MEMORANDUM

To: Mayor and Members of the City Council

From: Eddie Buffaloe, Interim City Manager
Angela Judge, Assistant City Manager
Montique McClary, Human Resources Director
Jon Hawley, Grants Administrator

Date: October 9, 2020

Re: Consideration - Approval of Master Services Agreement, Financial Wellness Program

BACKGROUND:

On September 16, a partnership of national organizations announced that the City of Elizabeth City had won a $22,000 grant to start a new financial wellness program. The grantor organizations are: the Center for State and Local Government Excellence, the International Public Management Association for Human Resources, and the National Association of State Treasurers Foundation, with support from the Wells Fargo Foundation. This funding will allow our Human Resources Department to oversee and implement a new financial wellness program, which we are calling "Fund Your Future," or FYF.

A core component of FYF is establishing an online platform that will offer financial wellness education and tools to our employees, retirees, and their families. This platform will supplement various local presentations and activities. On September 28, the City Council formally accepted our grant, and the City has executed our grant agreement and payment documents. Our next step is to retain the necessary web platform vendor.

ANALYSIS:

As City staff have previously reported, our HR and Information Technology Department have had promising conversations with LearnLux, of Boston, about establishing and operating our online platform. Attached is a Master Services Agreement with the company; City Attorney Bill Morgan has reviewed this agreement and it incorporates his feedback.

Founded in 2014, LearnLux is a financial technology company that provides customized, interactive financial wellness education and tools to employers nationwide; the company

reports "serving employer partners representing over 50,000 lives," serving both small employers and Fortune 500 technology companies. The company has provided two demos to City staff, each satisfying the expectations of the HR and IT departments.

A few key features of the company's platform and services will include:

- Helping coordinate the rollout and introduction of the FYF program to employees and beneficiaries, including a pre-launch, online survey
- Reviewing all of the City's employee/retiree benefits information to provide detailed, current information and presentations through their web platform
- Offering an online financial wellness checkup tool and a personal budgeting app that can help users manage monthly expenses, improve their savings/credit scores, plan for retirement, etc.
- Offering real-time access to certified financial planners for one-on-one financial advising; as CFPs, LearnLux's advisors have a fiduciary duty to provide advice only in the best interest of their clients, and not try to sell them anything
- Providing financial wellness lessons users may view at their convenience
- Uploading and archiving local presentations organized by HR, so that all FYF content is preserved and available to all users
- Conducting quarterly reviews of the platform's usage levels, most popular tools and topics, etc.

The company's Master Services Agreement allows the City to renew/cancel service every year, and provides the company will maintain the confidentiality of employees' information. The base yearly rate for access to LearnLux's platform is $12,000, plus $5,000 for the review and compilation of the City's specific benefits information. Our grant award will pay fully for this expense, though the City would assume the cost of the platform in subsequent years. In year two, our base renewal rate will be approximately $12,000, though the company reports there may be additional expense if any new customizations or benefit updates are necessary.

At the conclusion of our first year with LearnLux, City staff would evaluate the platform's performance and level of adoption in deciding whether to renew. As proposed in our grant application, one of FYF's goals is the achieve 75-percent usage of the platform by our workforce community – about 300 of 400 total employees and retirees – in the platform's first year. At that level of adoption, the $12,000 annual fee would equate to $40 per user. That is reasonable for the level of service proposed.

Attached for the Council's review is the Master Services Agreement, a presentation from LearnLux, and an excerpt from a report from the Center for State and Local Government Excellence (one of our grantors) about local government employees' need for and interest in financial wellness program.

STAFF RECOMMENDATION:

By motion, authorize execution of the provided Master Services Agreement to retain LearnLux for the establishment and operation of the FYF financial wellness platform.

Executive Summary

This report presents the results of a 2019 national online survey conducted by the Center for State and Local Government Excellence (SLGE) and Greenwald & Associates of 507 state and local government employees, assessing their needs and preferences regarding financial literacy/financial education programs. It builds on recent research by SLGE and the Wells Fargo Foundation, summarized in Financial Literacy for Local Government Employees.

Key Survey Findings

88% WORRY ABOUT THEIR FINANCES/FINANCIAL DECISIONS

Most survey respondents (88 percent) worry about their finances/financial decisions. Two-thirds of those (66 percent) report doing so at work.

Only 29 percent of survey respondents are being offered a financial literacy or financial education program by their employer. Thirty-eight percent of those who have been offered a financial literacy or financial education program have ever participated in the program. The majority (67 percent) of those participating in financial literacy/financial education programs were satisfied with the program.

68% WOULD LIKELY PARTICIPATE IN A PROGRAM

68 percent of respondents report that they would be likely to participate in a program in the near future or if offered one.

The **top three reasons why individuals participate** (or would be likely to participate) in a program were:

Reason Likely to Participate	Percent
A desire to be more knowledgeable about finances	67 percent
A desire to know more about financial topics beyond those related to one's job	51 percent
Rewards or financial incentives are offered for participating	45 percent

The **top three reasons why individuals do not participate** (or would not be likely to participate) are:

Reason Do Not Participate	Percent
Not being offered in a convenient time/way or not given time off during work to participate	29 percent
Feeling confident with the resources they already have	26 percent
Already feeling confident in their knowledge about finances	24 percent

Respondents reported several privacy concerns about participating in a financial literacy program at work. The most common **privacy concerns were a security breach of personal information (33 percent), and coworkers (33 percent) or employers (32 percent) learning about their financial circumstances.**

The three **topic areas most often covered by programs are also the three topics of greatest interest** to all respondents:

Topics	Most often covered	Of greatest interest
Planning for retirement	57 percent	66 percent
Investments	44 percent	39 percent
Budgeting and planning	31 percent	23 percent

Key Survey Findings *(cont)*

In contrast, **banking and payment methods, planning for college, and non-bank borrowing were the three topics least likely to be covered** by a financial literacy program—and least likely to be of interest.

42%
MATERIALS ARE OFFERED ONLINE

Financial literacy programs are most frequently **offered through online materials (42 percent), an in-person class or workshop (28 percent), or one-on-one in-person coaching (26 percent).** These are also the top three ways respondents want programs to be offered.

60%
OF PROGRAM ARE COMMUNICATED VIA EMAIL

Information about the program is most commonly **communicated by the employer via email (60 percent), through the employer website (23 percent), or through printed flyers/materials (20 percent).** These are also the top three ways that employees want the information communicated.

14%
OF PROGRAMS ARE OFFERED TO NON-EMPLOYEES

Only **14 percent of financial literacy/financial education programs are extended to non-employees,** such as spouses and dependents.

When financial literacy programs are offered, they are **generally not tailored to different portions of the workforce to address unique needs of different groups.** However, nearly two-thirds of respondents (64 percent) believe that financial literacy programs should be tailored.

Respondents describe the most beneficial aspects of participating in a financial literacy program as: gaining financial knowledge or learning in general (18 percent), help with budgeting/saving more or spending less (17 percent), and help with retirement planning (16 percent). In contrast, the most commonly reported weaknesses or problems with an employer financial literacy program were: confidentiality/sharing personal information (17 percent), having no time to attend or it being inconvenient to attend (15 percent), or the program being too generic/lacking customization (14 percent).

