

# PURCHASING AGENDA SUMMARY

**September 24, 2013**

(School Board Meeting Date)

Key to Bid Categories: **CAN** = Bid Cancellation, **CB** = Co-op Bid, **CT** = Contract Termination, **DN** = Direct Negotiation, **ER** = Emergency Ratification, **EX** = Bid Extension, **HPS** = Highest Point Score, **LRB** = Lowest Responsive Bid, **PB** = Piggy-Back Bid, **PS** = Professional Services, **RA** = Revised Award, **RB** = Re-Award Bid, **REJ** = Bid Rejection, **RFP** = Request for Proposal, **RN** = Bid Renewal, **SC** = State Contract, **SP** = Sale of Property, **SS** = Sole Source

<i><b>BID NUMBER</b></i>	<i><b>BID TITLE</b></i>	<i><b>BID CAT.</b></i>	<i><b>BID TERM</b></i>	<i><b>DESTINATION / REQUESTER</b></i>	<i><b>*FUND/ CC</b></i>	<i><b>**PROJECT /SUBPROJ</b></i>	<i><b>RECOMMENDED VENDOR</b></i>	<i><b>TOTAL \$ by VENDOR</b></i>	<i><b>TOTAL \$ of BID</b></i>	<i><b>COMMENTS</b></i>
14-946-014-RFP	Request for Proposals: Dependent Audits	RFP	3 yrs.	Risk Management and Insurance Dept. Ted Pafundi	0100/5310	6087	Health Management Systems, Inc. (HMS)	115,850.00	115,850.00	<b><i>Rationale:</i></b> Projected savings over three year period is \$2,100,000.
14-376-044-SS	Sole Source Beverage, Fruit Wave H2O	SS	10 mos.	Food Service Dept. Art Dunham	0410/5470	9502	Triple Ventures, LLC.	198,000.00	198,000.00	<b><i>Rationale:</i></b> This vendor is the sole source manufacturer and distributor for Fruit Wave H2O @which is a registered trademark.
14-031-047-SS	Sole Source Roof Top Air Conditioning Unit	SS	N/A	Skycrest E/S Bill Chapman	0374/4121	3000/3038	Tampa Bay Trane Company	51,477.00	51,477.00	<b><i>Rationale:</i></b> This vendor is the only OEM manufacturer and service provider for Trane products in Florida.

\*Key to Fund Sources:

0100: General Operating    0150: Workforce Development    03XX: Capital    0410: Food Service    0420: Contracted Programs    043X: ARRA Stimulus

\*\*Key to Categorical Sources:

23XX: Referendum Funds

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# ***PURCHASING AGENDA SUMMARY***

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14-205-046-SS	Sole Source Software License, Web Conferencing	SS	1 yr.	County Wide, Norm Kelton	0100/5140	2150	Blackboard, Inc.	44,345.76	44,345.76	<b><i>Rationale:</i></b> The vendor is the publisher and sole source distributor of this software.

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# PURCHASING AGENDA ITEM

School Board of Pinellas County, Florida

School Board Meeting of: **September 24, 2013**

**Bid No:** 14-946-014-RFP

**Bid Title:** Request for Proposals: Dependent Audits

**Original Bid No:** N/A

Recommend approval of this agenda item under the specific category checked below.

**Agenda Item Categories:**

- ☐ Lowest Responsive Bid   ☒ Request for Proposal   ☐ Reject Bids   ☐ Piggy-Back Bid per 6A-1.012 (6)   ☐ Sale of Property  
☐ Revised Award \*   ☐ Highest Point Score   ☐ Re-Award (partial/whole) \*   ☐ State Contract per 6A-1.012 (5)  
☐ Renewal of Contract   ☐ Contract/Bid Termination \*   ☐ Contract Extension \* Term: \_\_\_\_\_   ☐ Co-Op Bid  
☐ Professional Services per FS 287.055   ☐ Direct Negotiation per 6A-1.012 (14)   ☐ Emergency Ratification \*

**Contract Period:** 10/1/13 thru 9/30/16

☐ N/A - One Time Purchase

**Contract Value:** \$ 115,850.00

**Contract Type:**   ☒ Estimated Dollar Amount   ☒ Firm, Fixed Dollar Amount   ☐ Firm, Fixed Unit Prices   ☐ Firm, Fixed Fees or Discounts

<b>Renewal Options:</b>	No. of Terms Remaining	<input type="checkbox"/> Length of Each Term 6-months	<input type="checkbox"/> Length of Each Term - year	<input checked="" type="checkbox"/> None
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\* **Rationale/Reason**

