OUR TRAVELER:	
											OUR OWN:	
											Classification - City, State	
Explain items marked (*) and any unusual items that may be questioned.								Nature or Purpose of Travel:				
Please attach receipts for all expenses.												

**Durham Public Schools
Board of Education Budget
FY 2013-14**

Description	Amount
Contracted Services	\$6,300.00
Workshop Expense	\$24,425.00
Printing and Binding	\$1,643.00
Travel - Non Workshop	\$108.00
Postage	\$50.00
Mobile Communication	\$2,067.00
Board of Education - Membership	\$84,800.00
Supplies and Materials	\$3,890.00
Other Food Purchases	\$7,753.00
Legal Fees	\$404,350.00
Workshop Expense	\$2,010.00
Equipment Rentals	\$2,795.00
Audit Contracted Services	\$74,500.00
Total	\$614,691.00



Date: May 8, 2014

Durham Public Schools SUPPORT SERVICES COMMITTEE PRECIS

Agenda Item: Revised Policy 4131 - *Program Magnet Schools* – First Reading

Staff Liaison Present: Donna Hudson
Margaret Henderson

Phone #: 560-2059
560-2617

Main Points:

- Revision of Board Policy 4131.2.G *Assignment Priorities* is presented for the Board’s consideration to support late assignments to Josephine Dobbs Early College for students who enroll in Durham Public Schools from another Early College Program.
- Revision of Board Policy 4131.2.H *Assignment Priorities* is presented for the Board’s consideration to support late assignments to program magnet schools if the lottery applicant pool has been exhausted for the respective assignment year, and the school remains under enrolled by more than 10% of its enrollment capacity. (Refer to Attachment 1).
- Administration presents these policy revisions for discussion and subsequent Board approval.

Fiscal Implications:

- None

Strategic Plan Alignment:

- Goal 3 - Ensure efficient and effective business systems operations.

<u>Purpose</u>	
Information <input type="checkbox"/>	Discussion <input checked="" type="checkbox"/>
Reviewed by:	<input type="checkbox"/> Finance <input checked="" type="checkbox"/> Attorney <u>SGR</u>

4131 - PROGRAM MAGNET SCHOOLS

The Board of Education is committed to the following guiding purposes for magnet schools; to utilize school facilities effectively, promote school diversity, provide diverse and relevant program offerings throughout the district that meet student interest and provide expanded learning opportunities.

The purpose of this policy is to clarify assignments to program magnet schools.

4131.1 Assignment to Program Magnet Schools

A. Applications must be submitted by the published deadline, and there must be space available at the grade level requested. Once a student is enrolled in a program magnet school, the student will be eligible for continued enrollment for the duration of grades, as long as their enrollment is continuous. A student who withdraws loses eligibility for continued enrollment.

B. Except as listed below, students will be assigned to a program magnet through an application and lottery process that first takes into account any sibling, priority zone, and program links established by the Board of Education, and then randomly assigns students from the applicant pool to the remaining seats.

C. Defined Assignment Zones:

1. Walk Zone (Non-Lottery): An assignment that allows automatic enrollment for students domiciled (permanently residing) within the designated one-half mile safe walking distance of the school.
2. Attendance Zone (Non-Lottery): An assignment that allows automatic enrollment for students domiciled (permanently residing) in that designated zone.
3. Designated Choice Zone (Lottery): An assignment priority that gives applicants domiciled (permanently residing) in the designated zone first consideration in the lottery.
4. Priority Zone (Lottery): An assignment priority that gives applicants domiciled (permanently residing) in the designated zone second consideration in the lottery.
5. Program Link (Lottery): An assignment priority that gives rising 6th grade applicants and rising 9th grade applicants first consideration in the lottery, to which they are linked, if the applicant selects the linked school as their first choice on the application.

D. Students who are domiciled (permanently residing) in the attendance zone for W. G. Pearson Magnet Elementary School will be assigned to the school automatically. Students who are domiciled in the one-half mile walk zone for Burton Magnet Elementary School, Club Boulevard Magnet Elementary School and R.N. Harris Magnet Elementary School will be assigned to their respective schools automatically. Once a student is enrolled at that school, the student will be eligible for continued enrollment, as long as the student is domiciled in the school walk zone. Relocating outside the school walk zone will result in loss of assignment pursuant to Policy 4130.1 Change of Residence During the School Year.

E. Students will be assigned to available seats at George Watts Magnet and Morehead Magnet Montessori Schools in the following order of priority:

1. Applicants who are siblings of students currently enrolled in their respective schools.
2. Applicants who are domiciled in the designated priority zone.
3. Applicants who are applying to the same program magnet school at the same time may be considered together. If one is chosen, the other sibling(s) will receive priority if space is

available. However, if space is not available, but parents choose to link siblings, none of the siblings will be assigned at this priority level.

4. Applicants assigned from the remaining applicant pool.

F. Students will be assigned to available seats at Sandy Ridge Elementary in the following order of priority:

1. Applicants who are domiciled in the priority zone will receive first consideration for assignment.
2. Applicants who are domiciled in the attendance zones of the priority schools (Easley, Eno Valley, Glenn, Hillandale, Holt, Little River and Mangum) will receive second consideration for assignment.
3. Applicants who are domiciled outside the attendance zones of the priority schools will receive third consideration for assignment.
4. Only applicants who are domiciled in the attendance zones of the priority schools, Easley, Eno Valley, Glenn, Hillandale, Holt, Little River and Mangum attendance zones will receive transportation services.

G. Students of full-time, part-time or itinerant school employees may apply for a transfer to the program magnet school in which their parent is employed following Policy 4132 - Student Transfers.

H. All applications to program magnet schools must be made in accordance with this policy. The Superintendent or designee shall not have authority to grant any transfers to a program magnet school made pursuant to Policy 4132 - Student Transfers.

4131.2 Assignment Priorities

A. Siblings of students assigned to an elementary program magnet will receive a sibling priority through the application/lottery process. The applicant must indicate the sibling information on the magnet application.

B. Siblings of those students in membership at Durham School of the Arts, Shepard Magnet Middle, Lakewood Montessori Magnet Middle, Hillside International Baccalaureate Magnet (IB), Neal Magnet Middle, Lowes Grove Magnet Middle and Southern School of Energy and Sustainability are not eligible for an assignment priority.

C. Rising sixth graders from Burton Magnet Elementary School will be assigned to Shepard Middle Magnet School if a magnet application is submitted listing Shepard as first choice.

D. Rising ninth graders from Shepard Magnet Middle School will be assigned to the International Baccalaureate magnet program at Hillside High School if a magnet application is submitted listing Hillside IB as first choice.

E. Rising sixth graders from George Watts Montessori and Morehead Montessori Magnet Elementary Schools will be assigned to Lakewood Montessori Magnet Middle School provided they submit a magnet application listing Lakewood Montessori Magnet Middle School as their first choice.

F. Students who relocate to Durham and were previously enrolled in an International Baccalaureate (IB) Program will receive consideration as a late applicant/assignment into an IB program in Durham Public Schools.

G. Students who relocate to Durham and were previously enrolled in an Early College Program will receive consideration as a late applicant/assignment into the Josephine Dobbs Clements Early College program.

H. Students who relocate to Durham after the published lottery application deadline may be considered as a late applicant/assignment into a program magnet school if the applicant pool has been exhausted for the assignment year and the school is under enrolled by more than 10% of its enrollment capacity.

I.G. Please refer to Policy 4133 - Calendar Magnet Schools regarding assignment priorities for Holt Language Academy (elementary) and The School for Creative Studies (secondary). Both schools are identified as a program and calendar magnet, but students are assigned by the calendar magnet assignment priorities.

Legal Reference: G.S. 115C-366

Adopted Effective: July 2, 1992

Revised Effective: November 13, 1997

Revised Effective: July 1, 1999

Revised Effective: May 18, 2006

Revised Effective: January 25, 2007

Revised Effective: October 22, 2009

Revised Effective: April 29, 2010

Revised Effective: January 27, 2011

Revised Effective: June 23, 2011

Revised Effective: December 20, 2012

Program Magnet Schools Capacity and Projected Enrollment for 2014-15

School	Projected Enrollment	Building Capacity	Difference in Projected Enrollment – Building Capacity	%
Burton IB	380	376	+4	101%
Club	531	492	+39	108%
R.N. Harris	376	376	0	100%
Morehead Montessori	262	262	0	100%
Sandy Ridge	615	628	-13	98%
W.G. Pearson	586	586	0	100%
Watts Montessori	398	398	0	100%
Durham School of the Arts	1630	1630	0	100%
Lakewood Montessori	300	300	0	100%
Lowes Grove STEM	710	774	-64	92%
Neal STEM	815	810	0	100%
Shepard IB	542	546	0	100%
City of Medicine Academy	320	320	0	100%
Hillside High (with IB)	1170	1135	+35	103%
Hillside New Tech	326	400	-74	82%
JDC Early College	350	350	0	100%
Southern School of Energy & Sustainability (includes SSE)	1239	1540	-301	81%



One Vision. One Durham.

Date: May 8, 2014

Durham Public Schools Instructional Services Committee PRECIS

Agenda Items: Wellness Program Update

Staff Liaison Present: Julie Spencer, Ed.D. Phone #: 919-560-9498
Kate Turner 919-560-2898

Main Points:

- Administration presents the annual update on School Wellness Programs.
- Administration presents this agenda item to the Board for information.

Fiscal Implications:

- These efforts are supported through federal, state, and local funds.

Strategic Plan Alignment:

- **Goal IV.4** – Improve the nutritional value of food offerings provided to students and staff.
- **Goal VI.3.5** – Ensure every school has a functioning Wellness Committee that ensures compliance and participation in partnership with Student Health Advisory Committee (SHAC).

Purpose

Information

Discussion

Reviewed by: **Finance** _____ **Attorney** _____

2013-14 School Wellness Update

May 8, 2014

Dr. Julie Spencer

Area Superintendent for Middle Schools

Kate Turner, MPH

Wellness Coordinator

Wellness Policy: Focal Areas 2013-14

- Increasing Wellness Policy Compliance
- Vending Machine Compliance
- Student Health Advisory Council (SHAC)
 - Mental Health Focus
- Child Nutrition Services
- Employee Wellness

Wellness Accomplishments

- Increased School Wellness Plan Compliance
- Enhanced Child Nutrition Services
- Physical Activity Initiative – *Move, Groove, and Thrive*
 - Employees
 - Students
 - City and County Government Participation

School Wellness Recognition

Alliance Healthy School Program

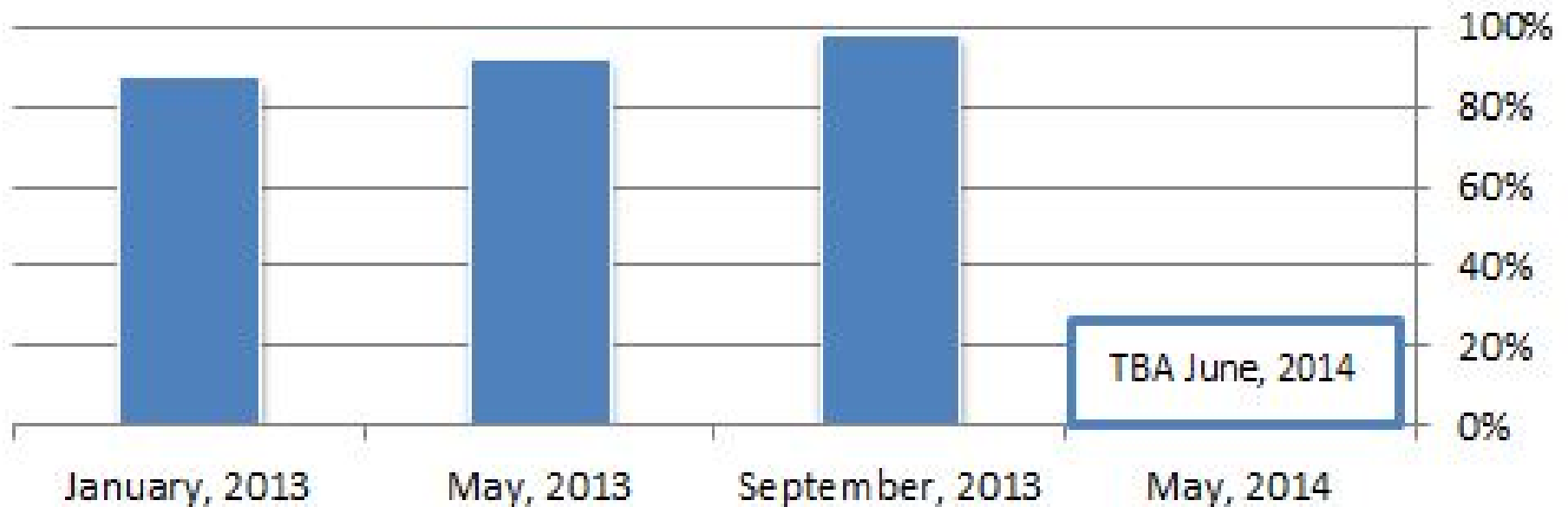
- 23 schools applying for awards
 - 19 Bronze and 4 Silver
- 8 incumbent Bronze award winning schools (2012-13 school year)

School Wellness Plan Process

- Wellness Champion Trainings
- Wellness Plan Submission
- Wellness Plan Assessment
- Wellness Plan Review with Wellness Champion
- Year-End Wellness Plan Report

School Wellness Plan Compliance

District-wide Wellness Policy Compliance



Partnerships

- Alliance Healthy School Program
- Durham Health Department (DINE for Life)
- Cooperative Extension (Expanded Food and Nutrition Education Program)
- The Hub Farm
- Playworks
- Student Health Advisory Council (SHAC)

Wellness Focus Areas for 2014-2015

- *Move, Groove, Thrive, and Achieve*
- Increased buy-in to the policy
- Deepening policy compliance at the school level
- Mental Health

Discussion

Child Nutrition Services Universal Free Breakfast

Child Nutrition Services (CNS) conducted a pilot program to determine if a Universal Free Breakfast Program could be sustained financially. The pilot included twenty-two (22) schools. Eleven (11) elementary schools, three (3) middle schools, two (2) secondary schools and six (6) high schools participated in the pilot. These schools were selected to include high levels of free and reduced students as well as low levels of free and reduced students.

Collectively, these pilot schools served an additional 64,971 breakfast meals from the start of school until March 31, 2014 in comparison to the same period last year. The increase in reimbursement exceeded the loss of student revenue by a total of \$7,001.57 year to date. The pilot has demonstrated that a Universal Free Breakfast Program can be maintained financially.

The Universal Free Breakfast Program allows that all students will be able to eat free regardless of meal status, thereby reducing the stigma associated with the breakfast program. Nationally, data shows that schools with Universal Free Breakfast Programs recognize higher test scores, reduced disciplinary actions and more focused students. In addition, no students will accrue negative balances for breakfast meals. A Universal Free Breakfast Program would provide tremendous goodwill in the community.

CNS recommends that all schools be provided with Universal Free Breakfast Programs for the 2014-2015 school year.



Date: May 8, 2014

Durham Public Schools ADMINSTRATIVE SERVICES COMMITTEE PRECIS

Agenda Item: E-Rate Applications for 2014-15

Staff Liaison Present: Hugh Osteen
Scott Denton
Elaine Batten

Phone # 560-3831
560-3822
560-2180

Main Points:

- Applications have been prepared for qualified expenses for the 2014-15 school year.
- These efforts are supported through federal (E-Rate) and Durham Public School funds. The maximum district match will be 22% of the E-Rate grant request/award. Some grants will mean that the district match will be 10% of the grant request/award.

Administration submits these applications for discussion and subsequent approval.

Fiscal Implications:

- These E-Rate applications will provide key services at a great discount.

Strategic Plan Alignment:

Goal IV.1 Strategy 1- Develop sustainable budget/financing options to support technology upgrade as part of the annual and long-range budgets.

Purpose

Information **Discussion** **Action** **Consent**

Reviewed by: **Finance** Aaron Beaulieu **Attorney** Benita Jones

Information Technology

Executive Summary for 2014-15 E-Rate Contracts

E-Rate is a federal government program that reimburses school districts for expenses associated with providing internet services to our schools. Funding is dependent upon availability and is based on a priority services as follows:

Priority One Services

- Maintain communication services for the District (cellular, local and long distance service for the District)
- New District website services
- Increased Internet Access for all schools

There is a high likelihood that these services will be funded for the 2014/2015 school year. Contracts for Priority One services include:

1. **Time Warner Cable** provides Wide Area Network (WAN) services throughout the district.

Total Contract Cost:	\$719,580
Projected E-Rate Reimbursement:	\$561,272 (78% Discount Rate)
Estimated Cost to DPS	\$158,308

2. **Edline LLC** d/b/a Blackboard will provide web hosting for the DPS district website.

Total Contract Cost:	\$58,872
Projected E-Rate Reimbursement:	\$45,920 (78% Discount Rate)
Estimated Cost to DPS	\$12,952

Priority Two Services (for the neediest schools as determined by free and reduced lunch count):

- Technical and maintenance support for the District network and video components
- Additional wireless connectivity in the classrooms and common learning areas
- Additional infrastructure of cabling and network components

There is a very low likelihood that these services will be funded for the 2014/2015 school year. However, contracts must be submitted to be eligible for funding. Contracts for Priority Two services include:

3. **IntelliNet** for 90 percent E-Rate eligible schools for basic maintenance of network components for schools in most need.

