AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

MEETING DATE	Jun 21 2016 10:15AM - Regular School Board Meeting
AGENDA ITEM	OPEN ITEMS
CATEGORY	EE. OFFICE OF STRATEGY & OPERATIONS
DEPARTMENT	Procurement & Warehousing Services

Special Order Request ○ Yes ◉ No

Time

Open Agenda ◉ Yes ○ No

ITEM No.: EE-17.

TITLE:

Recommendation of $500,000 or Greater - 17-005V - Occupational and Physical Therapy Services

REQUESTED ACTION:

Approve the recommendation to award for the above contract. Contract Term: July 1, 2016, through June 30, 2019, 3 Years; User Department: Exceptional Student Education and Support Services; Award Amount: $13,000,000; Awarded Vendor(s) 47; Minority/Women Business Enterprise Vendor(s): 37
See Supporting Docs for continuation of Requested Action.

SUMMARY EXPLANATION AND BACKGROUND:

The School Board of Broward County, Florida, received fifty-four (54) proposals from individual persons and firms that provide occupational and physical therapy services. Seven (7) proposals did not meet the requirements of the RFP.
A copy of the Bid documents are available online at: http://www.broward.k12.fl.us/supply/agenda/17-005V-OT-PT-Services-REV.pdf
Copies of all supporting documents are available at the Board Members' Office on the 14th floor of the K.C. Wright Administration Center and available online via the Broward County Public Schools eAgenda at: https://webappe.browardschools.com/eagenda
These Agreements have been reviewed and approved as to form and legal content by the Office of the General Counsel.

SCHOOL BOARD GOALS:

○ Goal 1: High Quality Instruction ◉ Goal 2: Continuous Improvement ○ Goal 3: Effective Communication

FINANCIAL IMPACT:

The estimated financial impact to the District is $13,000,000. The funding source will come from the General Fund through the department's operating budget. The financial impact represents an estimated contract value; however, the amount authorized will not exceed the bid award amount.

EXHIBITS: (List)

(1) Continuation of Requested Action (2) Executive Summary (3) Agreements-23-ONLINE (4) Agreements-24-ONLINE (5) Recommendation Tabulation (6) Financial Analysis Worksheet (7) MWBE Participation (8) Supplier Evaluation

BOARD ACTION:

APPROVED

(For Official School Board Records Office Only)

SOURCE OF ADDITIONAL INFORMATION:

Name: Sonja Clay	Phone: 754-321-3400
Name: Mary C. Coker	Phone: 754-321-0501

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Senior Leader & Title

Maurice L. Woods - Chief Strategy & Operations Officer

Signature

Maurice Woods
6/13/2016, 8:45:49 AM

Electronic Signature

Approved In Open Board Meeting On: JUN 2 1 2016

By: Abby M. Freedman
School Board Chair

Form #4189 Revised 04/16
RWR/ MLW/MCC/SC:ch

CONTINUATION OF REQUESTED ACTION

* ALISON R. POLUNSKY
  ALL SOURCE RECRUITING GROUP, INC.
    D/B/A ARDOR HEALTH SOLUTIONS
* ANN GOGAN
* ASMA PROFESSIONAL SERVICES, INC.
* AUM ARTI PEDIATRIC THERAPY, LLC
* AW THERAPY SERVICES, INC.
* BEST ONSITE THERAPY SERVICES, INC.
* AUDREY B. GREENWALD, M.S., CCC, P.A.
    D/B/A BOCA SPEECH CENTER
* BONNIE WEBERMAN, OTR/L
* C.E.S. THERAPY, LLC
* CLK THERAPY, LLC
* COMMUNITY REHAB ASSOCIATES, INC.
* COMPREHENSIVE THERAPY CONSULTANTS, INC.
* DEBRA KIRBY, INC.
* DENISE GOLDSTEIN, PTA, INC.
* DIANA GONZALEZ
* EDUCATIONAL THERAPY ASSOCIATES, INC.
  THE EXECU/SEARCH GROUP, INC.
* FUN THERAPY SERVICES, INC.
  HERITAGE HEALTHCARE, LLC
  INVO HEALTHCARE ASSOCIATES, LLC
* JEAN MARIE JASPERSE
* KAREN KOHLER FORTUNE
* KIDABILITIES, LLC
* KIDS EDUCATIONAL THERAPY SERVICES INC.
* KIDS FIRST OCCUPATIONAL THERAPY, LLC
* LJAFFE PLLC
* MARIA J. ENLOW
  MICHAEL SALPETER
  MYTHERAPYCOMPANY, LLC
* OT TIME, LLC
* PED & GERI REHAB, INC.
* PEDIATRIC OT, INC.
* PHYSICAL THERAPY FOR KIDS WITH SPECIAL NEEDS, INC.
* PLAY-N-PROGRESS THERAPY SERVICES, INC.
  PRIME HEALTHCARE STAFFING, INC.
  PRO-TECH SEARCH, INC. OF FLORIDA
  PROGRESSUS THERAPY, LLC
* SCHOOL DAYS THERAPY SERVICES, LLC
* S.M.I.L.E. OCCUPATIONAL THERAPY, INC.
* SMITH & FLEMING, LLC
* S.N.N. THERAPY PROVIDERS, INC.
* SOLUTIONS FOR THERAPISTS, INC.
* SPEECH REHAB SERVICES, LLC
* THERA-PEDS, INC.
* TM THERAPY, INC.

* CERTIFIED MINORITY/WOMEN BUSINESS ENTERPRISE VENDOR

EXECUTIVE SUMMARY

Recommendation $500,000 or Greater
17-005V – Occupational and Physical Therapy Services

This Request for Proposal (RFP) was issued to provide students who qualify for services as Exceptional Student Education and Support Services (ESE) Occupational and Physical Therapy services (OT/PT) under the Individuals with Disabilities Education Act and Individuals with Disabilities Improvement Act of 2004 and any other students identified by the District staff or as required by legislature. The current contract, 14-001V Occupational and Physical Therapy Services, was awarded on June 11, 2013 and will expire on June 30, 2016; the term of the contract was for 36 months. There were 52 vendors who submitted a proposal and were awarded the contract. There were 32 vendors who were certified with the M/WBE Department.

Occupational therapy provides therapy for those recuperating from physical or mental illness that encourages rehabilitation through the performance of activities required by daily life. Physical therapy provides treatment of disease, injury, or deformity by physical methods such as massage, heat treatment, and exercise rather than by drugs or surgery. OT/PT services will include, but not limited to, small group or individual therapy with students, evaluations, supervising assistants and aids, record keeping for student attendance, progress reports and therapy notes, individual education plan development, attending in-service meetings as required, and providing consultation with parents, school, and staff.

Awarded vendors are provided their school and student assignments at the start of the school year as well as throughout the year as new students are identified for these services. Placement is based on several factors including, areas of expertise, level of experience with special populations Autism Spectrum Disorder, geographical location, and ability to provide personnel as well as vendor cost. The curriculum supervisor and OT/PT specialists work directly with the awarded vendors regarding placement, delivery of services, and billing. Schools (teacher and ESE specialist) have direct contact in regard to providing student schedules, location for therapy, and setting up Individualized Education Plan meetings and other services as needed.

The process for these services during the school year, is a school will receive a request either generated by the school itself or by parental concerns. Upon review of the referral and receipt of parent consent, an evaluation will be conducted to determine eligibility of services.

A specification change was made for this RFP to include a flat rate (not-to-exceed hourly rate). This specification change prevented a wide fluxuation of pricing and has kept the pricing competitive. For example, Occupational and Physical Therapists rates must not exceed $64/hour and Certified Occupational Therapist Assistants and Licensed Physical Therapist Assistants rates must not exceed $45/hour.

Below is a chart that provides the current OT/PT workload for the District.

2,877	Total OT/PT Services in District
3	Collaboration in Occupational Therapy
2	Collaboration in Physical Therapy
69	Consultation in Occupational Therapy
22	Consultation in Physical Therapy
2,187	Occupational Therapy
594	Physical Therapy

The pricing on this contract was compared to other school districts which competitively bid these services; they are The School District of Palm Beach County, St. Lucie Public Schools, and Hillsborough County Public Schools. The District pricing is competitive with industry pricing.

Job Description	*District Hourly Cost (Average Price) 2016 Pricing	The School District of Palm Beach County (SDPBC) (Average Price) **2013 Pricing	Percentage Difference (SBBC/SDPBC)
Occupational Therapist	$62.00	$58.00	SDPBC 7% lower than SBBC
Certified Occupational Therapist	$40.00	Does not provide	N/A
Physical Therapist	$59.00	Does not provide	N/A
Licensed Physical Therapist Assistant	$40.00	Does not provide	N/A

Job Description	*SBBC Hourly Cost (Average Price) 2016 Pricing	St. Lucie Public Schools (SLPS) (Average) 2016 Pricing	Percentage Difference (SBBC/SLPS)
Occupational Therapist	$62.00	$62.93	SLPS 2% higher than SBBC
Certified Occupational Therapist	$40.00	$50.89	SLPS 27% higher than SBBC
Physical Therapist	$59.00	$62.93	SLPS 7% higher than SBBC
Licensed Physical Therapist Assistant	$40.00	$50.89	SLPS 27% higher than SBBC

Job Description	*District Hourly Cost (Average Price) 2016 Pricing	Hillsborough County Public Schools (HCPS) (Average) **2013 Pricing	Percentage Difference (SBBC/HCPS)
Occupational Therapist	$62.00	$56.50	HCPS 10% lower than SBBC
Certified Occupational Therapist	$40.00	$52.00	HCPS 30% higher than SBBC
Physical Therapist	$59.00	$56.50	HCPS 4% lower than SBBC
Licensed Physical Therapist Assistant	$40.00	$47.00	HCPS 18% higher than SBBC

* District hourly cost includes all travel costs. No additional charges will be allowed under this contract.
** Current contract pricing. These contracts will be expiring soon.

The School Board of Broward County, Florida
Procurement & Warehousing Services

ITB/RFP No.:	17-005V	Tentative Board Meeting Date*:	JUNE 21, 2016
Description:	OCCUPATIONAL AND PHYSICAL THERAPY SERVICES (TERM CONTRACT)	Notified: 266 / ITB/RFP Rec'd: 54	Downloaded: 81 / No Bids: 0
For:	EXCEPTIONAL STUDENT EDUCATION DEPT. (School/Department)	ITB/RFP Opening:	JANUARY 20, 2016
Fund:	DEPARTMENT'S OPERATING BUDGET	Advertised Date:	DECEMBER 11, 2015
		Award Amount:	$13,000,000

POSTING OF ITB/RFP RECOMMENDATION/TABULATION: ITB/RFP Recommendations and Tabulations will be posted in the Procurement & Warehousing Services and www.Demandstar.com on **MAY 19, 2016 @ 3:00 PM**, and will remain posted for 72 hours. Any person who is adversely affected by the decision or intended decision shall file a notice of protest, in writing, within 72 hours after the posting of the notice of decision or intended decision. The formal written protest shall be filed within ten (10) days after the date the notice of protest is filed. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under this chapter. Section 120.57(3)(b), Florida Statutes, states that "The formal written protest shall state with particularity the facts and law upon which the protest is based." Saturdays, Sundays, state holidays and days during which the school district administration is closed shall be excluded in the computation of the 72-hour time period provided. Filings shall be at the office of the Director of Procurement & Warehousing Services, 7720 West Oakland Park Boulevard, Suite 323, Sunrise, Florida 33351. Any person who files an action protesting an intended decision shall post with the School Board, at the time of filing the formal written protest, a bond, payable to The School Board of Broward County, Florida, (SBBC), in an amount equal to one percent (1%) of the estimated value of the contract. Failure to post the bond required by SBBC Policy 3320, Part VIII, Purchasing Policies, Section N, within the time allowed for filing a bond shall constitute a waiver of the right to protest.

(*) The Cone of Silence, as stated in the ITB/RFP, is in effect until this ITB/RFP is approved by SBBC. The School Board meeting date stated above is a tentative date. Confirm with the Purchasing Agent of record for the actual date the Cone of Silence has concluded.