\_\_\_\_\_

☐ **Reason for Submittal to Board Under Separate Cover:**

\_\_\_\_\_

Bidders Solicited: 45   Bids Received: 4   Late Bids: 0   Rejected Bids: 0   ☐ N/A - Bids Not Required

**Submitted By:** Linda M. Balcombe, CPPO, CPPB

**For:** Risk Management and Insurance Department

**Title:** Director, Purchasing Department

**Requested By:** Ted Pafundi

**Buyer:** Linda Balcombe

**Title:** Director, Risk Management and Insurance Department

**Recommended award by vendor as follows:**

## **HEALTH MANAGEMENT SYSTEMS, (HMS) INC.**

A Request for Proposals (RFP) for Dependent Audit Services was requested by the Risk Management Department in consultation with the Health Insurance Advisory Committee to validate the eligibility of spouses and dependent children covered under the Districts' Health Plan. The RFP was issued on July 30, 2013 and as a result, four firms responded. A Selection Committee comprised of Risk Management staff, the Director of Auditing & Property Records, and the Manager of Payroll Operations scored the responses and conducted oral presentations with all four firms.

Based on the written proposals and the oral presentations, the Selection Committee recommended Health Management Services, (HMS) Inc. to provide the Dependent Audit Services. HMS offers the best combination of price, service and experience. HMS has been providing Dependent Audit Services since 2004 and has a 95% response rate. They have completed over 800 audits including over 250 for public school districts including several Florida public school districts.

HMS' platform includes the functionality and security required by the district along with a process that provides for customization to meet the needs of the district. Their proposal includes a 3:1 return on investment guarantee. Pricing for the audits are as follows:

<b><u>Description</u></b>	<b><u>Total Cost</u></b>
Full District Audit for Year One (October 2013)	\$ 94,350.00
Follow up Year 2 (October 2014) based on 500 new employee audits	\$ 12,500.00
Follow up Year 3 (October 2015) based on 500 new employee audits	<u>\$ 9,000.00</u>
3 Year Total	\$115,850.00

**PURCHASING AGENDA ITEM for SOLE SOURCE COMMODITY and/or SERVICE**

*School Board of Pinellas County, Florida*

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**School Board Meeting of: September 24, 2013**

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**Bid File No:** 14-376-044-SS

**Bid File Title:** Sole Source Beverage,  
Fruit Wave H2O®

**Contract Period:** 9/1/13 thru 6/30/14

☐ N/A - One Time Purchase

**Contract Value:** \$ 198,000.00

**Contract Type:**    ☒ Estimated    ☐ Firm, Fixed    ☒ Firm, Fixed    ☐ Firm, Fixed  
Dollar Amount    Dollar Amount    Unit Prices    Fees or Discounts

**\* Rationale/Reason**

This vendor is the sole source manufacturer and distributor for Fruit Wave H2O® which is a registered trademark.

**Submitted By:** Linda M. Balcombe, CPPO, CPPB  
**Title:** Director, Purchasing Department

**For:** Food Service Department

**Requested By:** Art Dunham  
**Title:** Director, Food Service Department

**Buyer:** Jena Grage

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**Recommended award by vendor as follows:**

**TRIPLE VENTURES, LLC. (V-31228)**

Provide and deliver Fruit Wave H2O™ to the food service department on an as needed basis.

<u>Est. Qty</u>	<u>Single UPC</u>	<u>Master Case UPC No.</u>	<u>Description</u>	<u>Unit Price</u>
3,000 cases	8-56913-00300-9	8-56913-00305-4	Fruit Wave H2O®, 12 oz cottle, 24/case, flavor: Green Apple	\$11.00
3,000 cases	8-56913-00302-3	8-56913-00309-2	Fruit Wave H2O®, 12 oz cottle, 24/case, flavor: Kiwi-Watermelon	11.00
3,000 cases	8-56913-00310-8	8-56913-00311-5	Fruit Wave H2O®, 12 oz cottle, 24/case, flavor: Orange	11.00
3,000 cases	8-56913-00301-6	8-56913-00306-1	Fruit Wave H2O®, 12 oz cottle, 24/case, flavor: Cherry	11.00
3,000 cases	8-56913-00303-0	8-56913-00308-5	Fruit Wave H2O®, 12 oz cottle, 24/case, flavor: Mango	11.00
3,000 cases	8-56913-00304-7	8-56913-00307-8	Fruit Wave H2O®, 12 oz cottle, 24/case, flavor: Grape	11.00

Note: Pricing is for a truckload (minimum of 20 pallets) or 2,000 cases. Pricing per case delivered – applicable to all flavors