Total Contract Cost: \$595,000
 Projected E-Rate Reimbursement: \$535,500 (90% Discount Rate)
 Estimated Cost to DPS \$ 59,500

4. **IntelliNet** for 80 percent E-Rate eligible schools for basic maintenance of network components for schools in most need.

Total Contract Cost: \$714,000
 Projected E-Rate Reimbursement: \$ 0 (80% Discount Rate)
 Estimated Cost to DPS \$414,000 (DPS will reduce \$300k from contract cost)

5. **ConnectView LLC** for 90 percent E-Rate eligible schools for a “Not to Exceed” \$65,025 for technical support of our video environment (vBrick).

Total Contract Cost: \$65,025
 Projected E-Rate Reimbursement: \$ 0 (90% Discount Rate)
 Estimated Cost to DPS \$65,025

6. **CNIC, Inc.** for 90 percent E-Rate eligible schools for a “Not to Exceed” \$261,214 for cabling services for the schools in most need.

Total Contract Cost: \$261,214
 Projected E-Rate Reimbursement: \$ 0 (90% Discount Rate)
 Estimated Cost to DPS \$ 0 (Work will not be performed unless P2 approved)

7. **Presidio Networked Solutions** for 90 percent E-Rate eligible schools for a “Not to Exceed” amount of \$371,717.69 for network components and wireless access hardware for schools in most need. DPS is budgeting \$37,171 for refreshing wireless and network equipment, but will not engage any services unless USAC approves Priority 2 this year.

Total Contract Cost: \$371,717
 Projected E-Rate Reimbursement: \$ 0 (90% Discount Rate)
 Estimated Cost to DPS 0 (Work will not be performed unless P2 approved.)

Note: Contracts must be submitted for approval based on E-Rate scheduling guidelines; funds are reimbursed once contracts are approved and decisions are made regarding available funds.

Time Warner Cable Business Class Optical Access Service Agreement Cover Sheet

This Business Class Optical Access Service Agreement is made by and between Time Warner Cable, Raleigh Division ("TWC") and the Customer below ("Customer"). Contract #02577080

Customer: Durham Public School		Contact: Stephen Brown
Address: 511 Cleveland St.		
City: Durham	State: NC	Zip: 27701
Telephone #: 919-560-2675	Fax #: _____	E-mail: Stephen.brown@dpsnc.net

TWC:		Contact: Ken Bearden
Address: 101 Innovation Ave		
City: Morrisville	State: NC	Zip: 27560
Telephone #: 919-654-7647	Fax #: 704-945-5779	E-mail: kenneth.bearden@twcable.com

Services: Subject to the terms and conditions of this Agreement, TWC shall provide Customer with a dedicated fiber optic network as detailed in Exhibit A. Customer must purchase any additional capacity separately.

Monthly Recurring Fees: \$59,965.00

Installation Charges: \$0.00

The fees set forth above do not include applicable taxes and other similar charges (as described more fully in the Time Warner Cable Business Class Optical Access Service Agreement Terms and Conditions) which may be part of the fee charged by TWC hereunder and which shall be the responsibility of the Customer as set forth in this Agreement.

Initial Term of Service: 36 [months] from July 1, 2014 through June 30, 2017

THIS BUSINESS CLASS OPTICAL ACCESS SERVICE AGREEMENT SHALL AT ALL TIMES BE SUBJECT TO THE TERMS AND CONDITIONS, LOCATED AT help.twcable.com/html/policies.html (AS SUCH AGREEMENT MAY BE MODIFIED FROM TIME TO TIME AS SPECIFIED THEREIN), WHICH TERMS AND CONDITIONS ARE HEREBY INCORPORATED HEREIN BY REFERENCE AND MADE A PART OF THIS AGREEMENT FOR ALL PURPOSES. BY EXECUTING THIS AGREEMENT, CUSTOMER ACKNOWLEDGES THAT CUSTOMER HAS READ AND AGREES TO BE BOUND BY SUCH TERMS AND CONDITIONS.

CUSTOMER:

By: _____

Name: _____

Title: _____

Date: _____

TIME WARNER CABLE

By: _____

Name: _____

Title: _____

Date: _____

Exhibit A

	Site	Address	BW	MRC
1	Bethesda Elementary	2009 S. Miami Blvd	100Mb	\$850
2	Brogden Middle School	1001 Leon St	100Mb	\$850
3	Burton Elementary	1500 Mathison St	100Mb	\$850
4	C.C. Spaulding Elementary	1531 S Roxboro Rd	100Mb	\$850
5	Carrington Middle School	227 Milton Rd	300Mb	\$1,250
6	Schools for Creative Studies	5001 Red Mill Rd	300Mb	\$1,250
7	Club Blvd Elementary	400 W Club Blvd	100Mb	\$850
8	Creekside Elementary	5321 Ephesus Church Rd	100Mb	\$850
9	Fuller Building (BOE)	511 Cleveland St	300Mb	\$1,250
10	Maintenance Center	2011 Hamlin Rd	300Mb	\$1,250
11	Bacon St. (Durham County CSFB)	808 Bacon St	100Mb	\$850
12	Durham School of the Arts	400 N Duke St	300Mb	\$1,250
13	E.K. Powe Elementary	913 E 9 th St	100Mb	\$850
14	Easley Elementary	302 Lebanon Cr	100Mb	\$850
15	Eastway Elementary	610 Alston Ave	100Mb	\$850
16	Eno Valley Elementary	117 Milton Rd	100Mb	\$850
17	Fayetteville St. Elementary	2905 Fayetteville St.	100Mb	\$850
18	Forest View Elementary	3007 Mount Sinai Rd	100Mb	\$850
19	George Watts Elementary	700 Watts St	100Mb	\$850
20	Githens Middle School	4800 Chapel Hill Rd	100Mb	\$850
21	Glen Elementary	2415 E Geer St.	150Mb	\$1,125
22	Hillandale Elementary	2730 Hillandale Rd	100Mb	\$850
23	Holt Elementary	4019 Holt School Rd	100Mb	\$850
24	Hope Valley Elementary	3005 Dixon Rd	100Mb	\$850
25	J.D. Clement Early College HS	1801 Fayetteville St	100Mb	\$850
26	Jordan High School	6806 Garrett Rd	300Mb	\$1,250
27	Lakeview School	3507 Dearborn Dr	100Mb	\$850
28	Lakewood Elementary	2520 Vesson Ave	100Mb	\$850
29	Little River Elementary	2315 Snow Hill Dr	100Mb	\$850
30	Lowes Grove Middle School	4418 S Alston Ave	200Mb	\$1,200
31	Mangum Elementary	9008 Quail Roost Rd	100Mb	\$850
32	Merrick-Moore Elementary	2325 Cheek Rd	100Mb	\$850
33	Morehead Elementary	909 Cobb St	100Mb	\$850
34	Neal Middle School	201 Baptist Rd	300Mb	\$1,250
35	Northern High School	117 Tom Wilkinson Rd	300Mb	\$1,250
36	Oak Grove Elementary	3810 Wake Forest Rd	200Mb	\$1,200
37	Parkwood Elementary	5207 Revere Rd	100Mb	\$850
38	Pearsontown Elementary	4915 Barbee Rd	100Mb	\$850

39	R.N. Harris Elementary	1520 Cooper St	100Mb	\$850
40	Riverside High School	3218 Rose of Sharon Rd	300Mb	\$1,250
41	Rogers-Herr Middle School	911 Cornwallis Rd	150Mb	\$1,125
42	Shepard Middle School	2401 Dakota St	150Mb	\$1,125
43	Southern School of Energy and Sustainability	800 Clayton Rd	300Mb	\$1,250
44	Southwest Elementary	2320 Cook Rd	100Mb	\$850
45	Staff Development Center	2107 Hillandale Rd	300Mb	\$1,250
46	W. G. Pearson Elementary	600 E Umstead St	200Mb	\$1,200
47	W. G. Pearson Middle School	600 E Umstead St	100Mb	\$850
48	Y. E. Smith Elementary	2410 E. Main St	100Mb	\$850
49	Spring Valley Elementary	2051 N Durham Parkway	150Mb	\$1,125
50	Hamlin Rd Technology Dept	1817 Hamlin Rd	300Mb	\$1,250
51	City of Medicine Academy	301 Crutfield St	300Mb	\$1,250
52	Sandy Ridge Elementary	1417 Old Oxford Rd	100Mb	\$850
53	Hillside High School	3727 Fayetteville St	300Mb	\$1,250
54	Holton Career & Resource Center	401 N Drive St	150Mb	\$1,125
55	Lakewood Montessori Middle	2119 Chapel Hill Rd	100Mb	\$850
56	Durham Regional Hospital	3643 N Roxboro St	5Mb	\$395
57	Durham County Home	2432 Broad St	5Mb	\$395
58	Lucas Middle School	923 Snow Hill Rd	300Mb	\$1,250
59	Technology Data Center	3021 E. Cornwallis Rd	2G	\$3,150
			Total Monthly	\$59,965.00

Time Warner Cable Business Class Terms and Conditions

1.0 AGREEMENT.

These Time Warner Cable Business Class Terms and Conditions ("**Terms and Conditions**"), and any Time Warner Cable Business Class Service Orders (as described in Section 2.2 below) are hereby incorporated into the Time Warner Cable Business Class National Service Agreement or the Time Warner Cable Business Class Service Agreement, as the case may be, ("**Service Agreement**") and constitute the "**Master Agreement**" by and between Customer and TWC (collectively, the "**Parties**" or each individually a "**Party**") for the services specified on Service Orders ("**Services**"). The attachments to these Terms and Conditions ("**Attachments**") further describe TWC's services and are hereby incorporated into, and made a part of, these Terms and Conditions by this reference. The Attachments set forth additional terms and conditions for the applicable Service. "**TWC**" means the Time Warner Cable Inc.-affiliated entity that is providing the Services.

2.0 SERVICES AND SERVICE ORDERS.

2.1 Subject to the terms and conditions of the Master Agreement, TWC shall provide Customer with the Services in accordance with any Service Order entered into by the Parties. Customer understands and agrees that certain Services may not be available in all TWC service areas and that TWC, upon entering into a Service Order with Customer may, at TWC's discretion, utilize one or more of its affiliates or third parties to deliver the Services ("**Third Party Services**"). The Third Party Services may be subject to additional terms and conditions. Unless otherwise set forth, TWC shall use commercially reasonable efforts to provide the Services seven (7) days a week, twenty four (24) hours a day, excluding scheduled maintenance, required repair and events beyond TWC's reasonable control.

2.2 Customer shall request Services by issuing to TWC one or more proposed service and/or work order(s) (in the form provided or approved by TWC) or via a mutually agreed electronic order entry system. Upon TWC's acceptance of a proposed service and/or work order(s), such proposed service and/or work order(s), shall be deemed a "**Service Order**" hereunder and shall be deemed incorporated into, and made a part of, the Master Agreement by this reference. A proposed service and/or work order shall be deemed accepted upon the earlier of (a) TWC's acceptance of such proposed service and/or work order in writing; or (b) TWC's commencement of delivery of the Service(s) set forth in such proposed service and/or work order.

3.0 SERVICE & EQUIPMENT INSTALLATION.

3.1 Customer shall obtain and maintain, or ensure that each Customer employee or branch office which uses the Service (each, an "**End User**"), shall obtain and maintain throughout the Term, such consents (including without limitation landlord and land owner consents) as are necessary to timely permit, and shall timely permit, TWC personnel to install, deliver, operate and maintain the Services and TWC Equipment (as defined in Section 4 below) at Customer's and any Customer End User's facilities. Customer shall permit TWC reasonable access to the Customer and any End User facilities at any time as

needed to install, configure, upgrade, maintain or remove the TWC Equipment and other Service components collocated at Customer's or an End User's facilities. Customer shall make and maintain throughout the Term all reasonable site preparations necessary to permit the installation, maintenance and operation of the Service and any TWC Equipment as specified by TWC and that is required to provide the Services. In addition, Customer shall provide TWC with floor space, rack space, other space and clean power as is reasonably necessary for the installation and operation of TWC Equipment at the Customer locations identified in a Service Order. Customer shall not charge TWC, and shall ensure that TWC does not incur, any fees or expenses whatsoever in connection with Customer's provision of space, power or access as described in these Terms and Conditions, or otherwise in connection with Customer's performance of its obligations pursuant to this Section 3; and any such fees or expenses charged by a Customer End User shall be borne solely by Customer.

3.2 Provided that Customer properly performs all necessary site preparation and provides TWC with all required consents, TWC shall use commercially reasonable efforts to install the Service in accordance with the requested Service start date indicated on a Service Order. TWC shall provide Customer with a completion notice ("**Completion Notice**") upon completion of the installation of a Service. In the event that TWC is unable to install the Service in accordance with the agreed upon schedule as a result of (a) Customer's (or its End User's) failure to deliver any required materials, support or information to TWC; or (b) TWC not being able to obtain access to equipment or software at the installation location as necessary for installation of the Service, then Customer shall pay TWC the standard installation fee as identified on the applicable Attachment hereto for any installation trip made by TWC and an additional installation fee for each subsequent trip necessitated to perform the Service installation. Customer shall perform interconnection of the Services and TWC Equipment with Customer's or an End User's equipment, unless otherwise set forth in an Attachment or agreed in writing between the Parties.

4.0 SUPPORT & MAINTENANCE.

TWC shall use commercially reasonable efforts to maintain the TWC-provided and installed equipment, including as applicable, any cabling, cable modems, related splitters, routers or other items (collectively, "**TWC Equipment**"), on TWC's side of the demarcation points used by TWC to provide the Service. Equipment and services on Customer's side of the demarcation points, as well as any other Customer-provided equipment, are the responsibility of Customer. TWC shall provide a telephone number and email address for inquiries and remote problem support for the Service. All such Customer support shall be provided only to Customer's designated personnel, as mutually agreed upon by TWC and Customer. Customer is responsible for all communications and interfaces with its End Users. In no event shall TWC be responsible for providing support for any network, equipment or software not provided and installed by TWC or for issues or problems beyond its control. Notwithstanding anything to the contrary in the foregoing, TWC shall use commercially reasonable efforts to restore any cable cuts on the TWC network and shall keep Customer reasonably advised of such restoration progress. Customer shall provide routine operational Service support for TWC Equipment and Service components collocated at Customer's or an End User's facility, including without limitation by performing reboots, as requested by TWC.

5.0 CUSTOMER OBLIGATIONS.

5.1 Customer's use of the Service (including all content transmitted via the Service) shall comply with all applicable laws and regulations and the terms of the Master Agreement. Customer shall not resell or redistribute (whether for a fee or otherwise) the Service, or any portion thereof, or make any use of the Service other than for Customer's internal business purposes, unless otherwise agreed in writing by TWC. Customer shall ensure that its End Users' use of the Service, if any, shall comply with all applicable laws and regulations and terms of the Master Agreement. TWC may audit Customer's use of the Service remotely or otherwise, to ensure Customer's compliance with the Master Agreement.

5.2 Customer shall ensure that all TWC Equipment at Customer's and Customer's End Users' facilities remains free and clear of all liens and encumbrances, and Customer shall be responsible for loss or damage to the TWC Equipment while at Customer's or an End User's facilities. As between the Parties, Customer is solely responsible for: (a) all use (whether or not authorized) of the Service by Customer, an End User or any person or entity, which use shall be deemed Customer's use for purposes of the Master Agreement; (b) all content that is viewed, stored or transmitted via the Service; and (c) all third party charges incurred for merchandise and services accessed via the Service, if any. Customer shall conform its equipment and software, and ensure that each End User conforms its equipment and software, to the technical specifications for the Service provided by TWC.

6.0 TERM.

The Master Agreement shall commence on the earlier to occur of (a) the date of the last signature on the Service Agreement (the "**Effective Date**") or (b) TWC's commencement of delivery of the Service(s) set forth in a Service Order, and shall remain in effect for the term specified in the Service Agreement, or if no term is specified, until the expiration or termination of all Service Orders (the "**Term**"). The term for the applicable Service shall be set forth in the Service Order ("**Initial Order Term**") and shall remain in effect until expiration as set forth in the Service Order. Unless otherwise specified in the Service Agreement, if the Customer continues to receive Services after the expiration of the Initial Order Term, the Services shall renew on a month to month basis on the same terms and conditions ("**Renewal Order Term**", collectively with Initial Order Term, "Order Term"). The fees for the Renewal Order Term shall be as set forth in Section 7.

7.0 PAYMENT.

For each Service, Customer shall pay TWC all recurring and non-recurring charges, fees and taxes, (which may include Service installation and activation charges, measured and usage-based charges, local, long distance, directory assistance and operator services calling charges, and equipment and facilities charges) (collectively the "**Service Charges**") as set forth on the Service Order in accordance with the following payment terms: Service Charges shall be billed to Customer on a monthly basis commencing upon Service installation, and are payable within thirty (30) days after the date appearing on the invoice. Customer must bring any billing error to TWC's attention within thirty (30) days after the date appearing on the applicable invoice or Customer waives its right to a refund or credit associated with such billing error. TWC shall not defer any charges while Customer awaits reimbursement, subsidy, discount or credit from any third party or government entity, and Customer shall have the obligation to pay all charges regardless of the status of any such

reimbursement, subsidy, discount or credit. TWC shall have the right to increase Service Charges for each Service after the Initial Order Term for such Service upon thirty (30) days written notice to Customer. TWC may charge a late fee for any amounts which are not paid when due. The late fee shall be the lesser of one and one-half percent (1.5%) per month or the highest rate chargeable by law. Customer shall also be responsible for all costs of collection (including reasonable attorneys' fees) to collect overdue amounts. If TWC fails to present a charge in a timely manner, such failure shall not constitute a waiver of the charges for the fees to which it relates, and Customer shall pay such invoice in accordance with these payment terms.

