

SCHOOL BOARD OF BREVARD COUNTY  
OFFICE OF PURCHASING SERVICES  
2700 JUDGE FRAN JAMIESON WAY  
VIERA, FL 32940-6601

NON-COMPETITIVE SALES AND SERVICES AGREEMENT

SSA #13-216-WH – Bright House Networks LLC

<u>Vendor Name</u>	<u>Amount of Award</u>	<u>Required Products and Services</u>
Bright House Networks LLC	\$31,672.80	Business internet at four maintenance compounds for three years.

**DISCUSSION:**

The Office of Plant Operations and Maintenance has used Bright House Networks LLC to implement a closed network to connect three remote sites to the main operating facility in Rockledge. This was accomplished utilizing a network architecture designed by the Office of Educational Technology, Network Operations Manager and the Cisco Field Sales Engineer. During a recent account review by Bright House Networks LLC, due to our relocated north area office, we learned a modification was available to increase the network performance capacity at these three remote locations. This modification will also permit the permanent deactivation of three (3) legacy server computers for no additional cost to the district.

**CONTRACT TERM:**

The term of this agreement shall be from December 12, 2012 through December 11, 2015.

**RECOMMENDATION:**

It is the recommendation of Dane Theodore, Assistant Superintendent of Facilities Services, Dennis Bonny, Director of Plant Operations and Maintenance and staff, to approve the attached agreement with Bright House Networks LLC.

**AUTHORITY FOR ACTION:**

Florida Administrative Code - 6A-1.012 (14)

**ACTION BY BOARD:**

\_\_\_\_\_ Approved Recommendation(s) Above & Awarded

Meeting Date: **December 11, 2012**

\_\_\_\_\_ Other \_\_\_\_\_

Cheryl L. Olson, C.P.M., CPPO, FCCN, Director  
Office of Purchasing & Warehouse Services



Contract # 13-216-WH  
Approval Date: \_\_\_\_\_

**The School Board of Brevard County, Florida**  
**Sales and Services Agreement**

**The School Board of Brevard County, Florida**, 2700 Judge Fran Jamieson Way, Viera, Florida 32940-6601, ("**School Board**") does hereby retain the services of Bright House Networks LLC with an address of 720 Magnolia Avenue, Melbourne FL 32935 (hereinafter called "**Contractor**") to furnish the services in accordance with the following terms and conditions:

**1. Description of Services.** **Contractor** shall perform the following services:  
Business internet 50mb x 5mb access and 1 static IP each at 4 Maintenance off sites as outlined in section 2.

Said services shall be completed to the satisfaction of Mr. Dennis Bonny, Director Plant Operations and Maintenance.

Services shall be considered complete December 11, 2015.

The **Contractor** will independently perform all services specified above, except as provided otherwise herein. In the event **Contractor** requires the services of other **Contractors**, an amendment to this agreement listing the names, addresses and anticipated amounts to be paid to said additional **Contractors** will be required. All intellectual property, work product, outcomes, or processes specially developed for the delivery of services described above shall be the property of the **School Board**.

**2. Location of Services.** Performance of services cited above will be conducted at:  
School Board Maintenance Compound: 1254 S. Florida Ave. Bldg 1, Rockledge FL 32955  
School Board Maintenance Compound: 2255 Meadowlane Ave., West Melbourne FL 32904  
School Board Maintenance Compound: 2327 Harry T. Moore Ave., Mims FL 32754  
School Board Maintenance Compound: 1948 Pineapple Ave. Bldg 4, Melbourne 32935

**3. Term.** The term of this agreement shall be from the date last signed by both parties until December 11, 2015 unless terminated as provided herein, or extended by supplement to this agreement.

**4. Termination.** The **School Board**, or designee, may terminate this agreement immediately, in its sole discretion. In the event of termination, the **Contractor** shall be paid for services performed and completed under this agreement up to the date of termination and an Early Termination Fee of \$150 per location.

**5. Compensation and Payment.** Based on the completion of services described in paragraph 1 above, the **Contractor** shall receive payment as listed below. **School Board's** payment will be made pursuant to the provisions of the Local Government Prompt Payment Act after receipt of **Contractor's** invoice and completion of services. The Local Government Prompt Payment Act requires the **School Board** to pay a correct and undisputed invoice within 45 days of the **School Board's** Accounts Payable Department's receipt of said invoice. **The School Board shall incur no obligation for payment until issuance of a purchase order to Contractor.**

At the rate of \$219.95 per Month up to a maximum of \$31,672.80 as compensation for all work and services performed for the **School Board**.

Expenses are not authorized.

Expenses shall only be incurred as authorized by **School Board** and as provided for by section 112.061, Florida Statutes.

**6. Independent Contractor.** The **Contractor** certifies that it is an independent **Contractor** and shall not employ, contract with, or otherwise use the services of any officer or employee of the **School Board**. The **Contractor** certifies that its owner, officers, directors or agents, or members of their immediate family, do not have an employee relationship or other material interest with the **School Board**. The **Contractor** has completed and signed the attached Exhibit B, Vendor Conflict of Interest Disclosure Form.

