

**FOLLOW ALL PROCEDURES ON BACK OF THIS FORM**

Contract # 240172  
Number Assigned by Purchasing Dept.



# CONTRACT REVIEW

**BOARD MEETING DATE:**  
June 2024  
WHEN BOARD APPROVAL IS REQUIRED DO NOT PLACE ITEM ON AGENDA UNTIL REVIEW IS COMPLETED  
 Must Have Board Approval over \$100,000.00

Date Submitted: 4-22-24

Name of Contract Initiator: Steve Mills Telephone #: x 66846

School/Dept Submitting Contract: Safety! Sec Cost Center # 9022

Vendor Name: Perry Weather

Contract Title: Outdoor Warning System: Weather Station

Contract Type: New  Renewal  Amendment  Extension  Previous Year Contract # N/A

Contract Term: 7 years 6/30/2031 Renewal Option(s): 7 1/2 Auto Renew

Contract Cost: \$261,000

**BUDGETED FUNDS – SEND CONTRACT PACKAGE DIRECTLY TO PURCHASING DEPT**  
Funding Source: Budget Line # State Safety! Sec Mill #  
Funding Source: Budget Line # \_\_\_\_\_

**NO COST MASTER (COUNTY WIDE) CONTRACT - SEND CONTRACT PACKAGE DIRECTLY TO PURCHASING DEPT**

**INTERNAL ACCOUNT - IF FUNDED FROM SCHOOL IA FUNDS – SEND CONTRACT PACKAGE DIRECTLY TO SBAO**

**REQUIRED DOCUMENTS FOR CONTRACT REVIEW PACKAGE (when applicable):**

**RECEIVED**  
By Elaine at 2:15 pm, Apr 23, 2024

- Completed Contract Review Form
- SBAO Template Contract or other Contract (NOT SIGNED by District / School)
- SIGNED Addendum A (if not an SBAO Template Contract) - **When using the Addendum A, this Statement MUST BE included in the body of the Contract: "The terms and conditions of Addendum A are hereby incorporated into this Agreement and the same shall govern and prevail over any conflicting terms and/or conditions herein stated."**
- Certificate of Insurance (COI) for General Liability & Workers' Compensation that meet these requirements:  
COI must list the School Board of Clay County, Florida as an Additional Insured and Certificate Holder. Insurer must be rated as A- or better.  
General Liability = \$1,000,000 Each Occurrence & \$2,000,000 General Aggregate.  
Auto Liability = \$1,000,000 Combined Single Limit (\$5,000,000 for Charter Buses).  
Workers' Compensation = \$100,000 Minimum  
*[If exempt from Workers' Compensation Insurance, vendor/contractor must sign a Release and Hold Harmless Form. If not exempt, vendor/contractor must provide Workers' Compensation coverage].*
- State of Florida Workers Comp Exemption (<https://apps.fldfs.com/bocexempt/>) (If Applicable)
- Release and Hold Harmless (If Applicable)

**\*\* AREA BELOW FOR DISTRICT PERSONNEL ONLY \*\***

CONTRACT REVIEWED BY:	COMMENTS BELOW BY REVIEWING DEPARTMENT
Purchasing Department	<u>* Will add verbiage once Addendum approved</u> Verbiage was added to order form
Review Date <b>REVIEWED</b> By Bertha Staefa at 3:44 pm, Apr 25, 2024	FDOE 6A-1.012 (12 d) Single Source. (14) Technology Department needs to fill in Primary Contact info. Need correct COI listing SBCC as additional insured.
School Board Attorney JPS Review Date 5/6/24	see vendor revisions to SBCC Addendum A Need correct COI. Changes to Addendum A are sufficient.
Other Dept. as Necessary	Data Share Attached
Review Date	Has the IT Department approved Technology? Is SBCC Data Share Agreement needed? Who is responsible for the Hardware? Install?
PENDING STATUS: <input type="checkbox"/> YES <input type="checkbox"/> NO	<b>IF YES, HIGHLIGHTED COMMENTS ABOVE MUST BE CORRECTED BY INITIATOR</b>
FINAL STATUS	<b>APPROVED</b> By Elaine at 2:24 pm, May 07, 2024

# CONTRACT REVIEW PROCESS FOR "ALL" CONTRACTS

A contract is defined as an agreement between two or more parties that is intended to have legal effect. This may include MOUs, Interlocal Agreements, Service Agreements and Contracts. Contracts document the mutual understanding between the parties as to the terms and conditions of their agreement, contain mutual obligations, and clearly state the agreement's consideration. The term consideration includes the cost of the services and/or products to be provided by second party (vendor or service provider) and any non-monetary performance. No school, department, or other organizational unit has authority to contract in its own name. All Board contracts must be made in the legal name of the Board, "The School Board of Clay County, Florida". The School or Department may extend this name to include the school or department as follows, "The School Board of Clay County, Florida o/b/o \_\_\_\_\_ (insert the school or department name)" where o/b/o means "on behalf of".

**All contracts shall be reviewed and approved by the School Board Attorney and/or the Supervisor of Purchasing to ensure legality, compliance with Board policy, and to ensure the Board interests are protected before the authorized signatory may execute the contract.**

All contracts having a value of \$100,000 or more shall be authorized by the Board at a regular or special meeting and signed by the Board Chairman. All approved contracts having a value of less than \$100,000 may be executed by the Superintendent or appropriate District administrator based on the value of the contract.

1. All approved contracts having a value of \$50,000 or more, but less than \$100,000 shall be signed by the Superintendent, or the person who has been designated, in writing by the Superintendent, as the Superintendent's Designee at the time of the contract signing. All contracts executed pursuant to this subparagraph shall be reported to the School Board in a separate entry as part of the monthly financial report.
2. All approved contracts having a value of \$25,000 or more, but less than \$50,000, shall be signed by the Superintendent, or the Assistant Superintendent for Business Affairs.
3. All approved contracts having a value of less than \$25,000 and contracts of any value described in Board Authorized Contracts above that are exempt from the requirement for Board approval, may be signed by the Superintendent, or the Assistant Superintendent for their Division, or Chief Officers, or Directors, or Principals.
4. The Superintendent is authorized to approve contract amendments or change orders for the purchase of commodities and services up to the amount of ten (10) percent or \$50,000, whichever is less, of the original contract amount that was previously approved by the Board.

Employees who enter into agreements without authority may be personally liable for such agreements, whether oral or written.

**Step 1:** Contract Initiator and Vendor prepare draft contract  
(School Board Attorney Office (SBAO) Template Contracts available on SBAO webpage are strongly encouraged)

**Step 2:** Complete Contract Review Form, attach Required Documents to include the UNSIGNED Contract by the District / School.

**For Contracts using Budgeted Funds or For No Cost / Master (County Wide) Contracts:**  
Initiator submits Contract Review Package to Purchasing Department - See Step 3

**For Contracts using Internal Funds Individual to each School:**  
Initiator submits Contract Review Package direct to SBAO - See Step 4

**IMPORTANT**

**Step 3:** If Funded by Budgeted Funds, submit the Contract Review Package to the Purchasing Department. Purchasing will begin the contract review process and submit the contract to the SBAO for review. SBAO may reach out to Initiator and/or other Departments (Risk, IT,) with questions or concerns and will assist with contract revisions. SBAO will send the Contract Review Package back to the Purchasing Department for final processing and the return to Initiator.

Purchasing will log "District" Contracts (Cost/No Cost) on Contract Review Log and save copy of the Contract Review Package PLUS the Final Signed Contract you've return to Purchasing in the Contract Review Team Drive.

