OK AS TO FORM
A.M.H. 8.12.2021

4

AMENDMENT TO CONTRACT FOR THE PROCUREMENT OF PROFESSIONAL SERVICES

THIS AMENDMENT TO CONTRACT FOR THE PROCUREMENT OF PROFESSIONAL SERVICES (hereinafter "Amendment") is entered by and between the Jefferson County Board of Education, a political subdivision of the Commonwealth of Kentucky doing business as the Jefferson County Public Schools (hereinafter "JCPS") with its principal place of business located at 3332 Newburg Road, Louisville, Kentucky 40218, and Edmentum, Inc. with its principal place of business located at 5600 West 83rd Street, Suite 300 – 8200 Tower, Bloomington, MN 55437 (hereinafter "Contractor").

WHEREAS, The Parties have entered into a Contract for the Procurement of Professional Services between JCPS and Contractor dated June 9, 2021 under which Contractor agreed to provide software licenses for Edmentum Courseware, Study Island, and Exact Path (the "Contract"); and

WHEREAS, JCPS desires to purchase additional licenses for EdOptions, a product within the Edmentum Courseware line; and

WHEREAS, this additional purchase requires payment of an additional $477,200.00;

THEREFORE, the Parties wish to amend the Contract to alter the total cost.

This Amendment hereby amends the Contract Amount listed in Article III Compensation. The amount of "$1,342,149.88" shall be replaced with "$1,819,349.88."

All other provisions of the Agreement shall remain unchanged.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment to be effective as of September 1, 2021.

Jefferson County Public Schools:

By: _____
Dr. Martin A. Pollio
Superintendent

Date: _____

Edmentum, Inc:

By: _____
Frank **Jalufka**
Chief Financial Officer

Date: 8/16/2021

Original Contract

OK AS TO FORM
A.E. @ WTC 5.19.2021

JEFFERSON COUNTY PUBLIC SCHOOLS
CONTRACT FOR THE PROCUREMENT OF PROFESSIONAL SERVICES

THIS CONTRACT FOR PROCUREMENT OF PROFESSIONAL SERVICES (hereinafter "Contract") is entered into between the JEFFERSON COUNTY BOARD OF EDUCATION (hereinafter "Board"), a political subdivision of the Commonwealth of Kentucky, with its principal place of business at 3332 Newburg Road, Louisville, Kentucky 40218 and Edmentum, Inc. (hereinafter "Contractor"), with its principal place of business at 5600 West 83rd Street, Suite 300 – 8200 Tower, Bloomington, MN 55437..

WITNESSETH:

WHEREAS, the Board desires to procure the particular services of Contractor, which are more fully defined below; and

WHEREAS, Contractor has held itself out to be competent and capable of performing the services contracted for herein;

NOW, THEREFORE, in consideration of the mutual promises and agreements hereinafter set forth, the Board and Contractor (hereinafter "Parties") agree as follows:

ARTICLE I
Entire Agreement; Amendments

This Contract is the entire agreement between the Parties and supersedes any and all agreements, representations and negotiations, either oral or written, between the Parties before the effective date of this Contract. This Contract may not be amended or modified except in writing as provided in Article VIII. This Contract is supplemented by the Board's Procurement Regulations currently in effect (hereinafter "Regulations") that are incorporated by reference into and made a part of this Contract. In the event of a conflict between any provision of this Contract and any provisions of the Regulations, the Regulations shall prevail.

ARTICLE II
Services

Contractor agrees to perform the following services (hereinafter "Services") of a quality and in a manner that is within the highest standards of Contractor's profession or business. The Services are as follows:

Contractor shall provide software licenses to various schools for Edmentum Courseware, Study Island, and Exact Path which focus on: Edmentum Courseware - Secondary Curriculum, Credit Recovery, College and Career Readiness; Exact Path – Personalized Learning and Intervention; Study Island – Practice, Formative Assessment and Test Preparation.

The total cost for these software licenses are provided in the Jefferson County Edmentum Renewal Breakdown which is attached hereto as Attachment A, and incorporated by reference herein.