7. **Indemnification.** During the term of this agreement, the Contractor shall indemnify, hold harmless, and defend the School Board of Brevard County, its officers, agents, servants, and employees from any and all costs and expenses, including, but not limited to attorney fees, investigative and discovery costs, court costs, settlements, court/jury awards, punitive damages, special damages, etc. until the termination of the claim or until the termination of litigation whichever comes first; and any and all other sums which the Board, its agents, servants, and employees may pay or become obligated to pay on account of any, all, and every claim or demand, or assertion of liability arising from, as the result of, or out of the products, goods, or services furnished to the School Board by the Contractor, its agents, servants or employees, or any of the Contractor's equipment in operation or equipment parked or stored on premises owned or controlled by the Board for the purpose of performing services, delivering products or goods, installing equipment, or otherwise transacting business, whether such claim or claims be for damages, injury to person or property, including the Board's property, intentional acts, or death of any person, group or organization, whether employed by the Contractor or the Board or otherwise. This agreement to indemnify and hold harmless includes an obligation to indemnify and hold the School Board of Brevard County harmless for liability for any negligence on the part of the School Board until both the Contractor and Board agree that the School Board was solely negligent. If the question of "solely negligent" should arise, a court agreeable to both parties may be engaged to settle this dispute.

8. **Insurance.** The Contractor will provide before commencement of work, and attach to this agreement, a certificate(s) evidencing such insurance coverage to the extent listed in 8.1 to 8.5 below. The School Board reserves the right to be named as an additional insured or to reject such coverage and terminate this agreement if coverage is determined to be inadequate or insufficient. The Contractor will carry and maintain as a minimum the following coverage from insurance carriers that maintain a rating of "A" or better and a financial size category of "VII" or higher according to the A. M. Best Company. Such certificates must contain a provision for notification to the Board thirty (30) days in advance of any material change in coverage or cancellation. This is applicable for the procurement and delivery of products, goods, or services furnished to or for the School Board of Brevard County and any of its ancillary schools, departments, or organizations.

8.1. General Liability Insurance:		
Negligence including Bodily Injury: Per Claim		\$1,000,000
Negligence Including Bodily Injury: Per Occurrence		\$2,000,000
Property Damage: Each Accident		\$1,000,000
8.2. Product Liability or Completed Operations Insurance:		
Negligence Including Bodily Injury: Per Claim		\$ 500,000
Negligence Including Bodily Injury: Per Occurrence		\$1,000,000
8.3. Automobile Liability:		
Negligence Including Bodily Injury: Per Claim		\$ 500,000
Negligence Including Bodily Injury: Per Occurrence		\$1,000,000
Property Damage: Each Occurrence		\$ 500,000
8.4. Workers' Compensation/Employer's Liability:		
W.C. Limit Required		Statutory Limits
E.L. Each Accident		\$1,000,000
E.L. Disease – Each Employee		\$ 500,000
E.L. Disease – Policy Limit		\$1,000,000

Workers' Compensation Exemption forms will not be accepted. All entities or individuals are required to purchase a Workers' Compensation insurance policy.

8.5. Professional Liability Insurance (E&O, D&O etc.):		
For services, goods or projects that will exceed \$1,000,000 in values over a year.		
Each Claim:		\$1,000,000
Per Occurrence:		\$2,000,000
For services, goods or projects that will not exceed \$1,000,000 in values over a year.		
Each Claim:		\$ 250,000
Per Occurrence:		\$ 500,000

9. **Laws and Regulations.** This agreement, and all extensions, supplements and modifications thereto, and all questions relating to its validity, interpretation, performance or enforcement shall be governed by and construed in accordance with the laws of the state of Florida. Any legal disputes, legal proceedings or actions arising out of or in connection with this agreement shall be brought in the state courts of Brevard County, Florida. The parties shall not violate the code of ethics for public officers and employees, chapter 112, Florida Statutes.

10. **Background Check.** The **Contractor** agrees to comply with all requirements of sections 1012.32 and 1012.465, Florida Statutes, and, except as provided in sections 1012.467 or 1012.468 and consistent with District policy, all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, shall successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes and the **School Board**. This background screening will be conducted by the **School Board** in advance of the **Contractor** or its personnel providing any services under the conditions described in the previous sentence. The **Contractor** shall bear the cost of acquiring the background screening required by section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to the **Contractor** and its personnel. The parties agree that the failure of the **Contractor** to perform any of the duties described in this section shall constitute a material breach of this agreement entitling the **School Board** to terminate immediately with no further responsibilities or duties to perform under this agreement. The **Contractor** agrees to indemnify and hold harmless the **School Board**, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from **Contractor's** failure to comply with requirements of this section or with sections 1012.32 and 1012.465, Florida Statutes.

11. **Assignability.** This contract is for the personal services of the **Contractor** and may not be assigned by the **Contractor** in any fashion, whether by operation of law, or by conveyance of any type, including without limitation, transfer of stock in **Contractor**, without the prior written consent of the **School Board** which consent the **School Board** may withhold in its sole discretion.