**Step 4:** If Funded by Internal Account (IA), submit the Contract Review Package directly to SBAO.  
Email: [contractreview@myoneclay.net](mailto:contractreview@myoneclay.net)  
The SBAO will begin the contract review process and return it directly to Initiator

**Step 5:** The Initiator is responsible for finalizing the Contract which includes:  
Addressing Comments/Revisions, Obtaining Required Signatures, Send District Final Signed Contract to Purchasing OR Retain Internal Accounts Final Signed Contract at School per School Board Record Policy.  
If there is a Cost associated with Contract, the Initiator must work with their Bookkeeper to finalize the Purchasing Process.  
**Budgeted Funds require a District Purchase Order. Internal Accounts require an IA Purchase Order.**

For assistance with legal-related matters, please visit the [School Board Attorney's Office \("SBAO"\) webpage](#) or call 904-336-6507  
For assistance with insurance-related matters, please visit the [Business Affairs - Risk Management webpage](#) or call 904-336-6745  
For assistance with District Purchasing, please visit the [Business Affairs - Purchasing webpage](#) or call 904-336-6736



ORDER FORM

CUSTOMER	
Customer Name	Clay County District Schools
Customer Address	900 Walnut Street Green Cove Springs, FL 32043
Exempt from Sales Tax?	<i>If your entity is exempt from sales tax, please email an exemption certificate to <a href="mailto:billing@perryweather.com">billing@perryweather.com</a> to remove sales tax from your invoices.</i>
Perry Weather Rep	Oliver Minton

PRIMARY CONTACT	
Full Name	Steve Mills
Title	Supv Safety & Security
Email	stephen.mills@myoneclay.net
Phone	904-336-6846

EMAIL INVOICES TO	
Accounts Payable Email	accountspayable@myoneclay.net
Other Email(s)	

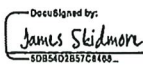
ORDER INFORMATION	
Quote #	20230726-162717599
Itemized Pricing	See attached quote
Initial Term: Start Date	07/01/2024
Initial Term: End Date	06/30/2031
Billing Frequency	Annual
Billing Method	Email
Additional Notes	The terms and conditions of School Board of Clay County Addendum A and Data-Sharing and Usage Agreement are hereby incorporated into this Agreement and the same shall govern and prevail over any conflicting terms and/or conditions herein stated.

This Order Form is governed by the attached Perry Weather Terms & Conditions ("PW Terms"). The PW Terms are hereby incorporated into this document by reference. Prices listed for products and services on the Quote and/or ordered hereunder may not include any applicable taxes. Subscriptions purchased under this Order Form may be billed in advance according to the Billing Frequency listed above and will renew according to the PW Terms. By signing below, you represent and warrant that you have the full authority to enter into this Order and the PW Terms on behalf of Customer.

Customer:

By: \_\_\_\_\_  
 Name: Ashley Gilhousen  
 Board Chair  
 Title: \_\_\_\_\_

Perry Weather:

By:  \_\_\_\_\_  
 Name: James Skidmore  
 Title: Chief Operating Officer



# Clay County Schools - Complete Weather Safety System

Clay County District Schools  
900 Walnut Street  
Green Cove Springs, FL 32043

Reference: 20230726-162717599  
Quote created: July 26, 2023  
Quote expires: June 30, 2024

## Comments from Oliver Minton

### This Quote Includes:

- \* 11 Wireless Weather Stations
- \* 11 Outdoor Warning Systems
- \* 230 Users w/ Software Access
- \* 24/7 Meteorologist Support
- \* Unlimited Weather Widgets

## Products & Services

Name	Qty	Unit price	Total
Software + Outdoor Warning System & Weather Station (OWX) Subscription Bundle	11	\$3,000.00 /year	\$33,000.00 /year for 7 years
SOFTWARE:			
- 10 Users per unit with software access			
- Custom text alerts for heat, lightning, etc.			
- 24/7 Meteorologist support			
- Widget for website, TV, etc.			
- Mass Notify feature			
WEATHER STATION:			
- Fully wireless (Solar/Cellular powered)			
- Historical Data Log, HD Sky Camera			
- Heat Index, Wet Bulb Globe Temp			
- Wind Speed, Wind Direction, Wind Chill			
- Precipitation			
OUTDOOR WARNING SYSTEM:			
- Fully Wireless (Solar/Cellular Powered)			
- Automated and Manually triggered			
- Custom text-to-speech PA			
- Full Control of Active Siren Days/Times			
Pack of 10 Additional Users Software access for an additional 10 users	12	\$300.00 /year	\$3,600.00 /year for 7 years
Shipping, per Unit	11	\$350.00	★ \$3,850.00

Name	Qty	Unit price	Total
Assisted Installation, Per Unit Requires on-site assistance from customer	1	\$950.00	★ \$950.00
Self-Installation	10	\$0.00	\$0.00

**Subtotals**

Annual subtotal			\$36,600.00
One-time subtotal			★ \$4,800.00
Total			\$41,400.00

**Important Notes:** Customer is responsible for providing a lift or bucket truck if needed for hardware installation (if applicable). Quote does not include any applicable taxes. Tax exemption certificates may be emailed to [billing@perryweather.com](mailto:billing@perryweather.com).

**Questions? Contact me**

**Oliver Minton**, Account Executive  
 oliver@perryweather.com, +12514245661

Year # 1 = \$ 41,400  
 Years # 2-7 = \$ 36,600  
 \$ 261,000



## PERRY WEATHER TERMS & CONDITIONS

### 1. DEFINITIONS. For the purpose of these terms and conditions, the following terms have the following meaning:

- The term "**Perry Weather**" shall mean Perry Weather, Inc.
- The term "**Customer**" shall mean the person or persons entering into this Agreement with Perry Weather as Identified on the Order Form and/or Quote.
- The term "**Software**" shall mean software provided by Perry Weather to the Customer, such as web-based applications, mobile applications, alerting, or other software, as may be identified in the Order Form and/or Quote.
- The term "**Hardware**" shall mean hardware products provided by Perry Weather to the Customer, such as outdoor warning systems, weather stations, or other hardware, as may be identified in the Order Form and/or Quote. Hardware includes both Subscription Hardware and Sold Hardware as defined below.
- The term "**Subscription Hardware**" shall mean Hardware that shall be owned by Perry Weather and provided to Customer on a subscription basis as may be identified on the Order Form and/or Quote.
- The term "**Sold Hardware**" shall mean Hardware that is sold to Customer as may be identified on the Order Form and/or Quote.
- The term "**Meteorological Consulting**" shall mean weather forecasts, consulting services, advice, representations, or training provided by Perry Weather to the Customer.
- The term "**Order Form**" shall mean an ordering document or online order specifying the products and services to be provided hereunder that is entered into between Customer and Perry Weather, including any addenda and supplements thereto.
- The term "**Quote**" shall mean a quote for Hardware and/or Software provided by Perry Weather to Customer and referenced in an Order Form.

### 2. AGREEMENT. Perry Weather agrees to provide to Customer the applicable Software and/or Hardware upon the terms specified in the Order Form, Quote, and these Terms and Conditions (collectively, the "**Agreement**"). In the event of a conflict between the Order Form, Quote, and/or these Terms and Conditions, the terms in the Order Form shall control over both the Quote and these Terms and Conditions, and the terms of the Quote shall only control over a conflicting term in these Terms and Conditions. In the event of a conflict between this Agreement and any cooperative purchasing agreement that may govern certain terms of the purchase and licensing of Software and Hardware, this Agreement shall control.