8.0 TAXES.

8.1 Customer shall pay all federal, state, and local taxes, government fees, charges, surcharges or similar exactions imposed on the Services and/or products that are the subject of the Master Agreement including but not limited to state and local sales and use taxes, telecommunications taxes, federal and state universal service fund fees and/or state and local regulatory fees to the extent applicable. TWC shall have the right to recover from Customer, and Customer shall pay, the amount of any state or local fees, charges or taxes arising as a result of the Master Agreement that are imposed on TWC or TWC's Services, or measured on TWC's receipts, and any other costs or expenses that TWC is entitled under applicable law to pass through to or otherwise charge Customer for Customer's use or receipt of the Services. Such fees or taxes shall be invoiced to Customer in the form of a surcharge included on Customer's invoice. TWC shall be responsible for and shall pay all taxes measured by TWC's net income. To the extent that a dispute arises as to which Party is liable for fees or taxes under the Master Agreement, Customer shall bear the burden of proof in showing that the fee or tax is imposed upon TWC's net income. This burden may be satisfied by Customer producing written documentation from the jurisdiction imposing the fee or tax indicating that the fee or tax is based on TWC's net income. Customer shall provide TWC any and all documentation substantiating a claim for exemption from taxes or fees prior to the date that Services are first provided under the Master Agreement. To the extent such documentation is held invalid for any reason, Customer shall reimburse TWC for any tax or fee liability including without limitation related interest and penalties arising from such invalid documentation.

8.2 Customer acknowledges that currently, and from time to time, there is uncertainty about the regulatory classification and/or treatment of some of the Services TWC provides and, consequently, uncertainty about what fees, taxes and surcharges are due from TWC and/or its customers. Customer agrees that TWC has the right to determine, in its sole discretion, what fees, taxes and surcharges are due and to collect and remit them to the relevant governmental authorities, and/or to pay and pass them through to Customer. Customer hereby waives any claims it may have regarding TWC's collection or remittance of such fees, taxes and surcharges. Customer understands that it may obtain a list of the fees, taxes and surcharges that TWC currently collects or passes through by writing to TWC at the following address and requesting same: Time Warner Cable, 7800 Crescent Executive Drive, Charlotte, North Carolina, 28217; Attention: Subscriber Tax Inquiries.

9.0 PROPRIETARY RIGHTS AND CONFIDENTIALITY.

9.1 All materials including, but not limited to, any TWC Equipment (including related firmware), software, data and information provided by TWC, any identifiers or passwords used to access the Service or otherwise provided by TWC, and any know-how, methodologies or processes including, but not limited to, all copyrights, trademarks, patents, trade secrets, any other proprietary rights inherent therein and appurtenant thereto, used by TWC to provide the Service (collectively "**TWC Materials**") shall remain the sole and exclusive property of TWC or its suppliers. Nothing herein is intended to convey any right or ownership interest to Customer or any other person or entity in or to such TWC Materials. Customer shall acquire no interest in the TWC Materials by virtue of the payments provided for under the Master Agreement. Customer may use the TWC Materials solely for Customer's use of the Service during any applicable Order Term and the same may not be transferred by Customer to any other person, corporation or entity. Customer may not disassemble, decompile, reverse engineer, reproduce, modify or distribute the TWC Materials, in whole or in part, or use them for the benefit of any third party. All rights in the TWC Materials not expressly granted to Customer in the Master Agreement are reserved to TWC. Customer shall not open, alter, misuse, tamper with or remove the TWC Equipment as and where installed by TWC, and shall not remove any markings or labels from the TWC Equipment indicating TWC (or its suppliers) ownership or serial numbers.

9.2 Customer shall maintain in confidence, and not to disclose to third parties or use, except for such use as is expressly permitted in the Master Agreement, the TWC Materials and any other information and materials provided by TWC in connection with the Master Agreement, that are identified or marked as confidential or are otherwise reasonably understood to be confidential, including but not limited to the content of the Master Agreement.

9.3 If software is provided to Customer under the Master Agreement, TWC grants Customer a limited, non-exclusive and non-transferable license to use such software, in object code form only, solely for the purpose of using the Service for Customer's internal business purposes during the Term.

10.0 MONITORING, EQUIPMENT UPGRADES AND MODIFICATIONS.

TWC has the right, but not the obligation, to upgrade, modify and enhance the TWC Equipment (including related firmware) and the Service and take any action that TWC deems appropriate to protect the Service and its facilities. TWC has the right to add to, modify or delete any provision of the Service descriptions. TWC shall notify Customer of any material adverse change to the Service descriptions by posting such modified Service description on the TWC web site or by email, or, if applicable, in the appropriate TWC tariff. Upon the effectiveness of any addition, modification or deletion, Customer's continued use of the Services shall constitute Customer's consent to such addition, modification or deletion, and agreement to continue to be bound by the Master Agreement. In any event, if TWC modifies the Services and such modification has a material adverse impact on Customer's ability to use the Service, Customer may, within the thirty (30) day period following the date of such modification, terminate, without penalty, the Service Order relating to the affected Service.

11.0 TERMINATION.

11.1 Either Party may terminate a Service Order: (a) upon thirty (30) days written notice to the other Party of the other Party's material breach of the Master Agreement or the applicable Service Order, provided that such material breach is not cured within such thirty (30) day period; (b) immediately, in the event that the other Party liquidates, is adjudicated as bankrupt, makes an assignment for the benefit of creditors, invokes any provision of law for general relief from its debtors, initiates any proceeding seeking general protection from its creditors, or is removed or delisted from a trading exchange (each a "**Bankruptcy Event**"); or (c) immediately, in the event that, after entering into such Service Order, TWC conducts a site survey and learns that the construction costs shall require a material increase in the Service Charges. In the event that Customer fails to comply with any applicable laws or regulations or the terms of the Master Agreement, upon thirty (30) days written notice TWC may suspend or discontinue any applicable Service in whole or in part without further notice, provided that such failure is not cured within such thirty (30) day period. In addition, TWC may immediately terminate or suspend Customer's or its End User's use of the Service if such use is determined by TWC, in its sole discretion, to be resulting in a material degradation of the TWC network, until such time as such degradation has been remedied. In the event of a suspension of Service, TWC may require the payment of reconnect or other charges before restarting the suspended Service.

11.2 Upon the termination or expiration of the Master Agreement (including all Service Orders): (a) TWC's obligations under the Master Agreement shall cease; (b) Customer shall promptly pay all amounts due and owing to TWC for Service delivered prior to the date of termination or expiration, and any deinstallation fees, if any; (c) Customer shall promptly cease all use of any software provided by TWC under the Master Agreement, and shall return such software to TWC; and (d) Customer shall return to TWC or permit TWC to remove, in TWC's discretion, the TWC Equipment in the same condition as when received, ordinary wear and tear excepted. Customer shall reimburse TWC for the reasonable and documented costs of the repair or replacement, at TWC's discretion, of any TWC Equipment not returned in accordance with this Section 11.

11.3 In addition, notwithstanding anything to the contrary in the Master Agreement, in the event this Master Agreement or any Service Order hereunder terminates for any reason other than TWC's material breach or a Bankruptcy Event impacting TWC (as permitted in Sections 11.1(a) or (b)) or as permitted in Section 11.1(c) above, Customer shall, at TWC's discretion: (a) promptly pay TWC the full amount of the Service Charges that Customer would have been charged for the remainder of the Initial Term or the then-current renewal term; or (b) reimburse TWC for all volume, term or other discounts and credits provided in anticipation of full performance of Customer's obligations and any unpaid portion of the installation fee set forth in the applicable Service Order(s).

11.4 The provisions of sections 7 - 9, 11 - 15, 17.1, 18, 19, 21 - 23, 25 and 26 and the Attachments shall survive the termination or expiration of the Master Agreement.

12.0 INDEMNIFICATION.

Customer shall defend, indemnify and hold harmless TWC, its affiliates, its service providers and suppliers and their respective officers, directors, employees and agents, from and against third party claims, losses, liabilities, damages, costs and expenses, including reasonable attorneys' and other professionals' fees, arising out of or relating to: (a) the use of the Service, including but not limited to a breach of Section 5 of these Terms and Conditions; (b) personal injury or property damage caused by the negligence or willful misconduct of Customer or its employees or agents; or (c) any fees, fines or penalties incurred by TWC as a result of Customer's violation of the 10% Rule as set forth in Attachment D.

13.0 DISCLAIMER OF WARRANTY.

CUSTOMER ASSUMES TOTAL RESPONSIBILITY FOR USE OF THE SERVICE AND USES THE SAME AT ITS OWN RISK. TWC EXERCISES NO CONTROL OVER AND HAS NO RESPONSIBILITY WHATSOEVER FOR THE CONTENT TRANSMITTED OR ACCESSIBLE THROUGH THE SERVICE, AND TWC EXPRESSLY DISCLAIMS ANY RESPONSIBILITY FOR SUCH CONTENT. EXCEPT AS SPECIFICALLY SET FORTH IN THE MASTER AGREEMENT, THE SERVICE, TWC EQUIPMENT AND TWC MATERIALS ARE PROVIDED "AS IS," WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NON-INFRINGEMENT, SYSTEM INTEGRATION, DATA ACCURACY, QUIET ENJOYMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO ADVICE OR INFORMATION GIVEN BY TWC, ITS AFFILIATES OR ITS CONTRACTORS OR THEIR RESPECTIVE EMPLOYEES SHALL CREATE ANY WARRANTY. TWC DOES NOT REPRESENT OR WARRANT THAT THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS, PREVENT UNAUTHORIZED ACCESS BY THIRD PARTIES, BE UNINTERRUPTED, SECURE, ERROR FREE, WITHOUT DEGRADATION OF VOICE QUALITY OR LOSS OF CONTENT, DATE OR INFORMATION OR THAT ANY MINIMUM TRANSMISSION SPEED IS GUARANTEED AT ANY TIME. EXCEPT AS SET FORTH IN THE MASTER AGREEMENT, TWC DOES NOT WARRANT THAT ANY SERVICE OR EQUIPMENT PROVIDED BY TWC SHALL PERFORM AT A PARTICULAR SPEED, BANDWIDTH OR THROUGHPUT RATE. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT TRANSMISSIONS OVER THE SERVICE MAY NOT BE SECURE. CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT ANY DATA, MATERIAL OR TRAFFIC OF ANY KIND WHATSOEVER CARRIED, UPLOADED, DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT CUSTOMER'S OWN DISCRETION AND RISK AND THAT CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO CUSTOMER'S OR AN END USER'S COMPUTER SYSTEM OR EQUIPMENT (INCLUDING NETWORK EQUIPMENT) OR LOSS OF SUCH DATA, MATERIAL OR TRAFFIC DURING, OR THAT RESULTS FROM, CUSTOMER'S OR ITS END USERS' USE OF THE SERVICE INCLUDING, BUT NOT LIMITED TO, CUSTOMER'S OR END USERS' SENDING OR RECEIVING, OR UPLOADING OR DOWNLOADING, OR ATTEMPTS TO DO SAME, OF SUCH DATA, MATERIAL OR TRAFFIC. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT TWC'S THIRD PARTY SERVICE PROVIDERS DO NOT MAKE ANY WARRANTIES TO CUSTOMER UNDER THE MASTER AGREEMENT AND TWC DOES NOT MAKE ANY WARRANTIES ON BEHALF OF SUCH SERVICE PROVIDERS UNDER THE MASTER AGREEMENT, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, SYSTEM INTEGRATION, DATA ACCURACY OR QUIET ENJOYMENT.

14.0 LIMITATION OF LIABILITY.

IN NO EVENT SHALL TWC BE LIABLE TO CUSTOMER, AN END USER OR ANY THIRD PARTY FOR ANY INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES ARISING OUT OF OR RELATING TO THE MASTER AGREEMENT, REGARDLESS OF WHETHER TWC HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TWC'S AGGREGATE LIABILITY FOR ANY REASON AND ALL CAUSES OF ACTION ARISING OUT OF OR RELATING TO THE MASTER AGREEMENT (INCLUDING, BUT NOT LIMITED TO, CONTRACT, TORT (INCLUDING NEGLIGENCE) AND STRICT PRODUCT LIABILITY)) SHALL BE LIMITED TO THE FEES PAID OR OWED BY CUSTOMER UNDER THE SERVICE ORDER THAT IS THE SUBJECT MATTER OF THE CLAIM IN THE SIX (6) MONTHS PRECEDING THE DATE THE CLAIM ARISES. IN NO EVENT SHALL TWC'S AFFILIATES, THIRD PARTY SERVICE PROVIDERS OR SUPPLIERS HAVE ANY LIABILITY TO CUSTOMER UNDER THE MASTER AGREEMENT. TWC SHALL NOT BE RESPONSIBLE FOR ANY LOSSES OR DAMAGES ARISING AS A RESULT OF THE UNAVAILABILITY OF THE SERVICE, INCLUDING THE INABILITY TO REACH 911 OR OTHER EMERGENCY SERVICES, THE INABILITY TO CONTACT A SECURITY SYSTEM OR REMOTE MEDICAL OR OTHER MONITORING SERVICE PROVIDER OR ANY FAILURE OR FAULT RELATING TO CUSTOMER-PROVIDED EQUIPMENT, FACILITIES OR SERVICES.

15.0 DISCLOSURE OF CUSTOMER INFORMATION.

Customer's privacy interests, including Customer's ability to limit disclosure of certain information to third parties, may be addressed by, among other laws, the Federal Telecommunications Act (the "**Telecommunications Act**"), the Federal Cable Communications Act (the "**Cable Act**"), the Electronic Communications Privacy Act, and, to the extent applicable, state laws and regulations. Customer proprietary network information and personally identifiable information that may be collected, used or disclosed in accordance with applicable laws is described in Attachment B (Voice Services), the Subscriber Privacy Policy, and, if applicable, in TWC's tariff, which are incorporated into, and made a part of, the Master Agreement by this reference. The Subscriber Privacy Policy is available at www.twcbc.com/legal. In addition to the foregoing, Customer hereby acknowledges and agrees that TWC may disclose Customer's and its employees' personally identifiable information as required by law or regulation, or the American Registry for Internet Numbers ("**ARIN**") or any similar agency, or in accordance with TWC's Subscriber Privacy Policy or, if applicable, tariff. In addition, TWC shall have the right (except where prohibited by law), but not the obligation, to disclose any information to protect its rights, property and/or operations, or where circumstances suggest that individual or public safety is in peril.

16.0 FORCE MAJEURE.

Notwithstanding anything to the contrary in the Master Agreement, a Party shall have no liability to the other due to circumstances beyond its control, including, but not limited to, acts of God, terrorism, flood, fiber cuts, natural disaster, regulation or governmental acts, fire, civil disturbance, weather, or any unauthorized access to or destruction or modification of the Service, in whole or in part (each a "**Force Majeure Event**"). Notwithstanding anything to the contrary in the Master Agreement, Customer may terminate the affected Service Order(s) in its entirety and without penalty

if a Force Majeure Event continues for more than ten (10) consecutive days and prevents TWC from delivering the Service under such Service Order(s).

17.0 REGULATORY AND LEGAL CHANGES, POLE ATTACHMENT AND CONDUIT CHARGES, TARIFFS.

17.1 In the event of any change in applicable law, regulation, decision, rule or order, including without limitation any new application of or increase in any government- or quasi-government-imposed fees or charges that increases the costs or other terms of TWC's delivery of Service to Customer, or, in the event of any increase in pole attachment or conduit charges applicable to any facilities used by TWC in providing the Service, Customer acknowledges and agrees that TWC may pass through to Customer any such increased fees or costs, but only to the extent of the actual increase, provided TWC notifies Customer at least thirty (30) days in advance of the increase. In such case, and if such increase materially increases the fees or charges due by Customer under the Master Agreement for the applicable Service, Customer may, within thirty (30) days after notification of such increase, terminate the affected Service without incurring termination liability, provided Customer notifies TWC at least fifteen (15) days in advance of Customer's requested termination date. Further, in the event that TWC is required to file tariffs or rate schedules with a regulatory agency or otherwise publish its rates in accordance with regulatory agency rules or policies respecting the delivery of the Service or any portion thereof, and TWC is required under applicable law to apply those rates to Customer's purchase of Service under the Master Agreement, then the terms set forth in the applicable tariff or rate schedule shall govern TWC's delivery of, and Customer's use or consumption of the Service. In addition, if TWC determines that offering or providing the Service, or any part thereof, has become impracticable for legal or regulatory reasons or circumstances, then TWC may terminate the Master Agreement and any affected Service Orders without liability, by giving Customer thirty (30) days prior written notice or any such notice as is required by law or regulation applicable to such determination.

17.2 The Master Agreement, including the Attachments and the Service Order(s), are subject to all applicable federal, state or local laws and regulations in effect in the relevant jurisdiction(s) in which TWC provides the Services. If any provision of the Master Agreement, the Attachments, or the Service Order(s) contravene or are in conflict with any such law or regulation, then the terms of such law or regulation shall take priority over the relevant provision of the Master Agreement, the Attachments, and/or the Service Order(s). If the relevant law or regulation applies to some but not all of the Service(s) being provided under the Master Agreement, then such law or regulation shall take priority over the relevant provision of the Master Agreement, the Attachments, and the Service Order(s) only for purposes of those Service(s) to which the law or regulation applies. Except as explicitly stated in the Master Agreement, nothing contained in the Master Agreement shall constitute a waiver by TWC of any rights under applicable laws or regulations pertaining to the installation, operation, maintenance or removal of the Services, facilities or equipment.