Overall, 51 percent of respondents agree that "improving the financial literacy of employees should be a priority of your employer"; meanwhile, **65 percent believe that it is important for their employer to offer a financial literacy program.**

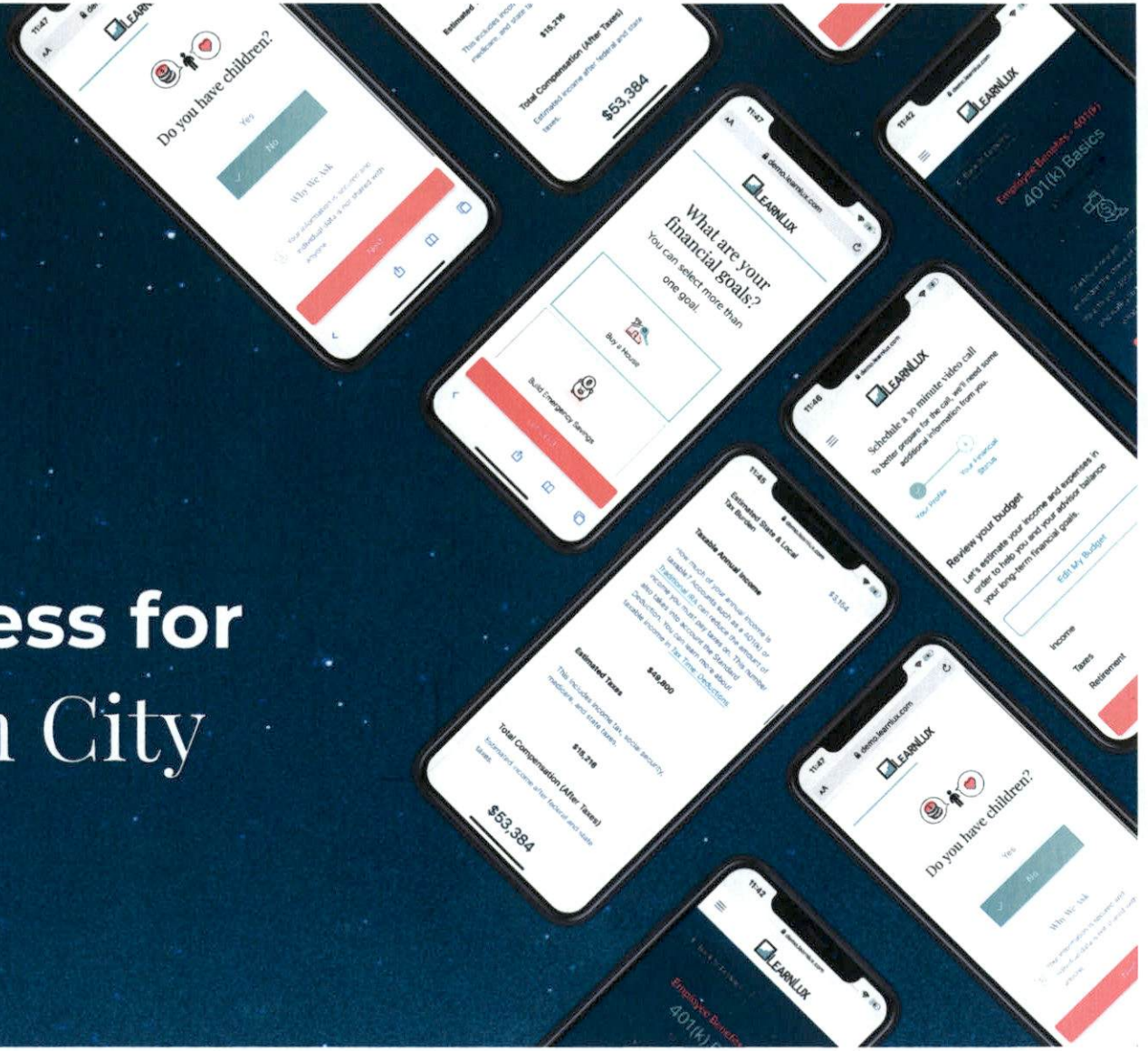
65%
THINK EMPLOYERS SHOULD OFFER A PROGRAM

LEARNLUX

Financial Wellness for City of Elizabeth City

Simple, powerful financial education for the modern workplace

Prepared June 2020



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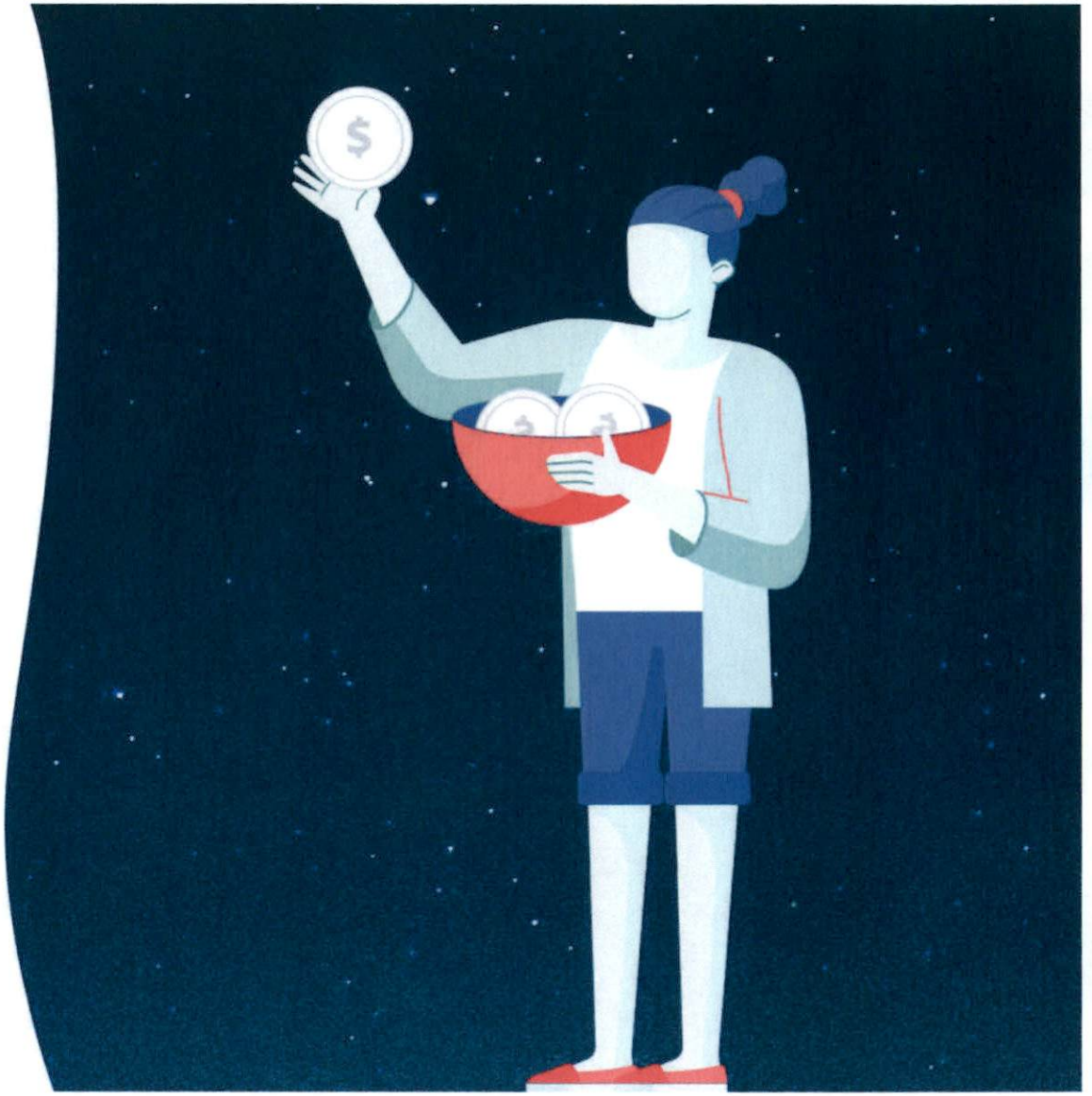


Introduction

LearnLux creates **high tech, high touch** solutions to empower employees to take control of their financial lives.