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**PURCHASING AGENDA ITEM for SOLE SOURCE COMMODITY and/or SERVICE**

School Board of Pinellas County, Florida

School Board Meeting of: **September 24, 2013**

**Bid File No:** 14-031-047-SS

**Bid File Title:** Sole Source Roof Top Air Conditioning Unit

**Contract Period:** thru ☒ N/A - One Time Purchase

**Contract Value:** \$ 51,477.00

**Contract Type:** ☐ Estimated Dollar Amount ☒ Firm, Fixed Dollar Amount ☐ Firm, Fixed Unit Prices ☐ Firm, Fixed Fees or Discounts

**\* Rationale/Reason**

This vendor is the only OEM manufacturer and service provider for Trane products in Florida.

**Submitted By:** Linda M. Balcombe, CPPO, CPPB

**For:** Skycrest Elementary School

**Title:** Director, Purchasing Department

**Requested By:** Michael Hewett

**Buyer:** Christine Roney

**Title:** Director, Maintenance Department

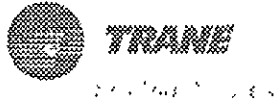
**Recommended award by vendor as follows:**

**TAMPA BAY TRANE COMPANY**

Provide, deliver and install one (1) 17.5 ton Unitary Cooling Morganizer Unit Model # OCD211F3-0.

• Unit	\$32,720.00
• Manufacturer 5 Years Parts & Warranty	1,230.00
• Labor and Materials for unit installation	<u>17,527.00</u>
<b>TOTAL:</b>	<b>\$51,477.00</b>

# Tampa Bay Trane



902 North Himes Avenue  
P O Box 18547  
Tampa, Florida, 33609  
813-877-8251  
800-966-8251 Toll Free  
813 877-8252 Service Dispatch  
800-966-8252 Toll Free Service Dispatch  
813 877-8257 Fax  
[www.tampabaytrane.com](http://www.tampabaytrane.com)

## Pinellas County School Board Skycrest Elementary School Turnkey Retrofit Replacement Proposal Media Center Rooftop A/C Morganizer RAG-7015013

Date:  
**7-15-2013**

Submitted By:  
**Rick Gerun**

Prepared For:  
**Pinellas County Schools (PCS)  
11111 S. Belcher Road  
Largo, FL 33773**

Attention:  
**Jerome Paulding  
Mechanical/Electrical Manager**

Service Location:  
**Skycrest Elementary  
10 N. Corona Avenue  
Clearwater, FL 33765**

**Turnkey Retrofit Installation Proposal**

This proposal, dated 7-15-2013, declares that Tampa Bay Trane, herein referred to as "TBT", agrees to furnish turnkey retrofit services described in accordance with the "General Terms and Conditions" and all other specifications provided as a part of this agreement. Further, this agreement shall become effective only upon acceptance by CUSTOMER and approval by TBT.

- 1) **SERVICE LOCATION:** Services detailed herein will be performed on equipment located and installed at 10 N. Corona Avenue Clearwater, FL 33765.
- 2) **EQUIPMENT COVERAGE:** replacement services detailed herein will be performed on the equipment detailed in the table below:

Qty	Mfr	Equipment Type	Model Number	Serial Number	Location
1	Trane	Packaged Morganizer RTU	TCD211C	M45102711D	Media Ctr roof

**3) SCOPE OF SERVICES:**

- a) **SUMMARY:** Tampa Bay Trane will provide the labor and materials to install the customer provided, Trane direct purchased Rooftop Morganizer Unit
- b) **SCOPE OF WORK:**
  - Remove and properly dispose of existing RTU
  - Provide and install a temporary cap over the existing opening
  - Have a new adaptor roof curb manufactured to match the existing opening and the replacement unit.
  - Install and properly seal new curb adaptor
  - Install customers new Motganizer Rooftop Unit
  - Connect to existing electrical.
  - Connect to existing building controls
  - Connect to existing ductwork
  - Includes ductwork modifications/repairs at supply air and return air ductwork connections.
  - Includes all crane and rigging costs.
  - Trane Factory Start-up and first year warranty.
- c) **EXCLUSIONS:**
  - Roofing repairs, modifications, cutting or flashing work.
  - Any repairs, equipment or modifications not specifically listed in the scope of work.
  - Overtime labor.

- 4) **SERVICE FEE:** Customer agrees to pay **\$17,527.** to TBT as consideration (the "Turnkey Retrofit Fee") for the Project outlined in this proposal.

