IDEA Florida
Board Action Item F
April 23, 2021

Subject: Resolution Approving Loan from Community Foundation for Northeast Florida

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Proposed Board Action: For Approval

Executive Summary:

To better support a successful and timely launch of two IDEA Jacksonville school sites, IDEA Florida applied for a short-term low-interest Program Related Investment Loan from the Community Foundation of Northeast Florida. The resolution will authorize IDEA Florida to transfer the proceeds of the loan to IPS Enterprises, Inc. where the funding will help cover certain due diligence and soft costs that are not eligible expenditures under our existing grant funding sources. The resolution further states to the extent all or a portion of the loan proceeds transferred to IPS Enterprises are used for costs related to the two charter school facilities that are typically capitalized when the facilities are financed, at the time of the financing, the proceeds of the facility financing will either be used to pay down the loan to the extent of capitalized costs, or, if the normally capitalized costs funded by the loan proceeds are not part of the financing, there will be a reduction in the overall amount of the facility leases with IDEA Florida Inc. in the amount of the normally capitalized costs, to reflect the prior IDEA Florida Inc. payment of costs for those two properties

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Supporting Documentation: Resolution

Presenter: Jazmine Leon-Wing, Managing Director of Treasury

RESOLUTION OF THE BOARD OF DIRECTORS OF IDEA FLORIDA, APPROVING THE LOAN FROM COMMUNITY FOUNDATION FOR NORTHEAST FLORIDA, DATED MAY 1, 2021, AND THE TRANSFER OF THE LOAN PROCEEDS TO IPS ENTERPRISES, INC.

WHEREAS, IDEA Florida, a Florida non-profit corporation, ("IDEA Florida"), believes that it will facilitate the timely launch of two charter school sites located in Jacksonville, Florida for the 2022-2023 school year to accept the loan from the Community Foundation for Northeast Florida, dated May 1, 2021 (the "Loan Agreement") for the purpose of funding certain costs of due diligence and soft costs necessary for the launch of two charter school sites located in Jacksonville, Florida;

WHEREAS, IPS Enterprises Inc. is covering certain costs of due diligence and soft costs necessary to for the launch of two charter school sites located in Jacksonville, Florida;

WHEREAS, the Board of Directors (the "Board") of IDEA Florida desires to approve and authorize that certain Loan Agreement between IDEA Florida and the Community Foundation for Northeast Florida, dated May 1, 2021 (the "Loan Agreement") for the purpose of funding certain costs of due diligence and soft costs necessary for the launch of two charter school sites located in Jacksonville, Florida for the 2022-2023 school year;

WHEREAS, the Board has determined that the proceeds of the loan should be transferred to IPS Enterprises Inc. to be used to cover certain costs of due diligence and soft costs necessary for the launch of two charter school sites;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF IDEA FLORIDA, INC., as follows:

RESOLVED, the Board hereby approves and authorizes the above referenced Loan, and Directs that the proceeds of the loan shall be transferred to IPS Enterprises Inc, for the purposes specified above, with the condition that, to the extent all or a portion of the loan proceeds transferred to IPS Enterprises are used for costs related to the two charter school facilities that are typically capitalized when the facilities are financed, at the time of the financing, the proceeds of the facility financing will either be used to pay down the loan to the extent of capitalized costs, or, if the normally capitalized costs funded by the loan proceeds are not part of the financing, there will be a reduction in the overall amount of the facility leases with IDEA Florida Inc. in the amount of the normally capitalized costs, to reflect the prior IDEA Florida Inc. payment of costs for those two properties;

RESOLVED FURTHER, this Resolution shall take effect immediately upon its passage.

CERTIFICATE OF THE SECRETARY

The undersigned, as the duly elected Secretary Board, certifies that the Board at a meeting held on April 23, 2021, at which a quorum was present, duly adopted the foregoing Resolution.

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Secretary

PROMISSORY NOTE

Date of Note: **May 1, 2021**

Principal Amount: **$1,200,000.00**

Maturity Date: **April 30, 2024**

Interest Rate: **2.0% per annum**

FOR VALUE RECEIVED, **IDEA FLORIDA, INC.**, a Florida not-for-profit corporation ("**Borrower**"), having an address as indicated below, **HEREBY PROMISES TO PAY** to the order of **THE COMMUNITY FOUNDATION FOR NORTHEAST FLORIDA, INC.**, a Florida not-for-profit corporation (hereinafter, together with its successors and assigns, referred to as "**Lender**"), at 245 Riverside Avenue, Suite 310, Jacksonville, Florida 32202, or at such other place as the holder hereof may from time to time designate in writing, in immediately available federal funds, the Principal Amount, together with interest on the outstanding Principal Amount at the Interest Rate (computed on an actual/365 day basis, i.e., interest for each day during which any of the Principal Amount is outstanding shall be computed at the Interest Rate divided by 365) as follows: (i) fifteen (15) consecutive monthly payments of interest (or principal and interest, in the event Borrower makes any principal prepayment of this Note prior to the expiration of the Interest Only Period, as hereafter defined), in arrears, in the amount of $2,000.00 on the first day of each month commencing on June 1, 2021 until and including August 1, 2022 (the "**Interest Only Period**"), and (ii) twenty-one (21) consecutive monthly payments of principal and interest, in arrears, in the amount of $58,196.29 on the first day of each month commencing on September 1, 2022, with the final payment in the amount of $58,196.29 due on the Maturity Date, at which time the unpaid balance of the Principal Amount shall be due and payable, together with all accrued but unpaid interest.