In our world today, knowledge about personal finance is not a priority at any level of the education system. As a result, people miss out on their prime investment period, fail to develop the credit they'll need later in life, and make big financial decisions out of fear rather than education.

We set out to develop the **educational tools** we wished we'd had to help us understand our own money, and to democratize access to **expert financial guidance**.

LearnLux lessons and tools are built to be **engaging, interactive and jargon-free**, built in alignment with our proven Methodology and reviewed by our in-house team of Financial Advisors.

To share our mission at scale, we partner with the world's best companies to offer valuable programs that **reduce financial stress**. As a result, employees are empowered to do their best work every day because they feel confident in their finances.

Employees are stressed about their personal finances.

You can help.

- 67% of employees report feeling **stressed** about money.
- 35% of employees say that issues with personal finances have been a **distraction** at work.
- Financial stress is the **#1 cause** of stress in the workplace.
- 71% said they **take advantage** of financial wellness resources, if offered.

Source: 2019 Employee Financial Wellness Survey | PwC

The LearnLux Methodology

Guide employees to learn, plan & take action.

@LEARNLUX

Why LearnLux?

TRADITIONAL

Attend classes in person

Offered by banks

One size fits all

LEARNLUX

Digital & Scalable

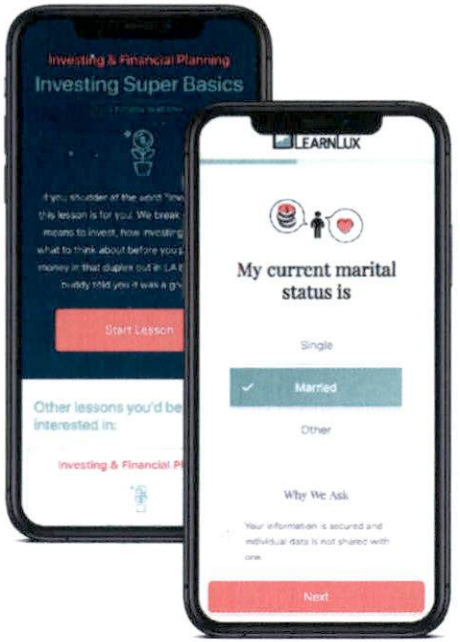
Easy for on-the-go education, flexible for any size organization

Independent

Unbiased guidance with no conflicts of interest

Customizable

Responsive content is personalized and custom lessons deliver super relevant info



Designed to drive real behavior change.

The LearnLux methodology guides employees to:

Learn

Holistic digital financial education is personalized to the employee & customized to your employer benefits

Plan

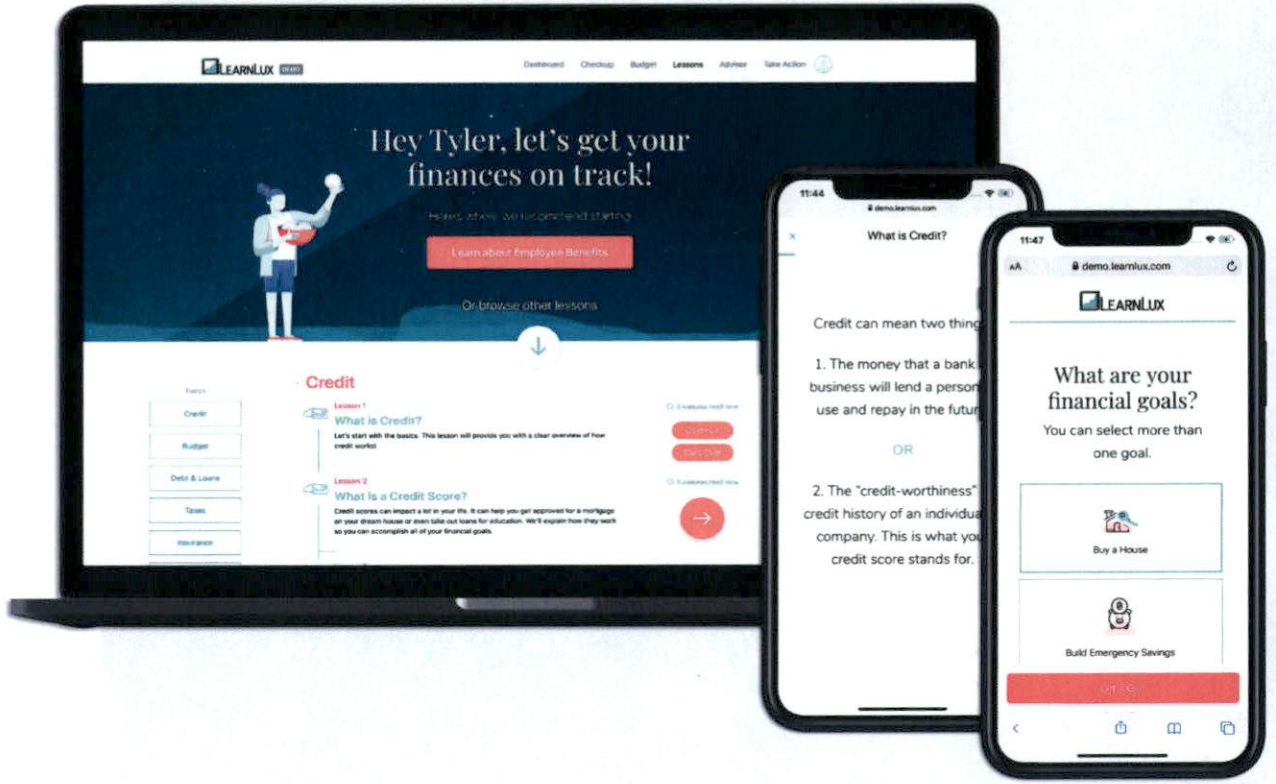
Set goals, take the financial checkup, then use the interactive budget tool to visualize a full financial picture.

Act

Access an online portal of all benefits for employees to learn and take action plus one-on-one financial advising.