### 3. PAYMENT. Customer will pay all fees specified in Order Form and/or Quote and agrees to the payment terms listed in each Order Form and/or Quote, as supplemented by these Terms and Conditions. Unless otherwise set forth in an Order Form or Quote, payment for invoices are due upon receipt. Payments made by credit card will be subject to an additional processing fee. Late payment fees will be charged as follows: (a) one percent (1%) per month or part thereof will be charged for any payment that is more than 30 days late; (b) Payment should be made to: Perry Weather, 1355 Motor Circle, Dallas, TX 75207. As between Perry Weather and Customer, Customer agrees to pay all taxes, including sales, use, excise, purchase, goods and/or services, value-added and other taxes levied against, imposed upon or otherwise arising in connection with the provision of services, and/or any other goods or their use as contemplated hereunder, exclusive, however, of taxes based on Perry Weather's income, which shall be paid by Perry Weather.

### 4. TERM AND TERMINATION. The initial term of each subscription shall be as specified in the applicable Order Form and/or Quote. Except as otherwise specified in an Order Form and/or Quote, this Agreement and any subscriptions will automatically renew for additional periods equal to the expiring subscription term, unless either party gives the other notice of non-renewal at least 30 days before the end of the relevant subscription term. Either party may terminate this Agreement for cause by written notice if the other party breaches this Agreement and such breach remains uncured thirty (30) days after the breaching party received written notice. The termination of this Agreement shall not entitle Customer to a refund, in whole or in part, of any amounts paid for Sold Hardware. Upon and after termination or expiration of this Agreement, all licenses granted hereunder will immediately terminate.

### 5. HARDWARE WARRANTY. Perry Weather warrants that the Sold Hardware shall conform in all material respects to Perry Weather published specifications for a period of one (1) year from the date of installation, and further warrants the battery will remain operational for a period of three (3) years from the date of initial unit installation. This warranty is extended only to the original Customer and only covers failures due to defects in materials or workmanship that occur during normal operation. It does not cover basic maintenance (such as solar panel cleaning or clearing clogged rain gauges), damage caused by improper self-installation, failures that are caused by products not supplied by Perry Weather, or failures that result from accident, vandalism, misuse, tampering or abuse, mishandling, unauthorized alteration, modification or relocation, lightning or other weather events, line power surge, or "Acts of God." Perry Weather's obligation under this warranty shall be limited to exchange or replacement of any Sold Hardware or parts (excluding labor costs or installation), which may prove defective under normal use within one (1) year from date of installation, and which Perry Weather's examination shall disclose to its satisfaction to be defective.

### 6. CONSULTING SERVICES. It is understood and agreed that the Software and any Meteorological Consulting services provided to Customer by Perry Weather pursuant to this Agreement are only advisory in nature. As in the case of similar products or services provided by the meteorological consulting industry, the Software and Meteorological Consulting services are in part based on data provided by third parties and user input. Therefore, Perry Weather cannot and does not warrant or assume responsibility for the accuracy of the Software or



Meteorological Consulting provided by Perry Weather. From time to time, Perry Weather may reasonably change, update, discontinue, or replace the Meteorological Services or features of the Software without notice and as it deems necessary.

- 7. DISCLAIMER OF WARRANTIES.** EXCEPT AS PROVIDED ABOVE, THE HARDWARE, METEOROLOGICAL CONSULTING SERVICES, OTHER SERVICES, AND SOFTWARE AND DATA DISPLAYED THEREIN ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. EXCEPT AS PROVIDED IN SECTIONS 5 AND 6 ABOVE, PERRY WEATHER MAKES NO WARRANTY, EXPRESS OR IMPLIED, TO CUSTOMER, OR TO ANY AUTHORIZED USER OR THIRD PARTY, INCLUDING ANY WARRANTIES OF QUALITY, ACCURACY, PERFORMANCE, COMPATIBILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. CUSTOMER ACKNOWLEDGES THAT PERRY WEATHER IS NOT RESPONSIBLE FOR THE ACCURACY OF ANY INFORMATION OR DATA CONTAINED IN THE HARDWARE, SOFTWARE, OR SERVICES AND PERRY WEATHER SHALL NOT BE LIABLE FOR ANY LOSSES RESULTING FROM CUSTOMER'S OR ANY AUTHORIZED USER'S RELIANCE ON ANY SUCH INFORMATION OR DATA UNDER ANY CIRCUMSTANCES. PERRY WEATHER DOES NOT WARRANT THAT THE HARDWARE, SOFTWARE, OR METEOROLOGICAL CONSULTING SERVICES WILL BE ERROR-FREE OR THAT THE HARDWARE OR SOFTWARE WILL WORK WITHOUT INTERRUPTIONS.
- 8. LIGHTNING DISCLAIMER.** It is not possible to predict or detect when and where lightning will strike or has struck with 100% accuracy. Perry Weather does not guarantee or warrant that the Hardware, Software, or any associated Meteorological Consulting services, will be error-free or able to predict or detect lightning with any specified degree of accuracy. Customer acknowledges that lightning strikes are outside of Perry Weather's ability to control, detect, or predict and waives and releases Perry Weather and its data providers from any and all claims and liability related to any form of damage caused by lightning. Perry Weather uses data from Vaisala and other third parties in its Hardware, Software, and Meteorological Consulting. EXPERIENCE HAS PROVEN THAT THE TIMELINESS, RESOLUTION AND MANNER IN WHICH LIGHTNING DATA IS DISPLAYED DOES NOT SOLELY SUPPORT THE EFFECTIVE OR RELIABLE USE OF THE DATA IN MAKING DECISIONS OF AN IMMEDIATE OR SHORT-TERM NATURE THAT INVOLVE THE SAFETY OF PERSONNEL OR ASSETS. ANY SUCH APPLICATIONS OR SIMILAR USES BY CUSTOMERS ARE DONE AT THE RISK OF THE USER AND ARE NEITHER CONDONED NOR RECOMMENDED BY PERRY WEATHER, VAISALA, VAISALA'S SUPPLIERS, OR PERRY WEATHER'S OTHER THIRD-PARTY PROVIDERS.
- 9. OWNERSHIP AND POSSESSION OF THE HARDWARE.** Title to any Subscription Hardware shall at all times remain in Perry Weather and Customer shall have only the right to retain the possession of said Subscription Hardware pursuant to the conditions in this Agreement. Customer shall give Perry Weather immediate notice of any claim, levy, lien, or legal process issued against the Subscription Hardware. Customer will not place, nor allow to be placed, the Subscription Hardware in the possession of any other party, save and except to return the Subscription Hardware to Perry Weather. Customer hereby agrees that it will not, nor will it allow, the Subscription Hardware to be encumbered in any form. Customer will not allow any lien to be placed upon the Subscription Hardware, will not pledge the Subscription Hardware as collateral for any debt, current or future, and will immediately notify Perry Weather of any legal actions, proceedings or the threat thereof, which might result in the encumbrance of the Subscription Hardware.
- 10. OPERATION, ALTERATIONS, MAINTENANCE AND INSPECTION OF THE HARDWARE.** Customer shall be responsible for the maintenance and repair of Sold Hardware subject to the warranties set forth in Section 5. Perry Weather shall be responsible for maintenance and repair to any Subscription Hardware, including parts and shipping but excluding labor (which will be charged at Perry Weather's customary rates), due to defective components or workmanship, damage or malfunction caused by wind, hail, lightning, clogged rain gauges, dirty solar panels, and defective battery (such battery replacement limited to three (3) years from date of initial unit installation). In all other cases, Customer shall be responsible for maintenance and repair to Subscription Hardware (and shall pay such Perry Weather fees associated therewith), including, but not limited to, damage caused by vandalism, tampering, unauthorized modification or relocation, misuse or accident, damage caused by improper self-installation, or theft. Customer shall use the Hardware in a careful and proper manner and shall comply with all laws, ordinances, regulations and instruction from Perry Weather relating to the possession, use, or maintenance of the Hardware. Customer agrees that it will make no alterations to any Subscription Hardware without obtaining prior written permission and instruction from Perry Weather. If Customer desires that Perry Weather physically relocate Hardware after initial installation, additional service fees will apply. All additions and improvements to the Subscription Hardware of any kind shall immediately become the property of Perry Weather and subject to the terms of this Agreement. Customer shall promptly notify Perry Weather within three (3) business days following any event or occurrence that would require maintenance or repair to the Subscription Hardware. The amount payable under this Agreement shall not be reduced by the loss of use of any Hardware. Perry Weather shall have the right at any time, following seventy-two (72) hours prior written notice to Customer, to enter the premises occupied by the Subscription Hardware and shall be given free access thereto and afforded necessary facilities for the purpose of inspection.
- 11. RISK OF LOSS.** Customer hereby assumes all risks of loss of and damage to the Hardware from any cause (including, but not limited to, self-installation of the Hardware by Customer) and agrees to return any Subscription Hardware to Perry Weather in as good condition as when received. No loss of or damage to the Hardware shall impair any obligation of Customer under this Agreement, and all such obligations shall continue in full force and effect until otherwise discharged.
- 12. RETURN OF HARDWARE.** Upon termination of this Agreement, Customer agrees to deliver, at Customer's sole cost and expense, the Subscription Hardware in good condition, ordinary wear and tear resulting from proper use thereof alone excepted, and free and clear of encumbrances, to Perry Weather, or allow Perry Weather to enter the premises occupied by the Subscription Hardware to remove such Subscription Hardware. In the event Customer elects to have Perry Weather remove the Subscription Hardware, Customer will be responsible for fees associated with the uninstallation services rendered.
- 13. LIABILITY.** EXCEPT AS OTHERWISE SET FORTH HEREIN, CUSTOMER AND SUBSEQUENT USERS OF SOFTWARE AND HARDWARE HEREBY WAIVE AND RELEASE PERRY WEATHER FROM ANY LIABILITY FOR DAMAGE OR INJURY CAUSED BY METEOROLOGICAL CONSULTING, SOFTWARE, SELF-INSTALLATION OF HARDWARE BY CUSTOMER AND HARDWARE OPERATION ON ANY PREMISES.