18.0 ENTIRE AGREEMENT.

The Master Agreement, including without limitation all Attachments, sets forth the entire agreement between the Parties with respect to the subject matter hereof and supersedes all previous written or oral agreements or representations between the Parties with respect to such subject matter.

19.0 ORDER OF PRECEDENCE.

Each Service shall be provisioned pursuant to the terms and conditions of the Master Agreement. In the event that TWC permits a Customer to use its own standard purchase order form to order the Service, the Parties hereby acknowledge and agree that the terms and conditions hereof shall prevail notwithstanding any variance with the terms and conditions of any purchase order submitted by Customer, and any different or additional terms contained in such purchase order shall have no force or effect. To the extent that the terms of any Service Agreement or Service Order are inconsistent with the terms of these Terms and Conditions, the terms of the Service Agreement then the terms of the Service Order shall control.

20.0 COMPLIANCE WITH LAWS.

As between the Parties, TWC shall obtain and maintain at its own expense all licenses, approvals and regulatory authority required by law with respect to TWC's operation and provision of the Services as contemplated in the Master Agreement, and Customer shall obtain and maintain at its own expense all licenses, approvals and regulatory authority required by law with respect to Customer's use of the Services as contemplated in the Master Agreement. Unless specified otherwise in the Master Agreement, each Party shall give all notices, pay all fees and comply with all laws, ordinances, rules and regulations relating to its performance obligations specified in the Master Agreement.

21.0 ARBITRATION.

EXCEPT FOR CLAIMS FOR INJUNCTIVE RELIEF, AS DESCRIBED BELOW, ANY PAST, PRESENT, OR FUTURE CONTROVERSY OR CLAIM ARISING OUT OF OR RELATED TO THE MASTER AGREEMENT SHALL BE BROUGHT IN THE BOROUGH OF MANHATTAN, CITY OF NEW YORK AND SHALL BE RESOLVED BY BINDING ARBITRATION ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION UNDER ITS COMMERCIAL ARBITRATION RULES, INCLUDING, IF APPLICABLE, THE SUPPLEMENTARY PROCEDURES FOR THE RESOLUTION OF CONSUMER RELATED DISPUTES. CONSOLIDATED OR CLASS ACTION ARBITRATIONS SHALL NOT BE PERMITTED. THE ARBITRATOR OF ANY DISPUTE OR CLAIM BROUGHT UNDER OR IN CONNECTION WITH THE MASTER AGREEMENT SHALL NOT HAVE THE POWER TO AWARD INJUNCTIVE RELIEF; INJUNCTIVE RELIEF MAY BE SOUGHT SOLELY IN AN APPROPRIATE COURT OF LAW. NO CLAIM SUBJECT TO ARBITRATION UNDER THE MASTER AGREEMENT MAY BE COMBINED WITH A CLAIM SUBJECT TO RESOLUTION BEFORE A COURT OF LAW. THE ARBITRABILITY OF DISPUTES SHALL BE DETERMINED BY THE ARBITRATOR. JUDGMENT UPON AN AWARD MAY BE ENTERED IN ANY COURT HAVING COMPETENT JURISDICTION. IF ANY PORTION OF THIS SECTION IS HELD TO BE UNENFORCEABLE, THE REMAINDER SHALL CONTINUE TO BE ENFORCEABLE.

22.0 GOVERNING LAW; JURISDICTION; CLAIMS.

The interpretation, validity and enforcement of the Master Agreement, and all legal actions brought under or in connection with the subject matter of the Master Agreement, shall be governed by the law of the State of New York (except that any conflicts-of-law principles of such state that would result in the application of the law of another jurisdiction shall be disregarded). Any legal action brought under or in connection with the subject matter of the Master Agreement shall be brought only in the United States District Court for the Southern District of New York or, if such court would not have jurisdiction over the matter, then only in a New York State court sitting in the Borough of Manhattan, City of New York. Each party submits to the exclusive jurisdiction of these courts and agrees not to commence any legal action under or in connection with the subject matter of the Master Agreement in any other court or forum. Each Party waives any objection to the laying of the venue of any legal action brought under or in connection with the subject matter of the Master Agreement in the Federal or state courts sitting in the Borough of Manhattan, City of New York, and agrees not to plead or claim in such courts that any such action has been brought in an inconvenient forum. Any claim that Customer wishes to assert under the Master Agreement must be initiated not later than one (1) year after the claim arose.

23.0 SEVERABILITY; WAIVER.

In the event that any portion of the Master Agreement is held to be invalid or unenforceable, the invalid or unenforceable portion shall be construed in accordance with applicable law as nearly as possible to reflect the original intentions of the parties set forth in the Master Agreement and the remainder of the Master Agreement shall remain in full force and effect. No waiver of any breach or default under the Master Agreement shall be deemed to be a waiver of any preceding or subsequent breach or default. To be legally binding on TWC, any waiver must be in writing.

24.0 ASSIGNMENT.

Customer may not assign the Master Agreement without the prior written consent of TWC, and any assignment in violation of this Section shall be null and void. TWC may assign its rights and obligations under the Master Agreement including, without limitation, in whole or in part, to any affiliate without the prior written approval of or notice to Customer. Customer understands and agrees that, regardless of any such assignment, the rights and obligations of TWC in the Master Agreement may accrue to, or be fulfilled by, any affiliate, as well as by TWC and/or its subcontractors.

25.0 PUBLICITY.

Customer may not issue a press release, public announcement or other public statements regarding the Master Agreement without TWC's prior written consent.

26.0 NO THIRD PARTY BENEFICIARIES; RELATIONSHIP OF THE PARTIES.

There are no third party beneficiaries to the Master Agreement. The Parties to the Master Agreement are independent contractors.

27.0 TWCBC.COM.

Customer agrees that all of its use of the TWCBC.COM website shall comply with the Term of Use available at <http://www.twcbc.com/Corporate/Privacy.html>, as the same may be updated by TWC from time to time.

28.0 NOTICES.

Any notice under the Master Agreement shall be given in writing and shall be deemed to have been given when actually received by the other Party. Notices shall be delivered to Customer and TWC at the respective addresses set forth above, or to such other address as is provided by one Party to the other in writing. Notices to TWC shall include a cc to: Time Warner Cable Inc., 60 Columbus Circle, New York, New York, 10023, Attn: General Counsel, Fax: (212) 364-8254.

29.0 COUNTERPARTS.

The Master Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

Attachment D Business Class Data Transport Services: Ethernet Solutions ("Ethernet Service")

Ethernet: If Customer selects to receive the Ethernet Service, TWC shall provide Customer with a dedicated circuit connection between Customer's data network and the TWC facility identified on a Service Order. The Ethernet Services shall be limited to the capacity set forth on a Service Order.

Customer's use of Ethernet Service is subject to the following additional terms and conditions:

- TWC's provision of Ethernet Services is subject to availability.
- TWC shall have the right to disconnect (or demand the immediate disconnection of) any such Ethernet Service that degrades any service provided to other subscribers on the TWC network.
- Customer shall not transmit or otherwise make available on or via the Ethernet Service any material (including any message or series of messages) that violates or infringes in any way upon the rights of others, that is unlawful, threatening, abusive, obstructive, harassing, libelous, invasive of privacy or publicity rights, that in the circumstances would be obscene or indecent, that constitutes hate speech, that is otherwise offensive or objectionable, or that encourages conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any law.
- TWC shall have the right, but not the obligation, to (a) monitor traffic and content on its network, in its sole discretion, including through the use of automatic content filters (including

without limitation spam, virus, and adult language sniffers and filters); and (b) monitor Customer's bandwidth utilization and to limit excessive use of bandwidth (as determined by TWC) as TWC deems appropriate to efficiently manage its network. In the event that any TWC audit reveals that Customer's usage of the Ethernet Service exceeds Customer's rights under the Master Agreement, Customer shall pay TWC an amount equal to one and a half times the Service Charges that would have been due for such excessive usage as liquidated damages and not as a penalty. In addition, Customer shall either discontinue any excess usage or thereafter continue to pay the applicable Service Charges for such additional usage.

- Each tier or level of Ethernet Service has limits on the maximum throughput rate at which Customer may send and receive data at any time and the maximum throughput rate may be achieved in bursts, but generally shall not be sustained on a consistent basis. The throughput rate experienced by Customer at any time shall vary based on numerous factors, including without limitation, the condition of Customer's inside wiring, computer configurations, Internet and TWC network congestion, time of day and the accessed servers, among other factors.

- Customer represents and warrants that Customer's use of Ethernet Services shall be such that the Ethernet Service shall be deemed jurisdictionally interstate, pursuant to the Federal Communications Commission's mixed use "**10% Rule**" (47 C.F.R. 36.154, 4 FCC Red. 1352), and shall notify TWC in the event of breach or threatened breach of the foregoing. If, as a result of Customer's use of Ethernet Services, the Ethernet Services are deemed not to be jurisdictionally interstate pursuant to the 10% Rule, then Customer shall be liable for any resulting fees, fines, penalties and costs incurred by TWC. In addition, if TWC determines that Customer's use of the Ethernet Services is likely to be deemed not to be jurisdictionally interstate, and therefore that TWC's provision of the Ethernet Services is likely to put TWC's franchises, licenses, permits or business at risk, or otherwise cause regulatory problems for TWC, then TWC may immediately suspend the provision of any or all Ethernet Service under any or all affected Service Orders until such time as either (a) Customer provides TWC with satisfactory assurances that Customer's use of Ethernet Services shall be deemed to be jurisdictionally interstate or (b) TWC is otherwise brought into full compliance with any applicable laws and regulations.

BASIC MAINTENANCE CONTRACT
(90% SCHOOLS)

Customer: Durham Public Schools (DPS)

Address: 511 Cleveland Street
Durham, NC 27702

Contact: Aaron Beaulieu

Service Provider: IntelliNet Corporation

Address: Sterling Building
1255 Euclid Ave, Ste 205
Cleveland, Ohio 44115

Contact: Paul Ray

Service: Attachment #1 (Form 471 Item 21 Attachment)

Effective Date: July 1, 2014 - June 30, 2015 (final voluntary extension)

Service/hardware: Off Site Basic Maintenance of Internal Connections

Contract Amount: NRC/Not-to-Exceed Charges: \$595,000.00

This is representative of the third and final year of a multi-year agreement where IntelliNet will provide Durham Public Schools the services as set forth in the attached agreement and Attachment #1, at the prices set forth in Attachment #1 of the attached agreement.

In consideration for provision of the services provided by IntelliNet, DPS agrees to pay IntelliNet directly 10% of the price of the services as identified in this Agreement. This 10% payment will be paid to IntelliNet in accordance with invoice[s] from IntelliNet. The Schools and Libraries Division (SLD) shall pay the additional 90% payment due directly to IntelliNet as provided by the Federal Communications Commission and SLD rules and regulations. PROVIDED HOWEVER, that as provided by the FCC, payment shall only be made by DPS and the USAC for hours and work actually performed. As service is provided, DPS shall file a FCC Form 486, or such other form as required, to pay IntelliNet. This contract is not assignable unless agreed to in writing by DPS.

DPS reserves the right to approve the Technician(s) dispatched to DPS by IntelliNet. Upon DPS' objection to the technician dispatched to DPS, IntelliNet shall immediately replace the Technician with a more qualified one.

If the Vendor does not meet the criteria set forth below, then the Vendor shall pay DPS damages as stated below:

INCIDENT PRIORITY LEVEL DESCRIPTIONS/PARAMETERS:

Priority 1 – Any widespread outages

Examples – Internet Access, Phone system, Email (Exchange)

- 24x7x365 support
- Immediate Notification to DPS designated staff and qualified personnel on-site within 15 minutes
- Problem resolution continues until resolved
- All events from time of discovery until time of resolution including any lessons learned, must be documented fully
- Updates to designated DPS staff every 30 minutes until resolved within 2 hours

Priority 2 – Building-wide outages

Examples – Internet Access, Phone system, Local Network File Servers

- 12x5x260 support
- Immediate Notification to DPS designated staff and qualified personnel on-site within 15 minutes
- Problem are worked during SLA hours until resolved
- All events from time of discovery until time of resolution including any lessons learned, must be documented fully
- Updates to designated DPS staff every 30 minutes until resolved within 4 hours

Priority 3 – Partial Site outages – MDF' s, Wings, Multiple classrooms

Examples – Internet Access, Phone system, Local File Servers, Wireless

- 12x5x260 support
- Notification to DPS designated staff within 30 minutes and qualified personnel on-site within 45 minutes
- Problem are worked during SLA hours until resolved within 4 hours

Priority 4 – Application outages / Minimal Business Impact

Examples – Application is still functioning but experiencing intermittent problems

- 8x5x260 support
- Notification to DPS designated staff within 60 minutes and qualified personnel on-site within 2 hours
- Problem are worked during SLA hours until resolved within 8 hours

Priority 5 – Work Request / Non-Critical

Examples – Help desk Request / Incident Responses

- 8x5x260 support
- Notification to DPS designated staff within 75 minutes and qualified personnel on-site within 4 hours
- Problem are worked during SLA hours until resolved within 1 day

SERVICE LEVEL RESPONSE TIMES REQUIRED:

SUPPORT RESPONSE GOALS				
System Priority	System Priority Description	Initial Response Time (During Business Hours)	Initial On-Site Response (During Business Hours)	Resolution Goal
Priority 1 - URGENT	Very High	Immediate	Within 15 minutes	Less than 2 hours (without parts)
Priority 2 – SIGNIFICANT BUSINESS	High	Immediate	Within 30 minutes	Less than 4 hours

IMPACT				
Priority 3 – IMPACTS SOME BUSINESS	Medium	Within 30 minutes	Within 45 minutes	Less than 4 hours
Priority 4 – MINIMAL BUSINESS IMPACT	Low	Within 60 minutes	Within 2 hours	Less than 8 hours
Priority 5 – INFORMATION REQUEST	Very Low	Within 75 minutes	Within 4 hours	Within 1 day

PENALTY CALCULATIONS:

If the Vendor selected does not meet the criteria set forth below, then the vendor shall pay DPS damages as stated in the contract and restated below:

System Priority	System Priority Description	System Priority Multiplier	Productivity Impact Index Description	Productivity Impact Index	Hours Past SLA	Billable Rate (Blended Rate)	Liquidated Damages
1	Very High	4	Very High	2		\$119	
2	High	2	High	1		\$119	
3	Medium	1	Medium	0.75		\$119	
4	Low	0.5	Low	0.5		\$119	
5	Very Low	0.25	Very Low	0.25		\$119	

The payment(s) by USAC will be made directly to IntelliNet, provided, however, that IntelliNet shall reimburse DPS for any overpayment for service provided. Such reimbursement shall be no

later than thirty (30) calendar days after DPS notifies IntelliNet of such overpayment. IntelliNet and DPS mutually agree that a timeline will be established to determine when work may begin and termination date for the work. An evaluation performance will occur within six months of the start date of service.

The term of this contract is from July 1, 2014 until June 30, 2015, **and may be continued for one additional year, at the discretion of Durham Public Schools.** If E-Rate Funding is delayed, this contract shall not terminate but shall remain in effect until a FCDL is received. IT' S FURTHER PROVIDED, HOWEVER, THAT THIS CONTRACT MAY EXTEND BEYOND THE E-RATE YEAR FOR PURPOSES OF COLLECTING E-RATE FUNDS.

This is the entire agreement, as governed by the laws of the State of North Carolina, between the parties and there are no representations, understandings, oral or written, which are not included here.

Agreed:

Durham Public Schools

IntelliNet Coporation

Date: _____

Date: _____

BASIC MAINTENANCE CONTRACT
(80% SCHOOLS)

Customer: Durham Public Schools (DPS)

Address: 511 Cleveland Street
Durham, NC 27702

Contact: Aaron Beaulieu

Service Provider: IntelliNet Corporation

Address: Sterling Building
1255 Euclid Ave, Ste 205
Cleveland, Ohio 44115

Contact: Paul Ray

Service: Attachment #1 (Form 471 Item 21 Attachment)

Effective Date: July 1, 2014 - June 30, 2015 (final voluntary extension)

Service/hardware: Off Site Basic Maintenance of Internal Connections

Contract Amount: NRC/Not-to-Exceed Charges: \$714,000.00

This is representative of the third and final year of a multi-year agreement where IntelliNet will provide Durham Public Schools the services as set forth in the attached agreement and Attachment #1, at the prices set forth in Attachment #1 of the attached agreement.

In consideration for provision of the services provided by IntelliNet, DPS agrees to pay IntelliNet directly 20% of the price of the services identified in this Agreement. This 20% payment will be paid to IntelliNet in accordance with invoice[s] from IntelliNet. The Schools and Libraries Division (SLD) shall pay the additional 80% payment due directly to IntelliNet as provided by the Federal Communications Commission and SLD rules and regulations. PROVIDED HOWEVER, that as provided by the FCC, payment shall only be made by DPS and the USAC for hours and work actually performed. As service is provided, DPS shall file a FCC Form 486, or such other form as required, to pay IntelliNet. This contract is not assignable unless agreed to in writing by DPS.

DPS reserves the right to approve the Technician(s) dispatched to DPS by IntelliNet. Upon DPS' objection to the technician dispatched to DPS, IntelliNet shall immediately replace the Technician with a more qualified one.