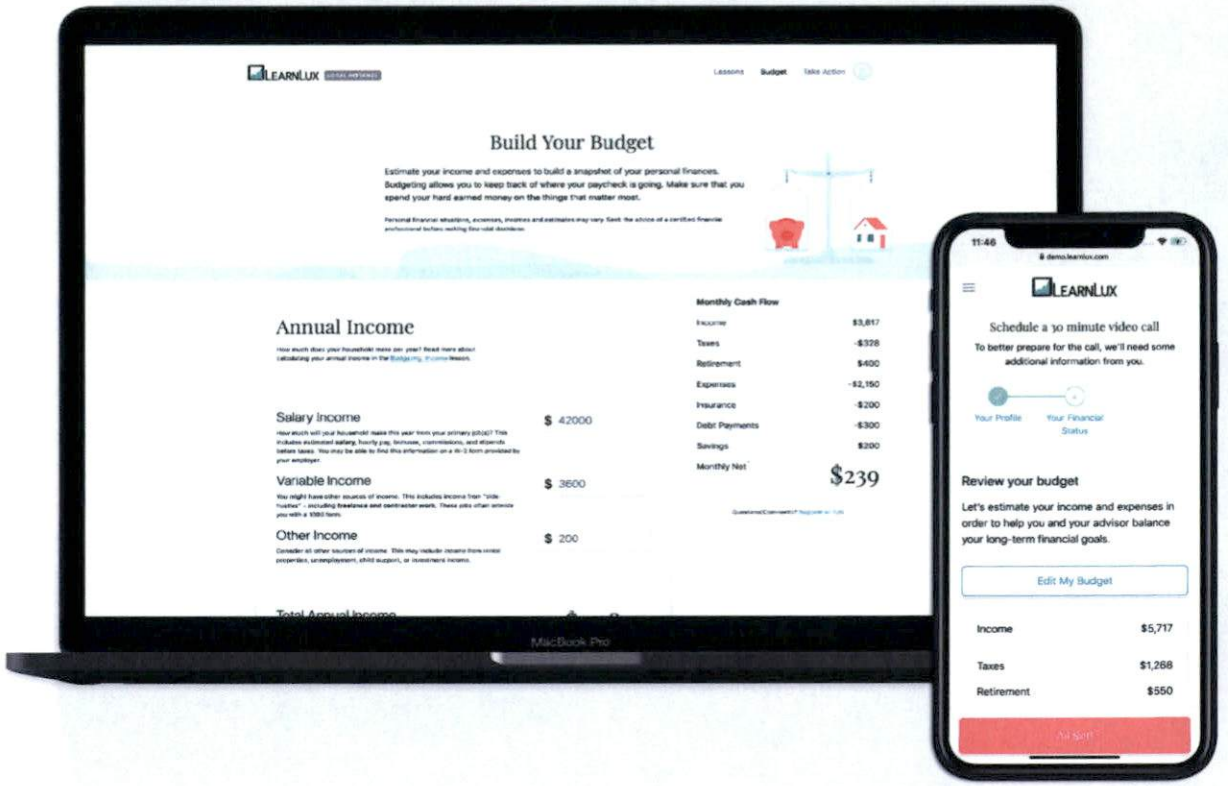
Learn with Lesson Content

- Customized to your employee needs and employer benefits
- Interactive learning lessons are responsive throughout
- Employer reporting keeps you informed



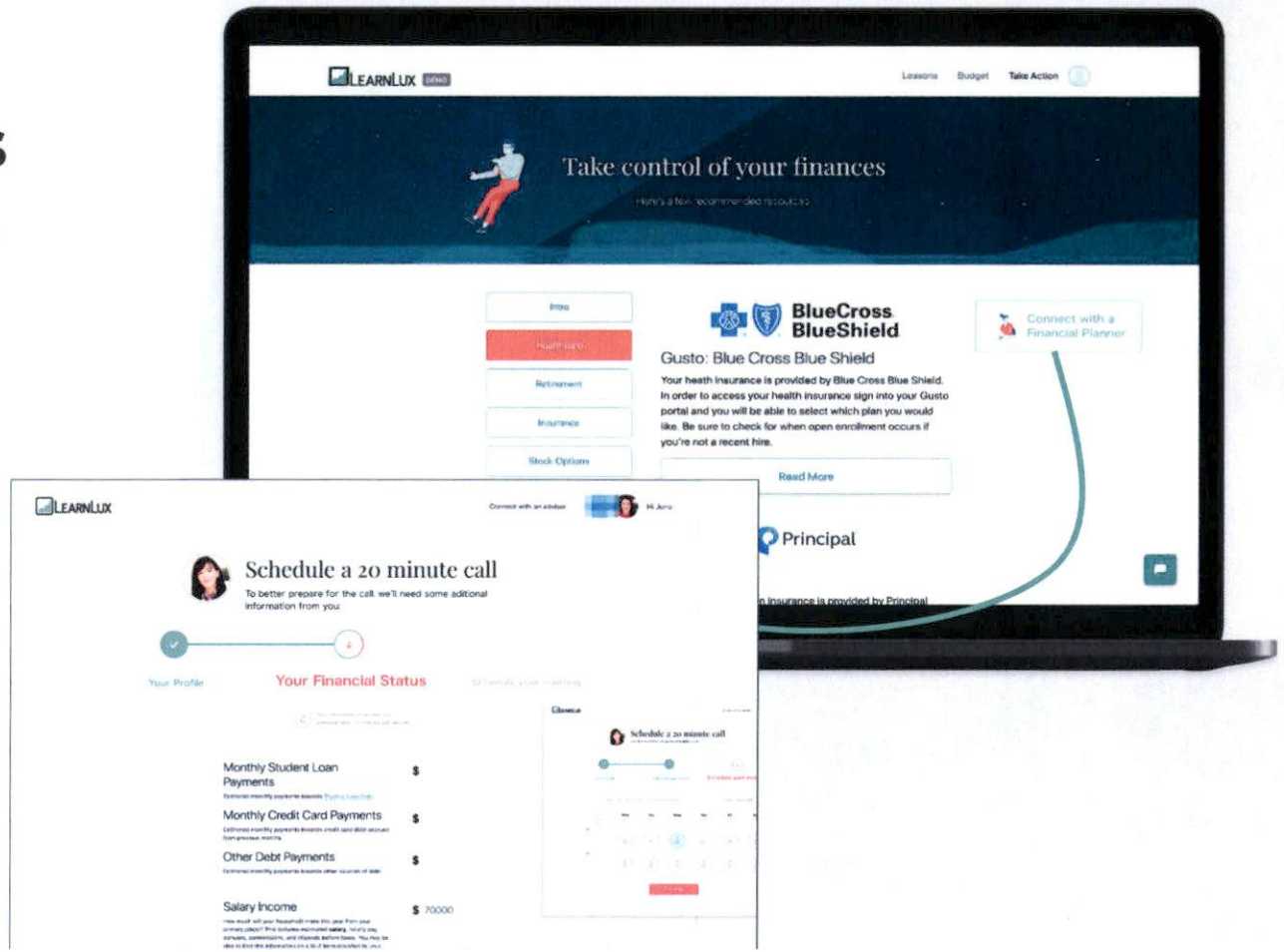
Plan with Interactive Tools

- Financial wellness plans, checklists, budgets & more to help employees build confidence
- Dynamically update income, taxes and expenses
- Interactive and personalized based on unique situations