REVISED - RECOMMENDATION/TABULATION

FIFTY-FOUR PROPOSALS WERE RECEIVED IN RESPONSE TO RFP 17-005V. PROPOSALS RECEIVED WERE EVALUATED BY:

DENEEN GORASSINI – COORDINATOR, MEDICAID/504 – EXCEPTIONAL STUDENT EDUCATION DEPARTMENT
DEBORAH HARRINGTON – CURRICULUM SPECIALIST - EXCEPTIONAL STUDENT EDUCATION DEPARTMENT
KARLEEN BRUNT – PROGRAM SPECIALIST - EXCEPTIONAL STUDENT EDUCATION DEPARTMENT
CYNTHIA MESA – OCCUPATIONAL THERAPIST - EXCEPTIONAL STUDENT EDUCATION DEPARTMENT

M/WBE ADVISOR: LAVINIA FREEMAN, SPECIALIST III

BASED UPON THE COMMITTEE'S RECOMMENDATION AND SECTION 5.4 OF THE RFP, IN ORDER TO BE CONSIDERED FOR AWARD, PROPOSERS MUST RECEIVE A MINIMUM OF 70 POINTS OR HIGHER. THE FOLLOWING PROPOSERS RECEIVED A SCORE OF 70 POINTS OR HIGHER AND ARE RECOMMENED FOR AWARD.

* ALISON R. POLUNSKY ALL SOURCE RECRUITING GROUP, INC. D/B/A ARDOR HEALTH SOLUTIONS	(CAUCASAN FEMALE)
* ANN GOGAN	(CAUCASAN FEMALE)
* ASMA PROFESSIONAL SERVICES, INC.	(SUBCONTINENT ASIAN)
* AUM ARTI PEDIATRIC THERAPY, LLC	(SUBCONTINENT ASIAN)
* AW THERAPY SERVICES, INC.	(CAUCASAN FEMALE)
* BEST ONSITE THERAPY SERVICES, INC.	(HISPANIC AMERICAN)

By: _____ Date: 5/19/2016
(Purchasing Agent)

The School Board of Broward County, Florida, prohibits any policy or procedure which results in discrimination on the basis of age, color, disability, gender expression, national origin, marital status, race, religion, sex or sexual orientation. Individuals who wish to file a discrimination complaint, may call the Executive Director, Benefits & EEO Compliance at 754-321-2150 or Teletype Machine (TTY) at 754-321-2158.

Individuals with disabilities requesting accommodations under the Americans with Disabilities Act (ADA) may call the Equal Educational Opportunities (EEO) at 754-321-2150 or Teletype Machine (TTY) at 754-321-2158.

REVISED: 7/01/14

* AUDREY B. GREENWALD, M.S., CCC, P.A. D/B/A BOCA SPEECH CENTER	(CAUCASAN FEMALE)
* BONNIE WEBERMAN, OTR/L	(CAUCASAN FEMALE)
* C.E.S. THERAPY, LLC	(AFRICAN AMERICAN)
* CLK THERAPY, LLC	(CAUCASAN FEMALE)
* COMMUNITY REHAB ASSOCIATES, INC.	(CAUCASAN FEMALE)
* COMPREHENSIVE THERAPY CONSULTANTS, INC.	(AFRICAN AMERICAN)
* DEBRA KIRBY, INC.	(CAUCASAN FEMALE)
* DENISE GOLDSTEIN, PTA, INC.	(CAUCASAN FEMALE)
* DIANA GONZALEZ	(HISPANIC AMERICAN)
* EDUCATIONAL THERAPY ASSOCIATES, INC. THE EXECU/SEARCH GROUP, INC.	(CAUCASAN FEMALE)
* FUN THERAPY SERVICES, INC. HERITAGE HEALTHCARE, LLC INVO HEALTHCARE ASSOCIATES, LLC	(SUBCONTINENT ASIAN)
* JEAN MARIE JASPERSE	(CAUCASAN FEMALE)
* KAREN KOHLER FORTUNE	(CAUCASAN FEMALE)
* KIDABILITIES, LLC	(CAUCASAN FEMALE)
* KIDS EDUCATIONAL THERAPY SERVICES INC.	(CAUCASAN FEMALE)
* KIDS FIRST OCCUPATIONAL THERAPY, LLC	(CAUCASAN FEMALE)
* LJAFFE PLLC	(CAUCASAN FEMALE)
* MARIA J. ENLOW MICHAEL SALPETER MYTHERAPYCOMPANY, LLC	(CAUCASAN FEMALE)
* OT TIME, LLC	(CAUCASAN FEMALE)
* PED & GERI REHAB, INC.	(CAUCASAN FEMALE)
* PEDIATRIC OT, INC.	(HISPANIC AMERICAN)
* PHYSICAL THERAPY FOR KIDS WITH SPECIAL NEEDS, INC.	(CAUCASAN FEMALE)
* PLAY-N-PROGRESS THERAPY SERVICES, INC. PRIME HEALTHCARE STAFFING, INC. PRO-TECH SEARCH, INC. OF FLORIDA PROGRESSUS THERAPY, LLC	(HISPANIC AMERICAN)
* SCHOOL DAYS THERAPY SERVICES, LLC	(CAUCASAN FEMALE)
* S.M.I.L.E. OCCUPATIONAL THERAPY, INC.	(CAUCASAN FEMALE)
* SMITH & FLEMING, LLC	(HISPANIC AMERICAN)
* S.N.N. THERAPY PROVIDERS, INC.	(HISPANIC AMERICAN)
* SOLUTIONS FOR THERAPISTS, INC.	(CAUCASAN FEMALE)
* SPEECH REHAB SERVICES, LLC	(CAUCASAN FEMALE)
* THERA-PEDS, INC.	(CAUCASAN FEMALE)
* TM THERAPY, INC.	(CAUCASAN FEMALE)

(*) CERTIFIED M/WBE VENDOR

IT IS RECOMMENDED THAT FOR REASON(S) STATED ON THE ATTACHED ITB/RFP REJECTION SHEET, THE PROPOSAL, IN PART OR ITS ENTIRETY, BE REJECTED FOR NOT COMPLYING WITH ITB/RFP REQUIREMENTS.

AWARD FOR THESE PROPOSERS SHALL BE CONTINGENT UPON SUCCESSFUL COMPLETION OF WRITTEN AGREEMENTS.

CONTRACT PERIOD: JULY 1, 2016, THROUGH JUNE 30, 2019

By: _____ Date: 5/19/2016
(Purchasing Agent)

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REVISED: 7/01/14

RFP 17-005V
OCCUPATIONAL AND PHYSICAL THERAPY SERVICES
SCORE SHEET - REVISED

17-005V - Occupational and Physical Therapy Services	Maximum Points	Karleen Brunt	Deneen Gorasini	Deborah Harrington	Cynthia Mesa	Average Points
Experience and Qualifications	30					
Alison R. Polunsky		30.0	29.0	30.0	30.0	29.8
All Source Recruiting, Inc. d/b/a Ardor Health Solutions		30.0	30.0	30.0	30.0	30.0
Ann Gogan		30.0	30.0	30.0	30.0	30.0
ASMA Professional Services, Inc.		30.0	29.0	30.0	30.0	29.8
AUM Arti Pediatric Therapy, LLC		30.0	30.0	30.0	30.0	30.0
AW Therapy Services, Inc.		30.0	29.0	30.0	30.0	29.8
Best Onsite Therapy Services, Inc.		30.0	30.0	30.0	30.0	30.0
Audrey B. Greenwald, M.S., CCC, P.A. d/b/a Boca Speech Center		30.0	30.0	30.0	30.0	30.0
Bonnie Weberman, OTR/L		30.0	30.0	30.0	30.0	30.0
C.E.S. Therapy, LLC		30.0	29.0	30.0	30.0	29.8
CLK Therapy, LLC		30.0	30.0	30.0	30.0	30.0
Community Rehab Associates, Inc.		30.0	30.0	30.0	30.0	30.0
Comprehensive Therapy Consultants, Inc.		30.0	25.0	30.0	30.0	28.8
Debra Kirby, Inc.		30.0	30.0	30.0	30.0	30.0
Denise Goldstein, PTA, Inc.		30.0	30.0	30.0	30.0	30.0
Diana Gonzalez		30.0	25.0	30.0	30.0	28.8
Educational Therapy Associates, Inc.		30.0	25.0	30.0	30.0	28.8
The Execu/Search Group, Inc.		30.0	25.0	30.0	30.0	28.8
Fun Therapy Services, Inc.		30.0	25.0	30.0	30.0	28.8
Heritage Healthcare, LLC		30.0	30.0	30.0	30.0	30.0
Invo HealthCare Associates, LLC		30.0	29.0	30.0	30.0	29.8
Jean Marie Jasperse		30.0	30.0	30.0	30.0	30.0
Kidabilities, LLC		30.0	25.0	30.0	30.0	28.8
Karen Kohler Fortune		30.0	29.0	30.0	30.0	29.8
Kids Educational Therapy Services, Inc.		30.0	30.0	30.0	30.0	30.0
Kids First Occupational Therapy, LLC		30.0	25.0	30.0	30.0	28.8
LJaffe PLLC		30.0	30.0	30.0	30.0	30.0
Maria J. Enlow		30.0	30.0	30.0	30.0	30.0
Michael Salpeter		30.0	25.0	30.0	30.0	28.8
MyTherapyCompany, LLC		30.0	30.0	30.0	30.0	30.0
OT Time, LLC		30.0	28.0	30.0	30.0	29.5
Ped & Geri Rehab, Inc.		30.0	30.0	30.0	30.0	30.0
Pediatric OT, Inc.		30.0	29.0	30.0	30.0	29.8
Physical Therapy for Kids with Special Needs, Inc.		30.0	30.0	30.0	30.0	30.0
Play-N-Progress Therapy Services, Inc.		30.0	30.0	30.0	30.0	30.0
Prime HealthCare Staffing, Inc.		30.0	25.0	30.0	30.0	28.8

RFP 17-005V
OCCUPATIONAL AND PHYSICAL THERAPY SERVICES
SCORE SHEET - REVISED

17-005V - Occupational and Physical Therapy Services	Maximum Points	Karleen Brunt	Deneen Gorasini	Deborah Harrington	Cynthia Mesa	Average Points
Pro-Tech Search, Inc. of Florida		30.0	30.0	30.0	30.0	30.0
Progressus Therapy, LLC		30.0	30.0	30.0	30.0	30.0
School Days Therapy Services, LLC		30.0	30.0	30.0	30.0	30.0
Simpson Group Enterprise, Inc.		30.0	30.0	30.0	30.0	30.0
S.M.I.L.E. Occupational Therapy, Inc.		30.0	30.0	30.0	30.0	30.0
Smith & Fleming, LLC		30.0	30.0	30.0	30.0	30.0
S.N.N. Therapy Providers		30.0	25.0	30.0	30.0	28.8
Solutions for Therapists, Inc.		30.0	20.0	30.0	30.0	27.5
Speech Rehab Services, LLC		30.0	30.0	30.0	30.0	30.0
Thera-Peds, Inc.		30.0	30.0	30.0	30.0	30.0
TM Therapy, Inc.		30.0	30.0	30.0	30.0	30.0
Scope of Services	35					
Alison R. Polunsky		30.0	34.0	23.0	30.0	29.3
All Source Recruiting, Inc. d/b/a Ardor Health Solutions		35.0	34.0	35.0	35.0	34.8
Ann Gogan		35.0	35.0	35.0	35.0	35.0
ASMA Professional Services, Inc.		35.0	34.0	35.0	35.0	34.8
AUM Arti Pediatric Therapy, LLC		35.0	34.0	35.0	35.0	34.8
AW Therapy Services, Inc.		35.0	35.0	35.0	35.0	35.0
Best Onsite Therapy Services, Inc.		35.0	35.0	35.0	35.0	35.0
Audrey B. Greenwald, M.S., CCC, P.A. d/b/a Boca Speech Center		35.0	35.0	35.0	35.0	35.0
Bonnie Weberman, OTR/L		35.0	34.0	35.0	35.0	34.8
C.E.S. Therapy, LLC		35.0	34.0	35.0	35.0	34.8
CLK Therapy, LLC		35.0	34.0	35.0	35.0	34.8
Community Rehab Associates, Inc.		35.0	34.0	35.0	35.0	34.8
Comprehensive Therapy Consultants, Inc.		35.0	34.0	35.0	35.0	34.8
Debra Kirby, Inc.		35.0	34.0	35.0	35.0	34.8
Denise Goldstein, PTA, Inc.		35.0	35.0	35.0	35.0	35.0
Diana Gonzalez		35.0	35.0	35.0	35.0	35.0
Educational Therapy Associates, Inc.		35.0	34.0	35.0	35.0	34.8
The Execu/Search Group, Inc.		35.0	34.0	35.0	35.0	34.8
Fun Therapy Services, Inc.		35.0	34.0	35.0	35.0	34.8
Heritage Healthcare, LLC		35.0	35.0	35.0	35.0	35.0
Invo HealthCare Associates, LLC		35.0	34.0	35.0	35.0	34.8
Jean Marie Jasperse		35.0	34.0	35.0	35.0	34.8
Kidabilities, LLC		35.0	35.0	35.0	35.0	35.0
Karen Kohler Fortune		35.0	35.0	35.0	35.0	35.0