- 14. LIMITATION OF LIABILITY.** IN NO EVENT SHALL EITHER PARTY BE LIABLE UNDER THIS AGREEMENT TO THE OTHER PARTY, OR ANY THIRD PARTY, FOR ANY INCIDENTAL, CONSEQUENTIAL, NOMINAL, INDIRECT, STATUTORY, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, DIMINUTION IN VALUE, LOSS OF USE, LOSS OF TIME, INCONVENIENCE, LOST BUSINESS OPPORTUNITIES, DAMAGE TO GOOD WILL OR REPUTATION, AND COSTS OF COVER, REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR SUCH DAMAGES COULD HAVE BEEN REASONABLY FORESEEN. EACH PARTY'S ENTIRE AGGREGATE LIABILITY FOR ANY CLAIMS RELATING TO THIS AGREEMENT, INCLUDING ATTORNEYS' FEES, SHALL NOT EXCEED THE FEES PAID AND PAYABLE BY THE CUSTOMER TO PERRY WEATHER UNDER THIS AGREEMENT IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO SUCH LIABILITY. THE LIMITATIONS IN THIS SECTION DO NOT APPLY TO CUSTOMER'S PAYMENT OBLIGATIONS OR CUSTOMER'S LIABILITY FOR DAMAGE TO THE HARDWARE. THIS SECTION SHALL SURVIVE THE TERMINATION OF THE AGREEMENT.
- 15. LICENSE AND DATA RIGHTS.** Perry Weather hereby grants to Customer a non-exclusive license to use any Software furnished to Customer as identified on the Order Form and/or Quote, including any restrictions on the number of authorized users. Customer shall not have the right to assign, sublicense, rent, lease, lend, publish, distribute or otherwise transfer such license except as otherwise provided herein. No title to or ownership of the Software or any unmodified parts thereof is transferred to Customer under this license. Customer shall not copy any Software in whole or in part, nor shall it attempt to derive or determine the source code (or the underlying ideas, algorithms, structure or organization) of the Software. As between Perry Weather and Customer, Perry Weather is and will remain the sole and exclusive owner of all right, title and interest in and to all weather-related data (irrespective of how such data is collected), including all intellectual property and other rights relating thereto.
- 16. INDEMNIFICATION.** Perry Weather will indemnify, defend and hold Customer harmless from and against any third-party claims, losses, liabilities, damages, expenses and costs, including attorney's fees and court costs (i) as to any rightful claim that Customer's use of the Software, Hardware or Meteorological Services infringes a United States patent or copyright, (ii) that arises from the breach by Perry Weather of its obligations under this Agreement, or (iii) resulting from personal injury or property damage that arises from Perry Weather's recklessness, gross negligence, or willful misconduct when any Perry Weather employee or contractor is on-site at Customer's premises. Customer agrees to indemnify, defend and hold Perry Weather, its affiliates, and their respective officers, directors, employees and agents harmless from and against all third-party claims, losses, liabilities, damages, expenses and costs, including attorney's fees and court costs, arising out of or resulting from personal injury or property damage (i) due to self-installation of Hardware by Customer or that otherwise arises from Customer's recklessness, gross negligence or willful misconduct, (ii) that are attributable to any acts or omissions of Customer while using or otherwise accessing the Perry Weather Hardware or Software, or (iii) that arises from Customer's breach of its obligations under this Agreement. The party seeking indemnification shall provide the indemnifying party with prompt written notice of any claim and give complete control of the defense and settlement of the indemnifying party, and shall cooperate with the indemnifying party, its insurance company and its legal counsel in its defense of such claim(s); if, however, Perry Weather is indemnifying Customer for a claim that Perry Weather, the Hardware, and/or the Software infringes the intellectual property rights of a third party, Perry Weather shall have complete control of the defense and settlement of said claim. This indemnity shall not cover any claim in which there is a failure to give the indemnifying Party prompt notice to the extent such lack of notice prejudices the defense of the claim. In the defense or settlement of a claim, or if use of the Hardware or Software is enjoined, Perry Weather may, at its expense and option: (a) procure for Customer the right to continue using the Hardware or Software; (b) replace or modify the Hardware or Software so they become non-infringing; or if neither of these is practical, (c) grant Customer a credit for the Hardware or Software as depreciated and accept return of the Hardware or Software as applicable. Depreciation shall be an equal yearly amount over the lifetime of the Hardware or Software, as established by Perry Weather. Perry Weather will not be liable to Customer for any claim that is based upon: (i) use of the Hardware or Software in modified form or in a manner for which they were not designed; (ii) use of the Hardware or Software in combination with goods or services not provided by Perry Weather; (iii) use of the Hardware or Software in practicing any process; or (iv) furnishing to Customer of any information, service or applications assistance. The foregoing states the entire liability of Perry Weather with respect to infringement of patents or copyrights by any Hardware or Software provided by Perry Weather.
- 17. GOVERNING LAW, VENUE, ARBITRATION.** The validity, construction, and interpretation of the terms and conditions herein and all rights and duties of Perry Weather and Customer, and all matters related to the products and services covered by this Agreement, shall be governed by the substantive laws of the State of Texas without regard to conflict of laws rules that would confer the matter in question to a state other than Texas. Customer and Perry Weather agree that any action brought by Customer against Perry Weather shall be venued only in the City of Dallas in the State of Texas. Other than litigation by Perry Weather to collect an amount due from Customer pursuant to this Agreement or a suit for injunctive relief, any dispute, controversy or claim arising out of or related in any manner to this Agreement which cannot be amicably resolved by the Parties shall be solely and finally settled by arbitration administered by the American Arbitration Association in accordance with its commercial arbitration rules. Any claim shall be brought individually on behalf of the person or entity seeking relief, not on behalf of a class or other persons or entities not participating in the arbitration, and shall not be consolidated with the claim of any other person. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof in Dallas, Texas. The arbitration shall take place before a panel of one (1) arbitrator sitting in Dallas, Texas. The arbitrator will make the initial determination of whether a dispute between the Parties is subject to this arbitration clause or is otherwise required to be arbitrated. The language of the arbitration shall be English. The arbitrators will be bound to adjudicate all disputes in accordance with the laws of the State of Texas. The decision of the arbitrators shall be in writing with written findings of fact and shall be final and binding on the Parties. Each Party shall bear its own costs relating to the arbitration proceedings irrespective of its outcome. This section provides the sole recourse for any disputes arising out of, in connection with, or related to this Agreement, except that a Party may seek a preliminary injunction or other injunctive relief in any court of competent jurisdiction in Dallas, Texas if in its reasonable judgment such action is necessary to avoid irreparable harm.
- 18. EXTRAORDINARY CIRCUMSTANCES.** Except for Customer's payment obligations under this Agreement, neither Perry Weather nor the Customer shall be liable for nonperformance caused by circumstances beyond their control, including but not limited to, work stoppages, pandemics, floods, lightning and all other acts of God.