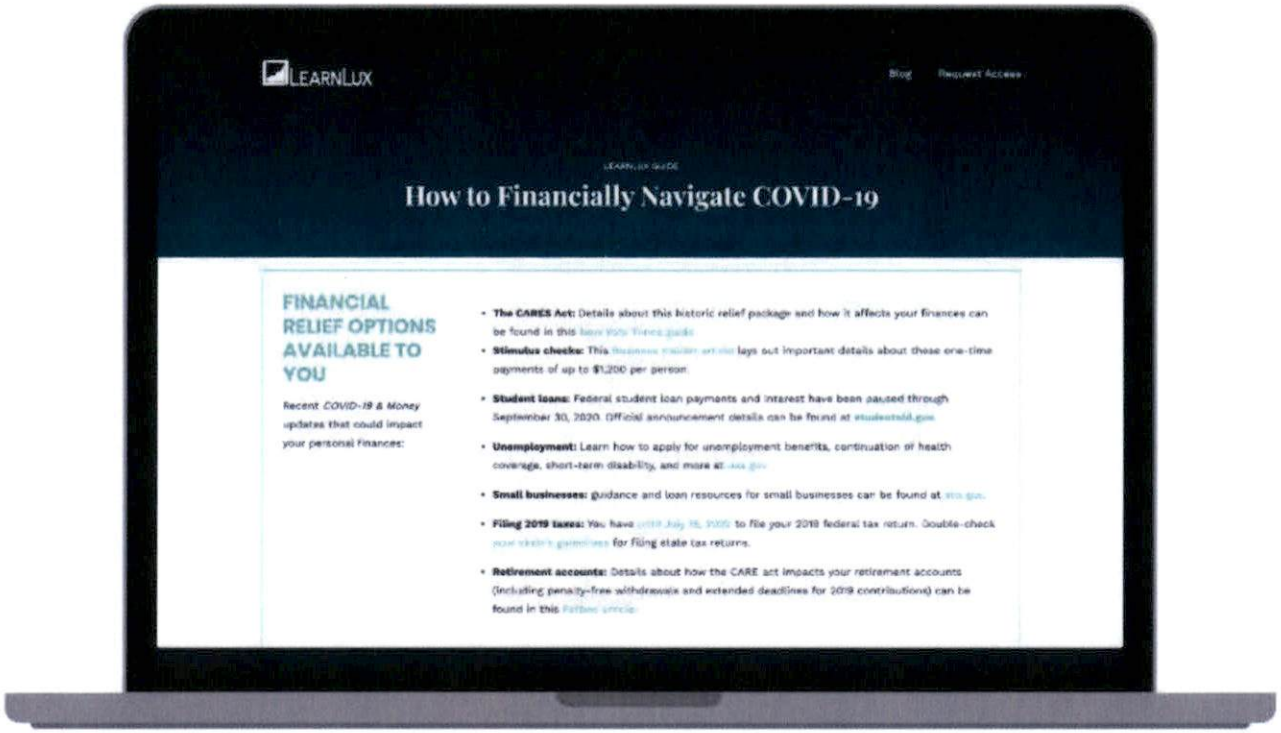
Act with Benefits Portal & Advisors

- Your benefits and resources linked in one place for employees to easily learn, then take action
- Ability to schedule one-on-one guidance with an independent Financial Advisor
- Easily implemented by the employer, accessible by the employee 24/7



COVID-19 Support

- Breaking news and FAQs, updated daily
- Easily ask questions to our team of financial experts
- Specific guidance around CARES act, building your emergency saving, student loans on pause, interest rates lowered, tax day reschedlued, and more



@LEARNLUX

Content Tracks

Powerful yet practical education that's 100% jargon free.

- Budgeting
- Credit
- Debt & Loans
- Taxes
- Insurance
- Retirement
- Estate Planning
- Employee Benefits - 401k
- Employee Benefits - Health
- Employee Benefits - Finances
- Stock Options
- Home Owning & Renting
- Investing & Financial Planning
- Cryptocurrency & Blockchain

\+ *Custom lessons created to align with your organizational goals*

For Employers

Workplaces that partner with LearnLux benefit from...

Attracting and retaining top talent

Reducing financial stress

Increasing productivity

Maximizing utilization of voluntary benefits

Improving defined contribution plan health

For Employees

Team members that use with LearnLux benefit from...

Financial guidance on demand

+

Visualizing a personalized, full **financial picture**

+

Relevant, tailored lessons for all knowledge levels

+

Confident and informed financial decision-making

Why companies love LearnLux

Don't take our word for it.
Hear from one of our employer partners.

@LEARNLUX

Meet Patrick, a financial wellness champion.

AceUp is a company that encourages employees to bring their whole, unique self to work. To them, financial wellness means **providing their team with the resources they need** to feel confident about their financial situation.

> “...It's crucial for us to help our team live and work effectively and with minimal stress or distraction... We decided to partner with LearnLux because education is the first step to financial wellness.
>
> By providing our employees with the financial education and resources they need, we can help them on the journey to financial wellness.”

Pat Shreckengast

Co-founder, VP Business Development

Thank You.

We look forward to working with you! Don't hesitate to reach out if you have questions.

Michael Liebman | Co-Founder & COO | michael@learnlux.com

MASTER SERVICES AGREEMENT

THIS MASTER SERVICES AGREEMENT ("Agreement") is made as of the latest date set forth on the signature page hereto (the "Effective Date") by and between LearnLux Inc., a Delaware corporation ("Licensor") and **City of Elizabeth City** ("Customer"). Customer and Licensor are individually hereinafter referred to as a "Party" and collectively as the "Parties". This Agreement incorporates by reference the Order Forms issued hereunder.

1. SCOPE OF AGREEMENT

1.1 **Scope of Services.** In accordance with the terms of the applicable Order Form, Licensor's proprietary financial wellness platform (the "Software") will be hosted and distributed online by Licensor and made available to Customer as a software as a service, which consists of an online tool to help people learn personal finance and enable them to talk with a financial advisor.. Licensor will be responsible for configuring and hosting of the software, communications systems, network and other infrastructure necessary to host the Software. Customer or Customer's Designated Users (as defined below) will be responsible for providing the computer hardware or mobile devices necessary to interface with the Software or interact with the Services (as defined below). In some instances Customer may desire Licensor to provide additional customization and training services on a time and materials basis to be mutually determined by the Parties and agreed upon in a written addendum to this Agreement ("Supplemental Services"). This Agreement sets forth the terms and conditions that will govern Licensor's grant of access to the Software and the performance of the Supplemental Services (such Software and Supplemental Services are collectively, the "Services") as specified on the applicable Order Form, substantially in the form attached hereto as Exhibit A. All Services are subject to this Agreement.

1.2 **Rights to Use.** Subject to the terms and conditions of this Agreement, Licensor hereby grants to Customer a non-exclusive, non-sublicensable, non-transferable, limited, revocable license (solely through Customer's Designated Users) to access and use the hosted Software identified in the applicable Order Form solely for the duration of the applicable Order Term (as defined in such Order Form).

1.3 **Ownership and Reservation of Rights.** Nothing in this Agreement shall constitute a transfer of any proprietary right by Licensor to Customer. The Services may be protected by patent, copyright and other intellectual property laws. As between the Parties, Licensor owns and retains all right, title and interest in and to the intellectual property rights in and to the Services and any enhancements, modifications or derivative works thereof. As between the Parties, (i) each Party retains ownership in and to its Confidential Information (as hereinafter defined) and (ii) Licensor exclusively owns all right, title and interest in and to the Services and any derivative works and work product conceived, originated, or prepared in connection with the Services. All rights not specifically granted to Customer in this Agreement are retained by Licensor. Customer acknowledges the proprietary rights of Licensor and its licensors in the Services and that Licensor retains all right, title and interest in and to the Services.

1.4 **Third-Party Sites.** The Services may link, interface and integrate with third party software applications and websites that are not operated or controlled by Licensor ("Third-Party Sites"). All such Third-Party Sites shall remain the property of their third-party providers. Customer hereby acknowledges and agrees that Licensor is not responsible for the content or practices of the Third-Party Sites. Any links to or content from Third-Party Sites in the Services are provided for Customer's convenience only. Licensor reserves the right to update or remove any functionality available through the Services at any time for any reason.

1.5 **Feedback.** Notwithstanding any provision in this Agreement to the contrary, Licensor may use, develop and implement any information, suggestions, comments or other feedback provided by Customer or any of its Representatives (collectively, "Feedback") in connection with the development, operation, marketing and sale of the Services, in its discretion and with no compensation to any person providing Feedback, irrespective of any intellectual property or proprietary rights claimed by Customer in such Feedback. Customer represents that it has not, and will not, knowingly provide Feedback that is subject to any third-party intellectual property rights.

1.6 **Changes to Services.** Licensor reserves the right at any time to alter any features, functionality and other characteristics of the Services; provided, however, that in the event that any such alterations materially limit the features or functionality of the Services, Licensor shall provide Customer with advanced notice thereof. Any subsequent upgrade, enhancement or other change to the Services shall be owned by Licensor and subject to the terms of this Agreement.

