

TECHNOLOGY SERVICES CONTRACT (Firm Fixed Price) & PROMISSORY NOTE

BETWEEN

THE LOUDOUN COUNTY SCHOOL BOARD

AND

THE MIDDLEBURG COMMUNITY CHARTER SCHOOL

THIS CONTRACT is made and entered into as of this 31st day of October, 2018, by and between the LOUDOUN COUNTY SCHOOL BOARD ("School Board" and also referred to as "Loudoun County Public Schools" and "LCPS"), a political subdivision of the Commonwealth of Virginia and body politic, having its principal place of business at 21000 Education Court, Ashburn, Virginia, 20148 and the MIDDLEBURG COMMUNITY CHARTER SCHOOL (MCCS), a nonstock, nonprofit corporation, State Corporation Commission No. 773418-9, filed January 16, 2014, currently having its principal place of business at, 101 Madison Street, Middleburg, Virginia 20118 ("Charter School").

WITNESSETH:

WHEREAS, the parties entered into a technology services contracts for the period of July 1, 2014, through June 30, 2018, for which arrearages remain due; and

WHEREAS, MCCS is in need of certain technology services and desires to secure those services from the School Board at the MCCS location of 101 Madison Street, Middleburg, Virginia; and,

NOW, THEREFORE, the parties mutually agree as follows:

1. **Recitals:** The above recitals are incorporated herein as if fully re-written.
2. **Term:** The term of this contract shall be from July 1, 2018, to June 30, 2019, unless sooner terminated.
3. **Base Price:** In exchange for the services to be provide herein, MCCS will remit \$20,000.00 in four equal quarterly installments per school year to be deducted from any and all funds owed to MCCS under its Charter School Agreement with the School Board. If any quarterly payment is insufficient to satisfy the amount owed to the School Board, the School Board will inform MCCS in writing and MCCS shall remit the difference within (30) thirty days. This liability survives this contract and shall continue to be a liability of MCCS until satisfied.
4. **Services:** In exchange for the said price stated in paragraph 3, The School Board will provide the reasonably necessary technology support repair services and parts replacement (all parts at cost to MCCS) to maintain the current level of technology provided for MCCS as of July 1, 2018, as follows:

- a. Repair services for network/infrastructure hardware, cabling, routers, circuit boards and switches, and audio visual devices (repairs to Promethean boards or other white boards are excluded and will not be provided);
- b. A 100mb data circuit with access to the internet;
- c. McAfee Antivirus software for the network and school computers is included in the base price;
- d. Repairs to telephones, telephone cables and switches and related hardware, as well as facilitate the telephone service through the existing telephone service provider so as to allow M CCS to retain the current telephone number (at M CCS cost for phone service);
- e. Repairs of computer desktops, laptops or other devices including printers (but not Deskjet printers, tablets or Chromebooks and materially similar devices in the school on July 1, 2018);
- f. Any and all parts replacements for any hardware will be charged at cost to M CCS and LCPS will obtain M CCS permission for any part costing more than \$150.00;
- g. LCPS shall not be obligated to refresh, that is, replace computers, laptops or other devices or hardware on a scheduled or non-scheduled basis;
- h. Toner for the printers is not included in this contract;
- i. Diagnostic service only will be provided for existing Xerox photocopying machines in the building on July 1, 2018, if any. Any needed repairs require the Xerox authorized vendor service agent and, after authorization of the repair by M CCS, vendor charges will be billed to M CCS by LCPS unless the vendor directly bills M CCS. Replacement of these machines, if any, is not included.
- j. The instructional software licensing fees for Phoenix Student Information System and Gradebook as well as for Adobe Creative Suite, Microsoft Office 365, Microsoft Productivity Tools, and Microsoft Operating System are included in this contract base price. The parties will negotiate the price for any new software needed in the future that M CCS desires to purchase through the School Board. If M CCS does not purchase through the School Board, M CCS will obtain the advance review and approval for the purchase from LCPS for new software or hardware for compatibility purposes.

5. Add On Services.

BlackboardConnect (formerly Edconnect) capability and Schoolwires web management services may be added to this contract for the additional annual costs below.

- i. BlackboardConnect capability for annual fee of \$1.50 per enrolled student.
- ii. Schoolwires webpage management services for annual fee of \$1091.57.

- 6. The School Board shall not be obligated to make repairs if in its professional judgment it would be more cost effective to replace hardware than to repair it.

7. Technology Equipment Not Covered: This contract does not cover surveillance cameras, surveillance recording devices, television monitors, iPhones, emergency radio systems, radio-related FCC fees, card access readers, fire alarm systems or other electronic entry software or hardware, white boards or Promethean boards, or any other equipment not covered by this contract.

8. The parties acknowledge a M CCS debt obligation from prior contracts in which M CCS agreed to remit the balance owed in ten (10) quarterly installments and that LCPS would deduct the payments from amounts owed to M CCS on its Charter School Agreement. The parties agree to continue their prior agreement. Any sums remaining unpaid at the end of the installments shall be paid forthwith. This debt obligation shall survive the expiration or termination of this contract.

9. Termination. This contract shall terminate upon expiration, default as noted below, or if for any reason the Loudoun County School Board conveys and records title to the real property of 101 Madison Street, Middleburg, Virginia, to any other entity. Such termination shall be effective upon recordation of a conveying deed. Any unearned quarterly base price payment shall be refunded on a pro-rated basis.

OTHER TERMS AND CONDITIONS.

10. Waiver of Jury Trial: It is mutually agreed by the parties that they hereby waive trial by jury in any action, proceeding or counter-claim brought by either of the parties hereto against the other on any matter whatsoever arising out of or in any way connected with this contract.

11. Merger, Conflicts and Amendments: This contract merges all understandings, representation and agreements between the parties hereto with respect to this contract except that the prior agreement regarding arrearages in payments remain valid and this contract shall not be changed or modified in any manner except by an instrument in writing executed by the parties hereto.

12. Law: This contract shall be construed and interpreted under the laws of the Commonwealth of Virginia without regard to conflicts of laws statutes. Any claim, proceeding, lawsuit or action shall be brought exclusively in the state courts of Loudoun County, Virginia.

13. Interpretation: This contract shall be construed fairly as to both parties and not in favor of or against either party, regardless of which party prepared the Lease or any particular provision herein.

14. Severability: If any provision of this Contract will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of this Contract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

15. Remedies: In addition to any and all other rights a party may have available according to law, if a party defaults by failing to substantially perform any provision, term or condition of this Contract (including without limitation the failure to make a monetary payment when due), the other party may terminate the Contract by providing written notice to the defaulting party. This notice shall describe with sufficient detail the nature of the default. The party receiving such notice shall have 30 days from the effective date of such notice to cure the default(s). Unless waived by a party providing notice, the failure to cure the default(s) within such time period shall result in the automatic termination of this Contract.

16. Assignment: Neither party may assign or transfer this Contract without the prior written consent of the non-assigning party.

SO AGREED:

Approved as to form:



Stephen L. DeVita, Division Counsel

ACCEPTED AND AGREED BY AND FOR THE
LOUDOUN COUNTY SCHOOL BOARD

By: 
Name: Jeffrey E. Morse

Title: Chair
Date: 9/11/18

SO AGREED:

ACCEPTED AND AGREED BY AND FOR THE
MIDDLEBURG COMMUNITY CHARTER
SCHOOL

By:  (SEAL)
Name:

Title: President
Date: 31 Oct 18