Contractor agrees that they will not operate a motor vehicle in the performance of this Contract. The Contract Administrator hereby waives the insurance requirement for automobile liability insurance. If during the terms of this Contract, Contractor is not required by Kentucky law to maintain workers compensation

insurance, then the Contract Administrator hereby waives the requirement for workers compensation insurance contained in Article V. All other provisions of Article V shall remain the same.

ARTICLE III
Compensation

The Board shall pay Contractor the total amount stated below (hereinafter "Contract Amount"). The Contract Amount shall be paid in a lump sum upon completion of the Services, unless a schedule of progress payments is stated below. The Contract Amount shall be for total performance of this Contract and includes all fees, costs and expenses incurred by Contractor including but not limited to labor, materials, taxes, profit, overhead, travel, insurance, subcontractor costs and other costs, unless otherwise stated below. To receive payment, Contractor must submit an itemized invoice or invoices. If progress payments are authorized, each invoice must specify the actual work performed. If payment of costs or expenses is authorized, receipts must be attached to the invoice.

Contract Amount:	Shall not exceed $1,342,149.88
Progress Payments (if not applicable insert N/A):	NA
Costs/Expenses (if not applicable insert N/A):	NA
Fund Source:	CARES

ARTICLE IV
Term of Contract

Contractor shall begin performance of the Services on July 1, 2021 , and shall complete the Services no later than June 30, 2022 , unless this Contract is modified as provided in Article VIII.

ARTICLE V
Performance of Services by Contractor

The Services shall be performed by Contractor, and in no event shall Contractor subcontract with any other person to aid in the completion of the Services without the prior written approval of the Contract Administrator defined below.

Contractor shall appoint one person who shall be responsible for reporting to the Board on all Services performed under the terms of this Contract and who shall be available for consultation with the Contract Administrator.

Contractor is an independent contractor, not an employee. Contractor is responsible for the payment of all federal, state and local payroll taxes and providing unemployment insurance and workers

compensation coverage to Contractor's employees. Contractor shall provide all equipment, materials and supplies necessary for the performance of the Services.

Contractor shall at all times during the term of this Contract comply with all applicable laws, regulations, rules and policies. Contractor shall obtain and keep in force all licenses, permits and certificates necessary for the performance of the Services.

Contractor agrees to hold harmless, indemnify, and defend the Board and its members, agents, and employees from any and all claims or losses accruing or resulting from injury, damage, or death of any person, firm, or corporation, including the Contractor himself, in connection with the performance of this Contract. Contractor also agrees to hold harmless, indemnify, and defend the Board and its members, agents, and employees from any and all claims or losses incurred by any supplier, contractor, or subcontractor furnishing work, services, or materials to Contractor in connection with the performance of this Contract. This provision survives termination of this Contract.

Unless waived in writing by the Contract Administrator, Contractor shall maintain during the term of this Contract policies of primary insurance covering the following risks and in at least the following amounts: commercial general liability, including bodily injury, property damage, personal injury, products and completed operations, and contractual, $1,000,000; and automobile liability, $1,000,000. Contractor shall furnish to the Contract Administrator certificates of insurance evidencing this coverage and naming the Board as an additional insured. Additionally, Contractor shall maintain workers compensation coverage with limits required by law; and professional errors and omissions coverage with minimum limits of $1,000,000. Contractor shall furnish certificates of insurance evidencing this coverage to the Contract Administrator.

ARTICLE VI
Equal Opportunity

During the performance of this Contract, Contractor agrees that Contractor shall not discriminate against any employee, applicant or subcontractor because of race, color, national origin, age, religion, marital or parental status, political affiliations or beliefs, sex, sexual orientation, gender identity, gender expression, veteran status, genetic information, disability, or limitations related to pregnancy, childbirth, or related medical conditions. If the Contract Amount is paid from federal funds, this Contract is subject to Executive Order 11246 of September 24, 1965 and in such event the Equal Opportunity Clause set forth in 41 Code of Federal Regulations 60-1.4 is hereby incorporated by reference into this Contract as if set forth in full herein.