Borrower shall pay a late payment charge of six cents ($.06) for each dollar ($1.00) of each payment that is made more than fifteen (15) days after the due date thereof, which charge shall be due and payable with each such late payment. The foregoing shall be in addition to any other rights Lender may have hereunder with respect to such delinquent payment.

This Note is given in connection with that certain Loan Agreement of even date herewith by and between Borrower and Lender (the "**Loan Agreement**").

This Note may be prepaid in whole or in part without prepayment premium. Any partial payment will be applied first to interest, then to principal and shall reduce payments on the Loan in direct order, except as further provided above.

Borrower agrees that if it fails to timely make any payment due under this Note, the outstanding Principal Amount, together with accrued interest and all other expenses, including, without limitation, reasonable attorneys' fees, shall immediately become due and

payable at the option of the holder of this Note, notwithstanding the Maturity Date. For purposes hereof, attorneys' fees shall include, without limitation, fees and disbursements for legal services incurred by the holder hereof in collecting or enforcing payment hereof whether or not suit is brought, and if suit is brought, then through all appellate actions. From and after any failure to timely make any payment due under this Note, the interest rate of this Note shall be the then highest rate allowable under applicable law, which rate shall then accrue on all outstanding obligations hereunder, in addition to the assessment of the late payment charge set forth above on the amount(s) then due.

In no event shall the total of all charges payable under this Note and any other documents executed and delivered in connection herewith and therewith that are or could be held to be in the nature of interest exceed the maximum rate permitted to be charged by applicable law. Should Lender receive any payment that is or would be in excess of that permitted to be charged under any such applicable law, such payment shall have been, and shall be deemed to have been, made in error and shall thereupon be applied to reduce the principal balance outstanding on this Note.

Borrower waives demand, presentment for payment, notice of dishonor, protest and notice of protest of this Note.

Any notice, demand or request relating to any matter set forth in this Note shall be given in the manner provided for in the Loan Agreement.

Time is of the essence as to all dates set forth herein; provided, however, that whenever any payment to be made under this Note shall be stated to be due on a day that is not a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computations of payment of interest. As used herein, the phrase "**Business Day**" shall mean any day except a Saturday, Sunday or other day on which that commercial banks are required or permitted to close in the State of Florida (the "**State**").

This Note may not be waived, changed, modified, terminated or discharged orally, but only by an agreement in writing signed by the party against whom enforcement of any such waiver, change, modification, termination or discharge is sought.

BORROWER, AND BY ITS ACCEPTANCE HEREOF, LENDER, EACH HEREBY AGREE NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVE ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THIS NOTE, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY BORROWER AND LENDER, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. BORROWER AND LENDER ARE EACH HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER.

BORROWER HEREBY EXPRESSLY AND UNCONDITIONALLY WAIVES, IN CONNECTION WITH ANY SUIT, ACTION OR PROCEEDING BROUGHT BY OR ON BEHALF OF LENDER ON THIS NOTE, ANY AND EVERY RIGHT BORROWER MAY HAVE TO (I) INJUNCTIVE RELIEF, (II) INTERPOSE ANY COUNTERCLAIM THEREIN (OTHER THAN COMPULSORY COUNTERCLAIMS), AND (III) HAVE THE SAME CONSOLIDATED WITH ANY OTHER OR SEPARATE SUIT, ACTION OR PROCEEDING. NOTHING HEREIN CONTAINED SHALL PREVENT OR PROHIBIT BORROWER FROM INSTITUTING OR MAINTAINING A SEPARATE ACTION AGAINST LENDER WITH RESPECT TO ANY ASSERTED CLAIM.

This Note and the rights and obligations of the parties hereunder shall in all respects be governed by, and construed and enforced in accordance with, the laws of the State (without giving effect to the State's principles of conflicts of law). Borrower hereby irrevocably submits to the nonexclusive jurisdiction of any state or federal court in the State sitting in the City of Jacksonville, County of Duval, over any suit, action or proceeding arising out of or relating to this Note, and Borrower hereby agrees and consents that, in addition to any methods of service of process provided for under applicable law, all service of process in any such suit, action or proceeding in any state or federal court in the State sitting in the City of Jacksonville, County of Duval, may be made by certified or registered mail, return receipt requested, directed to Borrower at the address indicated below, or at such other physical address as Borrower may designate in writing to Lender from time to time, and service so made shall be complete five (5) days after the same shall have been so mailed.