If the Vendor does not meet the criteria set forth below, then the Vendor shall pay DPS damages as stated below:

INCIDENT PRIORITY LEVEL DESCRIPTIONS/PARAMETERS:

Priority 1 – Any widespread outages

Examples – Internet Access, Phone system, Email (Exchange)

- 24x7x365 support
- Immediate Notification to DPS designated staff and qualified personnel on-site within 15 minutes
- Problem resolution continues until resolved
- All events from time of discovery until time of resolution including any lessons learned, must be documented fully
- Updates to designated DPS staff every 30 minutes until resolved within 2 hours

Priority 2 – Building-wide outages

Examples – Internet Access, Phone system, Local Network File Servers

- 12x5x260 support
- Immediate Notification to DPS designated staff and qualified personnel on-site within 15 minutes
- Problems are worked during SLA hours until resolved
- All events from time of discovery until time of resolution including any lessons learned, must be documented fully
- Updates to designated DPS staff every 30 minutes until resolved within 4 hours

Priority 3 – Partial Site outages – MDF' s, Wings, Multiple classrooms

Examples – Internet Access, Phone system, Local File Servers, Wireless

- 12x5x260 support

- Notification to DPS designated staff within 30 minutes and qualified personnel on-site within 45 minutes
- Problem are worked during SLA hours until resolved within 4 hours

Priority 4 – Application outages / Minimal Business Impact

Examples – Application is still functioning but experiencing intermittent problems

- 8x5x260 support
- Notification to DPS designated staff within 60 minutes and qualified personnel on-site within 2 hours
- Problem are worked during SLA hours until resolved within 8 hours

Priority 5 – Work Request / Non-Critical

Examples – Help desk Request / Incident Responses

- 8x5x260 support
- Notification to DPS designated staff within 75 minutes and qualified personnel on-site within 4 hours
- Problem are worked during SLA hours until resolved within 1 day

SERVICE LEVEL RESPONSE TIMES REQUIRED:

SUPPORT RESPONSE GOALS				
System Priority	System Priority Description	Initial Response Time (During Business Hours)	Initial On-Site Response (During Business Hours)	Resolution Goal
Priority 1 - URGENT	Very High	Immediate	Within 15 minutes	Less than 2 hours (without parts)
Priority 2 – SIGNIFICANT BUSINESS IMPACT	High	Immediate	Within 30 minutes	Less than 4 hours

Priority 3 – IMPACTS SOME BUSINESS	Medium	Within 30 minutes	Within 45 minutes	Less than 4 hours
Priority 4 – MINIMAL BUSINESS IMPACT	Low	Within 60 minutes	Within 2 hours	Less than 8 hours
Priority 5 – INFORMATION REQUEST	Very Low	Within 75 minutes	Within 4 hours	Within 1 day

PENALTY CALCULATIONS:

If the Vendor selected does not meet the criteria set forth below, then the vendor shall pay DPS damages as stated in the contract and restated below:

System Priority	System Priority Description	System Priority Multiplier	Productivity Impact Index Description	Productivity Impact Index	Hours Past SLA	Billable Rate (Blended Rate)	Liquidated Damages
1	Very High	4	Very High	2		\$119	
2	High	2	High	1		\$119	
3	Medium	1	Medium	0.75		\$119	
4	Low	0.5	Low	0.5		\$119	
5	Very Low	0.25	Very Low	0.25		\$119	

The payment(s) by USAC will be made directly to IntelliNet, provided, however, that IntelliNet shall reimburse DPS for any overpayment for service provided. Such reimbursement shall be no later than thirty (30) calendar days after DPS notifies IntelliNet of such overpayment. IntelliNet

and DPS mutually agree that a timeline will be established to determine when work may begin and termination date for the work. An evaluation performance will occur within six months of the start date of service.

The term of this contract is from July 1, 2014 - June 30, 2015, **and may be continued for one additional year, at the discretion of Durham Public Schools.** If E-Rate Funding is delayed, this contract shall not terminate but shall remain in effect until a FCDL is received. IT IS FURTHER PROVIDED, HOWEVER, THAT THIS CONTRACT MAY EXTEND BEYOND THE E-RATE YEAR FOR PURPOSES OF COLLECTING E-RATE FUNDS.

This is the entire agreement, as governed by the laws of the State of North Carolina, between the parties and there are no representations, understandings, oral or written, which are not included here.

Agreed:

Durham Public Schools

IntelliNet Coporation

Date: _____

Date: _____

BASIC MAINTENANCE – VIDEO CONTRACT
(90% SCHOOLS)

Customer: Durham Public Schools (DPS)

Address: 511 Cleveland Street
Durham, NC 27702

Contact: Aaron Beaulieu

Service Provider: ConnectVIEW, LLC (ConnectVIEW)

Address: 1033 Wade Ave, Suite 100
Raleigh, NC 27560

Contact: John Seaman III

Service: Attachment #1 (Form 471 Item 21 Attachment)

Effective Date: July 1, 2014 - June 30, 2015 (final voluntary extension)

Service/hardware: Off Site Basic Maintenance of Internal Connections (Video)

Contract Amount: NRC/Not-to-Exceed Charges: \$65,025.00

This is representative of the third and final year of a multi-year agreement where ConnectVIEW will provide Durham Public Schools the services as set forth in the attached agreement and Attachment #1, at the prices set forth in Attachment #1 of the attached agreement.

In consideration for provision of the services provided by ConnectVIEW, DPS agrees to pay ConnectVIEW directly 10% of the price of the services identified in this Agreement. This 10% payment will be paid to ConnectVIEW in accordance with invoice[s] from ConnectVIEW. The Schools and Libraries Division (SLD) shall pay the additional 90% payment due directly to ConnectVIEW as provided by the Federal Communications Commission and SLD rules and regulations. PROVIDED HOWEVER, that as provided by the FCC, payment shall only be made by DPS and the USAC for hours and work actually performed. As service is provided, DPS shall file a FCC Form 486, or such other form as required, to pay ConnectVIEW. This contract is not assignable unless agreed to in writing by DPS.

DPS reserves the right to approve the Technician(s) dispatched to DPS by ConnectVIEW. Upon DPS' objection to the Technician dispatched to DPS, ConnectVIEW shall immediately replace the Technician with a more qualified one.

The payment(s) by USAC will be made directly to ConnectVIEW, provided, however, that ConnectVIEW shall reimburse DPS for any overpayment for service provided. Such reimbursement shall be no later than thirty (30) calendar days after DPS notifies ConnectVIEW of such overpayment. ConnectVIEW and DPS mutually agree that a timeline will be established to determine when work may begin and termination date for the work. An evaluation performance will occur within six months of the start date of service.

The term of this contract is from July 1, 2014 until June 30, 2015, **and may be continued for one additional year, at the discretion of Durham Public Schools.** If E-Rate Funding is delayed, this contract shall not terminate but shall remain in effect until a FCDL is received. IT IS FURTHER PROVIDED, HOWEVER, THAT THIS CONTRACT MAY EXTEND BEYOND THE E-RATE YEAR FOR PURPOSES OF COLLECTING E-RATE FUNDS.

This is the entire agreement, as governed by the law of the State of North Carolina between the parties and there are no representations, understandings, oral or written which are not included here.

Agreed:

Durham Public Schools

ConnectVIEW, LLC

Date: _____

Date: _____

CNIC, INC
PURCHASE AGREEMENT FOR E-RATE CUSTOMERS

This Purchase Agreement, for E-Rate Customers (“**Agreement**”) is entered into between CNIC, Inc (“**Provider**”), a North Carolina Corporation with offices at 4418-E Monroe Road, Charlotte, North Carolina 28205, and Durham Public School District, a non-profit school eligible for Universal Service Program funding, with offices at 511 Cleveland Street, Durham, North Carolina 27701 (“**Customer**”).

I. DEFINITIONS.

“**E-Rate**” means the Education Rate discount provided by the 1996 Telecommunications Act, as amended, designed to provide 20% - 90% discounts to schools and libraries for eligible products and services.

“**E-Rate Customer** or “**Customer**” means the non-profit school or library identified in the preamble of this Agreement which is eligible for Universal Service Program funding and is applying for an E-Rate discount on E-Rate Eligible Products/Services.

“**E-Rate Eligible Products and/or Services**” or “**Products/Services**” means internal wiring and/or equipment sold by Provider to be eligible for E-Rate discounts in accordance with the rules adopted by the FCC. A list of E-Rate Eligible Services and Products can be obtained by contacting SLD.

“**SLD**” means Schools and Libraries Division, a not-for-profit organization, established by the Federal Communications Commission (“**FCC**”) to administer the Universal Service Program for schools and libraries.

II. SERVICES.

Provider shall provide services (“**Services**”) to Customer as specified on purchase orders (each a “**Purchase Order**”) that are mutually agreed upon in writing by Customer and Provider. Any change in the scope of Services as set forth in a Purchase Order shall be agreed upon in writing by the parties. Provider shall have no obligation to perform Services in connection with any such change until the parties have agreed upon the effect of such change on Provider’s fees and/or schedule of performance.

III. CUSTOMER REPRESENTATIONS.

A. E-Rate Status. Customer represents and warrants to Provider that it qualifies to be eligible to receive E-Rate discounts. Customer hereby agrees that this Agreement, along with any Customer Purchase Orders that are proposed by Customer and accepted in writing by Provider, will constitute a contract as required by the SLD.

B. E-Rate Purchases. Customer represents and warrants to Provider that all purchases under this Agreement will be for its own use and are eligible for E-Rate discounts as specified by the SLD guidelines. IN ACCORDANCE WITH FCC REQUIREMENTS, THE CUSTOMER WILL SUBMIT A COMPLETED AND SIGNED FCC FORM 486 TO THE SLD WITHIN 5 DAYS OF

RECEIPT OF E-RATE ELIGIBLE PRODUCTS AND/OR SERVICES FOR THE PURPOSE OF ACKNOWLEDGING RECEIPT OF PRODUCTS AND/OR SERVICES.

IV. ORDERING; PRICE; PAYMENT.

A. Ordering. Purchase Orders should be submitted directly to CNIC, Inc via facsimile to (704) 374-0069 with the original signed document sent to the following address:

CNIC, Inc
4418-E Monroe Road
Charlotte, NC 28205
Phone: 704-344-0090

B. Contents of Purchase Order. All Purchase Orders must include: Contact Name Printed, Contact Name Signature, Title, Date, Phone Number, Purchase Order Number, Ship-To Location Address, Bill To Location Address and Contract Number of this Agreement. PURCHASE ORDERS FOR E-RATE ELIGIBLE PRODUCTS OR SERVICES SHOULD ALSO INCLUDE THE E-RATE DISCOUNT FOR WHICH THE CUSTOMER IS ELIGIBLE AND SHOULD BE ACCOMPANIED BY A DULY-EXECUTED COPY OF THIS AGREEMENT AND A COPY OF THE NOTIFICATION OF FUND COMMITMENT FROM THE SLD THAT VERIFIES THE CUSTOMER'S DISCOUNT AMOUNT. PRODUCTS OR SERVICES THAT ARE **NOT ELIGIBLE** FOR E-RATE DISCOUNTS WILL REQUIRE A SEPARATE PURCHASE ORDER. Provider reserves the right to decline a Purchase Order in its sole discretion.

C. Price. Prices are set per bid price. Prices are inclusive of federal, state, local, or other taxes, which shall be the responsibility of the Customer. Any taxes will be listed separately on the invoice.

D. Payment.

(1) Invoices for Services by Provider supplied under this Agreement will be submitted when the Services have been completed. Customer shall pay invoices within thirty (30) days of the date of invoice. Provider reserves the right to submit partial billing invoices for completed phases of work. Provider also reserves the right to submit invoices for materials and/or equipment that are delivered and available on-site. Provider reserves the right to invoice an initial up-front fee of 30%. The initial onetime payment is immediately due when the school district is notified, whether in writing or SLD site posting, that this contract is funded and the corresponding Form 486 has been filed.

(2) NOTWITHSTANDING ANYTHING TO THE CONTRARY, CUSTOMER IS RESPONSIBLE FOR 100% PAYMENT OF THE PRICE OF PRODUCTS AND/OR SERVICES IN THE CASE WHERE THE SLD DISALLOWS CUSTOMER'S REQUEST FOR DISCOUNT AND REFUSES PAYMENT OF THE DISCOUNT AMOUNT TO CNIC, INC.

(3) At the Provider's sole discretion, Customer shall pay a late payment fee equal to the lesser of: (a) one and one-half percent (1.5%) per month; or (b) the highest rate allowed by law on any balance aged over thirty (30) days from invoice date.

V. WARRANTIES.

A. Provider warrants to Customer that for a period of one (1) year from the completion of the Services that the Services shall be performed in a professional and workmanlike manner.

B. The foregoing warranties shall only apply provided that: (a) the nonconformity was not caused by Customer or its agents or any third party; (b) Customer promptly notifies Provider of the nonconformity after discovery; and (c) all fees due to Provider have been paid.

C. THE FOREGOING WARRANTIES ARE PROVIDER'S ONLY WARRANTIES CONCERNING THE SERVICES AND ANY DELIVERABLES, AND ARE MADE FOR THE BENEFIT OF CUSTOMER ONLY IN LIEU OF ALL OTHER WARRANTIES AND REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE.

VI. TERM.

The term of this Agreement shall be for a period of eighteen months, with the option to renew annually. The first period of eighteen months will begin on July 1, 2014 and end on December 31, 2015. This Agreement may be renewed from year to year thereafter, unless terminated by either party, at the end of the then current contract year by providing thirty (30) days prior written notice. Notwithstanding the foregoing, Provider may terminate this Agreement at any time for any reason upon ninety (90) days prior written notice to Customer.

VII. LIMITATION OF LIABILITY.

THE MAXIMUM LIABILITY OF PROVIDER, ITS DIRECTORS AND OFFICERS TO CUSTOMER FOR DAMAGES FOR ANY AND ALL CAUSES WHATSOEVER, AND CUSTOMER'S MAXIMUM REMEDY, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT OR OTHERWISE, SHALL BE LIMITED TO AN AMOUNT EQUAL TO THE TOTAL FEES PAID BY CUSTOMER TO PROVIDER HEREUNDER FOR THE PORTION OF THE SERVICES GIVING RISE TO ANY CLAIM. IN NO EVENT SHALL PROVIDER, ITS DIRECTORS AND OFFICERS BE LIABLE FOR ANY LOST DATA OR CONTENT, LOST PROFITS, BUSINESS INTERRUPTION OR FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES ARISING OUT OF OR RELATING TO THE SERVICES PROVIDED UNDER THIS AGREEMENT, EVEN IF CUSTOMER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

VIII. INDEMNIFICATION.

Provider shall indemnify, defend and hold the Customer harmless, including its officers, directors, employees, agents and representatives (collectively, "**Provider Indemnified Parties**") from and against all third party suits, actions, liabilities, legal proceedings, claims, demands, losses,

costs and expenses (including reasonable attorney’s fees) for injury to or death of persons or loss of or damage to property arising as a result of, but only to the extent of, any gross negligence, fraud or willful misconduct of Provider in connection with its performance under this Agreement. Customer shall indemnify, defend and hold Provider harmless, including its officers, directors, employees, agents and representatives (collectively, “**Company Indemnified Parties**”) from and against all third party suits, actions, liabilities, legal proceedings, claims, demands, losses, costs and expenses (including reasonable attorney’s fees) for injury to or death of persons or loss of or damage to property arising as a result of, but only to the extent of, any gross negligence, fraud or willful misconduct of Customer.

IX. MISCELLANEOUS.

A. Non-Assignability Agreement. Customer shall not assign or otherwise transfer its rights or delegate its obligations under this Agreement without Provider’s prior written consent. Any attempted assignment transfer or delegation without such consent shall be void.

B. Applicable Law. This Agreement and all transactions executed hereunder shall be governed exclusively by and construed in accordance with the laws of the state of North Carolina.

C. No Waiver. The waiver of any one right or default shall not waive subsequent rights or defaults of the same or different kind.

D. Counterparts. This Agreement may be executed in multiple counterparts (including by means of telecopied signature pages), each of which shall be an original and all which taken together shall constitute one and the same agreement.

E. Entire Agreement. This Agreement and all documents referred to or incorporated herein by reference contain all the agreements, warranties, understandings, conditions, covenants and representations made between Customer and CNIC, Inc related to the subject matter of this Agreement. Neither Provider nor Customer shall be liable for any agreements, warranties, understandings, conditions, covenants, or representations that are not expressly set forth in this Agreement. Any modifications and amendments to this Agreement must be in writing and signed by a duly authorized agent or representative of Provider and Customer.

F. Notices. All notices and other communications required or permitted under this Agreement shall be served in person or via U.S.P.S., Federal Express, or equivalent carrier at the following address:

<i>If to Customer:</i>	<i>If to CNIC, Inc:</i>
Durham Public Schools	CNIC, Inc
511 Cleveland Street	4418-E Monroe Road
Durham, NC 27701	Charlotte, NC 28205

G. Independent Contractor. Provider is an independent contractor, and no party shall have the authority to bind, represent or commit the other. Nothing in this Agreement shall be deemed or construed to create a joint venture, partnership, or agency relationship between the parties for any purpose.

H. Force Majeure. Except with regard to payments due Provider, neither party shall be liable for any delays or failures in performance due to circumstances beyond its control which could not be avoided by the exercise of due care.