ARTICLE VII
Prohibition of Conflicts of Interest

It shall be a breach of this Contract for Contractor to commit any act which is a violation of the provisions of Article XI of the Regulations entitled "Ethics and Standards of Conduct," or to assist or participate in or knowingly benefit from any act by any employee of the Board which is a violation of such provisions.

ARTICLE VIII
Changes

The Board and Contractor may at any time, by mutual agreement set forth in a written addendum, make changes in the definition of the Services; the scope of the Services; and the Contract Amount. The Contract Administrator and Contractor may, at any time, by mutual agreement set forth in a written

addendum, make changes in the time within which the Services are to be performed; the schedule of Progress Payments; and mutual Termination of the Contract.

ARTICLE IX
Termination for Convenience of the Board

The Board may terminate this Contract in whole or in part at any time by giving written notice to Contractor of such termination and specifying the effective date thereof, at least thirty (30) days before the specified effective date. The Board shall compensate Contractor for Services satisfactorily performed through the effective date of termination.

ARTICLE X
Termination for Default

The Board may, by written notice of default to Contractor, terminate the whole or any part of this Contract, if Contractor breaches any provision of this Contract, or so fails to make progress as to endanger performance of this Contract, and in either of these circumstances, does not cure the breach or failure within a period of five (5) days after receipt of notice specifying the breach or failure. In the event of termination for default, the Board may secure the required services from another contractor. If the cost to the Board exceeds the cost of obtaining the Services under this Contract, Contractor shall pay the additional cost. The rights and remedies of the Board provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

ARTICLE XI
Disputes

Any differences or disagreements arising between the Parties concerning the rights or liabilities under this Contract, or any modifying instrument entered into under Article VIII of this Contract, shall be resolved through the procedures set out in the Regulations.

ARTICLE XII
Contractor's Work Product

Unless waived in writing by the Contract Administrator, the Board shall retain ownership in and the rights to any reports, research data, creative works, designs, recordings, graphical representations or other works of a similar nature (hereinafter "Works") produced or delivered by Contractor under this Contract. Contractor agrees that the Works are "works for hire" and Contractor assigns all right, title and interest in the Works to the Board.

Any reports, information, data, etc. given to or prepared or assembled by Contractor under this Contract shall not be made available to any individual or organization by Contractor without the prior written approval of the Board. Provided, nothing in this Article may be used to violate the provisions of any Kentucky or Federal statute or regulation which requires reporting of information.

ARTICLE XIII
Contract Administrator

The Board shall appoint a Contract Administrator for the purposes of daily administrative decision-making pertaining to the Contract. If Contractor and the Contract Administrator disagree on any circumstance or set of facts pertaining to the administration or execution of this Contract, the Board shall resolve the matter after notification by either the Contract Administrator or the Contractor in the manner prescribed by the Regulations. If the Board fails to give notice to Contractor of the appointment of a Contract Administrator, the Contract Administrator shall be the Board's Chief Financial Officer.

ARTICLE XIV
Right to Audit

The Board shall have the right to inspect and audit all accounting reports, books or records which concern the performance of the Services. Inspection shall take place during normal business hours at Contractor's place of business. Contractor shall retain all records relating to the performance of this Contract for five (5) years after the end of the term of this Contract.

ARTICLE XV
Miscellaneous

A. All Articles shall be construed as read, and no limitation shall be placed on any Article by virtue of its descriptive heading.

B. Any notices or reports by one Party to the other Party under this Contract shall be made in writing, to the address shown in the first paragraph of this Contract, or to such other address as may be designated in writing by one Party to the other. Notices shall be effective when received if personally delivered, or three days after mailing if mailed.

C. If any part of this Contract is held to be void, against public policy or illegal, the balance of this Contract shall continue to be valid and binding.

D. This Contract shall be governed and construed in accordance with the laws of the Commonwealth of Kentucky.

E. No delay or omission by either Party in exercising any right under this Contract shall operate as a waiver of that or any other right or prevent a similar subsequent act from constituting a violation of this Contract.