- 19. ENTIRE AGREEMENT.** This Agreement is the entire agreement between Customer and Perry Weather regarding the subject matter of this Agreement, and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter.
- 20. ASSIGNMENT.** Except to the extent assigned to a related entity or as a part of the sale of all or substantially all of its assets or as a part of a merger, sale, or other corporate transaction, neither party shall assign this Agreement, or any interest in this Agreement, without the other party's prior written consent, which consent shall not be unreasonably withheld. Except in connection with an approved assignment, Customer shall not provide access to Software, or any part of it, to any third parties without Perry Weather's prior written consent, which consent shall be in Perry Weather's sole discretion. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the Parties, their respective successors and permitted assigns.
- 21. EQUITABLE REMEDIES.** The parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the parties shall be entitled to equitable relief, including injunctive relief or specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity.
- 22. ATTORNEYS' FEES.** In the event that any party institutes any legal suit, action, or proceeding, including arbitration, against the other party to enforce the covenants contained in this Agreement (or obtain any other remedy in respect of any breach of this Agreement), the prevailing party in the suit, action, or proceeding shall be entitled to receive, in addition to all other damages to which it may be entitled, the costs incurred by such party in conducting the suit, action, or proceeding, including reasonable attorneys' fees and expenses and court costs.
- 23. NOTICES.** All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "Notice") shall be in writing to the parties at the addresses set forth in the Agreement (or to such other address that may be designated by the receiving party from time to time in accordance with this Section). All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), or email (with confirmation of transmission), or certified or registered mail (in each case, return receipt requested, postage pre-paid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt by the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.
- 24. SEVERABILITY.** If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.
- 25. WAIVER.** No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach, or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.
- 26. RELATIONSHIP OF THE PARTIES.** Nothing herein shall be construed to create a joint venture or partnership between the parties hereto or an employee/employer or agency relationship. Neither party hereto shall have any express or implied right or authority to assume or create any obligations on behalf of or in the name of the other party or to bind the other party to any contract, agreement, or undertaking with any third party.
- 27. MISCELLANEOUS.** Each term and provision of this Agreement that should by its sense and context survive any termination or expiration of this Agreement, shall so survive regardless of the cause and even if resulting from the material breach of either Party to this Agreement. Each of the sections contained in this Agreement will be enforceable independently of every other section in this Agreement, and the invalidity or non-enforceability of any section will not invalidate or render unenforceable any other section contained in this Agreement. Perry Weather may amend this Agreement from time to time by sending Customer written notice thereof. Such amendment will be deemed accepted and become effective 30 days after such notice (the "Proposed Amendment Date") unless Customer first gives Perry Weather written notice of rejection of the amendment. In case of such rejection, this Agreement will continue under its original provisions, and the amendment will become effective at the start of Customer's next renewal term following the Proposed Amendment Date (unless Customer first terminates this Agreement pursuant to Section 4). This Agreement may not be amended in any other way except through a written agreement signed by Perry Weather and Customer. Rates are subject to increase annually, limited in non-renewal years to the greater of: the Consumer Price Index for all Urban Consumers (CPI), or three percent (3%). This Agreement may be executed in one or more counterparts, each of which when executed shall be deemed to be an original but all of which shall constitute one and the same Agreement.



**"ADDENDUM A"  
TO CONTRACT WITH  
THE SCHOOL BOARD OF CLAY COUNTY, FLORIDA**

Notwithstanding any contractual language to the contrary, the terms and conditions of this "Addendum A" shall govern and prevail over any conflicting or inconsistent terms and conditions in the underlying contract to which this "Addendum A" is attached and/or otherwise incorporated. All references herein made to the School Board of Clay County, Florida ("SBCC") shall be interpreted to include the School Board of Clay County, Florida, Clay County District Schools ("District"), and all Board officers and employees.

1. The Company, Vendor, Agency, or Consultant, of Contract with the School Board of Clay County, hereafter collectively and individually referred to as the "CONTRACTOR".
2. CONTRACTOR represents that it is an independent contractor and that it requires that the SBCC treat it as such. CONTRACTOR agrees:
  - a. That it has no rights to any benefits extended by the SBCC to its employees [including without limitation, sick leave, vacation time, insurance coverage, etc.];
  - b. That it will not take a position contrary to their status as an independent contractor, and agrees to accept the responsibilities placed on independent contractors by federal and state law accordingly, the SBCC will not make the deductions or contributions that an employer may be required to make with respect to its employees, and the undersigned will be responsible for all federal and state tax and fund obligations, including without limitation, income tax, Social Security, unemployment compensation, etc.];
  - c. CONTRACTOR agrees, as an independent contractor and not an employee of the SBCC, it is responsible for providing their own Worker's Compensation Insurance and social security/self-employment contributions.
3. In addition to any other statutory or common law obligation to indemnify and defend the SBCC, CONTRACTOR shall indemnify, defend, and hold harmless the SBCC, its officers, and employees from any claim, loss, damage, penalty, or liability arising from the negligent acts, omissions, misfeasance, malfeasance, or intentionally wrongful conduct of CONTRACTOR, its employees, or agents relating to the performance of duties while on-site at any SBCC facility. Such indemnity shall not be limited by benefits payable by or for CONTRACTOR under worker's compensation, disability, or any other employee benefits or insurance programs or policies. Contractor shall timely provide to the SBCC written notice of any claim, complaint, or demand asserted against CONTRACTOR related to the performance of this Agreement. CONTRACTOR's obligations under this section shall survive the termination of this Agreement.
4. CONTRACTOR agrees to be bound by, and at its own expense comply with, all federal, state, and local laws, ordinances, and regulations applicable to the services. CONTRACTOR shall review and comply with the confidentiality requirements of federal and state law and the SBCC policy regarding access to and use of records.
5. Reservation of Sovereign Immunity: No provision or language in the underlying contract shall be construed or interpreted to increase the scope or dollar limit of the SBCC's liability beyond that which is set forth in Section 768.28 of the Florida Statutes. Nor shall any such language be construed or interpreted to waive the SBCC's sovereign immunity from suit, or to require the SBCC to indemnify CONTRACTOR or any other person, corporation or legal entity of any kind or nature whatsoever for injury or loss resulting from any acts or omissions other than those which arise from the actionable negligence of the SBCC. The SBCC expressly reserves all other protections and privileges related to its sovereign immunity.
6. CONTRACTOR will perform the services in a thorough, efficient, and professional manner, promptly and with due diligence and care, and in accordance with the best practices of the profession, utilizing qualified and suitable personnel, equipment and materials. CONTRACTOR warrants and represents to the SBCC that it possesses the expertise, capability, equipment and personnel to properly perform the services and that it is properly and legally licensed to perform the services. CONTRACTOR acknowledges that the SBCC is relying on the warranties and representations made by CONTRACTOR.