RFP 17-005V
OCCUPATIONAL AND PHYSICAL THERAPY SERVICES
SCORE SHEET - REVISED

17-005V - Occupational and Physical Therapy Services	Maximum Points	Karleen Brunt	Deneen Gorasini	Deborah Harrington	Cynthia Mesa	Average Points
Kids Educational Therapy Services, Inc.		35.0	35.0	35.0	35.0	35.0
Kids First Occupational Therapy, LLC		35.0	34.0	35.0	35.0	34.8
LJaffe PLLC		35.0	35.0	35.0	35.0	35.0
Maria J. Enlow		35.0	35.0	35.0	35.0	35.0
Michael Salpeter		35.0	35.0	35.0	35.0	35.0
MyTherapyCompany, LLC		35.0	35.0	35.0	35.0	35.0
OT Time, LLC		35.0	35.0	35.0	35.0	35.0
Ped & Geri Rehab, Inc.		35.0	34.0	35.0	35.0	34.8
Pediatric OT, Inc.		35.0	34.0	35.0	35.0	34.8
Physical Therapy for Kids with Special Needs, Inc.		35.0	34.0	35.0	35.0	34.8
Play-N-Progress Therapy Services, Inc.		35.0	34.0	33.5	34.0	34.1
Prime HealthCare Staffing, Inc.		35.0	34.0	35.0	35.0	34.8
Pro-Tech Search, Inc. of Florida		35.0	34.0	35.0	35.0	34.8
Progressus Therapy, LLC		35.0	35.0	35.0	35.0	35.0
School Days Therapy Services, LLC		35.0	35.0	35.0	35.0	35.0
Simpson Group Enterprise, Inc.		35.0	34.0	35.0	35.0	34.8
S.M.I.L.E. Occupational Therapy, Inc.		32.0	35.0	33.5	34.0	33.6
Smith & Fleming, LLC		35.0	35.0	35.0	35.0	35.0
S.N.N. Therapy Providers		35.0	34.0	35.0	35.0	34.8
Solutions for Therapists, Inc.		35.0	35.0	35.0	35.0	35.0
Speech Rehab Services, LLC		30.0	34.0	24.5	35.0	30.9
Thera-Peds, Inc.		35.0	34.0	35.0	35.0	34.8
TM Therapy, Inc.		35.0	35.0	35.0	35.0	35.0
Cost of Services	25					
Alison R. Polunsky		23	23	23	23	23
All Source Recruiting, Inc. d/b/a Ardor Health Solutions		25	25	25	25	25
Ann Gogan		22	22	22	22	22
ASMA Professional Services, Inc.		23	23	23	23	23
AUM Arti Pediatric Therapy, LLC		23	23	23	23	23
AW Therapy Services, Inc.		23	23	23	23	23
Best Onsite Therapy Services, Inc.		23	23	23	23	23
Audrey B. Greenwald, M.S., CCC, P.A. d/b/a Boca Speech Center		23	23	23	23	23
Bonnie Weberman, OTR/L		23	23	23	23	23
C.E.S. Therapy, LLC		24	24	24	24	24
CLK Therapy, LLC		23	23	23	23	23
Community Rehab Associates, Inc.		23	23	23	23	23
Comprehensive Therapy Consultants, Inc.		24	24	24	24	24

RFP 17-005V
OCCUPATIONAL AND PHYSICAL THERAPY SERVICES
SCORE SHEET - REVISED

17-005V - Occupational and Physical Therapy Services	Maximum Points	Karleen Brunt	Deneen Gorasini	Deborah Harrington	Cynthia Mesa	Average Points
Debra Kirby, Inc.		23	23	23	23	23
Denise Goldstein, PTA, Inc.		22	22	22	22	22
Diana Gonzalez		23	23	23	23	23
Educational Therapy Associates, Inc.		23	23	23	23	23
The Execu/Search Group, Inc.		23	23	23	23	23
Fun Therapy Services, Inc.		23	23	23	23	23
Heritage Healthcare, LLC		23	23	23	23	23
Invo HealthCare Associates, LLC		23	23	23	23	23
Jean Marie Jasperse		23	23	23	23	23
Kidabilities, LLC		23	23	23	23	23
Karen Kohler Fortune		23	23	23	23	23
Kids Educational Therapy Services, Inc.		23	23	23	23	23
Kids First Occupational Therapy, LLC		23	23	23	23	23
LJaffe PLLC		23	23	23	23	23
Maria J. Enlow		23	23	23	23	23
~~Michael Salpeter~~		~~23~~	~~23~~	~~23~~	~~23~~	~~23~~
MyTherapyCompany, LLC		23	23	23	23	23
OT Time, LLC		23	23	23	23	23
Ped & Geri Rehab, Inc.		23	23	23	23	23
Pediatric OT, Inc.		23	23	23	23	23
Physical Therapy for Kids with Special Needs, Inc.		23	23	23	23	23
Play-N-Progress Therapy Services, Inc.		23	23	23	23	23
Prime HealthCare Staffing, Inc.		25	25	25	25	25
Pro-Tech Search, Inc. of Florida		23	23	23	23	23
Progressus Therapy, LLC		23	23	23	23	23
School Days Therapy Services, LLC		23	23	23	23	23
Simpson Group Enterprise, Inc.		23	23	23	23	23
S.M.I.L.E. Occupational Therapy, Inc.		24	24	24	24	24
Smith & Fleming, LLC		23	23	23	23	23
S.N.N. Therapy Providers		23	23	23	23	23
Solutions for Therapists, Inc.		23	23	23	23	23
Speech Rehab Services, LLC		23	23	23	23	23
Thera-Peds, Inc.		23	23	23	23	23
TM Therapy, Inc.		23	23	23	23	23
M/WBE	10					
Alison R. Polunsky		10.0	10.0	10.0	10.0	10.0
All Source Recruiting, Inc. d/b/a Ardor Health Solutions		0.0	0.0	0.0	0.0	0.0

RFP 17-005V
OCCUPATIONAL AND PHYSICAL THERAPY SERVICES
SCORE SHEET - REVISED

17-005V - Occupational and Physical Therapy Services	Maximum Points	Karleen Brunt	Deneen Gorasini	Deborah Harrington	Cynthia Mesa	Average Points
Ann Gogan		10.0	10.0	10.0	10.0	10.0
ASMA Professional Services, Inc.		10.0	10.0	10.0	10.0	10.0
AUM Arti Pediatric Therapy, LLC		10.0	10.0	10.0	10.0	10.0
AW Therapy Services, Inc.		10.0	10.0	10.0	10.0	10.0
Best Onsite Therapy Services, Inc.		10.0	10.0	10.0	10.0	10.0
Audrey B. Greenwald, M.S., CCC, P.A. d/b/a Boca Speech Center		10.0	10.0	10.0	10.0	10.0
Bonnie Weberman, OTR/L		10.0	10.0	10.0	10.0	10.0
C.E.S. Therapy, LLC		10.0	10.0	10.0	10.0	10.0
CLK Therapy, LLC		10.0	10.0	10.0	10.0	10.0
Community Rehab Associates, Inc.		10.0	10.0	10.0	10.0	10.0
Comprehensive Therapy Consultants, Inc.		10.0	10.0	10.0	10.0	10.0
Debra Kirby, Inc.		10.0	10.0	10.0	10.0	10.0
Denise Goldstein, PTA, Inc.		10.0	10.0	10.0	10.0	10.0
Diana Gonzalez		10.0	10.0	10.0	10.0	10.0
Educational Therapy Associates, Inc.		10.0	10.0	10.0	10.0	10.0
The Execu/Search Group, Inc.		0.0	0.0	0.0	0.0	0.0
Fun Therapy Services, Inc.		10.0	10.0	10.0	10.0	10.0
Heritage Healthcare, LLC		0.0	0.0	0.0	0.0	0.0
Invo HealthCare Associates, LLC		0.0	0.0	0.0	0.0	0.0
Jean Marie Jasperse		10.0	10.0	10.0	10.0	10.0
Kidabilities, LLC		10.0	10.0	10.0	10.0	10.0
Karen Kohler Fortune		10.0	10.0	10.0	10.0	10.0
Kids Educational Therapy Services, Inc.		10.0	10.0	10.0	10.0	10.0
Kids First Occupational Therapy, LLC		10.0	10.0	10.0	10.0	10.0
LJaffe PLLC		10.0	10.0	10.0	10.0	10.0
Maria J. Enlow		10.0	10.0	10.0	10.0	10.0
Michael Salpeter		0.0	0.0	0.0	0.0	0.0
MyTherapyCompany, LLC		0.0	0.0	0.0	0.0	0.0
OT Time, LLC		10.0	10.0	10.0	10.0	10.0
Ped & Geri Rehab, Inc.		10.0	10.0	10.0	10.0	10.0
Pediatric OT, Inc.		10.0	10.0	10.0	10.0	10.0
Physical Therapy for Kids with Special Needs, Inc.		10.0	10.0	10.0	10.0	10.0
Play-N-Progress Therapy Services, Inc.		10.0	10.0	10.0	10.0	10.0
Prime HealthCare Staffing, Inc.		0.0	0.0	0.0	0.0	0.0
Pro-Tech Search, Inc. of Florida		0.0	0.0	0.0	0.0	0.0
Progressus Therapy, LLC		0.0	0.0	0.0	0.0	0.0
School Days Therapy Services, LLC		10.0	10.0	10.0	10.0	10.0
Simpson Group Enterprise, Inc.		0.0	0.0	0.0	0.0	0.0
S.M.I.L.E. Occupational Therapy, Inc.		10.0	10.0	10.0	10.0	10.0

RFP 17-005V
OCCUPATIONAL AND PHYSICAL THERAPY SERVICES
SCORE SHEET - REVISED

17-005V - Occupational and Physical Therapy Services	Maximum Points	Karleen Brunt	Deneen Gorasini	Deborah Harrington	Cynthia Mesa	Average Points
Smith & Fleming, LLC		10.0	10.0	10.0	10.0	10.0
S.N.N. Therapy Providers		10.0	10.0	10.0	10.0	10.0
Solutions for Therapists, Inc.		10.0	10.0	10.0	10.0	10.0
Speech Rehab Services, LLC		10.0	10.0	10.0	10.0	10.0
Thera-Peds, Inc.		10.0	10.0	10.0	10.0	10.0
TM Therapy, Inc.		10.0	10.0	10.0	10.0	10.0
Total Score	**100**					
Alison R. Polunsky						**92.0**
All Source Recruiting, Inc. d/b/a Ardor Health Solutions						**89.8**
Ann Gogan						**97.0**
ASMA Professional Services, Inc.						**97.5**
AUM Arti Pediatric Therapy, LLC						**97.8**
AW Therapy Services, Inc.						**97.8**
Best Onsite Therapy Services, Inc.						**98.0**
Audrey B. Greenwald, M.S., CCC, P.A. d/b/a Boca Speech Center						**98.0**
Bonnie Weberman, OTR/L						**97.8**
C.E.S. Therapy, LLC						**98.5**
CLK Therapy, LLC						**97.8**
Community Rehab Associates, Inc.						**97.8**
Comprehensive Therapy Consultants, Inc.						**97.5**
Debra Kirby, Inc.						**97.8**
Denise Goldstein, PTA, Inc.						**97.0**
Diana Gonzalez						**96.8**
Educational Therapy Associates, Inc.						**96.5**
The Execu/Search Group, Inc.						**86.5**
Fun Therapy Services, Inc.						**96.5**
Heritage Healthcare, LLC						**88.0**
Invo HealthCare Associates, LLC						**87.5**
Jean Marie Jasperse						**97.8**
Kidabilities, LLC						**96.8**
Karen Kohler Fortune						**97.8**
Kids Educational Therapy Services, Inc.						**98.0**
Kids First Occupational Therapy, LLC						**96.5**
LJaffe PLLC						**98.0**
Maria J. Enlow						**98.0**
Michael Salpeter						**86.8**