THE CUSTOMER ACKNOWLEDGES THAT IT HAS NOT ALTERED THIS AGREEMENT OR MADE ANY CHANGES FROM ITS ORIGINAL FORM. ANY CHANGES TO THIS AGREEMENT WILL MAKE IT INVALID. THE PARTIES ACKNOWLEDGE THAT THEY HAVE READ THIS AGREEMENT AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS. FACSIMILE SIGNATURES ARE DEEMED EQUIVALENT TO ORIGINAL SIGNATURES FOR THE PURPOSE OF THIS AGREEMENT.

CUSTOMER

CNIC, Inc

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: Patricia A. Hicks

Title: _____

Title: President

Date: _____

Date: _____

Contract No. ER17-DURPUB-CABLING

INTERNAL CONNECTIONS AGREEMENT-NETWORK ELECTRONICS

Customer: Durham Public Schools (DPS)
Address: 511 Cleveland Street
Durham, NC 27702

Contact: Aaron Beaulieu

Service Provider: Presidio Networked Solutions, Inc. (Presidio)
5003 S. Miami Blvd.
Suite 110
Durham, NC 27703

Contact: Karla Foster

Service: Attachment A
Effective Date: July 1, 2014 – September 30, 2015

Non-Recurring (one-time) Charge: \$371,717.69

Presidio Networked Solutions, Inc. will provide Durham Public Schools the services as set forth in Attachment A, at the prices set forth in Attachment A.

In consideration for provision of the services provided by Presidio, DPS agrees to pay Presidio in accordance with invoice(s) from Presidio. This contract is not assignable unless agreed to in writing by DPS.

If a Funding Commitment Decision Letter (FCDL) from the Universal Service Administration Company (USAC) is not received by the District at the time of purchase, then Presidio will bill DPS the entire amount and DPS will file for reimbursement of the purchase via the Billed Entity Reimbursement Form (BEAR) process when funding from USAC occurs. If a FCDL is received by DPS at the time of purchase, DPS agrees to pay Presidio directly their E-Rate “match” for funding of the price of the services identified in this Agreement. This payment will be paid to Presidio in accordance with invoice(s) from Presidio. The USAC shall pay the additional payment due directly to Presidio as provided by the Federal Communications Commission’s rules and regulations. Provided however, that as provided by the FCC, payment shall only be made by DPS and the USAC for services actually performed. DPS, when funded, shall file an FCC Form 486, or such other Form as required, to allow payment to Presidio.

Presidio and DPS mutually agree that a timeline will be established to determine when work may begin and end to be in compliance with E-Rate funding. The term of this agreement is from July 1, 2014 until September 30, 2015. If E-Rate funding is delayed, this contract shall not terminate but shall remain in effect until a FCDL is received. It is further provided that this contract may extend beyond the E-Rate year for purposes of collecting E-Rate funds.

This is the entire agreement, as governed by the laws of the state of North Carolina, between the parties and there are no representations, understandings, oral or written, which are not included here.

Agreed:

Durham Public Schools

Presidio Networked Solutions, Inc.

Date: _____

Date: _____



One Vision. One Durham.

Date: May 8, 2014

Durham Public Schools ADMINISTRATIVE SERVICES COMMITTEE PRECIS

Agenda Item: Eno Valley Elementary School – Bids for HVAC System Installation

Staff Liaison Present: Hugh Osteen
Evia Nelson

Phone # 560-3831
560-2216

Main Points:

- Reallocated 2007 Bond funds provide for HVAC system replacement and upgrades at Eno Valley Elementary School. The HVAC upgrades have been adjusted to align with the areas of roof replacement. Equipment is being purchased separately by DPS.
- Bids were received at a 2nd bid event on March 20, 2014 from two (2) qualified bidders. The lowest, responsive, responsible bidder is:

Superior Mechanical Services, Inc.
Greensboro, NC

Base Bid:	\$525,000.00
Value Options:	<u>(\$172,424.00)</u>
Total:	\$352,576.00

Administration submits this bid information and the proposed contract for discussion and subsequent approval.

Fiscal Implications:

This contract is within the project budget. Value options were selected to meet the budget. Minority Business Enterprise participation is 11.2% and all required affidavits were submitted by the contractor.

Strategic Plan Alignment:

III.4 – Implement educational specifications for designing and renovating school facilities.

Purpose

Information **Discussion** **Action** **Consent**

Reviewed by: **Finance** Aaron Beaulieu **Attorney** Rod Malone

BID TABULATIONS**Durham Public Schools****Eno Valley Elementary School - HVAC Replacement**

Bid Date: Thursday, March 20, 2014

Time: 3:00 PM

	GENERAL CONTRACTORS	MWBE FORM	LICENSE NUMBER	BASE BID	TOTAL BID
*1	Superior Mechanical	Y	6911	\$ 525,000.00	\$ 525,000.00
2	Warren Hay Mechanical	1 of 2	7211	\$ 558,000.00	\$ 558,000.00
3					\$ -
4					\$ -
5					\$ -
6					\$ -
7					\$ -
8					\$ -

** Apparent lowest responsible, responsive bidder.

I (We) hereby certify that this is a true and accurate tabulation of bids received this day,
for the above project.

Signed: _____ Date: _____

Durham Public Schools 2011 Hamlin Road Durham, NC 27704 (919) 560-2216 Fax: (919) 560-9119

OWNER-CONTRACTOR AGREEMENT

Durham County
Eno Valley Elementary School – HVAC Replacement

THIS AGREEMENT, is made this 22nd day of May in the year of 2014 by and between the **Durham County, by and through its authorized agent the Durham Public Schools Board of Education** (herein referred to as the "Owner"), whose mailing address for purposes of this agreement shall be, **Construction & Capital Planning, 2011 Hamlin Road, Durham, North Carolina 27704** and **Superior Mechanical Services, Inc. SS/EID #56-1716717** (herein referred to as the "Contractor"), whose mailing address is **607 Industrial Avenue, Greensboro, North Carolina 27406**. All correspondence, submittals, and notices relating to or required under this Contract shall be sent in writing to the above addresses; unless either party is notified in writing by the other, of a change in address.

WITNESSETH:

WHEREAS, it is the intent of the Owner to obtain the services of the Contractor in connection with the Scope of Work for **Eno Valley Elementary School – HVAC Replacement (DPS project 315-01, documents dated February 16, 2014)** hereinafter referred to as the "Project" or the "Work"; and

WHEREAS, the Contractor desires to perform such construction in accordance with the terms and conditions of this Agreement,

NOW, THEREFORE, in consideration of the promises made herein and other good and valuable consideration, the following terms and conditions are hereby mutually agreed to, by and between the Owner and Contractor:

Article 1
DEFINITIONS

- 1.1 All terms in this Agreement which are defined in the Information for Bidders and the General Conditions shall have the meanings designated therein.
- 1.2 The Contract Documents are as defined in the General Conditions provided with the Information to Bidders. Such documents form the Contract, and all are as fully a part thereof as if attached to this Agreement or repeated herein.

Article 2
STATEMENT OF THE WORK

- 2.1 The Contractor shall provide and pay for all materials, tools, equipment, labor and professional and non-professional services, and shall perform all other acts and supply all other things necessary, to fully and properly perform and complete the Work, as required by the Contract Documents.

**NORTH CAROLINA
DURHAM COUNTY**

- 2.2 The Contractor shall further provide and pay for all related facilities described in any of the Contract Documents, including all work expressly specified therein and such additional work as may be reasonably inferred therefrom, saving and excepting only such items of work as are specifically stated in the Contract Documents not to be the obligation of the Contractor. The totality of the obligations imposed upon the contractor by this Article and by all other provisions of the Contract Documents, as well as the structures to be built and the labor to be performed, is herein referred to as the "Work".

Article 3
DESIGN CONSULTANT

- 3.1 The Design Consultant (as defined in the General Conditions) is **DTW Architects & Planners, Ltd., 229 North Gregson Street, Durham, North Carolina 27701.**

Article 4
TIME OF COMMENCEMENT AND COMPLETION

- 4.1 The Contractor shall commence the Work promptly upon the date established in the Notice to Proceed. If there is no Notice to Proceed, the date of commencement of the Work shall be the date of this Agreement or such other date as may be established herein.
- 4.2 Time is of the essence. The Contractor shall achieve Final Completion, as defined in the Specifications on or before the date established for Final Completion.
- 4.3 The Specifications contains certain specific dates that shall be adhered to and are the last acceptable dates unless modified in writing by mutual agreement between the Contractor and the Owner. All dates indicate midnight unless otherwise stipulated.
- 4.4 Should the Contractor fail to complete the Work on or before the dates stipulated for Substantial Completion and/or Final Completion (or such later date as may result from an extension of time granted by the Owner), he shall pay the Owner, as liquidated damages the sums set forth in the General Conditions.

Article 5
CONTRACT SUM

- 5.1 Provided that the Contractor shall strictly and completely perform all of its obligations under the Contract Documents, and subject only to additions and deductions by Modification or as otherwise provided in the Contract Documents, the Owner shall pay to the Contractor, in current funds and at the time and in the installments hereinafter specified, the maximum sum of **Three Hundred Fifty Two Thousand Five Hundred Seventy Six Dollars (\$352,576.00)** herein referred to as the "Contract Sum". The Contract Sum includes the base bid work as specified in the bidding documents and accepted Value Engineering Options per Attachment A.

Article 6
PROGRESS PAYMENTS

**NORTH CAROLINA
DURHAM COUNTY**

6.1 The Contractor hereby agrees that on or about the First day of the month for every month during the performance of the Work he will deliver to the Owner's Project Manager an Application for Payment in accordance with the provisions of the General Conditions. This date may be changed upon mutual agreement, stated in writing, between the Owner and Contractor. Payment under this Contract shall be made as provided in the General Conditions.

Article 7
OTHER REQUIREMENTS

7.1 The Contractor shall submit the Performance Bond, Labor and Material Payment Bond and Certification of Insurance as required by the Contract Documents.

7.2 The Owner shall furnish to the Contractor drawings and specifications as outlined in the General Conditions. Additional sets of drawings or specifications may be obtained by the Contractor by paying the Owner for the costs of reproduction, handling and mailing.

7.3 The Contractor will make a good faith effort to utilize Minority Business Enterprises (MBEs) per N.C. Gen. Stat. 143-128 as subcontractors in the performance of this contract.

IN WITNESS WHEREOF, Durham County, by and through its authorized agent the Durham Public Schools Board of Education (hereinbefore called the "Owner") has caused these presents to be signed by and through its authorized agent the Durham Public Schools Board of Education pursuant to the Interlocal Agreement between the Owner and the Durham Public Schools, and **Superior Mechanical Services, Inc.** (hereinbefore called "Contractor") has caused these presents to be signed by its President and its Corporate seal to be hereunto affixed, as hereinafter attested, all as of the day and year first above written.

Durham County
By and through its authorized agent the Durham Public Schools Board of Education

Heidi Carter, Chair, Durham Public Schools Board of Education

This instrument has been pre-audited in the manner required by the School Budget and Fiscal Control Act.

Aaron Beaulieu, Chief Financial Officer, Durham Public Schools

Endorsement:

Executive Director
Durham Public Schools
Construction & Capital Planning

This contract was approved by the Board on the 22nd day of May, 2014.

**NORTH CAROLINA
DURHAM COUNTY**

Superior Mechanical Services, Inc.

By: _____

Name/Title: _____

STATE OF NORTH CAROLINA
COUNTY OF DURHAM

I, a Notary Public in and for the aforesaid County and State, do hereby certify that _____ personally appeared before me this day and acknowledged that he/she is _____ of _____, a _____ (state of incorporation) corporation, duly authorized to do business in the state of North Carolina, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its _____, sealed with its corporate seal and attested by _____ as its Corporate Secretary.

Witness my hand and notarial seal this ____ day of _____, 2014.

Notary Public (SEAL/STAMP)

My commission expires: _____

Date: May 2014

Eno Valley Elementary School
HVAC System Upgrades
Attachment "A"

The following deductive items were provided by Superior Mechanical Services Inc. on April 8, 2014 as part of a process to reduce the base bid for the above mentioned project. These items have been reviewed and determined acceptable by the Architect and Durham Public Schools.

1) Delete roofing for new curbs. Roofing by Roofing Contractor.	Deduct \$16,000
2) Delete project sign.	\$ 2,500
3) Reduce project allowances.	\$10,000
4) Furnish and install units to align with areas of new roofing. Reduction of six HVAC units.	
a) Labor	\$56,130
b) Electrical	\$40,320
c) Ductwork/Curbs/Fans	\$47,474
Total Base Bid Deduction	\$172,424



One Vision. One Durham.

Date: May 8, 2014

Durham Public Schools ADMINISTRATIVE SERVICES COMMITTEE PRECIS

Agenda Item: Eno Valley Elementary School – Purchase Order for HVAC Equipment

Staff Liaison Present: Hugh Osteen
Evia Nelson

Phone # 560-3831
560-2216

Main Points:

- Reallocated 2007 Bond funds provide for replacement and upgrade of roof top HVAC equipment where roof replacement occurs. DPS has elected to direct purchase the equipment to maximize cost and scheduling.
- Construction & Capital Planning utilized The Cooperative Purchasing Network (TCPN) to obtain pricing from Trane U.S. Inc.
- The quote from TCPN for \$144,970.20 provides a lump sum cost to furnish and deliver eleven (11) rooftop units for installation by the Mechanical Contractor. Issuance of a purchase order for this equipment requires Board approval.

Administration submits this bid information and the proposed purchase order for discussion and subsequent approval.

Fiscal Implications:

This contract is within the project budget. Minority Business Enterprise participation is 0% as this is a direct-from-vendor equipment purchase.

Strategic Plan Alignment:

III.4 – Implement educational specifications for designing and renovating school facilities.

Purpose

Information **Discussion** **Action** **Consent**

Reviewed by: **Finance** Aaron Beulieu **Attorney** Rod Malone



Proposal Rev 1

(Valid for 30 days from Proposal date)

PROPRIETARY AND CONFIDENTIAL PROPERTY OF Trane U.S. Inc.

DISTRIBUTION TO OTHER THAN THE NAMED RECIPIENT IS PROHIBITED

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Prepared For: Durham Public Schools

Date: March 31, 2014

Job Name:
Eno Valley Elementary School

Proposal Number: F4-63086-1
TCPN Quote # 22-10001-14-002

Engineer: Edmondson Engineering

Delivery Terms:
Freight Allowed and Prepaid - F.O.B. Jobsite

Payment Terms:
Net 30 Days

Trane U.S. Inc. is pleased to provide the following proposal for your review and approval.

Tag Data – 12.5- 20 ton sizes: Packaged Gas/Electric Rooftop Units (Qty: 4)

Item	Tag(s)	Qty	Description	Model Number
A1	RTU-1	1	20 Ton Packaged Unitary Gas/Ele	YHD240F3RHA--H0C10002B000000000000
A3	RTU-9	1	15 Ton Packaged Unitary Gas/Ele	YHD180F3RHA--H0C10002B000000000000
A4	RTU-10	1	15 Ton Packaged Unitary Gas/Ele	YHD180F3RHA--H0C10002B000000000000
A5	RTU-12	1	15 Ton Packaged Unitary Gas/Ele	YHD180F3RHA--H0C10002B000000000000

Product Data - Packaged Gas/Electric Rooftop Units

All Units

- Gas/Electric
- High efficiency
- Downflow
- 208-230/60/3
- Reliabel controls w/ Lontalk BAS interface factory installed
- Gas Heat - High
- Economizer Comparative Enthalpy 0-100% with Barometric Relief
- Field installed powered exhauster**
- Hinged panels/2" Pleated Filters Merv 8
- Standard condenser coil with hail guard
- Hot Gas Reheat coil w/ field installed humidity sensor **(Field installed & wired)**
- Std. uninsulated 14" high Trane Roof curb **(Field assembled & installed)**
- Room sensor with temperature adjustment and override buttons **(Field installed & wired)**
- Factory installed control sensor points: Dirty filter, fan proving, Discharge Air, Condensate overflow
- Factory startup & 1st Year Labor warranty
- 5 year compressor parts warranty
- 10 year heat exchanger parts warranty

Tag Data - 3-10 Ton Sizes R410A PKGD Unitary Gas/Electric Rooftop (Qty: 7)

Item	Tag(s)	Qty	Description	Model Number
B1	RTU-2	1	5 Ton R410A PKGD Gas/Electri	YHC060E3RMA--H0C10002B000000000000
B2	RTU-3	1	7.5 Ton R410A PKGD Gas/Electri	YHC092F3RLA--H0C10002B000000000000
B3	RTU-4	1	6 Ton R410A PKGD Gas/Electri	YHC072E3RLA--H0C10002B000000000000
B4	RTU-5	1	1.5 ton R410A PKGD Gas/Electri	4YCC3018
B4	RTU-6	1	3 Ton R410A PKGD Gas/Electri	YHC036E3RMA--H0C10002B000000000000
B5	RTU-7	1	3 Ton R410A PKGD Gas/Electri	YHC036E3RMA--H0C10002B000000000000
B6	RTU-17	1	8.5 Ton R410A PKGD Gas/Electri	YHC102F3RMA--H0C10002B000000000000

Product Data - 3-10 Ton R410A PKGD Unitary Gas/Electric Rooftop

All Units

- DX cooling, gas heat
- High efficiency
- 208-230/60/3
- Reliabel controls w/ Lontalk BAS interface factory installed
- Economizer Comparative Enthalpy 0-100% with Barometric Relief
- Hinged panels/2 in pleated filters Merv 8
- Standard condenser coil w/hail guard
- Hot Gas Reheat coil w/ field installed humidity sensor **(Field installed & wired)**
- Std. uninsulated 14" high Trane Roof curb **(Field assembled & installed)**
- Room sensor with temperature adjustment and override buttons **(Field installed & wired)**
- Factory installed control sensor points: Dirty filter, fan proving, Discharge Air, Condensate overflow
- Factory Startup & 1st Year Labor warranty
- 5 year compressor parts warranty
- 10 year heat exchanger parts warranty

****note RTU-5 is 1.5 ton residential style rooftop that will be provided with a field installed BAS controller and will not be able to have the same control points as the commercial microprocessor RTU systems or the dehumidification option.**

Tag Data - UPG Accessories (Qty: 1)

Item	Tag(s)	Qty	Description
C1	No Tag	1	Roofcurbs for existing units

Product Data - UPG Accessories

Item: C1 Qty: 1

Qty. 1 uninsulated 14" tall flat roofcurbs for existing Trane RTU systems Tagged **RTU-11** (Fld)

Not included with the Trane package:

- Disconnects
- Gas regulators at the units (will need to be field provided and setup by the contractor)
- Wiring, rigging, receiving, offloading of equipment
- Bid bond, payment bond, performance bond
- NC or local sales taxes
- Insulation for roof curbs or taller curbs (standard knocked down curb provided)

Total Net Price (Excluding Sales Tax) **\$ 134,856 + NC taxes**

Tax Status: Taxable <input type="checkbox"/> Exempt <input type="checkbox"/>	IF EXEMPT PLEASE SUBMIT COMPLETED TAX EXEMPTION CERTIFICATE WITH YOUR SIGNED PROPOSAL OR WITH YOUR PURCHASING DOCUMENTS, KEEP YOUR ORIGINAL ON FILE IN THE OFFICE. YOU WILL BE CHARGED TAX IF A VALID EXEMPTION CERTIFICATE IS NOT ON FILE BEFORE EQUIPMENT, PARTS OR SERVICES ARE PROVIDED. SEE WWW.TAXSITES.COM/STATE-LINKS.HTML FOR TAX FORMS.
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Sincerely,

J.D. Howard - Trane U.S. Inc.
 401 Kitty Hawk Drive
 Morrisville, NC 27560-8271
 Phone: (919) 781-0458
 Fax: (919) 781-9195

Subtotal = \$134,856.00
Sales tax - 7.5% = \$ 10,114.20
Total = \$144,970.20

This proposal is subject to your acceptance of the attached Trane terms and conditions.