**Please make Purchase Order payable to 'Tampa Bay Trane'**





**TRANE**

Trane U.S. Inc

**5) EQUIPMENT DIRECT PURCHASE PROPOSAL:**

*PROPRIETARY AND CONFIDENTIAL PROPERTY OF TRANE*

*DISTRIBUTION TO OTHER THAN THE NAMED RECIPIENT IS PROHIBITED*

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**Prepared For:**  
Jerome Paulding

**Date:** July 15, 2013

**Job Name:**  
Skycrest Elementary School  
Pinellas County School Board

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

**Payment Terms:**  
Net 30 Days

Trane is pleased to provide the enclosed proposal for your review and approval. Only those items specifically listed are included in proposal. No plans or specifications are acknowledged

**Tag Data - Packaged Cooling Rooftop Units (Qty: 1)**

Item	Tag(s)	Qty	Description	Model Number
A1	Morganizer	1	17.5 Ton Packaged Unitary Cooling	OCD211F3-0

**Product Data - Packaged Cooling Rooftop Units**

**Item: A1 Qty: 1 Tag(s): Morganizer**

Standard cooling only  
Downflow airflow  
17.5ton - High EFF R410A  
208-230 Volt 60 Hertz 3 Phase  
36kW@240,480,600v Electric Heaters (Derate to Unit Voltage) (Fld)  
Face and bypass conversion  
MP581 controller  
Space temperature control  
Double wall  
Condenser, Evaporator, and Reheat coil coating

Base Price (Excluding Sales Tax) .....\$ 32,720.00

**Optional:**

5 Year Parts Warranty Whole Unit  
2nd-5th YR Labor Warranty Whole Unit

Base and Optional Add Price (Excluding Sales Tax) .....\$ 33,950.00

Please make Purchase Order payable to "Trane" c/o Tampa Bay Trane

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record  
  
Corrected  
see next pg.



**5) EQUIPMENT DIRECT PURCHASE PROPOSAL:**

**Prepared For:**  
Jerome Paulding

**Date:** July 15, 2013

**Job Name:**  
Skycrest Elementary School  
Pinellas County School Board

**Delivery Terms:**

Freight Allowed and Prepaid - F.O.B. Factory

**Payment Terms:**

Net 30 Days

Trane is pleased to provide the enclosed proposal for your review and approval. Only those items specifically listed are included in proposal. No plans or specifications are acknowledged.

**Packaged Cooling Rooftop Units (Qty: 1)**

Item	Tag(s)	Qty	Description	Model Number
A1	Morganizer	1	17.5 Ton Packaged Unitary Cooling	OCD211F3-0

**Product Data**

Standard cooling only  
Downflow airflow  
17.5ton - High EFF R410A  
208-230 Volt 60 Hertz 3 Phase  
**36kW@240,480,600v Electric Heaters (Derate to Unit Voltage) (Fld)**  
Face and bypass conversion  
MP581 controller  
Space temperature control  
Double wall  
Condenser, Evaporator, and Reheat coil coating

Base Price (Excluding Sales Tax) .....\$ 32,720.00

**Optional:**

5 Year Parts Warranty Whole Unit Without Economizer  
Compressor labor 1st year  
2nd-5th YR Compressor Labor

Optional Add Price (Excluding Sales Tax) .....\$ 33,950.00

**NOT INCLUDED:** Refrigerant Specialties, Hurricane Tie Down Clips, Curb or Curb Adaptor, VFD's, Auxiliary Drain Pans, Float Switches, Thermostats, Thermostat Covers (not needed with programmable thermostat), Controls or Wiring, Vibration Isolators, Disconnects, Motor Starters, Corrosion Protection on Unit, Smoke Detectors/Firestats, Extra Belts/Sheaves/Filters, Hot Gas Bypass, Extended Warranties, Labor Warranties, Start-up Assistance, or Any Other Items Not Specifically Mentioned Above.

**This proposal and pricing are based on shipment of all products (not including field labor) by no later than 3rd quarter of 2013 year.**

Tax Status:	Taxable	<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 <a href="http://WWW.TAXSITES.COM/STATE-LINKS.HTML">WWW.TAXSITES.COM/STATE-LINKS.HTML</a> FOR TAX FORMS
	Exempt	<input checked="" type="checkbox"/>	

**CUSTOMER ACCEPTANCE**

This proposal and the "General Terms and Conditions" on the next page(s) are hereby accepted

\_\_\_\_\_  
Authorized Representative

\_\_\_\_\_  
Company

\_\_\_\_\_  
Title

\_\_\_\_\_  
Acceptance Date

**TAMPA BAY TRANE ACCEPTANCE**

Proposal valid through 9/30/2013

**Rick Gerun**

\_\_\_\_\_  
Authorized Representative

**Tampa Bay System Sales, Inc.  
dba / Tampa Bay Trane**

\_\_\_\_\_  
Company

**Account Manager**

\_\_\_\_\_  
Title

\_\_\_\_\_  
Acceptance Date

Approved As To Form:

  
\_\_\_\_\_  
School Board Attorneys Office

**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.~~ *Customer is concerned about payment of taxes. Added* *did not take out*

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 US 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). This 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.