RFP 17-005V
OCCUPATIONAL AND PHYSICAL THERAPY SERVICES
SCORE SHEET - REVISED

17-005V - Occupational and Physical Therapy Services	Maximum Points	Karleen Brunt	Deneen Gorasini	Deborah Harrington	Cynthia Mesa	Average Points
MyTherapyCompany, LLC						88.0
OT Time, LLC						97.5
Ped & Geri Rehab, Inc.						97.8
Pediatric OT, Inc.						97.5
Physical Therapy for Kids with Special Needs, Inc.						97.8
Play-N-Progress Therapy Services, Inc.						97.1
Prime HealthCare Staffing, Inc.						88.5
Pro-Tech Search, Inc. of Florida						87.8
Progressus Therapy, LLC						88.0
School Days Therapy Services, LLC						98.0
Simpson Group Enterprise, Inc.						87.8
S.M.I.L.E. Occupational Therapy, Inc.						97.6
Smith & Fleming, LLC						98.0
S.N.N. Therapy Providers						96.5
Solutions for Therapists, Inc.						95.5
Speech Rehab Services, LLC						93.9
Thera-Peds, Inc.						97.8
TM Therapy, Inc.						98.0

RFP 17-005V
OCCUPATIONAL AND PHYSICAL THERAPY SERVICES
REJECTION SHEET

Reject proposal from Therapy Source, Inc. Minimum Eligibility states that in order to be considered for award and to be further evaluated, Proposer must meet or exceed the following criteria in this section. Failure to provide the information requested will result in disqualification of proposal. A response to Section 4.2.2 for Minimum Eligibility, by the Proposer, states that the licensure is not available for submission with this proposal; therefore, their proposal is disqualified.

Reject proposal from Staffing Options and Solutions, Inc. Section 4.2.2 states that a principal officer or manager of services of the firm must hold a current Florida license to practice either occupational or physical therapy issued by the Department of Health from the State of Florida. Proposer submitted licensure from the State of Indiana; therefore, their proposal is disqualified.

Reject proposal from Soliant Health, Inc. Section 4.2.2 states that a principal officer or manager of services of the firm must hold a current Florida license to practice either occupational or physical therapy issued by the Department of Health from the State of Florida. Proposer stated, "We do not have a principal officer or manager who is a Florida licensed OTR or PT"; therefore, their proposal is disqualified.

Reject proposal from Educational Based Services. Section 4.2.2 states that a principal officer or manager of services of the firm must hold a current Florida license to practice either occupational or physical therapy issued by the Department of Health from the State of Florida. Proposer must provide a copy of the license and title with their submitted proposal in order to meet the minimum eligibility requirements. Section 4.2.2. was not answered in their proposal; no certification was submitted with their proposal for the principal officer or manager; therefore, their proposal is disqualified.

Reject proposal from Providastaff, LLC d/b/a EDU Healthcare. Section 4.2.2 states that a principal officer or manager of services of the firm must hold a current Florida license to practice either occupational or physical therapy issued by the Department of Health from the State of Florida. Section 4.2.2. was not answered in their proposal; no certification was submitted with their proposal for the principal officer or manager; therefore, their proposal is disqualified.

Reject Items 4.4.3.1.2 and 4.4.3.1.4 for All Source Recruiting d/b/a Ardor Health Solutions. Sections 4.4.3.1.2 and 4.4.3.1.4 state that Proposer shall not exceed the stated rates for these sections. Rate was not to exceed $45.00; Proposer offered $49.00; therefore these items are rejected.

Simpson Group Enterprise Inc. was removed from the Recommendation and Tabulation, on May 19, 2016, since their company will be relocating to North Carolina and will not be able to perform the services on this contract.

Procurement & Warehousing Services
Broward County Public Schools

FINANCIAL ANALYSIS WORKSHEET

BID INFORMATION			
New Bid # (Ex: 10-004R):	17-005V	**Preparation Date:**	May 25, 2016
Previous Bid # (Ex: 10-004R):	14-001V	**Buyer/PA:**	CHUCK HIGH
New Bid Award Total:	$13,000,000	**Bid Title:**	Occupational and Physical Therapy Services
Previous Award Total:	$14,000,000		
Bid Type:	NEW BID		
Previous Bid Term (Start Date):	July 1, 2013	**New Bid Term (In Months):**	36
Previous Bid Term (End Date):	June 30, 2016	**# of Months Into Bid:**	35

SPEND REPORTING	
Purchase Order(s) Spend:	$12,376,549
P Card Purchases:	$0
Total Invoiced-to-Date Amount (PO + Pcard Purchases):	**$12,376,549**
Average Monthly Expenditure:	$353,616
Unused Authorized Spending:	**$1,623,451**
Est. Forecasted Spend (For Entire Bid Term):	**$12,730,165**

VENDOR INFORMATION		
Awarded Vendors:	**M/WBE Status (If applicable):**	**Spend:**
KLASS, MARYSE	M/WBE	$ 168,505
SNN THERAPY PROVIDERS INC	M/WBE	$ 373,330
PICONE, JOAN	M/WBE	$ 19,000
EDUCATIONAL THERAPY ASSOCIATES	M/WBE	$ 1,286,165
WEBERMAN, BONNIE	M/WBE	$ 191,312
GOGAN, ANN	M/WBE	$ 195,740
SALPETER, MICHAEL	N/A	$ 284,945
DEBRA KIRBY INC	M/WBE	$ 629,783
FORTUNE, KAREN KOHLER	M/WBE	$ 215,566
DENISE GOLDSTEIN PTA INC	M/WBE	$ 179,089
PHYSICAL THERAPY FOR KIDS WITH	M/WBE	$ 308,440
SOLUTIONS FOR THERAPISTS	M/WBE	$ 338,865
CLK THERAPY INC	M/WBE	$ 138,547
KIDS FIRST OCCUPATIONAL THERAPY LLC	M/WBE	$ 405,491
PRO-TECH SEARCH INC	N/A	$ 192,650
KIDABILITIES LLC	M/WBE	$ 399,640
PED & GERI REHAB INC	M/WBE	$ 148,612
EDUCATIONAL BASED SERVICES	N/A	$ 29,548
TM THERAPY INC	M/WBE	$ 221,244
GONZALEZ, DIANA	M/WBE	$ 204,794
THERA-PEDS INC	M/WBE	$ 474,092
SHC SERVICES INC	N/A	$ 1,780
AW THERAPY SERVICES INC	M/WBE	$ 263,225
KIDS EDUCATIONAL THERAPY SVCS INC	M/WBE	$ 467,391
SMILE OCCUPATIONAL THERAPY INC	M/WBE	$ 186,385
PLAY-N-PROGRESS	M/WBE	$ 197,348
POLUNSKY, ALISON RACHEL	M/WBE	$ 216,600
PROGRESSUS THERAPY LLC	N/A	$ 582,510
SOLIANT HEALTH INC	N/A	$ 147,985
JASPERSE, JEAN MARIE	M/WBE	$ 202,323
ENLOW, MARIA J	M/WBE	$ 289,771
INVO HEALTHCARE ASSOCIATES LLC	N/A	$ 492,833

SIMPSON GROUP ENTERPRISE INC	N/A	$	184,628
CES THERAPY LLC	M/WBE	$	202,825
BEST ONSITE THERAPY SERVICES INC	M/WBE	$	399,703
FUN THERAPY SERVICES INC.	M/WBE	$	229,275
SCHOOL DAYS THERAPY SERVICES LLC	M/WBE	$	237,199
ADVANCED MEDICAL PERSONNEL SERVICES	N/A	$	276,292
ALL SOURCE RECRUITING GROUP	N/A	$	21,296
REHABCARE GROUP EAST INC	N/A	$	420,750
OT TIME, LLC	M/WBE	$	180,210
LJAFFE PLLC	M/WBE	$	245,810
ASMA PROFESSIONAL SERVICES INC	M/WBE	$	220,731
PRIME HEALTHCARE STAFFING INC	N/A	$	58,638
ARTI DUSARA	M/WBE	$	1,701
AUM ARTI PEDIATRIC THERAPY	M/WBE	$	243,984
	PO VENDOR SPEND:	**$**	**12,376,549**
	P-CARD SPEND:	**$**	**-**
	TOTAL SPEND:	**$**	**12,376,549**

NOTES (Type Below):

Minority/Women Business Enterprise Spending: $9,657,608.52

Non-Minority/Women Business Enterprise Spending: $2,718,940.48

17-005V - OCCUPATIONAL AND PHYSICAL THERAPY SERVICES
M/WBE CERTIFIED VENDORS

The following thirty-seven (37) certified M/WBE vendors will be providing services under this contract.

ALISON R. POLUNSKY	(CAUCASAN FEMALE)
ANN GOGAN	(CAUCASAN FEMALE)
ASMA PROFESSIONAL SERVICES, INC.	(SUBCONTINENT ASIAN)
AUM ARTI PEDIATRIC THERAPY, LLC	(SUBCONTINENT ASIAN)
AW THERAPY SERVICES, INC.	(CAUCASAN FEMALE)
BEST ONSITE THERAPY SERVICES, INC.	(HISPANIC AMERICAN)
AUDREY B. GREENWALD, M.S., CCC, P.A. D/B/A BOCA SPEECH CENTER	(CAUCASAN FEMALE)
BONNIE WEBERMAN, OTR/L	(CAUCASAN FEMALE)
C.E.S. THERAPY, LLC	(AFRICAN AMERICAN)
CLK THERAPY, LLC	(CAUCASAN FEMALE)
COMMUNITY REHAB ASSOCIATES, INC.	(CAUCASAN FEMALE)
COMPREHENSIVE THERAPY CONSULTANTS, INC.	(AFRICAN AMERICAN)
DEBRA KIRBY, INC.	(CAUCASAN FEMALE)
DENISE GOLDSTEIN, PTA, INC.	(CAUCASAN FEMALE)
DIANA GONZALEZ	(HISPANIC AMERICAN)
EDUCATIONAL THERAPY ASSOCIATES, INC.	(CAUCASAN FEMALE)
FUN THERAPY SERVICES, INC.	(SUBCONTINENT ASIAN)
JEAN MARIE JASPERSE	(CAUCASAN FEMALE)
KAREN KOHLER FORTUNE	(CAUCASAN FEMALE)
KIDABILITIES, LLC	(CAUCASAN FEMALE)
KIDS EDUCATIONAL THERAPY SERVICES INC.	(CAUCASAN FEMALE)
KIDS FIRST OCCUPATIONAL THERAPY, LLC	(CAUCASAN FEMALE)
LJAFFE PLLC	(CAUCASAN FEMALE)
MARIA J. ENLOW	(CAUCASAN FEMALE)
OT TIME, LLC	(CAUCASAN FEMALE)
PED & GERI REHAB, INC.	(CAUCASAN FEMALE)
PEDIATRIC OT, INC.	(HISPANIC AMERICAN)
PHYSICAL THERAPY FOR KIDS WITH SPECIAL NEEDS, INC.	(CAUCASAN FEMALE)
PLAY-N-PROGRESS THERAPY SERVICES, INC.	(HISPANIC AMERICAN)
SCHOOL DAYS THERAPY SERVICES, LLC	(CAUCASAN FEMALE)
S.M.I.L.E. OCCUPATIONAL THERAPY, INC.	(CAUCASAN FEMALE)
SMITH & FLEMING, LLC	(HISPANIC AMERICAN)
S.N.N. THERAPY PROVIDERS, INC.	(HISPANIC AMERICAN)
SOLUTIONS FOR THERAPISTS, INC.	(CAUCASAN FEMALE)
SPEECH REHAB SERVICES, LLC	(CAUCASAN FEMALE)
THERA-PEDS, INC.	(CAUCASAN FEMALE)
TM THERAPY, INC.	(CAUCASAN FEMALE)

RFP 15-010P – Occupational and Physical Therapy Services
M/WBE Sub-Consultant Participation

Recommended Awardee	Certification Number	Expiration Date	Ethnicity	Gender	M/WBE Sub-Consultant Participation and Community Involvement	SBBC Scholarship Foundation – Commitment to Minority Students
AW Therapy Services					CPR Training 2Go d/b/a CPRB2B #7007-6935 for CPR Training for health professionals. Marie M. Rosier, CPA #7007-7016 for business taxes and filing, and Innovative Software Solutions, Inc. #7007-6857 for computer/printer supplies	
Community Rehab Associates					House of Promos, Inc., #7007-6445, providing promo materials for professional conventions or conferences to increase recruiting efforts; Taie, Inc. d/b/a Minutemen Press, #7007-6112, providing brochures to be distributed in marketing efforts to increase recruitment; and A Graphic Difference d/b/a Image360, #7007-6506 to provide graphic arts.	