[NO FURTHER TEXT ON THIS PAGE]

IN WITNESS WHEREOF, Borrower has executed and delivered this Note on the Date of Note set forth above.

Address:

4651 Salisbury Road, Suite 418
Jacksonville, Florida 32256

Borrower:

IDEA FLORIDA, INC.,
a Florida not-for-profit corporation

By:_____
Lizzette Reynolds, Director

LOAN AGREEMENT

THIS LOAN AGREEMENT (this "Agreement") is made and entered into the 1st day of May, 2021, by **IDEA FLORIDA, INC.**, a Florida not-for-profit corporation ("Borrower"), and **THE COMMUNITY FOUNDATION FOR NORTHEAST FLORIDA, INC**., a Florida not-for-profit corporation, on behalf itself and its successors and assigns ("Lender").

R E C I T A L S

A. Borrower desires to obtain financing from Lender for the purpose of due diligence and soft costs necessary for the launch of two charter school sites located in Jacksonville, Florida, one for the 2022-2023 school year and one for the 2023-2024 school year, as may be permitted in accordance with this Agreement (the launch and operations of IDEA Public Schools – Jacksonville collectively known as the "Project").

B. As a condition to Lender making the Loan to Borrower, Lender has required the execution of this Loan Agreement by Borrower.

NOW, THEREFORE, in consideration for the making of the Loan by Lender to Borrower, the parties hereto do hereby covenant and agree as follows:

1. Recitals. The above recitals are true and correct and incorporated herein by reference.

2. Loan. Lender agrees to lend to Borrower and Borrower agrees to borrow from Lender (subject, among other things, to the terms and conditions herein set forth) an amount equal to ONE MILLION TWO HUNDRED THOUSAND AND NO/100 DOLLARS ($1,200,000.00) (the "Loan").

3. Loan Documentation.

a. The Loan shall be evidenced by a Promissory Note in the original principal amount of $1,200,000.00, to be executed and delivered by Borrower to Lender on even date herewith (the "Note").

b. The documents referred to in this Paragraph 3 (collectively, the "Loan Documents") shall be in form and substance satisfactory to Lender, and all necessary filing and recording fees with respect thereto shall be paid by Borrower.

4. Financial Statements and Reports. In providing the Loan to Borrower, Lender is relying upon the financial condition of Borrower as represented to Lender. Borrower shall provide the following financial information during the term of the Loan, which information shall expressly include sub-accounting for IDEA Public Schools – Jacksonville and which shall be compiled in accordance with GAAP:

a. annual financial statements, as audited by Borrower's Certified Public Accountant, within one hundred eighty (180) days after the end of each fiscal year, such statements

to be in a form acceptable to Lender and certified as being true and correct by the President or Treasurer of Borrower;

b. unaudited financial statements prepared by Borrower management (Statements of Financial Position and Activities) within sixty (60) days after the end of each fiscal quarter, such statements to be in a form acceptable to Lender and certified as being true and correct by the President or Treasurer of Borrower;

c. written report on Jacksonville enrollment of each Borrower charter school (1) if prior to the opening of such charter school, within sixty (60) days after the end of each fiscal quarter, or (2) if after the opening of such charter school, upon filing of each required enrollment count with the State of Florida;

d. written statement of the Project cash flow, describing cash flow for the completed fiscal year and projected cash flow, within sixty (60) days after the end of each fiscal year;

e. Form 990s for Borrower within thirty (30) days of filing with the Internal Revenue Service; and

f. such additional financial information as Lender may from time to time reasonably request.

5. Negative Covenants. Borrower covenants, for so long as any of the principal amount of or interest on the Note is outstanding and unpaid or any other obligation hereunder remains unpaid or unperformed, as follows, without Lender's prior written consent:

a. Distribution of Assets. Borrower shall not make any distribution of Borrower's assets that will adversely affect the financial condition of Borrower.

b. Merger or Consolidation, Sale of Assets. Borrower shall not consolidate with or merge into or with any other person, or acquire in a transaction analogous in purpose or effect to a merger or consolidation all or substantially all the properties or assets of any other person, or sell, transfer or otherwise dispose of all or a substantial part of its assets to another person, in any case unless Borrower is the surviving entity.

c. Additional Indebtedness. Except for trade debt incurred in the normal course of Borrower's business, Borrower shall not incur, create or assume any indebtedness or liability, primary or contingent, for borrowed money, any indebtedness evidenced by a note, bonds, debentures, or similar obligations, or any lease obligations.