2. CONFIDENTIAL INFORMATION

2.1 **Definition of Confidential Information.** "Confidential Information" means all information, in whatever form, that is disclosed by a Party to the other Party, which, given the totality of the circumstances, a reasonable recipient should have reason to believe is proprietary, confidential, or competitively sensitive, regardless of whether such information is labeled as confidential or not, including without limitation personally identifiable information, creative works, business activities, trade secrets, know-how, techniques, research, developments, inventions, discoveries, processes, designs, technical data and information, financial information, pricing, vendors, customers, prospects, marketing plans and any other information of a similar nature. For the avoidance of doubt, Licensor's Confidential Information includes the Services and Software (including the design, features, functions and architecture thereof).

2.2 **Access and Use.** Each Party receiving Confidential Information from the other Party shall: (i) use and reproduce the Confidential Information only for the purposes specified in this Agreement, (ii) restrict disclosure of Confidential Information to its Representatives with a need to know the Confidential Information to enable the receiving Party to perform its obligations and exercise its rights under this Agreement, provided that such Representatives are bound by confidentiality obligations at least as strict as those contained in this Agreement, and (iii) use reasonable care to protect the other Party's Confidential Information and to prevent unauthorized disclosure of such Confidential Information. Additionally, to the extent that any Confidential Information disclosed or otherwise made available by one Party includes personally identifiable information, the other Party agrees to use such personally identifiable information solely in accordance with applicable Law and in compliance with such other Party' policies governing the dissemination and use of such personally identifiable information.

2.3 **Exclusions.** Except as expressly provided herein, nothing in this Agreement will be construed to restrict or impair in any way the right of a receiving Party to disclose any information which: (i) is at the time of its disclosure hereunder generally available to the public; (ii) becomes generally available to the public through no fault of the receiving Party; (iii) can be reasonably demonstrated to be in the possession of a receiving Party prior to its initial disclosure hereunder; or (iv) is acquired from a third party having a right to disclose the same to a receiving Party without breach of any confidentiality obligation. Notwithstanding the foregoing, the exclusions from the confidentiality obligations provided in this Section 2.3 shall not apply to personally identifiable information. A receiving Party may disclose Confidential Information (including personally identifiable information) in accordance with a legally binding judicial or other governmental order, provided that, to the extent permitted by applicable Law, such Party provides the disclosing Party with prompt notice of the same and cooperates with the disclosing Party with any actions taken by the disclosing Party to protect such Confidential Information, including without limitation the seeking of an appropriate protective order or other remedy. Licensor may collect, analyze and anonymize data, statistics or other information obtained through the provision, use and performance of various aspects of the Services and aggregate such data, statistics or other information with data, statistics or other information (collectively, "Analytics") obtained from other sources, and may use such Analytics for lawful business purposes, including improvement of the Software and the Services, as long as in doing so Licensor does not re-identify, or attempt to re-identify, any of the Analytics or otherwise link or associate Analytics with any information relating to (i) Customer, or (ii) an identified or identifiable natural person.

2.4 **Remedies.** The Parties expressly acknowledge and agree that any breach or threatened breach of this Section 2 by the receiving Party may cause immediate and irreparable harm to the disclosing Party that may not be adequately compensated by damages. Each Party therefore agrees that in the event of such breach or threatened breach by the receiving Party, and in addition to any remedies available at law, the disclosing Party shall have the right to seek equitable and injunctive relief, without bond, in any court of competent jurisdiction, in connection with such a breach or threatened breach.

3. TERM AND TERMINATION

3.1 **Term.** The term of the Agreement will commence on the Effective Date and will continue until terminated in accordance with this Agreement (the "Term").

3.2 **Termination in the Absence of Order Form.** Solely in the event that there are no Order Forms then in effect, either Party may terminate this Agreement for any reason upon 30 days' prior written notice to the other Party.

3.3 **Termination for Cause.** Either Party may immediately terminate this Agreement or any Order Form under this Agreement for cause, in the event of any of the following by the other Party: (i) a material breach of this Agreement

by the other Party which is not cured within thirty (30) days after receipt of written notice in reasonable detail of the breach; (ii) the filing of a petition in bankruptcy or for reorganization or for an arrangement pursuant to any federal or state bankruptcy laws by or on behalf of the other Party or an adjudication of bankruptcy of such Party; or (iii) the filing of a petition proposing the adjudication of the other Party pursuant to any federal or state bankruptcy law and such Party consents to such filing or such petition is not dismissed within ninety (90) days after the filing thereof.

3.4 **Discontinuance of Business.** If Licensor determines to cease to conduct a Service in the normal course of business, Licensor shall have the right to terminate this Agreement upon thirty (30) days' prior written notice.

3.5 **Effect of Termination.** Immediately upon termination or expiration of this Agreement, Licensor's obligation to provide the Services will immediately cease, and all unpaid fees and other amounts due from Customer for Services previously provided by Licensor will immediately become due and payable. Each Party shall, within thirty (30) days of termination or expiration of this Agreement, return or destroy, at the option of the other Party, all copies of such other Party's Confidential Information that are in its possession or control.

3.6 **Suspension of Services.** Notwithstanding any provision herein to the contrary, Licensor may suspend the Services in the event (i) of any activity by Customer or any of Customer's Designated Users, if such activity has, or in Licensor's reasonable assessment is likely to have, an adverse effect on the Services, or (ii) Customer fails to pay an undisputed amount within ten (10) days after Licensor gives Customer written notice of such failure.

4. FEES

4.1 **Payments.** Customer shall timely pay the fees set forth on the applicable Order Form in United States dollars. Unless otherwise specified on the applicable Order Form, all fees shall be due and payable in advance within thirty (30) days of the date of Customer's receipt of Licensor's invoice. All payments not made when due shall be subject to late charges on a pro-rated daily basis equal to the lesser of: (i) one and one-half percent (1.5%) per month of the overdue amount, or (ii) the maximum amount permitted under applicable Law. Customer shall reimburse Licensor for all fees and expenses, including reasonable attorneys' fees, incurred to collect amounts owed by Customer.

4.2 **Taxes.** The fees under this Agreement do not include, and Customer shall be responsible for paying all, local, state, federal or foreign sales, use, excise, VAT or other taxes, levies, duties or tariffs of any nature that may be due relating to this Agreement and the Services provided hereunder, except for taxes based on the income of Licensor.

4.3 **Expenses.** If the Parties agree to the performance of any Services on-site, Customer will pay all of Licensor's reasonable travel expenses. Licensor will obtain prior approval of such expenses and will provide standard supporting documentation with any reimbursement request.

5. CUSTOMER'S DUTIES AND RESTRICTIONS

5.1 **Login and Password.** Customer must provide Licensor with the email addresses and names for Customer's designated end users and administrators (collectively, the "Designated Users"), and Licensor will assign unique initial login credentials for such Designated Users in order to access the Software. The logins for the Designated Users may not be shared and shall only be used by the Designated User to whom the login is initially assigned. Customer is solely responsible for maintaining the confidentiality of the accounts and related passwords of Customer's Designated Users and all use of such accounts. Each Designated User must be Customer's employee or consultant and, in each case, under Customer's control. Customer shall be solely responsible for all use of the Services under Customer's account, including by Customer's Designated Users. Customer hereby agrees that the act or omission of a current or former Representative shall be deemed the same as if performed by Customer.

5.2 **Affirmative Covenants.** Customer shall take reasonable steps to: (i) ensure Customer's Designated Users, officers, directors employees, contractors, representatives, agents and affiliates (collectively, "Representatives") comply with this Agreement; (ii) take all necessary steps to prevent unauthorized access to or use of the Services, (iii) notify Licensor immediately of any such unauthorized access or use; (iv) comply with applicable federal, state, local, municipal, domestic and foreign laws, rules and regulations ("Law"); (v) use the Services in compliance with all applicable industry standards; (vi) use the Services only for Customer's own internal business purposes and solely in accordance with the terms of this Agreement; and (vii) use the Services solely in accordance with Licensor's instructions.

