



FAYETTE COUNTY PUBLIC SCHOOLS

**Executive Summary
Fayette County Public Schools Board Meeting
Agenda Item**

MEETING: Regular

DATE: 6/27/2016

TOPIC: Criterion Education, LLC – National Institute for School Leaderships Executive Development Agreement

PREPARED BY: Shelley Chatfield

Recommended Action on: 6/27/2016

Action Item for Vote (REGULAR MEETING)

Superintendent Prior Approval: No

Recommendation/Motion: A motion is in order to approve the contract for Criterion Education, LLC – National Institute for School Leaderships Executive Development Program Agreement

Background/Rationale: Board Policy 01.11 states that the contracts with the district with an expenditure amount above \$20,000.00 must be approved by a vote of the Board. This month District staff would like to enter into a contract with Criterion Education - NISL

Policy: 01.11

Fiscal Impact: \$42,000.00

Attachments(s): Click here to enter text.

AN EQUAL OPPORTUNITY SCHOOL DISTRICT

Board of Education: Melissa Bacon, Chair • Amanda Ferguson, Vice Chair • Douglas Barnett • Daryl Love

Superintendent Emmanuel Caulk

701 East Main Street, Lexington, Kentucky 40502 • Phone: 859.381.4100 • www.fcps.net

Mailing Address: 1126 Russell Cave Rd., Lexington, Kentucky 40505

CRITERION EDUCATION, LLC.

**NATIONAL INSTITUTE FOR SCHOOL LEADERSHIP'S EXECUTIVE
DEVELOPMENT PROGRAM AGREEMENT**

with

NAME OF CLIENT: FAYETTE COUNTY SCHOOLS

June 1, 2016
Effective Date

This Criterion Education, LLC Agreement ("**Agreement**") is entered into by and between Criterion Education, LLC ("**Criterion**"), a corporation organized and existing under the laws of the State of Delaware, with offices at 2121 K Street NW, Suite 700, Washington, DC 20037 and above-named client (the "**Client**") shown on the signature line, with an address shown on the signature line for the Client. Criterion and the Client hereby agree as follows:

1. Background. The Client and Criterion wish to enter into this Agreement in connection with the implementation of the services set forth in the scope of work (the "**Scope of Work**") attached hereto as Exhibit A and made a part hereof.

2. Term. The term of this Agreement shall commence on the Effective Date indicted above ("**Effective Date**") and shall expire on July 31, 2016. The term may be extended by written mutual consent of the parties which written consent includes a scope of work referencing this Agreement and setting forth the responsibilities of the parties and the fees associated with the extension term (each scope of work for an extension term is hereinafter referred to as an "**Additional Scope**"). In the event that this Agreement (and subsequent modifications or amendments) is executed after the Effective Starting Date, the Client shall pay Criterion for all work performed on or after the Effective Starting Date or pursuant to the Scope of Work.

3. Scope of Work. Criterion shall provide the training of the instructional staff principals, other school leaders and administrators of the Client, in the NISL Facilitator Certification Institute along with materials and technical support as described in the Scope of Work or any Additional Scope.

4. License of Materials. Criterion grants to the Client and to any Client designee that Criterion further consents to in writing, a perpetual, non-exclusive, non-transferable license to use the materials (the "**Training Materials**") provided by Criterion to the Client or its personnel under this Agreement, including, without limitation, those materials identified in the Scope of Work or any Additional Scope, including any materials provided in electronic form or computer-readable form, for use only in connection with the implementation of the course or program as further described in Exhibit A in the participating Jurisdiction. For the purpose of this license, the term "use" includes the right to distribute the Training Materials, but does not include the right to reproduce or adapt any of the Training Materials.

5. Obligations of the Client. The Client shall fulfill its commitments as described in the Scope of Work and any Additional Scope, and the performance thereof by the Client shall be a condition of Criterion's obligation to perform any of its obligations under this Agreement.

6. Compensation. The Client shall pay Criterion a fixed price of \$42,000.00 for the services provided under the Scope of Work, payable as described in the Scope of Work. In the case of any mutually agreed Additional Scope or extension of the term, the Client shall pay Criterion for any services, licenses and materials provided during such Additional Scope or extension. Prices for any Additional Scope or during any extension of the term shall be Criterion's prices for such services as set forth in Criterion's price list for such year.

7. Intellectual Property.

7.1. Copyright. Criterion reserves copyright in all written and electronic materials delivered by Criterion pursuant to this Agreement. These items may not be copied or otherwise reproduced without the express written permission of Criterion. In no event shall the Client remove any copyright notices from the materials.

7.2. Restrictions. In no event shall the Client use or permit others to use the Training Materials other than as permitted in Section 4, or as otherwise consented to by Criterion in writing. Any access the Client provides to the Training Materials over a computer network shall restrict access to personnel authorized to use the materials hereunder in a reliable fashion (including, at a minimum, requiring each user to enter a password to gain access to the materials). In no event may the Training Materials be sublicensed, modified, sold or transferred except as provided herein.

7.3. Trademark and Trade Name. This Agreement does not give the Client any ownership rights or interest in Criterion's trade name or trademarks.