TERMS AND CONDITIONS - EQUIPMENT

"Company" shall mean Trane Canada ULC for sales in Canada and Trane U.S. Inc. for sales in the United States.

1. Acceptance. These terms and conditions are an integral part of Company's offer and form the basis of any agreement (the "Agreement") resulting from Company's proposal (the "Proposal") for the sale of the described equipment and any ancillary services (the "Equipment"). **COMPANY'S TERMS AND CONDITIONS ARE SUBJECT TO PERIODIC CHANGE OR AMENDMENT.** The Proposal is subject to acceptance in writing by the party to whom this offer is made or an authorized agent ("Customer") delivered to Company within 30 days from the date of the Proposal. If Customer accepts the Proposal by placing an order, without the addition of any other terms and conditions of sale or any other modification, Customer's order shall be deemed acceptance of the Proposal subject to Company's terms and conditions. If Customer's order is expressly conditioned upon Company's acceptance or assent to terms and/or conditions other than those expressed herein, return of such order by Company with Company's terms and conditions attached or referenced serves as Company's notice of objection to Customer's terms and as Company's counter-offer to provide Equipment in accordance with the Proposal and the Company's terms and conditions. If Customer does not reject or object in writing to Company within 10 days, Company's counter-offer will be deemed accepted. Customer's acceptance of the Equipment will in any event constitute an acceptance by Customer of Company's terms and conditions. This Agreement is subject to credit approval by Company. Upon disapproval of credit, Company may delay or suspend performance or, at its option, renegotiate prices and/or terms and conditions with Customer. If Company and Customer are unable to agree on such revisions, this Agreement shall be cancelled without any liability.

2. Title and Risk of Loss. All Equipment sales with destinations to Canada or the U.S. shall be made as follows: FOB Company's U.S. manufacturing facility or warehouse (full freight allowed). Title and risk of loss or damage to Equipment will pass to Customer upon tender of delivery of such to carrier at Company's U.S. manufacturing facility or warehouse.

3. Pricing and Taxes. Following acceptance without addition of any other terms and condition of sale or any other modification by Customer, the prices stated are firm provided that notification of release for immediate production and shipment is received at Company's factory not later than 3 months from order acceptance. If such release is received later than 3 months from order acceptance date, prices will be increased a straight 1% (not compounded) for each 1 month period (or part thereof) beyond the 3 month firm price period up to the date of receipt of such release. If such release is not received within 6 months after the date of order acceptance, the prices are subject to renegotiation or at Company's option, the order will be cancelled. Any delay in shipment caused by Customer's actions will subject prices to increase equal to the percentage increase in list prices during that period of delay and Company may charge Customer with incurred storage fees. In no event will prices be decreased. The price of Equipment does not include any present or future foreign, federal, state, or local property, license, privilege, sales, use, excise, value added, gross receipts or other like taxes or assessments. Such amounts will be itemized separately to Customer, who will make prompt payment to Company. Company will accept valid exemption documentation for such from Customer, if applicable. All prices include packaging in accordance with Company's standard procedures. Charges for special packaging, crating or packing are the responsibility of Customer.

4. Delivery and Delays. Delivery dates are approximate and not guaranteed. Company will use commercially reasonable efforts to deliver the Equipment on or before the estimated delivery date and will notify Customer if the estimated delivery dates cannot be honored and will deliver the and services as soon as practicable thereafter. In no event will Company be liable for any damages or expenses caused by delays in delivery times.

5. Performance. Company shall be obligated to furnish only the Equipment described in the Proposal, and submittal data (if such data is issued in connection with the order), and Company may rely on the acceptance of the Proposal and submittal data as acceptance of the suitability of the Equipment for the particular project or location. If Company and Customer are unable to agree on revised prices or terms, the order may be cancelled without any liability. Unless specifically stated in the Proposal, compliance with any local building codes or other laws or regulations relating to specifications or the location, use or operation of the Equipment is the sole responsibility of Customer. If Equipment is tendered which does not fully comply with the provisions of this Agreement, and Equipment is rejected by Customer, Company will have the right to cure within a reasonable time after notice thereof by substituting a conforming tender whether or not the time for performance has passed.

6. Force Majeure. Company's duty to perform under this Agreement and the Equipment prices are contingent upon the non-occurrence of an Event of Force Majeure. If the Company shall be unable to carry out any material obligation under this Agreement due to an Event of Force Majeure, this Agreement shall at Company's election (i) remain in effect but Company's obligations shall be suspended until the uncontrollable event terminates or (ii) be terminated upon 10 days notice to Customer, in which event Customer shall pay Company for all parts of the Work furnished to the date of termination. An "Event of Force Majeure" shall mean any cause or event beyond the control of Company. Without limiting the foregoing, "Event of Force Majeure" includes: acts of God; acts of terrorism, war or the public enemy; flood; earthquake; tornado; storm; fire; civil disobedience; pandemic insurrections; riots; labor/labour disputes; labor/labour or material shortages; sabotage; restraint by court order or public authority (whether valid or invalid); and action or non-action by or inability to obtain or keep in force the necessary governmental authorizations, permits, licenses, certificates or approvals if not caused by Company; and the requirements of any applicable government in any manner that diverts either the material or the finished product to the direct or indirect benefit of the government.

7. Limited Warranty. Company warrants the Equipment manufactured by Company for a period of the lesser of 12 months from initial start-up or 18 months from date of shipment, whichever is less, against failure due to defects in material and manufacture and that it has the capacities and ratings set forth in Company's catalogs and bulletins ("Warranty"). **Equipment manufactured by Company that includes required start-up and sold in North America will not be warranted by Company unless Company performs the Equipment startup.** Exclusions from this Warranty include damage or failure arising from: wear and tear; corrosion, erosion, deterioration; modifications made by others to the Equipment; repairs or alterations by a party other than Company that adversely affects the stability or reliability of the Equipment; vandalism; neglect; accident; adverse weather or environmental conditions; abuse or improper use; improper installation; commissioning by a party other than Company; unusual physical or electrical or mechanical stress; operation with any accessory, equipment or part not specifically approved by Company; refrigerant not supplied by Company; and/or lack of proper maintenance as recommended by Company. Company shall not be obligated to pay for the cost of lost refrigerant or lost product. Company's obligations and liabilities under this Warranty are limited to furnishing replacement equipment or parts, at its option, FCA (Incoterms 2000) factory or warehouse (f.o.b. factory or warehouse for US domestic purposes) at Company-designated shipping point, freight-allowed to Company's warranty agent's stock location, for all non-conforming Company-manufactured Equipment (which have been returned by Customer to Company. Returns must have prior written approval by Company and are subject to restocking charge where applicable. Equipment, material and/or parts that are not manufactured by Company are not warranted by Company and have such warranties as may be extended by the respective manufacturer. **COMPANY MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, REGARDING PREVENTION OF MOLD/MOULD, FUNGUS, BACTERIA, MICROBIAL GROWTH, OR ANY OTHER CONTAMINATES.** No warranty liability whatsoever shall attach to Company until Customer's complete order has been paid for in full and Company's liability under this Warranty shall be limited to the purchase price of the Equipment shown to be defective. Additional warranty protection is available on an extra-cost basis and must be in writing and agreed to by an authorized signatory of the Company. Additional terms and conditions of warranty coverage are applicable for refrigeration equipment. **EXCEPT FOR COMPANY'S WARRANTY EXPRESSLY SET FORTH HEREIN, COMPANY DOES NOT MAKE, AND HEREBY EXPRESSLY DISCLAIMS, ANY WARRANTIES, EXPRESS OR IMPLIED CONCERNING ITS PRODUCTS, EQUIPMENT OR SERVICES, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF DESIGN, MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE, OR OTHERS THAT ARE ALLEGED TO ARISE FROM COURSE OF DEALING OR TRADE.**

8. Indemnity. To the fullest extent permitted by law, Company and Customer shall indemnify, defend and hold harmless each other from any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, resulting from death or bodily injury or damage to real or personal property, to the extent caused by the negligence or misconduct of their respective employees or other authorized agents in connection with their activities within the scope of this Agreement. Neither party shall indemnify the other against claims, damages, expenses or liabilities to the extent attributable to the acts or omissions of the other party. If the parties are both at fault, the obligation to indemnify shall be proportional to their

relative fault. The duty to indemnify will continue in full force and effect, notwithstanding the expiration or early termination hereof, with respect to any claims based on facts or conditions that occurred prior to expiration or termination.

9. Insurance. Upon request, Company will furnish evidence of its standard insurance coverage. If Customer has requested to be named as an additional insured under Company's insurance policy, Company will do so but only subject to Company's manuscript additional insured endorsement under its primary Commercial General Liability policies. In no event does Company does not waive any rights of subrogation.

10. Customer Breach. Each of the following events or conditions shall constitute a breach by Customer and shall give Company the right, without an election of remedies, to terminate this Agreement, require payment prior to shipping, or suspend performance by delivery of written notice declaring termination, upon which event Customer shall be liable to the Company for all Equipment furnished to date and all damages sustained by Company (including lost profit and overhead): (1) Any failure by Customer to pay amounts when due; or (2) any general assignment by Customer for the benefit of its creditors, or if Customer becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors, or makes or proposes to make any proposal or arrangement with creditors, or if any steps are taken for the winding up or other termination of Customer or the liquidation of its assets, or if a trustee, receiver, or similar person is appointed over any of the assets or interests of Customer; (3) Any representation or warranty furnished by Customer in connection with this Agreement is false or misleading in any material respect when made; or (4) Any failure by Customer to perform or comply with any material provision of this Agreement.

11. Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT CONSEQUENTIAL, OR PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING WITHOUT LIMITATION REFRIGERANT LOSS, BUSINESS INTERRUPTION, LOST DATA, LOST REVENUE, LOST PROFITS) EVEN IF A PARTY HAS BEEN ADVISED OF SUCH POSSIBLE DAMAGES OR IF SAME WERE REASONABLY FORESEEABLE AND REGARDLESS OF WHETHER THE CAUSE OF ACTION IS FRAMED IN CONTRACT, NEGLIGENCE, ANY OTHER TORT, WARRANTY, STRICT LIABILITY, OR PRODUCT LIABILITY). In no event will Company's liability in connection with the provision of products or services or otherwise under this Agreement exceed the entire amount paid to Company by Customer under this Agreement.

12. Nuclear Liability. In the event that the Equipment sold hereunder is to be used in a nuclear facility, Customer will, prior to such use, arrange for insurance or governmental indemnity protecting Company against all liability and hereby releases and agrees to indemnify Company and its suppliers for any nuclear damage, including loss of use, in any manner arising out of a nuclear incident, whether alleged to be due, in whole or in part to the negligence or otherwise of Company or its suppliers.

13. Intellectual Property; Patent Indemnity. Company retains all ownership, license and other rights to all patents, trademarks, copyrights, trade secrets and other intellectual property rights related to the Equipment, and, except for the right to use the Equipment sold, Customer obtains no rights to use any such intellectual property. Company agrees to defend any suit or proceeding brought against Customer so far as such suit or proceeding is solely based upon a claim that the use of the Equipment provided by Company constitutes infringement of any patent of the United States of America, provided Company is promptly notified in writing and given authority, information and assistance for defense of same. Company will, at its option, procure for Customer the right to continue to use said Equipment, or modify it so that it becomes non-infringing, or replace same with non-infringing Equipment, or to remove said Equipment and to refund the purchase price. The foregoing will not be construed to include any Agreement by Company to accept any liability whatsoever in respect to patents for inventions including more than the Equipment furnished hereunder, or in respect of patents for methods and processes to be carried out with the aid of said Equipment. The provision of Equipment by Company does not convey any license, by implication, estoppel, or otherwise, under patent claims covering combinations of said Equipment with other devices or elements. The foregoing states the entire liability of Company with regard to patent infringement. Notwithstanding the provisions of this paragraph, Customer will hold Company harmless against any expense or loss resulting from infringement of patents or trademarks arising from compliance with Customer's designs or specifications or instructions.

14. Cancellation. Equipment is specially manufactured in response to orders. An order placed with and accepted by Company cannot be delayed, canceled, suspended, or extended except with Company's written consent and upon written terms accepted by Company that will reimburse Company for and indemnify Company against loss and provide Company with a reasonable profit for its materials, time, labor, services, use of facilities and otherwise. Customer will be obligated to accept any Equipment shipped, tendered for delivery or delivered by Company pursuant to the order prior to any agreed delay, cancellation, suspension or extension of the order. Any attempt by Customer to unilaterally revoke, delay or suspend acceptance for any reason whatever after it has agreed to delivery of or accepted any shipment shall constitute a breach of this Agreement. For purposes of this paragraph, acceptance shall be any waiver of inspection, use or possession of Equipment, payment of the invoice, or any indication of exclusive control exercised by Customer.

15. Invoicing and Payment. Equipment shall be invoiced to Customer upon tender of delivery thereof to the carrier. Customer shall pay Company's invoices within net 30 days of shipment date. Company reserves the right to add to any account outstanding for more than 30 days a service charge equal to the lesser of the maximum allowable legal interest rate or 1.5% of the principal amount due at the end of each month. Customer shall pay all costs (including attorneys' fees) incurred by Company in attempting to collect amounts due and otherwise enforcing these terms and conditions. If requested, Company will provide appropriate lien waivers upon receipt of payment. Company may at any time decline to ship, make delivery or perform work except upon receipt of cash payment, letter of credit, or security, or upon other terms and conditions satisfactory to Company in accordance with its credit and collections policy. Customer agrees that, unless Customer makes payment in advance, Company will have a purchase money security interest in all Equipment to secure payment in full of all amounts due Company and its order for the Equipment, together with these terms and conditions, form a security agreement (as defined by the UCC in the United States and as defined in the Personal Property Security Act in Canada). Customer shall keep the Equipment free of all taxes and encumbrances, shall not remove the Equipment from its original installation point and shall not assign or transfer any interest in the Equipment until all payments due Company have been made. The purchase money security interest granted herein attaches upon Company's acceptance of Customer's order and on receipt of the Equipment described in the accepted Proposal but prior to its installation. The parties have no agreement to postpone the time for attachment unless specifically noted in writing on the accepted order. Customer will have no rights of set off against any amounts, which become payable to Company under this Agreement or otherwise.

16. Claims. Company will consider claims for concealed shortages in shipments or rejections due to failure to conform to an order only if such claims or rejections are made in writing within 15 days of delivery and are accompanied by the packing list and, if applicable, the reasons in detail why the Equipment does not conform to Customer's order. Upon receiving authorization and shipping instructions from authorized personnel of Company, Customer may return rejected Equipment, transportation charges prepaid, for replacement. Company may charge Customer any costs resulting from the testing, handling, and disposition of any Equipment returned by Customer which are not found by Company to be nonconforming. All Equipment damaged during shipment and all claims relating thereto must be made with the freight carrier in accordance with such carrier's policies and procedures. Claims for Equipment damaged during shipment are not covered under the warranty provision stated herein.