RFP 14-001V
Occupational and Physical Therapy Services
Supplier Evaluation

VENDOR NAME	M/WBE	CUSTOMER SERVICE	DELIVERY AS SCHEDULED	SATISFIED WITH SUPPLIER	WILL YOU USE THEM AGAIN	COMPLIANCE WITH SPECIFICATIONS	QUALITY AS COMPARED TO SIMILAR SERVICES	PRICE AS COMPARED TO SIMILAR SERVCES	WOULD YOU PURCHASE THIS SERVICE OR USE VENDOR AGAIN
Advanced Medial Personnel Services, Inc.		Good	Good	Satisfied	Yes	Good	Very Good	Excellent	Definitely
Alison R. Polunsky	Yes	Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Good	Definitely
Ann Gogan	Yes	Excellent	Excellent	Very Satisfied	Yes	Very Good	Excellent	Good	Definitely
ASMA Professional Services	Yes	Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Good	Definitely
AUM Arti Pediatric Therapy	Yes	Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Good	Definitely
AW Therapy Services, Inc.	Yes	Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Good	Definitely
Best Onsite Therapy Services, Inc.	Yes	Very Good	Good	Satisfied	Yes	Very Good	Very Good	Good	Definitely
Bonnie Weberman OTR/L	Yes	Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Good	Definitely
C.E.S. Therapy, LLC	Yes	Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Very Good	Definitely
CLK Therapy, Inc.	Yes	Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Very Good	Definitely
Debra Kirby, Inc.	Yes	Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Good	Definitely
Denise Goldstein, PTA, Inc.	Yes	Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Good	Definitely
Diana Gonzalez	Yes	Good	Very Good	Satisfied	Yes	Very Good	Very Good	Good	Definitely
EBS - Educational Based Services		Good	Good	Satisfied	Yes	Very Good	Very Good	Excellent	Definitely
Educational Therapy Associates	Yes	Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Good	Definitely
Fun Therapy Services, Inc.	Yes	Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Good	Definitely
Invo Healthcare Associates		Excellent	Excellent	Very Satisfied	Yes	Very Good	Very Good	Very Good	Definitely
Jean Marie Jasperse		Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Good	Definitely
Joan Picone	Yes	Retired	Retired	Retired	Retired	Retired	Retired	Retired	Retired
Karen Kohler Fortune	Yes	Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Good	Definitely
Kidabilities, LLC	Yes	Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Good	Definitely
Kids Educational Therapy Services, Inc.	Yes	Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Good	Definitely
Kids First Occupational Therapy, LLC	Yes	Excellent	Excellent	Very Satisfied	Yes	Excellent	Excellent	Fair	Definitely
L Jaffe, PLLC		Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Good	Definitely
Maria Enlow	Yes	Excellent	Excellent	Very Satisfied	Yes	Excellent	Excellent	Good	Definitely
Maryse J. Klass, MSPT	Yes	Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Good	Definitely
Michael Salpeter		Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Good	Definitely
OT Time LLC		Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Good	Definitely
Ped & Geri Rehab, Inc,	Yes	Very Good	Very Good	Satisfied	Yes	Very Good	Very Good	Good	Definitely
Physical Therapy for Kids with Special Needs	Yes	Excellent	Excellent	Very Satisfied	Yes	Very Good	Very Good	Good	Definitely
Play-N-Progress Therapy Services		Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Good	Definitely
Prime HealthCare Staffing		Good	Good	Satisfied	Yes	Very Good	Very Good	Good	Definitely
Pro-Tech Search, Inc of Florida		Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Very Good	Definitely
RehabCare Group East		Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Excellent	Definitely
School Days Therapy Services, LLC		Excellent	Excellent	Very Satisfied	Yes	Excellent	Excellent	Good	Definitely
Simpson Group Enterprises, Inc.		Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Good	Definitely
S.M.I.L.E. Occupational Therapy, Inc.	Yes	Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Good	Definitely
S.N.N. Therapy Providers	Yes	Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Good	Definitely
Soliant Health, Inc.		Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Very Good	Definitely
Solutions for Therapists	Yes	Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Good	Definitely
Thera-Peds, Inc.	Yes	Very Good	Very Good	Very Satisfied	Yes	Very Good	Very Good	Good	Definitely
TM Therapy, Inc.	Yes	Excellent	Excellent	Very Satisfied	Yes	Excellent	Excellent	Good	Definitely

Evaluation provided by ESE Department

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

ALISON R. POLUNSKY
(hereinafter referred to as "VENDOR"),
whose principal place of business is
4264 Laurel Ridge Drive
Weston, Florida 33331

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 6, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for Occupational Therapy services at $64.00/hour. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of this Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-6215.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Alison R. Polunsky
4264 Laurel Ridge Drive
Weston, Florida 33331

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor.** The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this

Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman for the chair
Dr. Rosalind Osgood, Chair

ATTEST:

Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams
Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:10:16 -04'00'

Office of the General Counsel

FOR VENDOR

Witness

Signature

Witness

Alison R. Polunsky

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me by Alison Polunsky
Insert Name Here
who is personally known to me or who produced Known as
Type of Identification
identification and who did/did not first take an oath this 8 day of May,
2016.

My Commission Expires:

(SEAL)

STEVEN C. LEWIS MY COMMISSION EXPIRES March 4, 2020 #FF 936293 Bonded thru Notary Public Underwriters NOTARY PUBLIC, STATE OF FLORIDA

Signature – Notary Public

STEVEN LEWIS

Notary's Printed Name

Notary's Commission No.

SCOPE OF SERVICES

1. VENDOR shall provide occupational therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide a current licensed occupational therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR will then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR shall be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

ALL SOURCE RECRUITING GROUP, INC.
D/B/A ARDOR HEALTH SOLUTIONS
(hereinafter referred to as "VENDOR"),
whose principal place of business is
5830 Coral Ridge Drive, Suite 300
Coral Springs, Florida 33076

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 14, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for Occupational Therapy services at $59.00/hour, and Physical Therapist services at $59.00/hour. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Commitment**. Throughout the term of the Agreement, VENDOR shall take commercially reasonable steps and use commercially reasonable resources to identify SBBC-certified M/WBE vendors who may be engaged to fulfill various aspects of the Agreement, including, for instance, without limitation, M/WBE vendors to provide office supplies, travel, printing, janitorial supplies/services, consulting services, trade services, installation and repair services, medical supplies, where feasible. VENDOR agrees to provide monthly reports and to conduct quarterly meetings with SBBC to discuss progress in meeting the SBBC's objectives regarding M/WBE participation, including dollars spent on M/WBE vendors for the quarter; and to continue to assess throughout the term of the Agreement new possibilities for M/WBE vendor participation suggested by SBBC. If at any time during the term the parties agree that it is reasonably feasible to include a specific dollar figure for M/WBE participation, the Agreement shall be amended to include the dollar participation objective.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:	Superintendent of Schools The School Board of Broward County, Florida 600 S.E. 3rd. Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Maria Aguayo-Amador, Business Development & RFP Manager All Source Recruiting d/b/a Ardor Health Solutions 5830 Coral Ridge Drive, Suite 300 Coral Springs, FL 33076

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems._ Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By: Abby M. Freedman
Dr. Rosalind Osgood, Chair for the chair

ATTEST:

Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:10:54 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

ALL SOURCE RECRUITING GROUP, INC.
D/B/A ARDOR HEALTH SOLUTIONS

ATTEST:

Jennifer Miranda
, Secretary

-or-

Ernsarlinde Joachim
Witness

Maria Aguayo-Amador
Witness

By Jennifer Miranda, Contract Cordinator

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this 4th day of May, 2016 by Jennifer Miranda of
Name of Person
All Source Recruiting Group, DBA- Ardor Health Solutions, on behalf of the corporation/agency.
Name of Corporation or Agency

He/She ~~is personally known to me~~ or produced personally as identification and did/did not first take an oath.
Type of Identification

My Commission Expires:

2-10-2018

Signature – Notary Public

Greg Brusey
Printed Name of Notary

(SEAL)

FF091370
Notary's Commission No.

GREG E BRUSEY
MY COMMISSION #FF091370
EXPIRES February 10, 2018
(407) 398-0153 FloridaNotaryService.com

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service shall be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR must have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

ANN GOGAN
(hereinafter referred to as "VENDOR"),
whose principal place of business is
6240 Windlass Circle
Boynton Beach, Florida 33472

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 17, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

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First: This Agreement, then;
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Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
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2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for Licensed Physical Therapist Assistant (LPTA) at $45.00/hour. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-6217.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:	Superintendent of Schools The School Board of Broward County, Florida 600 S.E. 3rd. Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Ann Gogan 6240 Windlass Circle Boynton Beach, Florida 33472

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

ATTEST:

Robert W. Runcie, Superintendent of Schools

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman for the chair
Dr. Rosalind Osgood, Chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams
Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:11:34 -04'00'

Office of the General Counsel

FOR VENDOR

Witness

Witness

Signature

Ann Gogan

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by ANN GOGAN
Insert Name Here
who is personally known to me or who produced _____ as
Type of Identification
identification and who did/did not first take an oath this 04 day of MAY,
2016.

My Commission Expires: 08/01/2017

Signature – Notary Public

MONA LISA MAXEY
MY COMMISSION # FF041993
EXPIRES: August 01, 2017

(SEAL)

MONA LISA MAXEY
Notary's Printed Name

FF041993
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide a Licensed Physical Therapist Assistant (LPTA) in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide a current licensed LPTA under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

ASMA PROFESSIONAL SERVICES, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
17658 SW 28th Court
Miramar, Florida 33029

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 9, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP; and

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services rendered satisfactorily for Occupational Therapy services at $64.00/hour. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Subcontinent-Asian, with SBBC, Certificate #7007-6860.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:	Superintendent of Schools The School Board of Broward County, Florida 600 S.E. 3rd. Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Asma Lacewala, President ASMA Professional Services, Inc. 17658 SW 28th Court Miramar, Florida 33029

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to

SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.29 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman for the chair
Dr. Rosalind Osgood, Chair

ATTEST:

Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:12:32 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

ASMA PROFESSIONAL SERVICES, INC.

ATTEST:

By Asma Lacewala .

_____, Secretary

or

_____
Witness

_____
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 6th day of May, 2016 by Asma Lacewala (Name of Person) of Asma Professional Services Inc. (Name of Corporation or Agency), on behalf of the corporation/agency.

He/She is personally known to me or produced FL Driver's License (Type of Identification) as identification and did/did not first take an oath.

My Commission Expires:

_____
Signature – Notary Public

Sana Kazi
Printed Name of Notary

EE 862038
Notary's Commission No.