7. Method of Payment (if applicable): Services and/or Products satisfactorily received shall be compensated in accordance with Attachment A and the following terms:
  - a. Procurement is performed in accordance with applicable law, State Board of Education Rules, Clay County School Board Policy and other applicable rules and regulations which govern. CONTRACTOR shall be paid in accordance with the Local Government Prompt Payment Act (218.70, et seq., Florida Statutes) upon submission of detailed invoices to the appropriate location listed on the District Purchase Order and/or the School Internal Account Purchase Order, and only after delivery and acceptance of the services and/or products provided.
  - b. Services and/or Products, as authorized and approved by SBCC, shall be compensated by Hour Rate (cost per hour) / Fixed Fee (*includes direct and indirect costs*) / Flat Rate (*cost for scope of work*) / etc.
  - c. Direct reimbursement for travel expenses, as authorized by and listed in Attachment A, shall be made in accordance with the requirements and rates found at F.S. 112.061 and any applicable the SBCC policies.
  - d. Incurrence of other direct expenses, if any, must be pre-approved in writing by the SBCC.
  - e. Unless otherwise required by law, the SBCC's payment obligations (if any) arising from the underlying Agreement are contingent upon an annual appropriation by the School Board and the availability of funds to pay for the contracted services and/or products provided. If such funds are not appropriated for the underlying Agreement and results in its termination, such conditions/events shall not constitute a default by the SBCC.
8. The SBCC and CONTRACTOR have mutual rights to terminate this Agreement with or without cause and without penalty or further payment, at any time upon thirty (30) days written notice to the other party. However, if it is determined by the SBCC that the work is not being performed as agreed herein, CONTRACTOR shall be deemed to be in default, and the SBCC reserves the right to cancel this Agreement immediately.
9. Force Majeure: Neither party to this Agreement shall be liable for delays or failures in performance under this Agreement (other than obligations relating to payment, confidentiality, and protection of ownership and intellectual property rights) resulting from acts or events beyond the reasonable control of such party (a "Force Majeure Event"), including acts of war, terrorism, acts of God, earthquake, flood, embargo, riot, sabotage, labor dispute, wide spread outbreak of disease or pandemic, governmental act, failure of the internet, power failure, or energy, utility, or telecommunications interruptions, provided that the delayed party: (i) gives the other party prompt notice of such cause; and (ii) uses its reasonable commercial efforts to promptly correct such failure or delay in performance. In the event that a Force Majeure Event lasts for more than 90 days, and the party experiencing the initial delay cannot correct its failure or delay in performance during that period of time, despite using its reasonable commercial efforts to do so, the other party may terminate the affected portions of this Agreement.
10. This Agreement shall not be modified or amended except in writing, duly agreed to and executed by the parties.
11. CONTRACTOR shall not assign this Agreement in whole or in part, without the express written consent of the SBCC Purchasing Department.
12. Except to the extent assigned to a related entity or as a part of the sale of all or substantially all of its assets or as a part of a merger, sale, or other corporate transaction, this Agreement shall be governed by and construed in accordance with the laws of the State of Florida and venue shall be in Clay County, Florida.
13. No other representations or promises shall be binding on the parties hereto except those representations or promises contained herein.
14. In the event that any part, term, or provision of this Agreement is, in a court of competent jurisdiction, found to be illegal or unenforceable, the validity of the remaining portions and provisions will not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular part, term, or provision held to be so invalid.
15. Should any litigation be commenced in connection with this Agreement, the prevailing party shall be entitled to reasonable attorney fees and court costs.
16. The parties hereto represent that they have reviewed this Agreement and have sought legal advice concerning the legal significance and ramifications of this Agreement.
17. CONTRACTOR shall retain records associated with the services and/or products provided herein for a period of three years following final payment. CONTRACTOR shall, with reasonable notice, provide the SBCC access to these records during the above retention period.

18. Jessica Lunsford Act: SBCC is required to conduct background screening of CONTRACTOR (including its employees, agents, and sub-contractors) (go to [Clay County District Schools website](#) for fingerprinting procedures). CONTRACTOR represents and warrants to the SBCC that CONTRACTOR is familiar with Sections 1012.32, 1012.321, 1012.465, 1012.467, and 1012.468 of the Florida Statutes regarding background investigations. CONTRACTOR covenants to comply with all requirements of the above-cited statutes at CONTRACTOR's sole expense and shall provide the SBCC proof of such compliance upon request.

Certification: By executing this Agreement, CONTRACTOR swears and affirms under penalty of perjury that all of its employees, agents, and subcontractors will comply with these procedures, the requirements of the Jessica Lunsford Act, SBCC's finger printing procedures, and the laws of the State of Florida. Failure to comply with these procedures, the Act, SBCC's finger printing procedures, and the law of the State of Florida shall constitute a material breach of the Agreement, and SBCC may avail itself of all remedies pursuant to law. CONTRACTOR agrees to indemnify and hold harmless SBCC, its officers, employees, and agents, from and against any and all claims or causes of action, including without limitation those for personal injury, death, property damages, and attorney fees, arising out of or relating to CONTRACTOR's failure to comply with any of the above.

19. E-Verify: CONTRACTOR named herein, and its subcontractors, are required to register with and use the U.S. Department of Homeland Security's (DHS) E-Verify system to verify the work authorization status of all newly hired employees. By executing this Agreement, the CONTRACTOR certifies that it, and any sub-contractors with which it contracts, are registered with, and use, the E-Verify system for all newly hired employees, and acknowledges that it must obtain an affidavit from its subcontractors in accordance with Section 448.095(2)(b) Fla. Stat. that the subcontractor does not employ, contract with or subcontract with any unauthorized alien. The CONTRACTOR must maintain a copy of such affidavit for the duration of the Agreement. This section serves as notice to the CONTRACTOR that, pursuant to the terms of Section 448.095(2)(c) 1 and 2, Florida Statutes, the SBCC shall terminate this Agreement if it has a good faith belief that the CONTRACTOR has knowingly violated Section 448.09(1), F.S.. If the SBCC has a good faith belief that the subcontractor, without the knowledge of the CONTRACTOR, has knowingly violated Section 448.09(1) or 448.095(2), F.S., the SBCC shall notify the CONTRACTOR and order the CONTRACTOR to immediately terminate the contract with the subcontractor. If the SBCC terminates an Agreement with a CONTRACTOR pursuant to sec. 448.095(2)(c), F.S., the CONTRACTOR will not be awarded a public contract for at least one year after the date of such termination.

20. The CONTRACTOR certifies that CONTRACTOR is in compliance with the requirements of law regarding equal employment opportunity for all persons without regard to age, race, color, religion, sex, national origin, or disability and is not on the Discriminatory Vendor List pursuant to Florida Statute 287.134.

21. CONTRACTOR shall, at CONTRACTOR's sole expense, procure and maintain during the term of this Agreement, at least the following minimum insurance coverage, which shall not limit the liability of CONTRACTOR:

<u>General Liability Policy:</u>	<u>Auto Liability Policy:</u>	<u>Worker's Compensation Policy:</u>
\$1,000,000.00 per occurrence	\$1,000,000.00 combined single limit	\$100,000
\$2,000,000.00 aggregate	\$5,000,000.00 (if charter or common carrier)	<i>*Exempt, need signed WCAF</i>

*\*If the CONTRACTOR is exempt from Worker's Compensation insurance obligations, the CONTRACTOR must sign the Worker's Compensation Acknowledgment Form (WCAF) attached hereto as Exhibit # 1.*

All policies of insurance shall be rated "A-" or better by the most recently published A.M. Best Rating Guide and shall be subject to the SBCC approval as to form and issuing company. The SBCC shall be named as certificate holder and as an *additional insured* in the comprehensive general (including property damage) liability policy within five (5) days after execution of this Agreement. CONTRACTOR shall furnish the SBCC's Representative copies of insurance certificates evidencing that it maintains at least the insurance coverage required hereunder, and which contain the following or equivalent clause: *"Before any reduction, cancellation, modification or expiration of the insurance policy, thirty (30) days prior written notice thereof shall be given to the SBCC."* CONTRACTOR is NOT authorized to proceed with the services until all the insurance certificates have been received and accepted.