1-26.130-4(10012)

Supersedes 1-26.130-4(0511v3)

COMPANY agrees to fully comply with the Jessica Lunsford Act and/or other Florida laws relating to background screening of COMPANY's agents, employees or subcontractors. Information may be obtained from the Pinellas County School Board's website at <http://www.pcsb.org/ilahome.html> . Further, COMPANY agrees to indemnify and hold the CUSTOMER, its officers, agents, and employees, harmless from and against any and all liability, damages, actions, and/or claims whatsoever, including but not limited to, attorney's fees and court costs, arising out of or relating to, accruing to or sought against CUSTOMER as a result of the failure or refusal of COMPANY to fully comply with such laws. This indemnification and hold harmless agreement shall survive termination of the contract. PG

COMPANY and CUSTOMER agree to be fully responsible for their own acts of negligence, or their respective agents' acts of negligence when acting within the scope of their employment, and agree to be liable for any damages proximately caused thereby; provided, however, COMPANY and CUSTOMER agree that CUSTOMER's liability is subject to the monetary limitations and defenses imposed by Section 768.28, Florida Statutes. Nothing herein is intended to serve as a waiver of sovereign immunity by CUSTOMER, nor shall anything herein be construed as consent by CUSTOMER to be sued by any third party for any cause or matter arising out of or related to this Agreement. PG

Tampa Bay TRANS agrees with both statements above.

Rick Gerun

RICK GERUN

ACCOUNT MANAGER

TAMPA BAY TRANS

9/10/13

**PURCHASING AGENDA ITEM for SOLE SOURCE COMMODITY and/or SERVICE**

*School Board of Pinellas County, Florida*

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School Board Meeting of: **September 24, 2013**

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**Bid File No:** 14-205-046-SS

**Bid File Title:** Sole Source Software  
License, Web  
Conferencing

**Contract Period:** 9/30/13 thru 9/29/14

☐ N/A - One Time Purchase

**Contract Value:** \$ 44,345.76

**Contract Type:** ☐ Estimated Dollar Amount ☒ Firm, Fixed Dollar Amount ☐ Firm, Fixed Unit Prices ☐ Firm, Fixed Fees or Discounts

**\* Rationale/Reason**

The Vendor is the publisher and sole source distributor of this software..

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**Submitted By:** Linda M. Balcombe, CPPO, CPPB  
**Title:** Director, Purchasing Department

**For:** County Wide

**Requested By:** Norm Kelton  
**Title:** Assistant Superintendent, Technology  
and Information Systems

**Buyer:** Jaime Haney

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**Recommended award by vendor as follows: (see attached)**



**BLACKBOARD INC (V-30512)**

<b>Qty</b>	<b>Product Name/Code</b>	<b>Product/Service Description</b>	<b>List Price</b>	<b>Price Reduction</b>	<b>Net Price</b>
1	Bp Collaborate Plan		\$0	\$0	\$0
1	Bp Collaborate Publish		\$0	\$0	\$0
1	Bp Collaborate Web Conferencing 500 (#Teachers and Staff)	Blackboard currently offers with the sale and renewal of the product, 50GB of storage for standard recordings and pre-load storage, 50GB of storage for MP4 recording conversion, and 10,000 annual MP4 views/downloads	\$41,250.00	\$4,904.24	\$36,345.76
1	Bp Collaborate Technical Services and Health Check		\$1,000.00	-	\$1,000.00
1	Bp Collaborate Technical Service SAS Essentials		\$1,000.00	-	\$1,000.00
1	Bp Collaborate SAS Advanced Workshop	Bp Collaborate Web Conferencing SAS Advanced Workshop	\$1,000.00	-	\$1,000.00
1	Bp Collaborate Beyond the Basics Online Workshop	The training allows for max of 20 participants	\$1,000.00	-	\$1,000.00
1	Bp Collaborate Essentials	The training allows for max of 20 participants	\$1,000.00	-	\$1,000.00
1	Bp Collaborate Putting it All Together Online Workshop	The training allows for max of 20 participants	\$1,000.00	-	\$1,000.00
1	Bp Collaborate Project Management		\$2,000.00	-	\$2,000.00
				<b>Total</b>	<b>\$44,345.76</b>