(SEAL)

SANA KAZI
Notary Public, State of Florida
Commission# EE 862038
My comm. expires Jan. 02, 2017

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

AUM ARTI PEDIATRIC THERAPY, LLC
(hereinafter referred to as "VENDOR"),
whose principal place of business is
4976 SW 38th Way
Fort Lauderdale, Florida 33312

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 11, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services.**

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $64.00/hour;
Certified Occupational Therapist Assistant (COTA) at $45.00/hr.;
Physical Therapist at $64.00/hr.; and
Licensed Physical Therapist Assistant at $45.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Subcontinent-Asian, with SBBC, Certificate #7007-6853.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:

Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Arti Dusara
AUM Arti Pediatric Therapy, LLC
4976 SW 38th Way
Fort Lauderdale, FL 33312

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized

in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

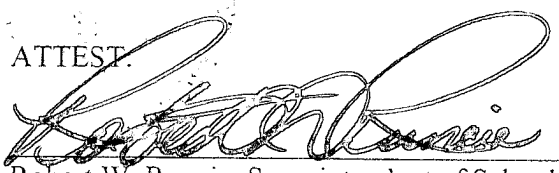
3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

ATTEST:



Robert W. Runcie, Superintendent of Schools

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman

Dr. Rosalind Osgood, Chair for the chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:13:54 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

AUM ARTI PEDIATRIC THERAPY, LLC

ATTEST:

By _____

_____, Secretary

-or-

_____
Witness

_____
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 6 day of May, 2016 by Arti Dusara of
Name of Person
Aum Arti Pediatric therapy, on behalf of the corporation/agency.
Name of Corporation or Agency

He/She is personally known to me or produced FL DL as identification and did/did not first take an oath.
Type of Identification

My Commission Expires:

_____
Signature – Notary Public

(SEAL) GUSTAVO ADOLFO TRUJILLO Notary Public, State of Florida Commission# FF 209421 My comm. expires Mar. 12, 2019

Gustavo A Trujillo
Printed Name of Notary

_____
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

AW THERAPY SERVICES, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
902 NE 1st Street, #9
Pompano Beach, Florida 33060

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 12, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $64.00/hour;
Certified Occupational Therapist Assistant (COTA) at $44.00/hr.;
Physical Therapist at $64.00/hr.; and
Licensed Physical Therapist Assistant at $44.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-6229. As consideration for being awarded this Agreement, VENDOR shall maintain CPR Training 2Go d/b/a CPRB2B #7007-6935 for CPR Training for health professionals, Marie M. Rosier, CPA #7007-7016 for business taxes and filing, and Innovative Software Solutions, Inc. #7007-6857 for computer/printer supplies at (100%) percent M/WBE participation for each participant in this Agreement.

VENDOR shall obtain prior written approval from the Coordinator of Supplier Diversity & Outreach Program for any replacement of any of the entities listed above. Utilizing any entity other than the ones listed, will be considered a breach of this Agreement; and VENDOR is subject to debarment and any other remedy available for any breaches to this Agreement.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:	Superintendent of Schools The School Board of Broward County, Florida 600 S.E. 3rd. Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Allison Weissman AW Therapy Services 902 NE 1st Street #9 Pompano Beach, FL 33030

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

ATTEST:

Robert W. Runcie, Superintendent of Schools

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman for the chair

Dr. Rosalind Osgood, Chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:14:37 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

AW THERAPY SERVICES, INC.

ATTEST:

By Allison Weissman

_____, Secretary

-or-

_____
Witness

_____
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF FL

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 6 day of May, 2016 by Allison Weissman of
Name of Person
AW Therapy Inc., on behalf of the corporation/agency.
Name of Corporation or Agency

He/She is personally known to me or produced _____ as identification and did/did not first take an oath.
Type of Identification

My Commission Expires:

_____
Signature – Notary Public

Christine M. Calcanes
Printed Name of Notary

(SEAL)

FF946881
Notary's Commission No.

CHRISTINE M. CALCANES
MY COMMISSION # FF 946881
EXPIRES: January 9, 2020
Bonded Thru Budget Notary Services

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

AUDREY B. GREENWALD, M.S., CCC, P.A.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
160 NW 4th Street
Boca Raton, Florida 33432

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 14, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services.**

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $60.00/hour;
Certified Occupational Therapist Assistant (COTA) at $45.00/hr.;
Physical Therapist at $60.00/hr.; and
Licensed Physical Therapist Assistant at $45.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate # 7007-6959.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Audrey B. Greenwald, M.S., CCC, P.A. d/b/a Boca Speech Center 160 NW 4th Street Boca Raton, Florida 33432
With a Copy to:	Nicole Ben-Hamo, M.S., CCC-SLP 160 NW 4th Street Boca Raton, Florida 33432

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems._ Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

ATTEST:

Robert W. Runcie, Superintendent of Schools

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman for the chair
Dr. Rosalind Osgood, Chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:13:08 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

ATTEST:

AUDREY B. GREENWALD, M.S., CCC, P.A.

By Audrey B Greenwald MSCCCPA

_____, Secretary

-or-

_____
Witness

Elaine Bastien
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 2 day of May, 2016 by Audrey Greenwald of
Name of Person
Audrey B Greenwald MS CCC PA, on behalf of the corporation/agency.
Name of Corporation or Agency
He/She is personally known to me or produced FL Drlic exp 4/6/19 as identification and did/did not first take an oath.
Type of Identification

My Commission Expires:

(SEAL)

CATHY MENTO
Notary Public, State of Florida
Commission# FF 85235
My comm. expires FEB. 13, 2018

_____
Signature – Notary Public

Cathy Mento.
Printed Name of Notary

FF 85235.
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR will then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

BEST ONSITE THERAPY SERVICES, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
18541 SW 43rd Street
Miramar, Florida 33029

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 15, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $64.00/hour;
Certified Occupational Therapist Assistant (COTA) at $42.00/hr.;
Physical Therapist at $64.00/hr.; and
Licensed Physical Therapist Assistant at $42.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Subcontinent-Asian, with SBBC, Certificate #7007-686013.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Dr. Elizabeth O. Morejon, OT, OTR/L, C-SIPT President Best Onsite Therapy Services, Inc. 18541 SW 43rd Street Miramar, Florida

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

FOR VENDOR

(Corporate Seal)

BEST ONSITE THERAPY SERVICES, INC.

ATTEST:

By Elizabeth O. Morejon, OTD, OTR/L - Elizabeth O. Morejon - President -

_____, Secretary

-or-

Witness Gena Foote

Witness adalberto Morejon

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Fl.

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 3rd day of May, 2016 by Elizabeth O. Morejon of
Name of Person
Best Onsite Therapy Services, on behalf of the corporation/agency.
Name of Corporation or Agency
He/She is personally known to me or produced DL as identification and did/did not first take an oath.
Type of Identification

My Commission Expires:

Signature – Notary Public

Sara C. Mederos
Printed Name of Notary

(SEAL)

F.F. 113148
Notary's Commission No.

SARA C. MEDEROS
Notary Public - State of Florida
My Comm. Expires Apr 15, 2018
Commission # FF 113148

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement. Awardees will be compensated for direct student services and student related activities only.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

BONNIE WEBERMAN, OTR/L
(hereinafter referred to as "VENDOR"),
whose principal place of business is
3900 North 48th Avenue
Hollywood, Florida 33021

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 12, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services rendered for Occupational Therapy services at $64.00/hour. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-3696.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC: Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Bonnie Weberman, OTR/L
3900 North 48th Avenue
Hollywood, Florida 33021

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems._ Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

ATTEST:

Robert W. Runcie, Superintendent of Schools

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman for the chair
Dr. Rosalind Osgood, Chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams
Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:15:53 -04'00'

Office of the General Counsel

FOR VENDOR

Witness

Witness

Signature

Bonnie Weberman, OTR/L

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me by Bonnie Weberman
Insert Name Here
who is personally known to me or who produced personally known as
Type of Identification
identification and who did/did not first take an oath this 4th day of May,
20 16.

My Commission Expires:

REGINA WOODS
MY COMMISSION # FF 223795
EXPIRES: August 22, 2019
Bonded Thru Notary Public Underwriters

(SEAL)

Signature – Notary Public

Regina Wood
Notary's Printed Name

FF 223795
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR may not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

C.E.S. THERAPY, LLC
(hereinafter referred to as "VENDOR"),
whose principal place of business is
951 SW 96th Avenue
Pembroke Pines, Florida 33025

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 15, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services rendered for Occupational Therapy services at $62.00/hour. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, African American, with SBBC, Certificate #7007-7149.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Charlette Emilien OTR/L
C.E.S. Therapy, LLC
951 SW 96th Avenue
Pembroke Pines, Florida 33025

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.29 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

ATTEST:

Robert W. Runcie, Superintendent of Schools

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman
Dr. Rosalind Osgood, Chair for the chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:16:55 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

C.E.S. THERAPY, LLC

ATTEST:

By _____

_____, Secretary

-or-

_____
Witness

_____
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 6 day of May, 2016 by Charlette Emilien of
Name of Person
C.E.S Therapy LLC, on behalf of the corporation/agency.
Name of Corporation or Agency

He/She is personally known to me or produced FL Drivers License. as identification and did/did not first take an oath.
Type of Identification

My Commission Expires: April 5 2019

_____
Signature - Notary Public

Yizrel Melendez
Printed Name of Notary

FF217259
Notary's Commission No.

(SEAL)

YIZREL MELENDEZ
Notary Public, State of Florida
Commission# FF 217259
My comm. expires April 5, 2019

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR must have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

CLK THERAPY, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
1321 SW 18th Street
Boca Raton, Florida 33486

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 19, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services rendered for Occupational Therapy services at $64.00/hour. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-6212.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC: Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Christina Weires, President
CLK Therapy, Inc.
1321 SW 18th Street
Boca Raton, Florida 33486

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

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3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

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3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

ATTEST:

Robert W. Runcie, Superintendent of Schools

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman for the chair

Dr. Rosalind Osgood, Chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:18:08 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

CLK THERAPY, INC.

ATTEST:

By _____

_____, Secretary

-or-

_____
Witness

_____
Witness

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me by Christina Weires
Insert Name Here
who is personally known to me or who produced Florida driver's license as
Type of Identification
identification and who did/did not first take an oath this 5 day of May,
2016.

My Commission Expires: 8/19/2017

_____
Signature – Notary Public

Andrea Bassa
Notary's Printed Name

(SEAL)

ANDREA B. BASSA
Notary Public - State of Florida
My Comm. Expires Aug 19, 2017
Commission # FF 046653
Bonded Through National Notary Assn.

FF 046653
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants must attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

COMMUNITY REHAB ASSOCIATES, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
3950 3rd Street North, Suite D
Saint Petersburg, Florida 33703

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 15, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $64.00/hour;
Certified Occupational Therapist Assistant (COTA) at $45.00/hr.;
Physical Therapist at $64.00/hr.; and
Licensed Physical Therapist Assistant at $45.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. As consideration for being awarded this Agreement, VENDOR shall maintain the following M/WBE participation with House of Promos, Inc., #7007-6445 at 100% providing promo materials for professional conventions or conferences to increase recruiting efforts; Taie, Inc. d/b/a Minutemen Press, #7007-6112 at 100% providing brochures to be distributed in marketing efforts to increase recruitment; and A Graphic Difference d/b/a Image360, #7007-6506 to provide graphic arts.

VENDOR shall obtain prior written approval from the Coordinator of Supplier Diversity & Outreach Program for any replacement of any of the entities listed above. Utilizing any entity other than the ones listed, will be considered a breach of this Agreement; and VENDOR is subject to debarment and any other remedy available for any breaches to this Agreement.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:	Superintendent of Schools The School Board of Broward County, Florida 600 S.E. 3rd. Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Deborah Scheble, Director of Therapy Services Community Rehab Associates, Inc. 3950 3rd Street North, Suite D St. Petersburg, Florida 33703

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

ATTEST:

Robert W. Runcie, Superintendent of Schools

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman for the chair
Dr. Rosalind Osgood, Chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams
Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 21:41:35 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

COMMUNITY REHAB ASSOCIATES, INC.

ATTEST:

S. Lithuina
, Secretary

-or-

By Kelly McDonnell

_____
Witness

_____
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Pinellas

The foregoing instrument was acknowledged before me this 4th day of May, 2016 by Kelly McDonnell (Name of Person) of Community Rehab Associates, Inc. (Name of Corporation or Agency), on behalf of the corporation/agency.