Receipt of certificates or other documentation of insurance or policies or copies of policies by the SBCC, or by any of its representatives, which indicate less coverage than required does not constitute a waiver of CONTRACTOR's obligation to fulfill the insurance requirements herein.

22. CONTRACTOR shall not solicit or accept brokerage or any other fees or remuneration from any provider of the SBCC insurance program.
23. CONTRACTOR recognizes and acknowledges that by virtue of entering into this Agreement and providing services hereunder, CONTRACTOR, its agents, employees, officers, and subcontractors may have access to certain confidential information and processes, including confidential student information, personal health information, financial records, and access to the SBCC networks (hereinafter “Confidential Information”). CONTRACTOR agrees that neither it nor any CONTRACTOR agent, employee officer, or subcontractor will at any time, either during or subsequent to the term of this Agreement, disclose to any third party, except where permitted or required by law or where such disclosure is expressly approved by the SBCC in writing, any Confidential Information. In addition, following expiration of said Agreement, CONTRACTOR, its agents, employees, officers, and subcontractors shall either destroy or return to the SBCC all Confidential Information. With 72-hours written notification, the SBCC reserves the right to determine whether or not Confidential Information has been destroyed and such confirmation may include inspecting the CONTRACTOR’s facilities and equipment. CONTRACTOR understands and agrees that it is subject to all federal and state laws and SBCC rules relating to the confidentiality of student information. Contractor further agrees to comply with the Family Educational Rights and Privacy Act (“FERPA”) 34 C.F.R. § 99. Contractor shall regard all student information as confidential and will not disclose personally-identifiable student records or information to any third party without appropriate legal authorization. Access to SBCC data or networks shall require a SBCC Data-Sharing and Usage Agreement and shall only be authorized by the SBCC IT Department.
24. CONTRACTOR is required to comply with the Florida Public Records Law, Chapter 119, Florida Statutes, in the performance of CONTRACTOR’s duties under this Agreement, and will specifically:
  - a. Keep, maintain, and produce upon request and within a reasonable period of time all data created or collected in the performance of its duties under this Agreement (“Agreement Data”) which come within the definition of a “public record” under Chapter 119.
  - b. Provide to the SBCC, upon its request and free of charge, a copy of each record which CONTRACTOR seeks to produce in response to a public records request.
  - c. Ensure that all Agreement Data considered exempt under Chapter 119 are not disclosed except as authorized by law.
  - d. Upon completion of its obligations under the Agreement, transfer to the SBCC, at no cost, all Agreement Data in CONTRACTOR’s possession or otherwise keep and maintain such data/records as required by law. All records transmitted to the SBCC must be provided in a format that is compatible the SBCC’s information technology systems.
  - e. The SBCC is authorized to collect, use or release social security numbers (SSN) of CONTRACTOR and their employees for the following purposes, which are noted as either required or authorized by law to be collected. The collection of social security numbers is either specifically authorized by law or imperative for the performance of the District’s duties and responsibilities as prescribed by law (Sections 119.071(5)(a)2 and 3, Florida Statutes):
    - a) Criminal history and criminal background checks/Identifiers for processing fingerprints by Department of Law Enforcement, if SSN is available [Required by Fla. Admin. Code 11 C-6.003 and Fla. Stat. § 119.071(5)(a)6]
    - b) Vendors/Consultants that District reasonably believes would receive a 1099 form if a tax identification number is not provided including for IRS form W-9 [Required by 26 C.F.R. § 31.3406-0, 26 C.F.R. § 301.61091, and Fla. Stat. § 119.071(5)(a)2 and 6]

CONTRACTOR’s failure to comply with the provisions set forth in this section shall constitute a default and material breach of this Agreement, which may result in termination by the SBCC without penalty.

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, OR CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTRACTOR SHALL CONTACT THE SBCC’S CUSTODIAN OF PUBLIC RECORDS AT 900 WALNUT STREET, GREEN COVE SPRINGS, FLORIDA 32043, OR AT 904-336-6500, OR AT: [PRR@myoneclay.net](mailto:PRR@myoneclay.net)

25. Government Funding (if Applicable): Funding for this Agreement may be provided in whole or in part by one or more Government funding agencies (Federal, State, Local). As a result, CONTRACTOR shall comply with applicable Laws, Regulations, Executive Orders, and Governmental Agency Rules and Policies included but not

limited to Titles: 2 – Grants and Agreements (2 C.F.R. §200), Title 7 – Agriculture (NSLP), Title 34 – Education (EDGAR, FERPA), Title 44 – Emergency Management and Assistance (FEMA); U.S. Code Titles: 20,31,40,41.

To the extent that the SBCC is using Government Funds as a source of payment for this Agreement, CONTRACTOR shall execute and deliver to the SBCC the following forms, attached hereto as Exhibit # 2: (a) EDGAR Certification; (b) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion; (c) Drug-Free Workplace Certification; (d) Non-Collusion Affidavit; and (e) Disclosure of Potential Conflict of Interest.

SBCC’S Representative with CONTRACTOR is: Stephen Mills

School/Department Name: Supv Safety and Security

Mailing Address: 900 Center Street, Green Cove Springs, FL 32043

Phone #: 904-336-6846 Email Address: stephen.mills@myoneclay.net

**Accepted and Agreed to:**

**SCHOOL BOARD OF CLAY COUNTY**

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

Print Name: Ashley Gilhousen

Title: Board Chair

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

**CONTRACTOR**

By: James Skidmore

Print Name: James Skidmore

Title: Chief Operating Officer

Date: May 14, 2024

# Data-Sharing and Usage Agreement

## Clay County District Schools

This agreement establishes the terms and conditions under which the Clay County District Schools can acquire, share, and use data. Either party may be a provider of data to the other party or be a recipient of data from the other. The purpose of this agreement is to provide for the Parties' sharing of certain respective Student Data from student education records, pursuant to s. 34 CFR 99.31(a)(6) and s. 1002.221, Florida Statutes, in order that the District and Data Recipient may improve the advancement of achievement throughout Clay County.

1. The confidentiality of data pertaining to individuals will be protected as follows:

A. The data recipient will not release the names or addresses of individuals or information that could be deemed as personally identifiable information of an individual, nor will the recipient present the results of data analysis (including but not limited to graphics or maps) in any manner that would reveal an individual's personally identifiable information.

B. Both parties shall comply with all Federal and State laws and regulations governing the confidentiality of the information that is the subject of this Agreement.

C. Both parties agree that personally identifiable information (PII) will be as defined in Florida State Statute 501.171.

D. Both parties agree to follow Florida's public records laws and laws relating to records retention located in Florida State Statute chapter 119 and Florida's General Records Schedule GS1-SL.

2. Any use, disclosure, or re-disclosure of the confidential information provided by each Party to the other Party not expressly permitted by this agreement is unauthorized and prohibited. Each Party must ensure that their respective authorized personnel are informed about and aware of the prohibitions regarding the use, disclosure, and re-disclosure of any information provided pursuant to this agreement. Notwithstanding the terms, either Party may disclose confidential information if disclosure is required by law in response to a valid order of a court of competent jurisdiction or authorized government agency, provided that the disclosing Party must provide the other Party prompt notice of the order and at the other party's request and expense, reasonably cooperate with efforts to receive a protective order or otherwise limit disclosure.