F. At all times during the term of this Contract, Contractor shall comply with the Family Educational Rights and Privacy Act of 1974. If Contractor has access to student records, Contractor shall limit its employees' access to those records to persons for whom access is essential to perform this Contract.

G. If this Contract requires Contractor and/or any employees of Contractor access to school grounds on a regularly scheduled and continuing basis for the purpose of providing services directly to a student or students, all individuals performing such services under this Contract are required to submit per KRS 160.380 to a national and state criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation and have a letter, provided by the individual, from the Cabinet for Health and Family Services stating no administrative findings of child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.

H. Contractor shall be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that apply to the Contractor or subcontractor for the duration of this Contract and shall

IN WITNESS WHEREOF, the Parties hereto have executed this Contract to be effective as of June 9, 2021.

Contractor's Social Security Number or Federal Tax ID Number:

JEFFERSON COUNTY BOARD OF EDUCATION	Edmentum, Inc
	CONTRACTOR
By: _____	By: _____
Martin A. Pollio, Ed.D.	Frank Jalufka
Title: Superintendent	Title: Chief Financial Officer

Cabinet Member: Dr. Carmen Coleman _____ (Initials)

Jefferson County Public Schools

NONCOMPETITIVE NEGOTIATION
DETERMINATION AND FINDING

1. An emergency exists which will cause public harm as a result of the delay in competitive procedures (Only the Superintendent shall declare an emergency.)
   State the date the emergency was declared by the superintendent:
2. There is a single source for the items within a reasonable geographic area
   Explain why the vendor is a single source:
3. The contract is for the services of a licensed professional, education specialist, technician, or an artist
   State the type of service: Education Specialist: Software License
4. The contract is for the purchase of perishable items purchased on a weekly or more frequent basis —
   State the item(s):
5. The contract is for proprietary item(s) for resale: This can include the buying or selling of item(s) by students when it is part of the educational experience —
   State the type(s) of item(s):
6. The contract is for replacement parts when the need cannot be reasonably anticipated and stockpiling is not feasible —
   State the item(s):
7. The contract or purchase is for expenditures made on authorized trips outside the boundaries of Jefferson County Public Schools—
   State the location:
8. The contract is for a sale of supplies at reduced prices that will afford Jefferson County Public Schools a savings (Purchase must be approved by Director of Purchasing) —
   Explain the logic:
9. The contract is for the purchase of supplies which are sold at public auction or by receiving sealed bids —
   State the items:

I have determined that, pursuant to K.R.S. 45A. 380, the above item(s) should be obtained by the Noncompetitive Negotiation Methods since competition is not feasible.

Donna Lawson
Print name of person making Determination

Curriculum Design and Learning Innovation
School or Department

_____ _____
Signature of person making Determination Date

Edmentum, Inc.
Name of Contractor (**Contractor Signature Not Required**)

Click or tap here to enter text.
Requisition Number

Explanation of Noncompetitive Negotiation Methods can be found under K.R.S. 45A.380 and on page 15 in the Procurement Regulations

Jefferson County Edmentum Renewal Breakdown

	Exact Path		Study Island	Courseware	Services	
K-8 Content Cost	$550,573.32	SI Math,ELA,Sci,SocSt.	$180,739.98	$	$61,500	This is Elem & Middle combined
67,638 Students*						
9-12 Content Cost:	$0	SI Math,ELA,Sci,SocSt.	$78,685.27	$365,655.25	$30,750	
		College & Career Readiness	$33,800			
29,086 Students*						
(1,173 students were using Exact Path)						
Cost to renew for the 1,173 HS		NWEA Maplink for Study				
students:$10,205.10		Island	$40,446.06			
TOTALS	$550,573.32		$333,671.31	$365,655.25	$92,250	$1,342,149.88 Grand Total

* of Students per Donna Hedges
** Does not include HS
*** Courseware is 6-12 grades

Removing Exact Path from 9-12 impacts the quantity discounts and product discounts. This is why there is in increase in the K-8 Exact Path ($94,699.44) and increase in the courseware ($17.120)