He/She is personally known to me or produced personally known to me (Type of Identification) as identification and did/did not first take an oath.

My Commission Expires: March 2, 2020

Heather Berberich
Signature – Notary Public

(SEAL)

HEATHER BERBERICH
Notary Public - State of Florida
Commission # FF 966921
My Comm. Expires Mar 2, 2020

Heather Berberich
Printed Name of Notary

FF 966921
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

COMPREHENSIVE THERAPY CONSULTANTS, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
3725 Jailette Road
College Park, Georgia 30349

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 19, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $61.00/hour;
Certified Occupational Therapist Assistant (COTA) at $41.00/hr.;
Physical Therapist at $61.00/hr.; and
Licensed Physical Therapist Assistant at $41.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, African American, with SBBC, Certificate #7007-7138.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	NeShanta Wilburn, CEO Comprehensive Therapy Consultants P.O. Box 310686 Atlanta, Georgia 31131

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems._ Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

ATTEST:

Robert W. Runcie, Superintendent of Schools

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman
Dr. Rosalind Osgood, Chair For the chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams
Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 21:42:19 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

COMPREHENSIVE THERAPY CONSULTANTS, INC.

ATTEST:

Meshanta Wilkins

, Secretary

-or-

By Meshanta Wilkins

_____

Witness

_____

Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Georgia

COUNTY OF Douglasville

The foregoing instrument was acknowledged before me this 4th day of May, 2016 by Meshanta D Wilkins (Name of Person) of Comprehensive Therapy Consultants (Name of Corporation or Agency), on behalf of the corporation/agency.

He/She is personally known to me or produced Drivers License exp 8/6/20 (Type of Identification) as identification and did/did not first take an oath.

My Commission Expires:

Signature – Notary Public

(SEAL)

CHRISTOPHER J KYLES NOTARY PUBLIC MY COMMISSION EXPIRES MARCH 28, 2020 DOUGLAS COUNTY, GEORGIA

Christopher J Kyles

Printed Name of Notary

03/28/2020

Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR will maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

DEBRA KIRBY, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
5038 Kensington Circle
Coral Springs, Florida 33076

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 19, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services.**

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $64.00/hour;
Certified Occupational Therapist Assistant (COTA) at $45.00/hr.;
Physical Therapist at $64.00/hr.; and
Licensed Physical Therapist Assistant at $45.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-3068-98.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Debra Kirby
Debra Kirby, Inc.
5038 Kensington Circle
Coral Springs, Florida 33076

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems._ Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman
Dr. Rosalind Osgood, Chair for the chair

ATTEST:

Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams
Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 21:42:52 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

DEBRA KIRBY, INC.

ATTEST:

By _____

_____, Secretary

-or-

_____

Witness Derek McDonnell

_____

Witness Sheena Willingham

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 5 day of May, 2016 by Debra Kirby of
Name of Person
Debra Kirby Inc, on behalf of the corporation/agency.
Name of Corporation or Agency
He/She is personally known to me or produced FLDL as identification and did/did not first take an oath.
Type of Identification

My Commission Expires:
Nov. 1, 2019

_____
Signature – Notary Public

Antonia Fontanazza
Printed Name of Notary

(SEAL)

ANTONIA FONTANAZZA
Notary Public, State of Florida
Commission# FF 916099
My comm. expires Nov. 1, 2019

FF 916099
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service shall be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR will complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR will maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

DENISE GOLDSTEIN, PTA, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
10902 NW 18th Place
Plantation, Florida 33322

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 18, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP; and

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Licensed Physical Therapist Assistant (LPTA) at $45.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-5546.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Denise Goldstein, PTA, Inc.
10902 NW 18th Place
Plantation, Florida 33322

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

ATTEST:

Robert W. Runcie, Superintendent of Schools

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman for the chair
Dr. Rosalind Osgood, Chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:40:50 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

DENISE GOLDSTEIN, PTA, INC.

ATTEST:

By Denise Goldstein

_____, Secretary

-or-

_____
Witness

_____
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 6th day of May, 2016 by Denise Goldstein of
Name of Person
Denise Goldstein PTA Inc, on behalf of the corporation/agency.
Name of Corporation or Agency

He/She is personally known to me or produced _____ as identification and did/did not first take an oath.
Type of Identification

My Commission Expires:

MATTHEW B. CERNY
MY COMMISSION #FF079748
EXPIRES December 29, 2017
(407) 398-0153 FloridaNotaryService.com

(SEAL)

_____
Signature – Notary Public

Matthew B. Cerny
Printed Name of Notary

FF079748
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide a Licensed Physical Therapist Assistant (LPTA) services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide a current LPTA under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

DIANA GONZALEZ
(hereinafter referred to as "VENDOR"),
whose principal place of business is
19265 NW 47th Place
Miami, Florida 33055

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 15, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services rendered for Occupational Therapy services at $64.00/hour. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Hispanic American, with SBBC, Certificate #7007-6220.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Diana Gonzalez
19265 NW 47th Place
Miami, Florida 33055

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

ATTEST:

Robert W. Runcie, Superintendent of Schools

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman for the chair
Dr. Rosalind Osgood, Chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams
Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:41:39 -04'00'

Office of the General Counsel

FOR VENDOR

Witness

Witness

Diana Gonzalez Signature

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me by Diana Gonzalez
Insert Name Here
who is personally known to me or who produced Florida Drive. license as
Type of Identification
identification and who did/did not first take an oath this 18 day of May,
20 16.

My Commission Expires: oct 17 2016

Signature – Notary Public

James G Pinto

Notary's Printed Name

(SEAL)

JAVIER G. PINTO
Notary Public, State of Florida
Commission # EE 844510
My comm. expires Oct. 17, 2016

EE 844510

Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational therapist under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. VENDOR will complete all appropriate documentation for Medicaid Reimbursement. Awardees will be compensated for direct student services and student related activities only.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

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12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

EDUCATIONAL THERAPY ASSOCIATES, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
10870 NW 73rd Court
Parkland, Florida 33076

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 4, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $64.00/hour;
Certified Occupational Therapist Assistant (COTA) at $45.00/hr.;
Physical Therapist at $64.00/hr.; and
Licensed Physical Therapist Assistant at $45.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-3081.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Educational Therapy Associates, Inc. 10870 NW 73rd Court Parkland, Florida 33076
With a Copy to:	Susan Hewlett, President 1113C Old Mobile Highway Lucedale, MS 39452

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

(Corporate Seal)

ATTEST:

Robert W. Runcie, Superintendent of Schools

FOR SBBC

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman for the chair
Dr. Rosalind Osgood, Chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:42:15 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

EDUCATIONAL THERAPY ASSOCIATES, INC.

ATTEST:

Deseree Hewlett
, Secretary

By Susan Hewlett

-or-

Witness

Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF MS

COUNTY OF George

The foregoing instrument was acknowledged before me this 3rd day of May, 2016 by Susan Hewlett of
Name of Person
Educational Therapy Associates, Inc., on behalf of the corporation/agency.
Name of Corporation or Agency
He/She is personally known to me or produced MS Drivers license as identification and did/did not first take an oath.
Type of Identification

My Commission Expires: 11/2/2018

(SEAL)

STATE OF MISSISSIPPI NOTARY PUBLIC ID # 110635 ASHLEIGH GIBSON Commission Expires Nov. 2, 2018 GEORGE COUNTY

Ashleigh Gibson
Signature – Notary Public

Ashleigh Gibson
Printed Name of Notary

110635
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

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17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

THE EXECU/SEARCH GROUP, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
675 Third Avenue, 5th Floor
New York, NY 10017

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 7, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $62.00/hour;
Certified Occupational Therapist Assistant (COTA) at $44.00/hr.;
Physical Therapist at $62.00/hr.; and
Licensed Physical Therapist Assistant at $44.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Commitment**. Throughout the term of the Agreement, VENDOR shall take commercially reasonable steps and use commercially reasonable resources to identify SBBC-certified M/WBE vendors who may be engaged to fulfill various aspects of the Agreement, including, for instance, without limitation, M/WBE vendors to provide office supplies, travel, printing, janitorial supplies/services, consulting services, trade services, installation and repair services, medical supplies, where feasible. VENDOR agrees to provide monthly reports and to conduct quarterly meetings with SBBC to discuss progress in meeting the SBBC's objectives regarding M/WBE participation, including dollars spent on M/WBE vendors for the quarter; and to continue to assess throughout the term of the Agreement new possibilities for M/WBE vendor participation suggested by SBBC. If at any time during the term the parties agree that it is reasonably feasible to include a specific dollar figure for M/WBE participation, the Agreement shall be amended to include the dollar participation objective.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:	Superintendent of Schools The School Board of Broward County, Florida 600 S.E. 3rd. Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Orly Benaderet The Execu/Search Group 675 Third Avenue, 5th Floor New York, NY 10017

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

ATTEST:

Robert W. Runcie, Superintendent of Schools

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman for the chair

Dr. Rosalind Osgood, Chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:42:50 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

THE EXECU/SEARCH GROUP, INC.

ATTEST:

By _____

_____, Secretary

-or-

_____
Witness

_____
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 16 day of May, 2016 by Jason Niad of
Name of Person
The Execu|search Group, on behalf of the corporation/agency.
Name of Corporation or Agency

He/She is personally known to me or produced FLDL as identification and did/did not first take an oath.
Type of Identification

My Commission Expires:

_____
Signature – Notary Public

(SEAL)

DOUGLAS A. BRZUCHALSKI
MY COMMISSION # FF 914492
EXPIRES: August 31, 2019
Bonded Thru Notary Public Underwriters

Douglas A Brzuchalski
Printed Name of Notary

FF914492
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

FUN THERAPY SERVICES INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
837 Heritage Drive
Weston, Florida 33326

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 11, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services rendered for Occupational Therapy services at $64.00/hour. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Subcontinent-Asian, with SBBC, Certificate #7007-6861.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:

Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Fun Therapy Services, Inc. Dawn Monteiro, OTR/L 837 Heritage Drive Weston, FL 33326

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman
Dr. Rosalind Osgood, Chair for the Chair

ATTEST:

Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams
Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:43:30 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

FUN THERAPY SERVICES, INC.

ATTEST:

By D Monteiro

_____, Secretary

-or-

Renee J. Potts
Witness

Viviana Alfonso
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 12th day of May, 2016 by Dawn M. Monteiro of
Name of Person
Fun Therapy Services, Inc., on behalf of the corporation/agency.
Name of Corporation or Agency
He/She is personally known to me or produced Florida Driver License as identification and did/did not first take an oath.
Type of Identification

My Commission Expires: July 7 2017

Signature Notary Public

(SEAL)

ALIZA DE LA ROSA
Notary Public, State of Florida
Commission # FF 34053
My comm. expires July 7, 2017

Aliza DeLaRosa
Printed Name of Notary

FF34053
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

HERITAGE HEALTHCARE, LLC
(hereinafter referred to as "VENDOR"),
whose principal place of business is
536 Old Howell Road
Greenville, South Carolina 29615

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 15, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

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1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

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Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $63.50/hour;
Certified Occupational Therapist Assistant (COTA) at $44.50/hr.;
Physical Therapist at $63.50/hr.; and
Licensed Physical Therapist Assistant at $44.50/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Commitment**. Throughout the term of the Agreement, VENDOR shall take commercially reasonable steps and use commercially reasonable resources to identify SBBC-certified M/WBE vendors who may be engaged to fulfill various aspects of the Agreement, including, for instance, without limitation, M/WBE vendors to provide office supplies, travel, printing, janitorial supplies/services, consulting services, trade services, installation and repair services, medical supplies, where feasible. VENDOR agrees to provide monthly reports and to conduct quarterly meetings with SBBC to discuss progress in meeting the SBBC's objectives regarding M/WBE participation, including dollars spent on M/WBE vendors for the quarter; and to continue to assess throughout the term of the Agreement new possibilities for M/WBE vendor participation suggested by SBBC. If at any time during the term the parties agree that it is reasonably feasible to include a specific dollar figure for M/WBE participation, the Agreement shall be amended to include the dollar participation objective.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:	Superintendent of Schools The School Board of Broward County, Florida 600 S.E. 3rd. Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Heritage Healthcare, Inc. 536 Old Howell Road Greenville, SC 19615
With a Copy to:	Liz Stafford Ajello, Director of Pediatric Services 536 Old Howell Road Greenville, SC 19615

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of

liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman
Dr. Rosalind Osgood, Chair for the Chair

ATTEST:

Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams
Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:44:02 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

HERITAGE HEALTHCARE, LLC

ATTEST:

By _____

_____, Secretary

-or-

Nikki Crawford
Witness

Frank S Cant
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF SC

COUNTY OF Greenville

The foregoing instrument was acknowledged before me this 5th day of May, 2016 by Don Tesner of
Name of Person
Heritage Healthcare, LLC, on behalf of the corporation/agency.
Name of Corporation or Agency

He/She is personally known to me or produced _____ as identification and did/did not first take an oath.
Type of Identification

My Commission Expires: 5/7/22

Signature – Notary Public

(SEAL)

BRENT DUNLAP NOTARY PUBLIC SOUTH CAROLINA MY COMM EXPIRES 05-07-2022

Brent Dunlap
Printed Name of Notary

N/A
Notary's Commission No.