3. The data recipient will not release data to a third party without prior approval in writing from the data provider.

4. The data recipient will not share, publish, or otherwise release any findings or conclusions derived from the analysis of data obtained from the data provider without prior written approval from the data provider.

5. Data transferred pursuant to the terms of this Agreement shall be utilized solely for the purposes set forth in the "Contract/agreement" with the "Data Recipient".

6. All data transferred to Clay County District Schools shall remain the property of the "vendor" and shall be destroyed or returned to the "vendor" within sixty (60) days upon termination of the contract/agreement. The district shall send written notice to the other party confirming this requirement has been achieved. This covenant shall survive the expiration or termination of this agreement.

7. All data transferred from Clay County District Schools shall remain the property of the school district and shall be destroyed or returned to the school district within sixty (60) days upon termination of the contract/agreement. The district shall send written notice to the other party confirming this requirement has been achieved. This covenant shall survive the expiration or termination of this agreement.

8. Any third party granted access to data, as permitted under condition #2, above, shall be subject to the terms and conditions of this agreement. Acceptance of these terms must be provided in writing by the third party to the school district and signed by the school district before data will be released. The primary "vendor" will be responsible for presenting the signed agreement to the district on behalf of the third party.

9. Both parties agree that PII data stored will be encrypted while in transit and rest.

10. Each party agrees to disseminate this agreement to appropriate personnel in each party's agency.

11. To promote to the fullest extent permissible and in compliance with federal law and Florida Statutes (including but not limited to

## Data-Sharing and Usage Agreement Clay County District Schools

Sections 1002.22 and 1002.97, Florida Statutes, and Family Educational Rights and Privacy Act (FERPA) codified at 20 U.S.C. 1232g and its regulations codified at 34 CFR part 99) regarding the sharing of Student Data in student education records and information relevant to the purpose of this agreement.

12. The Parties hereby agree to share electronic Student Data across systems, in full compliance with state and federal confidentiality requirements, particularly FERPA, for purposes of each Party's educational studies and for the improvement of student education.

13. The Parties acknowledge that, during the term of this agreement, confidential information of a special and unique nature will be disclosed to each other. Each Party will protect the confidential information received from the other party in a manner that will not permit the personal identification of a child or the parents, including guardians, by persons other than those authorized to receive the records, and each Party shall protect the confidential information from unauthorized access, use or re-disclosure.

14. Each Party shall establish a mutually agreed upon limitation regarding the number of users with access to the student information; it being understood that each Party's authorized personnel (whether paid or non-paid staff) must be under the direct control of the Party with respect to the use and maintenance of the records to be disclosed pursuant to this agreement.

15. Each Party shall take all steps necessary to safeguard the confidentiality of the data received. Each Party must develop, implement, maintain and use reasonable and appropriate administrative and internal controls, and technical and physical security measures to preserve the confidentiality, integrity, and availability of all data electronically maintained, used, stored, or transmitted pursuant to this agreement. A review of these controls may be requested by either party to ensure their adequacy and implementation.

- appropriate administrative actions include appropriate disciplinary policies for any of each Party's respective authorized employees who may violate the requirements set forth in this agreement (including but not limited to, in appropriate circumstances, termination of employment).

16. Neither Party shall possess nor assert any lien or other rights against or to confidential information of the other Party.

17. Each Party agrees to report in writing within three (3) business days to the other Party any use, disclosure, or re-disclosure of confidential information not authorized by this agreement. Such report must identify:

- the nature of the unauthorized use, disclosure, or re-disclosure;
- the data used, disclosed, or re-disclosed;
- the person or entity, if known, who made the unauthorized use or received the unauthorized disclosure, or re-disclosure;
- what the reporting Party has done or will do to notify affected persons and to mitigate any deleterious effect of the unauthorized use, disclosure, or redisclosure;
- what corrective action the Party has taken or will take to prevent future similar unauthorized use, disclosure, or re-disclosure.

18. Data Recipient agrees that the District shall have the right to review, prior to Data Recipient publishing any report or findings related to the Student Data, in order for the District to verify proper techniques are used to avoid any unauthorized disclosure of Student Data.

Company: Perry Weather, Inc.

Clay County District Schools

Name: James Skidmore

Name: Ethan Caren

Date: 5/6/2024

Date: May 14, 2024

Signature: *James Skidmore*

Signature: *Ethan R. Caren*  
Ethan R. Caren (May 14, 2024 11:31 EDT)





**Endorsement**

*Policy Period*                      FEBRUARY 27, 2024 TO FEBRUARY 27, 2025  
*Effective Date*                      FEBRUARY 27, 2024  
*Policy Number*                      3604-26-65 WUC  
*Insured*                                  PERRY WEATHER, INC.  
  
*Name of Company*                  FEDERAL INSURANCE COMPANY  
  
*Date Issued*                          NOVEMBER 29, 2023

This Endorsement applies to the following forms:

**GENERAL LIABILITY**

Under Who Is An Insured, the following provision is added.

**Who Is An Insured**

**Additional Insured -  
Scheduled Person  
Or Organization**

Persons or organizations shown in the Schedule are **insureds**; but they are **insureds** only if you are obligated pursuant to a contract or agreement to provide them with such insurance as is afforded by this policy.

However, the person or organization is an **insured** only:

- if and then only to the extent the person or organization is described in the Schedule;
- to the extent such contract or agreement requires the person or organization to be afforded status as an **insured**;
- for activities that did not occur, in whole or in part, before the execution of the contract or agreement; and
- with respect to damages, loss, cost or expense for injury or damage to which this insurance applies.

No person or organization is an **insured** under this provision:

- that is more specifically identified under any other provision of the Who Is An Insured section (regardless of any limitation applicable thereto).
- with respect to any assumption of liability (of another person or organization) by them in a contract or agreement. This limitation does not apply to the liability for damages, loss, cost or expense for injury or damage, to which this insurance applies, that the person or organization would have in the absence of such contract or agreement.

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**Liability Endorsement**  
(continued)

Under Conditions, the following provision is added to the condition titled Other Insurance.

**Conditions**

**Other Insurance –  
Primary, Noncontributory  
Insurance – Scheduled  
Person Or Organization**

If you are obligated, pursuant to a contract or agreement, to provide the person or organization shown in the Schedule with primary insurance such as is afforded by this policy, then in such case this insurance is primary and we will not seek contribution from insurance available to such person or organization.

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**Schedule**

Persons or organizations that you are obligated, pursuant to a contract or agreement, to provide with such insurance as is afforded by this policy.

All other terms and conditions remain unchanged.

**Authorized Representative**



## TEXAS WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement applies only to the insurance provided by the policy because Texas is shown in item 3.A. of the Information Page.

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule, but this waiver applies only with respect to bodily injury arising out of the operations described in the schedule where you are required by a written contract to obtain this waiver from us.

This endorsement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

The premium for this endorsement is shown in the Schedule.

### Schedule

1.  Specific Waiver

Name of person or organization

Blanket Waiver

Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

2. Operations: All Texas operations

3. Premium:

The premium charge for this endorsement shall be **2.00** percent of the premium developed on payroll in connection with work performed for the above person(s) or organization(s) arising out of the operations described.

4. Advance Premium: Included, see Information Page

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.  
(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy.)  
This endorsement, effective on 3/7/24 at 12:01 a.m. standard time, forms a part of:

Policy no. 0002028391 of Texas Mutual Insurance Company effective on 3/7/24

Issued to: PERRY WEATHER INC

This is not a bill



Authorized representative

NCCI Carrier Code: 29939

3/1/24