d. Extension of Credit. Borrower shall not lend money or otherwise extend credit to any person or entity (whether or not such loan would be evidenced by any note, bond, debenture or similar instrument).

e. Liens on and Encumbrance of Assets. Borrower shall not, without the prior written consent of Lender, voluntarily or involuntarily incur, create, assume or suffer to exist any

mortgage, pledge, lien, security interest or other encumbrance of any nature whatsoever on its assets other than as described on Borrower's most recent financial statements provided to Lender.

f. Change of Ownership/Management. Borrower shall not permit or suffer a material change of ownership or management of Borrower.

g. Continuation of or Change in Business. Borrower shall continue to engage in its business substantially as conducted and operated during the present year (including as anticipated in the Project), and there shall be no change in the business of Borrower.

h. Dispositions of Assets. Borrower shall not sell, convey, assign, lease, abandon or otherwise transfer or dispose of, voluntarily or involuntarily, any of its properties or assets, tangible or intangible (including but not limited to sale, assignment, discount, abandonment, or other disposition of accounts, copyrights, tradenames or trademark rights, contract rights, chattel paper or general intangibles with or without recourse), except transactions in the ordinary course of Borrower's business.

6. Financial Covenants. During the term of this Agreement, Borrower covenants and agrees with Lender as follows:

a. Accounting Records. Borrower shall maintain proper books and records, including express sub-accounting for IDEA Public Schools – Jacksonville, in accordance with generally accepted accounting principles applied on a consistent basis and shall permit Lender or its designee to inspect or audit such books and records from time to time as Lender may, in its sole discretion, deem necessary or desirable.

b. Use of Proceeds. Borrower shall use the Loan proceeds and all revenues and contributions from and for IDEA Public Schools – Jacksonville only for the Project or repayment of the Loan in accordance with this Agreement and the other Loan Documents.

7. Notices. All notices and other communications provided for in this Agreement ("Notices") shall be in writing. The "Notice Addresses" of the parties for purposes of this Agreement are as follows:

Borrower: IDEA Florida, Inc.
4651 Salisbury Road, Suite 418
Jacksonville, Florida 32256
Attn: Lizzette Reynolds, Director
Email: _____

Lender: The Community Foundation for Northeast Florida, Inc.
245 Riverside Avenue, Suite 310
Jacksonville, Florida 32202
Attn: Grace M. Sacerdote, CPA
Executive Vice President/CFO
Email: gsacerdote@jaxcf.org

With a copy to: Fisher, Tousey, Leas & Ball, P.A.

501 Riverside Avenue, Suite 600
Jacksonville, Florida 32202
Attn: Clay B. Tousey, III, Esq.
Email: clay.tousey@fishertousey.com

or such other address as a party may designate by notice duly given in accordance with this Section to the other parties. A Notice to a party shall be effective when delivered to such party's Notice Address by any means, including, without limitation, personal delivery by the party giving the Notice, delivery by United States regular, certified or registered mail, or delivery by a commercial courier or delivery service. If the Notice Address of a party includes a facsimile number or electronic mail address, Notice given by facsimile or electronic mail shall be effective when delivered at such facsimile number or email address. If delivery of a Notice is refused, it shall be deemed to have been delivered at the time of such refusal of delivery. The party giving a Notice shall have the burden of establishing the fact and date of delivery or refusal of delivery of a Notice.

8. Default. A default by Borrower under the terms of this Agreement shall be deemed a default under all Loan Documents.

9. Time is of the Essence. Time shall be of the essence with regards to the performance of each and every provision of this Agreement.

10. Expenses. A loan origination fee of Five Thousand Dollars ($5,000) shall be paid to Lender from the Loan. Lender shall otherwise pay all of Lender's attorneys' fees and expenses of document preparation and administration incurred in connection with the Loan and Borrower shall pay all of Borrower's such fees and costs related to the Loan.

11. WAIVER OF JURY TRIAL. AS A MATERIAL INDUCEMENT FOR LENDER TO MAKE THE LOAN, LENDER AND BORROWER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT ANY PARTY MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT, THE LOAN AND ALL DOCUMENTS AND AGREEMENTS EXECUTED OR CONTEMPLATED TO BE EXECUTED IN CONNECTION WITH THE LOAN, OR WITH RESPECT TO ANY CLAIMS OR DEFENSES ALLEGED TO ARISE OUT OF THE COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY.

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EXECUTED as of the day and year first above written.

"BORROWER"

IDEA FLORIDA, INC.,
a Florida not-for-profit corporation

By: _____
Lizzette Reynolds, Director

"LENDER"

THE COMMUNITY FOUNDATION FOR NORTHEAST FLORIDA, INC.,
a Florida not-for-profit corporation

By: _____
Grace M. Sacerdote, Executive Vice President