17. Export Laws. The obligation of Company to supply Equipment under this Agreement is subject to the ability of Company to supply such items consistent with applicable laws and regulations of the United States and other governments. Company reserves the right to refuse to enter into or perform any order, and to cancel any order, under this Agreement if Company in its sole discretion determines that performance of the transaction to which such order relates would violate any such applicable law or regulation. Customer will pay all handling and other similar costs from Company's factories including the costs of freight, insurance, export clearances, import duties and taxes. Customer will be "exporter of record" with respect to any export from the United States of America and will perform all compliance and logistics functions in connection therewith and will also comply with all applicable laws, rules and regulations. Customer understands that Company and/or the Equipment are subject to laws and regulations of the United States of America which may require licensing or authorization for and/or prohibit export, re-export or diversion of Company's Equipment to certain countries, and agrees it will not knowingly assist or participate in any such diversion or other violation of applicable United States of America laws and regulations. Customer agrees to hold harmless and indemnify Company for any damages resulting to Customer or Company from a breach of this paragraph by Customer.

18. General. Except as provided below, to the maximum extent provided by law, this Agreement is made and shall be interpreted and enforced in accordance with the laws of the state of New York for Equipment shipped to a U.S. location and the laws of the province to which Equipment is shipped within Canada, without regard to its conflict of law principles that might otherwise call for the application of a different state's or province's law, and not including the United Nations Convention on Contracts for the International Sale of Goods. Any action or suit arising out of or related to this Agreement must be commenced within one year after the cause of action has accrued. To the extent the Equipment is being used at a site owned and/or operated by any agency of the Federal Government, determination of any substantive issue of law shall be according to the Federal common law of Government contracts as enunciated and applied by Federal judicial bodies and boards of contract appeals of the Federal Government. This Agreement contains all of the agreements, representations and understandings of the parties and supersedes all previous understandings, commitments or agreements, oral or written, related to the subject matter hereof. This Agreement may not be amended, modified or terminated except by a writing signed by the parties hereto. No documents shall be incorporated herein by reference except to the extent Company is a signatory thereon. If any term or condition of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, all other terms and conditions of this Agreement will nevertheless remain in full force and effect as long as the economic or legal substance of the transaction contemplated hereby is not affected in a manner adverse to any party hereto. Customer may not assign, transfer, or convey this Agreement, or any part hereof, or its right, title or interest herein, without the written consent of the Company. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of Customer's permitted successors and assigns. This Agreement may be executed in several counterparts, each of which when executed shall be deemed to be an original, but all together shall constitute but one and the same Agreement. A fully executed facsimile copy hereof or the several counterparts shall suffice as an original.

19. NOTICE: Company is restricted from receiving funds appropriated or otherwise made available under U.S. Public Laws 110-161, 111-8, and 111-117.

20. U.S. Government Work.

The following provision applies only to direct sales by Company to the US Government. The Parties acknowledge that Equipment ordered and delivered under this Agreement are Commercial Items as defined under Part 12 of the Federal Acquisition Regulation (FAR). In particular, Company agrees to be bound only by those Federal contracting clauses that apply to "commercial" suppliers and that are contained in FAR 52.212-5(e)(1).

The following provision applies only to indirect sales by Company to the US Government. As a Commercial Item Subcontractor, Company accepts only the following mandatory flow down provisions: 52.219-8; 52.222-26; 52.222-35; 52.222-36; 52.222-39; 52.247-64. If the sale of the Equipment is in connection with a U.S. Government contract, Customer certifies that it has provided and will provide current, accurate, and complete information, representations and certifications to all government officials, including but not limited to the contracting officer and officials of the Small Business Administration, on all matters related to the prime contract, including but not limited to all aspects of its ownership, eligibility, and performance. Anything herein notwithstanding, Company will have no obligations to Customer unless and until Customer provides Company with a true, correct and complete executed copy of the prime contract. Upon request, Customer will provide copies to Company of all requested written communications with any government official related to the prime contract prior to or concurrent with the execution thereof, including but not limited to any communications related to Customer's ownership, eligibility or performance of the prime contract. Customer will obtain written authorization and approval from Company prior to providing any government official any information about Company's performance of the work that is the subject of the Proposal or this Agreement, other than the Proposal or this Agreement.

21. Limited Waiver of Sovereign Immunity. If Customer is an Indian tribe (in the U.S.) or a First Nation or Band Council (in Canada), Customer, whether acting in its capacity as a government, governmental entity, a duly organized corporate entity or otherwise, for itself and for its agents, successors, and assigns: (1) hereby provides this limited waiver of its sovereign immunity as to any damages, claims, lawsuit, or cause of action (herein "Action") brought against Customer by Company and arising or alleged to arise out of the furnishing by Company of any product or service under this Agreement, whether such Action is based in contract, tort, strict liability, civil liability or any other legal theory; (2) agrees that jurisdiction and venue for any such Action shall be proper and valid (a) if Customer is in the U.S., in any state or United States court located in the state in which Company is performing this Agreement or (b) if Customer is in Canada, in the superior court of the province or territory in which the work was performed; (3) expressly consents to such Action, and waives any objection to jurisdiction or venue; (4) waives any requirement of exhaustion of tribal court or administrative remedies for any Action arising out of or related to this Agreement; and (5) expressly acknowledges and agrees that Company is not subject to the jurisdiction of Customer's tribal court or any similar tribal forum, that Customer will not bring any action against Company in tribal court, and that Customer will not avail itself of any ruling or direction of the tribal court permitting or directing it to suspend its payment or other obligations under this Agreement. The individual signing on behalf of Customer warrants and represents that such individual is duly authorized to provide this waiver and enter into this Agreement and that this Agreement constitutes the valid and legally binding obligation of Customer, enforceable in accordance with its terms.

1-26.130-4 (1013)
Supersedes 1-26.130-4(1012)



One Vision. One Durham.

Date: May 8, 2014

Durham Public Schools ADMINISTRATIVE SERVICES COMMITTEE PRECIS

Agenda Item: Y.E. Smith Elementary School – Bids for Kitchen Hood Replacement

Staff Liaison Present: Hugh Osteen
Evia Nelson

Phone # 560-3831
560-2216

Main Points:

- 2007 Bond funds provide for classroom addition and renovation at Y.E. Smith Elementary School. Replacement of the kitchen hood was not in the original scope of the project but, due to age of the existing hood and updated code requirements, the kitchen hood and associated ductwork need replacement.
- Bids were received on April 17, 2014 from five (5) qualified bidders. The lowest, responsive, responsible bidder is:

Riggs-Harrod Builders, Inc.
Durham, NC

Base Bid:	\$172,273.00
Alternate 1:	\$ 12,000.00
Total:	<u>\$184,273.00</u>

Administration submits this bid information and the proposed contract for discussion and subsequent approval.

Fiscal Implications:

This contract is within the project budget. Minority Business Enterprise participation is 2.64% and all required affidavits were submitted by the contractor.

Strategic Plan Alignment:

III.4 – Implement educational specifications for designing and renovating school facilities.

Purpose

Information **Discussion** **Action** **Consent**

Reviewed by: **Finance** Aaron Beaulieu **Attorney** Rod Malone

BID TABULATIONS**Durham Public Schools****Y.E. Smith Elementary School - Kitchen Hood Replacement**

Bid Date: Thursday, April 17, 2014

Time: 10:00 AM

	GENERAL CONTRACTORS	MWBE FORM	LICENSE NUMBER	BASE BID	Alternate 1	TOTAL BID
*1	Riggs Harrod Builders, Inc.	Y	18667	\$ 172,273.00	\$ 12,000.00	\$ 184,273.00
2	Scotia Construction	Y	6481	\$ 183,800.00	\$ 30,000.00	\$ 213,800.00
3	L.A. Downey & Son, Inc.	Y	1774	\$ 215,800.00	n/a	\$ 215,800.00
4	C.T. Wilson Construction	Y	2443	\$ 169,370.00	\$ 49,117.00	\$ 218,487.00
5	Bordeaux Construction	Y	9266-U	\$ 212,500.00	\$ 7,500.00	\$ 220,000.00
6	Hutchins Construction	N	34092	no bid	no bid	no bid

* Apparent lowest responsible, responsive bidder.

Alternate No. 1: Furnish and install vertical ductwork screen enclosure on exterior gymnasium wall.

I (We) hereby certify that this is a true and accurate tabulation of bids received this day, for the above project.

Signed: _____ Date: _____

Durham Public Schools 2011 Hamlin Road Durham, NC 27704 (919) 560-2216 Fax: (919) 560-9119

**NORTH CAROLINA
DURHAM COUNTY**

OWNER-CONTRACTOR AGREEMENT

Durham County
Y.E. Smith Elementary School – Kitchen Hood Replacement

THIS AGREEMENT, is made this 22nd day of May in the year of 2014 by and between the **Durham County, by and through its authorized agent the Durham Public Schools Board of Education** (herein referred to as the "Owner"), whose mailing address for purposes of this agreement shall be, **Construction & Capital Planning, 2011 Hamlin Road, Durham, North Carolina 27704** and **Riggs-Harrod Builders, Inc. SS/EID #56-1470287** (herein referred to as the "Contractor"), whose mailing address is **1117 E. Geer Street, Durham, North Carolina 27704**. All correspondence, submittals, and notices relating to or required under this Contract shall be sent in writing to the above addresses; unless either party is notified in writing by the other, of a change in address.

WITNESSETH:

WHEREAS, it is the intent of the Owner to obtain the services of the Contractor in connection with the Scope of Work for **Y. E. Smith Elementary School – Kitchen Hood Replacement (DPS project 400-02, documents dated March 24, 2014)** hereinafter referred to as the "Project" or the "Work"; and

WHEREAS, the Contractor desires to perform such construction in accordance with the terms and conditions of this Agreement,

NOW, THEREFORE, in consideration of the promises made herein and other good and valuable consideration, the following terms and conditions are hereby mutually agreed to, by and between the Owner and Contractor:

Article 1
DEFINITIONS

- 1.1 All terms in this Agreement which are defined in the Information for Bidders and the General Conditions shall have the meanings designated therein.
- 1.2 The Contract Documents are as defined in the General Conditions provided with the Information to Bidders. Such documents form the Contract, and all are as fully a part thereof as if attached to this Agreement or repeated herein.

Article 2
STATEMENT OF THE WORK

- 2.1 The Contractor shall provide and pay for all materials, tools, equipment, labor and professional and non-professional services, and shall perform all other acts

**NORTH CAROLINA
DURHAM COUNTY**

and supply all other things necessary, to fully and properly perform and complete the Work, as required by the Contract Documents.

- 2.2 The Contractor shall further provide and pay for all related facilities described in any of the Contract Documents, including all work expressly specified therein and such additional work as may be reasonably inferred therefrom, saving and excepting only such items of work as are specifically stated in the Contract Documents not to be the obligation of the Contractor. The totality of the obligations imposed upon the contractor by this Article and by all other provisions of the Contract Documents, as well as the structures to be built and the labor to be performed, is herein referred to as the "Work".

Article 3
DESIGN CONSULTANT

- 3.1 The Design Consultant (as defined in the General Conditions) is **Spring Stoops McCullen Engineering, 3624 Shannon Road, Suite 102, Durham, North Carolina 27707.**

Article 4
TIME OF COMMENCEMENT AND COMPLETION

- 4.1 The Contractor shall commence the Work promptly upon the date established in the Notice to Proceed. If there is no Notice to Proceed, the date of commencement of the Work shall be the date of this Agreement or such other date as may be established herein.
- 4.2 Time is of the essence. The Contractor shall achieve Final Completion, as defined in the Specifications on or before the date established for Final Completion.
- 4.3 The Specifications contains certain specific dates that shall be adhered to and are the last acceptable dates unless modified in writing by mutual agreement between the Contractor and the Owner. All dates indicate midnight unless otherwise stipulated.
- 4.4 Should the Contractor fail to complete the Work on or before the dates stipulated for Substantial Completion and/or Final Completion (or such later date as may result from an extension of time granted by the Owner), he shall pay the Owner, as liquidated damages the sums set forth in the General Conditions.

Article 5
CONTRACT SUM

- 5.1 Provided that the Contractor shall strictly and completely perform all of its obligations under the Contract Documents, and subject only to additions and deductions by Modification or as otherwise provided in the Contract Documents,

**NORTH CAROLINA
DURHAM COUNTY**

the Owner shall pay to the Contractor, in current funds and at the time and in the installments hereinafter specified, the maximum sum of **One Hundred Eighty Four Thousand Two Hundred Seventy Three Thousand Dollars (\$184,273.00)** herein referred to as the "Contract Sum". The Contract Sum includes the base bid work and Alternate No. 1 as specified in the bidding documents.

Article 6
PROGRESS PAYMENTS

- 6.1 The Contractor hereby agrees that on or about the First day of the month for every month during the performance of the Work he will deliver to the Owner's Project Manager an Application for Payment in accordance with the provisions of the General Conditions. This date may be changed upon mutual agreement, stated in writing, between the Owner and Contractor. Payment under this Contract shall be made as provided in the General Conditions.

Article 7
OTHER REQUIREMENTS

- 7.1 The Contractor shall submit the Performance Bond, Labor and Material Payment Bond and Certification of Insurance as required by the Contract Documents.
- 7.2 The Owner shall furnish to the Contractor drawings and specifications as outlined in the General Conditions. Additional sets of drawings or specifications may be obtained by the Contractor by paying the Owner for the costs of reproduction, handling and mailing.
- 7.3 The Contractor will make a good faith effort to utilize Minority Business Enterprises (MBEs) per N.C. Gen. Stat. 143-128 as subcontractors in the performance of this contract.

IN WITNESS WHEREOF, Durham County, by and through its authorized agent the Durham Public Schools Board of Education (hereinbefore called the "Owner") has caused these presents to be signed by and through its authorized agent the Durham Public Schools Board of Education pursuant to the Interlocal Agreement between the Owner and the Durham Public Schools, and **Riggs-Harrod Builders, Inc.** (hereinbefore called "Contractor") has caused these presents to be signed by its President and its Corporate seal to be hereunto affixed, as hereinafter attested, all as of the day and year first above written.

Durham County
By and through its authorized agent the Durham Public Schools Board of Education

Heidi Carter, Chair, Durham Public Schools Board of Education

**NORTH CAROLINA
DURHAM COUNTY**

This instrument has been pre-audited in the manner required by the School Budget and Fiscal Control Act.

Aaron Beaulieu, Chief Financial Officer, Durham Public Schools

Endorsement:

Executive Director
Durham Public Schools
Construction & Capital Planning

This contract was approved by the Board on the 22nd day of May, 2014.

Riggs-Harrod Builders, Inc.

By: _____

Name/Title: _____

STATE OF NORTH CAROLINA
COUNTY OF DURHAM

I, a Notary Public in and for the aforesaid County and State, do hereby certify that _____ personally appeared before me this day and acknowledged that he/she is _____ of _____, a _____ (state of incorporation) corporation, duly authorized to do business in the state of North Carolina, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its _____, sealed with its corporate seal and attested by _____ as its Corporate Secretary.

Witness my hand and notarial seal this ___ day of _____, 2014.

Notary Public (SEAL/STAMP)

My commission expires: _____



One Vision. One Durham.

Date: May 8, 2014

Durham Public Schools ADMINISTRATIVE SERVICES COMMITTEE PRECIS

Agenda Item: Construction Management Services – 2014-2015 Contract Extension

Staff Liaison Present: Hugh Osteen
Evia Nelson

Phone # 560-3831
560-2216

Main Points:

- Durham Public Schools’ construction program is entering the next phase of bond projects that will continue through the 2014-2015 fiscal year.
- The original contract with Heery International, as amended, continues through June 30, 2014. This includes full time resources provided consistently over the last seven years.
- It is further recommended to extend Heery’s contract through June 30, 2015 to provide continuity of services for successful implementation of the program, including new projects resulting from the reallocation of funds from High School ‘A’.
- Heery has adjusted the assigned resources commensurate with the project requirements and has maintained unit costs for professional services at the 2013/2014 rates.

Administration submits the attached addendum for discussion and subsequent approval.

Fiscal Implications:

These services are critical to a successful program and are covered by capital funding.

Strategic Plan Alignment:

III.4 – Implement educational specifications for designing and renovating school facilities.

Purpose

Information **Discussion** **Action** **Consent**

Reviewed by: **Finance** Aaron Beaulieu **Attorney** _____

**Extension of Services for
Construction Program Management Contract
July 1, 2014 through June 30, 2015**

Heery International will provide staff augmentation services within Construction & Capital Planning in support of the bond program and other projects for the period of July 1, 2014 through June 30, 2015. This includes three (3) full time Project Managers with specific project assignments and periodic support from other personnel to complete projects underway.

Based on currently known projects and schedules, a not to exceed fee of \$479,080 is recommended for the 2014-2015 extension. The cost rate (per hour worked) remains unchanged from Heery's previous amendment. Funding is provided by the 2007 bond (including the reallocated funds from High School 'A'), approved Public School Building Capital Funds and each non-bond project (Local Capital). Project Management time is billed directly to each project.

**Addendum
To
Program Management Consultant Services Agreement**

Durham Public Schools Board of Education and Heery International, P.C. hereby agree to extend the original contract agreement dated July 1, 2008 as amended through June 30, 2014, for one additional year from July 1, 2014 through June 30, 2015. The agreement will use the 2012/2013 fixed billing rates as proposed for a not-to-exceed value of \$479,080. All other conditions and terms continue to apply.

Heery International, P.C.

Date

Durham Public Schools Board of Education

Date