5.3 **Restrictive Covenants.** Customer shall not, and Customer will take reasonable steps to cause Customer's Representatives to not: (i) alter, change, modify, adapt, translate, or make derivative works of the Services; (ii) use the Services in a manner that violates any applicable Law; (iii) transmit any virus or programming routine intended to damage, surreptitiously intercept, or expropriate any system, data, or personal information; (iv) transfer, resell, license, sublicense or otherwise make the Services available to any third party, except as expressly described in this Agreement; (v) use the Services for timesharing, rental, outsourcing, or a service bureau operation; (vi) attempt to gain, or assist others with attempting to gain unauthorized access to Licensor's network, systems or the Services; (vii) decipher, decompile, disassemble, or reverse engineer the Software or assist or encourage any third party to do so; (viii) engage in any activity that violates the rights of others or that interferes with or disrupts the Services; or (ix) upload any file containing any back door, time bomb, Trojan horse, worm, virus or similar malicious code ("Malware").

6. **WARRANTIES, DISCLAIMERS AND LIMITATIONS**

6.1 **Warranties.** Each Party represents and warrants to the other that: (i) it is duly organized and existing under the laws of the state of its formation; (ii) it has all requisite power and authority to enter into this Agreement; (iii) there is no outstanding contract, commitment or agreement to which it is a party that conflicts with this Agreement, and (iv) its activities relating to this Agreement will not violate any applicable Law. Licensor will use reasonable efforts not to transmit Malware to Customer, provided that it shall not be a breach of Licensor's covenant to Customer if Customer or a Designated User uploads a file containing Malware in contravention of Customer's obligations under Section 5.3(ix).

6.2 **Services Warranty.** If Customer reasonably believes Licensor has failed in a material respect to perform the Services in accordance with the terms of this Agreement, Customer shall notify Licensor within thirty (30) days after the defective Services were performed, and in the event of such defective Services, Customer's sole and exclusive remedy, and Licensor's sole and exclusive obligation, shall be for Licensor to correct the defects or re-perform the Services.

6.3 **Warranty Disclaimer.** EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, LICENSOR MAKES NO WARRANTY, (EXPRESS, IMPLIED OR STATUTORY) AND HEREBY DISCLAIMS ANY AND ALL WARRANTIES, REPRESENTATIONS, OR CONDITIONS, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND ANY WARRANTY ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. ALL SERVICES PROVIDED BY LICENSOR ARE PERFORMED AND PROVIDED ON AN "AS-IS", "AS AVAILABLE" AND "WITH ALL FAULTS" BASIS. LICENSOR DOES NOT WARRANT THAT THE SERVICES OR ITS WORK PRODUCT WILL MEET CUSTOMER'S REQUIREMENTS OR THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR WITHOUT DELAY. CUSTOMER ACKNOWLEDGES THAT, AS A SAAS-BASED SERVICE, THE FUNCTIONALITY AND INTERFACES OF THE SERVICES MAY CHANGE OVER TIME.

6.4 **Limitation of Liability.** EXCEPT FOR EITHER PARTY'S INDEMNIFICATION OBLIGATIONS, ANY BREACH OF EITHER PARTY'S CONFIDENTIALITY OBLIGATIONS, VIOLATION OF LICENSOR'S INTELLECTUAL PROPERTY RIGHTS OR CUSTOMER'S BREACH OF SECTIONS 5.2, 5.3 OR 8.3, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, PUNITIVE OR INCIDENTAL DAMAGES OF ANY KIND OR NATURE WHATSOEVER (INCLUDING LOST PROFITS, DAMAGES FOR LOSS OF GOODWILL, LOST SALES OR BUSINESS, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, LOST DATA, EVEN IF SUCH PARTY HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF THE APPLICABLE PARTY HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR EVEN IF SUCH DAMAGES WERE REASONABLY FORESEEABLE. EXCEPT FOR CUSTOMER'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT, EACH PARTY'S INDEMNIFICATION OBLIGATIONS, ANY BREACH OF CONFIDENTIALITY OBLIGATIONS, VIOLATION OF LICENSOR'S INTELLECTUAL PROPERTY RIGHTS OR CUSTOMER'S BREACH OF SECTIONS 5.2, 5.3 OR 8.3, NEITHER PARTY'S TOTAL AGGREGATE AND CUMULATIVE LIABILITY TO THE OTHER SHALL EXCEED THE AMOUNT PAID OR PAYABLE TO LICENSOR IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE CLAIM THAT GAVE RISE TO SUCH LIABILITY.

6.5 **Prohibition of Claim.** CUSTOMER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT ANY CAUSE OF ACTION ARISING OUT OF THIS AGREEMENT OR RELATING TO THE SERVICES MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES, OTHERWISE SUCH CAUSE OF ACTION SHALL BE PERMANENTLY BARRED.

6.6 **Application.** SECTIONS 6.3, 6.4 AND 6.5 SHALL APPLY TO THE FULLEST EXTENT PERMISSIBLE UNDER LAW AND SHALL SURVIVE THE TERMINATION OR EXPIRATION OF THIS AGREEMENT AND THE PERFORMANCE OF ANY SERVICES TO BE RENDERED HEREUNDER.

7. **INDEMNIFICATION**

7.1 **By Licensor.**

7.1.1 Licensor will defend, indemnify and hold Customer and its officers, directors, employees, contractors, representatives, agents and affiliates harmless against any claim, demand, suit, investigation or proceeding made or brought by any third party (each, a "Claim") against Customer alleging that the use of the Services as permitted hereunder infringes or misappropriates a third-party copyright, trade secret, trademark or United States patent. Licensor will pay all costs, reasonable attorneys' fees and any settlement amounts agreed to by Licensor or damages awarded in connection with the Claim.

7.1.2 If Customer's use of the Services has become, or in Licensor's opinion is likely to become, the subject of any Claim, Licensor may at its option and expense: (i) procure for Customer the right to continue using the Services as set forth herein; (ii) modify the Services to make it non-infringing; or (iii) if the foregoing options are not reasonably practicable, terminate this Agreement and refund Customer any unused pre-paid fees.

7.1.3 Licensor will have no liability or obligation with respect to any Claim to the extent caused by: (i) Customer's use of the Services that is not in accordance with this Agreement or not reasonably foreseeable by Licensor; or (ii) the combination, operation or use of the Services with other applications, portions of applications, products or services where the Services would not by itself be infringing.

7.1.4 This Section 7.1 states Licensor's entire and exclusive obligation, and Customer's exclusive remedy, for any claim of any nature related to the infringement or misappropriation of third-party intellectual property rights.

7.2 **By Customer.** Customer will defend, indemnify and hold harmless Licensor, and its officers, directors, employees, contractors, representatives, agents and affiliates, from and against any Claim made or brought against Licensor, arising from Customer's breach, or alleged breach, of this Agreement.

7.3 **Conditions.** As a condition of the obligations set forth in this Section 7, a Party entitled to indemnification (the "Indemnified Party") will: (a) provide prompt written notice of the applicable Claim to the other Party (the "Indemnifying Party"); (b) provide the Indemnifying Party with sole control of the applicable defense and settlement; and (c) cooperate as requested by the Indemnifying Party, at the Indemnifying Party's expense. The Indemnifying Party will not agree to any settlement that admits fault or obligates the Indemnified Party to pay damages without the consent of the Indemnified Party, which consent shall not be unreasonably withheld.

8. **CUSTOMER DATA**

8.1 **Definitions.**

8.1.1 "Customer Data" means any information relating to any identified or identifiable person, household or device that Licensor Processes solely on behalf of Customer in connection with Licensor's provision of the Services under this Agreement.