12. **Conduct While on School Property.** The **Contractor** acknowledges that its employees and agents will behave in an appropriate manner while on the premises of any school facility and shall at all times conduct themselves in a manner consistent with **School Board** policies and within the discretion of the premises administrator (or designee). It is a breach of this agreement for any agent or employee of the **Contractor** to behave in a manner which is inconsistent with good conduct or decorum or to behave in any manner that will disrupt the educational program or constitute any level of threat to the safety, health, and well being of any student or employee of the **School Board**. The **Contractor** agrees to immediately remove any agent or employee if directed to do so by the premises administrator or designee.

13. **No Taxes.** The **School Board** is not obligated and does not agree to pay any federal, state, or local tax as a result of this agreement.

14. **Public Records.** This agreement is subject to and governed by the laws of the state of Florida, including without limitation Chapter 119, Florida Statutes, which generally make public all records or other writings made or received by the parties.

15. **No Waiver.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable.

16. **Non-Discrimination.** The parties shall not discriminate against any employee or participant in the performance of the duties, responsibilities and obligations under this agreement because of race, color, religion, gender, age, marital status, disability, political or religious beliefs, national or ethnic origin.

17. **Copyrights.** The **Contractor** is hereby notified that the federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for federal government purposes: the copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and, any rights of copyright to which a grantee, subgrantee or a **Contractor** purchases ownership with grant support. Furthermore, the parties agree that the **School Board** has the right to make copies of any materials, whether in tangible or electronic means or media, that are delivered under the provisions of this agreement for use within the School District for purposes related to **School Board** business, operations, the delivery of the educational program or to comply with the requirements of law, rule, policy or regulation. Any material not designated as reproducible by **Contractor** may not be copied by the **School Board** provided that such material was copyrighted by **Contractor** before performance under this agreement and was not developed specifically for **School Board** under this Services Agreement.

18. **Access to and Retention of Documentation.** The **School Board**, the United States Department of Education, the Comptroller General of the United States, the Florida Department of Education or any of their duly authorized representatives shall have access to any books, documents, papers, and records of the **Contractor** which are directly pertinent to work and services to be performed under this agreement for the purpose of audit, examination, excerpting and transcribing. The parties will retain all such required records, and records required under any state or federal rules, regulations or laws respecting audit, for a period of four years after the **School Board** has made final payment and all services have been performed under this agreement.

19. **Debarment.** By signing this Agreement, **Contractor** certifies, to the best of its knowledge and belief, that it and its principals:

*Updated 8-15-12*

- a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a federal department or agency.
- (b) Have not, within the preceding five-year period, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.
- (c) Are not presently indicted or otherwise criminally charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in the preceding paragraph (b).
- (d) Have not within the preceding five-year period had one or more public transactions (federal, state or local) terminated for cause or default.

**Contractor** agrees to notify **School Board** within 30 days after the occurrence of any of the events, actions, debarments, proposals, declarations, exclusions, convictions, judgments, indictments, informations, or terminations as described in paragraphs 18(a) – (d) above, with respect to **Contractor** or its principals.

20. **Confidential Student Information.** Notwithstanding any provision to the contrary contained in this agreement, **Contractor** and its officers, employees, agents, representatives, contractors, and sub-contractors shall fully comply with the requirements of Section 1002.22 and Section 1002.221, Florida Statutes, or any other law or regulation, either federal or State of Florida, regarding confidentiality of student information and records. Further, **Contractor** for itself and its officers, employees, agents, representatives, contractors, or sub-contractors, shall fully indemnify and hold the **School Board** and its officers and employees harmless for any violation of this covenant, including but not limited to defending the **School Board** and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon the **School Board** or payment of any and all costs(s), damages (s), judgment(s), or loss(es) incurred by or imposed upon the **School Board** arising out of the breach of this covenant by the vendor, or an officer, employee, agent, representative, contractor, or sub-contractor of the vendor to the extent and only to the extent that the vendor or an officer, employee, agent, representative, contractor, or sub-contractors of the vendor shall either intentionally or negligently violate the provisions of this covenant, or Sections 1002.22 or 1002.221, Florida Statutes.

This provision shall survive the termination of or completion of all performance or obligations under this agreement and shall be fully binding upon **Contractor** until such time as any proceeding brought on account of this covenant is barred by any applicable statute of limitations.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth below.

**THE SCHOOL BOARD OF  
BREVARD COUNTY, FLORIDA:**

By: \_\_\_\_\_  
Barbara A. Murray, Ph.D., Chairman

Date Approved: \_\_\_\_\_

**ATTEST (WITNESS):**

By: \_\_\_\_\_  
Brian T. Binggeli, Ed.D., Superintendent

**CONTRACTOR:**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTEST (WITNESS):**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

YEAR	FND	CNTR	PROJECT	FUNC	OBJT	PRG		AMOUNT

Contractor Contact Name: Joseph Robinson  
 Email Address: Joseph.Robinson@MyBrightHouse.com  
 Phone Number: 321-757-6487, Fax Number: 888-621-4351

Updated 8-15-12