8. Independent Contractors. During the performance of this Agreement, the employees of one party will not be considered employees of the other party within the meaning of any federal, state or local laws or regulations including, but not limited to, laws or regulations covering unemployment insurance, old age benefits, workers compensation, industrial accident, labor or taxes of any kind nor within the meaning or application of the other party's employee fringe benefit programs for purposes of vacations, holidays, pension, group life insurance, accidental death, medical, hospitalization and surgical benefits. The Client's employees who perform the obligations of the Client hereunder shall be under the employment and ultimate control, management and supervision of Client. Criterion's employees who are to perform the services to be completed by Criterion hereunder shall be under the employment and ultimate control, management and supervision of Criterion. Nothing contained herein shall be construed to imply a joint venture, partnership or principal-agent relationship between the Client and Criterion, and neither party shall have the right, power or authority to obligate or bind the other in any manner whatsoever, except as otherwise agreed to in writing.

9. Entire Agreement. This Agreement, along with the Scope of Work and any Additional Scope, constitutes the entire and sole agreement between the parties with respect to the subject matter hereof and supersedes any prior written agreements and any prior, contemporaneous or subsequent oral understanding, with respect to the subject matter hereof.

10. Modification; Amendments. There shall be no modifications or amendments of this Agreement, except in writing, executed with the same formalities as this instrument.

11. Conflict. In the event of any conflict, ambiguity or inconsistency between this Agreement and any other document which may be annexed hereto, the terms of this Agreement shall govern.

12. Contact Information and Notices. Upon signing this agreement, the Client will indicate the name, address, telephone and fax number of Criterion's point of contact for the Client. Any notices and other communications provided hereunder, including any notice of the change in contact information, shall be made or given hereunder by either party by facsimile at the facsimile numbers set forth on the signature line below or delivered by hand or by certified or express mail to the party at the addresses set forth under

the signature lines below. Unless otherwise notified, notices sent to Criterion should be sent to Mr. Willie Charles in Contracts.

13. Limitations on Liability. In no event shall either party be liable to the other party under this Agreement or to any third party for special, consequential, incidental, punitive or indirect damages, irrespective of whether such claims for damages are founded in contract, tort, warranty, operation of law, or otherwise, or whether claims for such liability arise out of the performance or non-performance by such party hereunder.

14. Non-Solicitation. The Client agrees that it shall not during the term of this Agreement, and for a period of twenty-four (24) months immediately following the termination of this Agreement, solicit, hire or retain directly or indirectly, either as an officer, director, partner, consultant, employee or individual proprietor, any Criterion employee or independent consultant who performed services pursuant to this Agreement, except as may be agreed to in writing by both parties.

15. Governing Law. The provision of the agreement shall be governed by and construed in accordance with the laws of the District of Columbia except for its conflict of laws and principles.

16. Dispute Resolution. If a dispute arises out of or relates to this agreement or a breach hereof, and that dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation under the Commercial Mediation Rules of the American Arbitration Association, before resorting to Arbitration. In the event the dispute is not settled through mediation, the parties agree to resolve the conflict through arbitration under the commercial arbitration rules of the American Arbitration Association. Arbitration shall occur in the District of Columbia. Any award rendered in such arbitration may be enforced by either party in the courts located in the District of Columbia, and the parties consent to the jurisdiction of such courts.

17. No Third Party Beneficiaries. The parties do not intend that any third party have any rights as a third party beneficiary of this Agreement.

18. Severability. If any portion of this Agreement is to be void, invalid, or otherwise unenforceable, in whole or part, the remaining portions of this Agreement shall remain in effect.

19. Headings. The article and section headings in this Agreement are for convenience of reference only and in no way define or limit the scope or content of the Agreement or in any way effect its provisions.

IN WITNESS WHEREOF, the parties, by their duly authorized representatives, have caused this Agreement to be executed as of the date first written above.

	Criterion Education, LLC		Fayette County Schools
By:		By:	
	(Signature)		(Signature)
Date:		Date:	
Name:		Name:	
Title:	President & CEO	Title:	
Address:	2121 K Street NW, Suite 700 Washington, DC 20037	Address:	
Contact:	Willie J. Charles, Contracts Office	Contact:	
Phone:	(202) 378-2127	Phone:	
Fax:	(202) 293-1560	Fax:	
E-mail:	wcharles@nisl.org	E-mail:	
FEIN:	25-1918647	FEIN:	

Exhibit A - Scope of Work
NISL Facilitator Certification Institute
Fayette County Schools

(a) Overview: Criterion will collaborate with Fayette County Schools leadership to plan, implement and sustain instruction in the NISL Facilitator Certification Institute. Districts can quickly add facilitator capacity through this six-day onsite training facilitated by NISL Master Faculty. The six-day institute will consist of two 3-day sessions. EDP content will be reviewed from a facilitator's perspective. Participants will learn facilitation skills and have an opportunity to practice these new skills in front of their peers while receiving expert mentoring. Some restrictions apply. Certification is contingent on meeting defined NISL facilitator criteria.

(b) Price and Payment Schedule:

Criterion agrees to work with Fayette County Schools provide as indicated the following services:

Description	#	Unit Price*	Total
Facilitator Certification Institute	12	\$ 42,000.00	\$ 42,000.00
TOTAL			\$ 42,000.00

Client will pay Criterion in accordance with the following schedule:

(a) \$42,000.00 is due upon signing of this Agreement.

* This amount includes the cost of the participants and training materials, trainers' fees and travel.

Invoices will be issued to:

Client:	Fayette County Schools
Attn:	Randy Pepper, Secondary School Director
Address:	1126 Russell Cave Road
Address:	Lexington, KY 40505
Phone:	
Fax:	
Email:	