8.1.2 "Process" (including any grammatically inflected forms thereof) means any operation or set of operations which is performed on data or on sets of data, whether or not by automated means, including without limitation collection, recording, organization, structuring, storage, adaptation or alteration, access, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

8.2 **Licensor's Obligations.** Licensor shall Process Customer Data only as required to provide the Services under this Agreement or otherwise in accordance with Customer's written instructions.

8.3 **Customer's Obligations.** Customer represents, warrants, and covenants that: (i) it has (and will have) provided any notice and obtained all consents and rights required by applicable law to enable Licensor to lawfully Process Customer Data or any other data input into the Services by or on behalf of Customer or its Designated Users pursuant to this Agreement; (ii) it has full right and authority to make the Customer Data or any other data input into the Services by or on behalf of Customer or its Designated Users available to Licensor under this Agreement; and (iii) Licensor's Processing of the Customer Data or any other data input into the Services by or on behalf of Customer or its Designated Users in accordance with this Agreement will not infringe upon or violate any applicable laws or any rights of any third party.

9. **GENERAL TERMS**

9.1 **Publicity.** Licensor shall have the right to identify Customer as a Licensor customer for purposes of promotion and marketing of Licensor's services, subject to Customer's prior approval which shall not be unreasonably withheld, delayed or conditioned (and will be deemed given if no written notification is received from Customer within one (1) week from the date of written request for approval).

9.2 **Law; Dispute Resolution.** This Agreement will be governed by and construed under the laws of the State of North Carolina, without reference to principles of conflict of laws. Any dispute arising between the Parties will be settled in an action commenced and maintained in any court sitting in Pasquotank County, NC. The Parties irrevocably consent and submit to the exclusive personal jurisdiction of such courts if there is any dispute between them and agree not to challenge or assert any defense to the jurisdiction of such courts.

9.3 **Relationship.** This Agreement does not create any agency, partnership, franchise, joint venture, or any other such relationship between the Parties. Neither Party is granted any express or implied right or authority to assume or create any obligation on behalf of or in the name of the other Party or to bind the other Party in any matter whatsoever.

9.4 **Severability.** If any provision of this Agreement is determined by any court of competent jurisdiction to be invalid, illegal, or unenforceable, such provision will be automatically reformed and construed so as to be valid, legal, operative, and enforceable to the maximum extent permitted by applicable law while preserving its original intent. The invalidity, illegality, or unenforceability of any part of this Agreement will not render invalid the remainder of this Agreement.

9.5 **Survivability.** Sections 1.3, 1.5, 2, 3, 4, 5.2, 5.3, 6.3, 6.4, 6.5, 6.6, 7, 8 and 9 shall survive and continue to bind the Parties after execution and delivery of this Agreement and its expiration or early termination to the extent and for as long as may be necessary to give effect to the rights, duties and obligations of the Parties pursuant to this Agreement, subject to any applicable statutes of limitation.

9.6 **Waiver.** Failure by a Party to insist upon strict performance of any provision herein by the other Party will not be deemed a waiver by the first Party of its rights or remedies or a waiver by it of any subsequent default by the other Party, and no waiver will be effective unless it is in writing and duly executed by the Party entitled to enforce the provision being waived.

9.7 **Amendment.** This Agreement may only be amended in a writing executed by both Parties.

9.8 **Notice.** All notices sent hereunder will be in writing, will be effective upon receipt (except as provided below), and may be: (i) personally delivered; or (ii) sent by a nationally recognized overnight commercial delivery service with provision for receipt, postage or delivery charges prepaid (effective upon receipt or refused delivery); and will be addressed to the Parties at the address set forth below or as updated in writing by a Party in accordance with this Section 9:

Licensor: LearnLux	**Customer: City of Elizabeth City**
Attn: Rebecca Liebman	Attn: _____
_____	_____
_____	_____
_____	_____

9.9 **Force Majeure.** Except with regard to payments due to Licensor, neither Party will be liable for any delays or failures in performance due to circumstances beyond its reasonable control. In the event any such delay continues for a period of thirty (30) or more days, then either Party may terminate this Agreement upon five (5) business days' prior written notice, provided Customer shall remain responsible for payments due to Licensor prior to termination.

9.10 **Assignment.** Neither Party may assign this Agreement without the prior written consent of the other Party, which consent may not be unreasonably withheld; provided, however, that either Party may assign this Agreement to an affiliate of such Party or in connection with a merger, sale of substantially all of its assets, acquisition or other change of control with respect to such Party or any division of its business without the need for such prior written consent. The Agreement is binding upon and inures to the benefit of each Party and its respective successors and permitted assigns, subject to the restrictions against assignment provided in this Section 9.10.

9.11 **Construction**. In this Agreement, unless a clear contrary intention appears: (i) where not inconsistent with the context, words used in the present tense include the future tense and vice versa and words in the plural number include the singular number and vice versa; (ii) reference to any person includes such person's successors and assigns but, if applicable, only if such successors and assigns are not prohibited by this Agreement; (iii) reference to any gender includes each other gender; (iv) reference to any agreement, document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof and includes all addenda, exhibits and schedules thereto; (v) the titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement; (vi) "hereunder," "hereof," "hereto," and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Section or Subsection of this Agreement; (vii) "including" (and with correlative meaning, "include") means including without limiting the generality of any description preceding such term and (viii) any reference to "dollars" means United States Dollars.

9.12 **Entire Agreement**. Except as amended after the date hereof pursuant to Section 9.7, this Agreement, the applicable Order Form, Schedules and Exhibits hereto constitute the entire Agreement between the Parties and supersede all prior and contemporaneous undertakings and agreements between the Parties, whether written or oral, with respect to the Services. In the event of any conflict between this Agreement and any Order Form, the terms of this Agreement shall govern, except to the extent the applicable Order Form expressly references the provision of this Agreement to be overridden.

Signature Page Follows

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date

LearnLux Inc.	**City of Elizabeth City**
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

Exhibit A

Form of Order Form

THIS ORDER FORM (this "Order Form") is made as of the latest date set forth below (the "Order Effective Date") by and between LearnLux Inc., a Delaware corporation ("Licensor") and **City of Elizabeth City** ("Customer"), and is made pursuant to that certain Master Services Agreement, dated as of September 21st, 2020, between Customer and Licensor. The terms of the Agreement are incorporated into this Order Form by reference and capitalized terms used but not defined in this Order Form have the meanings ascribed to them in the Agreement.

GENERAL TERMS

Launch Date:	
Expiration Date:	

SERVICES ORDER FORM

SERVICE	QUANTITY	UNITS
Financial Wellness Benefit	400	Seats
Custom Lesson	12	Lessons
Advisor Sessions	Unlimited	Hours
Total Subscription Fee		**$17,000**

This Order Form shall be effective as of the Launch Date provided above and continue until the Expiration Date provided above (the "Initial Order Term"). If neither Party gives notice of its intent not to renew in accordance with this paragraph, the terms of this Order Form will renew automatically upon the expiration of the Initial Order Term or any Renewal Order Term (as defined below), at Licensor's then-current fee applicable to the Services under this Order Form, from the Expiration Date (in the case of the Initial Order Term) or the effective date of expiration of such Renewal Order Term (as applicable) (each, an "Order Expiration Date") for an additional one-year period from such Order Expiration Date (each, a "Renewal Order Term" and, collectively with the Initial Order Term, the "Order Term"). Either Party may give the other Party written notice of its intent not to renew at least sixty days prior to the applicable Order Expiration Date.

Signature Page Follows

IN WITNESS WHEREOF, the Parties have executed this Order Form as of the Order Effective Date.

LearnLux Inc.	**City of Elizabeth City**
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____