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

INVO HEALTHCARE ASSOCIATES, LLC
(hereinafter referred to as "VENDOR"),
whose principal place of business is
1780 Kendarbren Drive
Jamison, Pennsylvania 18929

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 15, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $62.00/hour;
Certified Occupational Therapist Assistant (COTA) at $44.50/hr.;
Physical Therapist at $62.00/hr.; and
Licensed Physical Therapist Assistant at $44.50/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Commitment**. Throughout the term of the Agreement, VENDOR shall take commercially reasonable steps and use commercially reasonable resources to identify SBBC-certified M/WBE vendors who may be engaged to fulfill various aspects of the Agreement, including, for instance, without limitation, M/WBE vendors to provide office supplies, travel, printing, janitorial supplies/services, consulting services, trade services, installation and repair services, medical supplies, where feasible. VENDOR agrees to provide monthly reports and to conduct quarterly meetings with SBBC to discuss progress in meeting the SBBC's objectives regarding M/WBE participation, including dollars spent on M/WBE vendors for the quarter; and to continue to assess throughout the term of the Agreement new possibilities for M/WBE vendor participation suggested by SBBC. If at any time during the term the parties agree that it is reasonably feasible to include a specific dollar figure for M/WBE participation, the Agreement shall be amended to include the dollar participation objective.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this

Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:	Superintendent of Schools The School Board of Broward County, Florida 600 S.E. 3rd. Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Jason T. Ralph, COO Invo Healthcare Associates, LLC 1780 Kendarbren Drive Jamison, PA 18929

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

FOR VENDOR

(Corporate Seal)

INVO HEALTHCARE ASSOCIATES, LLC

ATTEST:

By _____

_____, Secretary

Jason T. Ralph, COO

-or-

Witness

Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Pennsylvania

COUNTY OF Bucks

The foregoing instrument was acknowledged before me this 2 day of May, 2016 by Jason T. Ralph (Name of Person) of INVO HealthCare associates (Name of Corporation or Agency), on behalf of the corporation/agency.

He/She is personally known to me or produced _____ as identification and did/did not first take an oath. (Type of Identification)

My Commission Expires:
February 22, 2020

Morgan Dooley
Signature – Notary Public

Morgan Dooley
Printed Name of Notary

(SEAL)

1239982
Notary's Commission No.

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
MORGAN DOOLEY, Notary Public
Warwick Township, Bucks County
My Commission Expires February 22, 2020

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

JEAN MARIE JASPERSE
(hereinafter referred to as "VENDOR"),
whose principal place of business is
11650 NW 19th Drive
Coral Springs, Florida 33071

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 17, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Physical Therapist at $64.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-6864.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC: Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Jean Marie Jasperse
11650 NW 19th Drive
Coral Springs, Florida 33071

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

(Corporate Seal)

FOR SBBC

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman for the chair
Dr. Rosalind Osgood, Chair

ATTEST:

Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams
Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:45:08 -04'00'

Office of the General Counsel

FOR VENDOR

B. Scott Everett B. Scott Everett
Witness

Jean Marie Jasperse
Signature

Scott P. Baker
Witness

Jean Marie Jasperse

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me by Jean Marie Jasperse
Insert Name Here
who is personally known to me or who produced Florida Driver License as
Type of Identification
identification and who did/did not first take an oath this 6th day of May,
20 16.

My Commission Expires: April 27, 2017

B Scott Everett
Signature – Notary Public

B. Scott Everett
Notary's Printed Name

(SEAL)

B SCOTT EVERETT
MY COMMISSION # EE867022
EXPIRES April 27, 2017
(407) 398-0153 FloridaNotaryService.com

EE867022
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed physical therapist under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR will report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR will be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

KAREN KOHLER FORTUNE
(hereinafter referred to as "VENDOR"),
whose principal place of business is
6181 Laurel Lane, Unit A
Tamarac, Florida 33319

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 16, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services rendered for Occupational Therapy services at $64.00/hour. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-7139.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Karen Kohler Fortune
6181 Laurel Lane, Unit A
Tamarac, FL 33319

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

(Corporate Seal)

ATTEST:

Robert W. Runcie, Superintendent of Schools

FOR SBBC

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman for the chair
Dr. Rosalind Osgood, Chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:45:43 -04'00'

Office of the General Counsel

FOR VENDOR

Witness

Witness

Signature

Karen Kohler Fortune

STATE OF Florida

COUNTY OF Brevard

The foregoing instrument was acknowledged before me by Karen K Fortune
Insert Name Here
who is personally known to me or who produced FL F635511747260 as
Type of Identification
identification and who did/did not first take an oath this 5 day of May,

2016.

My Commission Expires:

Signature – Notary Public

Melody A Cassanova-Brooks

Notary's Printed Name

(SEAL)

FF170173

Notary's Commission No.

Melody A. Cassanova-Brooks
Notary Public
State of Florida
My Commission Expires 10/20/2018
Commission No. FF 170173

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide a current licensed occupational therapist under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

KIDABILITIES, LLC
(hereinafter referred to as "VENDOR"),
whose principal place of business is
7451 Wiles Road, Suite 203
Coral Springs, Florida 33067

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 13, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services.**

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $63.00/hour;
Certified Occupational Therapist Assistant (COTA) at $44.50/hr.; and
Physical Therapist at $63.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-6001.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Kidabilities, LLC
Fran Stein
7451 Wiles Road, Suite 203
Coral Springs, FL 33067

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

(Corporate Seal)

ATTEST:

Robert W. Runcie, Superintendent of Schools

FOR SBBC

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman for the chair
Dr. Rosalind Osgood, Chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 21:43:24 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

KIDABILITIES, LLC

ATTEST:

By _____

_____, Secretary

-or-

_____
Witness

_____
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF New Jersey

COUNTY OF Camden

The foregoing instrument was acknowledged before me this 9 day of May, 2016 by Fran Schachter Stein of
Name of Person
Kidabilities LLC, on behalf of the corporation/agency.
Name of Corporation or Agency

He/She is personally known to me or produced NJ Drivers License as identification and did/did not first take an oath.
Type of Identification

My Commission Expires:

ALLISON B PHONGSYMAY
Notary Public
(SEAL) State of New Jersey
My Commission Expires Oct 2, 2020

_____
Signature – Notary Public

Allison Phongsymay
Printed Name of Notary

50024447
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

KIDS EDUCATIONAL THERAPY SERVICES INC
(hereinafter referred to as "VENDOR"),
whose principal place of business is
400 NE 30th Street
Wilton Manors, Florida 33334

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 9, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $64.00/hour;
Certified Occupational Therapist Assistant (COTA) at $43.00/hr.;
Physical Therapist at $64.00/hr.; and
Licensed Physical Therapist Assistant at $43.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-6836.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC: Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Kelli Furton, President
Kids Educational Therapy Services Inc
400 NE 30th Street
Wilton Manors, FL 33334

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

(Corporate Seal)

FOR SBBC

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman
Dr. Rosalind Osgood, Chair for the chair

ATTEST:

Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams
Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 21:43:57 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

KIDS EDUCATIONAL THERAPY SERVICES INC

ATTEST:

By _____

_____, Secretary

-or-

_____
Witness

_____
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 5th day of May, 2016 by Kelli Furton (Name of Person) of Kids Educational Therapy Services (Name of Corporation or Agency), on behalf of the corporation/agency.

He/She is personally known to me or produced - known (Type of Identification) as identification and did/did not first take an oath.

My Commission Expires: 1/29/19

_____
Signature – Notary Public

(SEAL)

LORI J. GOLDSMITH COMMISSION NUMBER FF194511 EXPIRES Jan. 29, 2019 AARON NOTARY.COM Notary Public State of Florida

Lori Goldsmith
Printed Name of Notary

FF 194511
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR shall receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

KIDS FIRST OCCUPCATIONAL THERAPY, LLC
(hereinafter referred to as "VENDOR"),
whose principal place of business is
3233 NE 32nd Avenue
Fort Lauderdale, Florida 33308

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 19, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $64.00/hour;
Certified Occupational Therapist Assistant (COTA) at $45.00/hr.;
Physical Therapist at $64.00/hr.; and
Licensed Physical Therapist Assistant at $45.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-6219.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Lori A. Henricksen, MS, OTR/L-BCP Kids First Occupational Therapy, LLC P.O. Box 100121 Fort Lauderdale, Florida 33310

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

(Corporate Seal)

ATTEST:

Robert W. Runcie, Superintendent of Schools

FOR SBBC

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman
Dr. Rosalind Osgood, Chair FA the chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams
Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 13:22:00 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

KIDS FIRST OCCUPATIONAL THERAPY, LLC

ATTEST:

By Lori Hendrickson MSOTR/L BCP

, Secretary

-or-

Witness

Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 20 day of May, 2016 by Lori Anne Hendrickson Henrickson of
Name of Person
Kids First Occupational Therapy, LLC, on behalf of the corporation/agency.
Name of Corporation or Agency
He/She is personally known to me or produced Florida Drivers License as identification and did/did not first take an oath.
Type of Identification

My Commission Expires:
4/15/17

Signature – Notary Public

Eric Reyes
Printed Name of Notary

(SEAL)

ERIC P REYES
Notary Public - State of Florida
My Comm. Expires Apr 15, 2017
Commission # EE 879510

EE 879510
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR will report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR will be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR will complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

LJAFFE PLLC
(hereinafter referred to as "VENDOR"),
whose principal place of business is
6605 NW 75th Place
Parkland, Florida 33067

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 14, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services rendered for:

Occupational Therapy services at $64.00/hour;
Certified Occupational Therapist Assistant (COTA) at $45.00/hr.;
Physical Therapist at $64.00/hr.; and
Licensed Physical Therapist Assistant at $45.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-6858.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:

Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Leigh Jaffe, PLLC
LJaffe, PLLC
6605 NW 75th Place
Parkland, FL 33067

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

FOR VENDOR

(Corporate Seal)

LJAFFE PLLC

ATTEST:

By _____
Leigh Ann Jaffe

_____, Secretary

-or-

_____
Witness

_____
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 13 day of MAY, 2016 by LEIGH ANN JAFFE of
Name of Person
LJAFFE PLLC, on behalf of the corporation/agency.
Name of Corporation or Agency

He/She is personally known to me or produced FLORIDA DRIVER LICENSE as identification and did/did not first take an oath.
Type of Identification

My Commission Expires: 11/11/16

_____
Signature – Notary Public

JORGE BERTRAND
Printed Name of Notary

EE 844534
Notary's Commission No.

(SEAL)

JORGE BERTRAND
Notary Public - State of Florida
My Comm. Expires Nov 11, 2016
Commission # EE 844534
Bonded Through National Notary Assn.

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

MARIA J. ENLOW
(hereinafter referred to as "VENDOR"),
whose principal place of business is
9411 NW 1st Street
Coral Springs, Florida 33071

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 18, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services rendered for Occupational Therapy services at $64.00/hour. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-6854.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:

Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Maria J. Enlow
9411 NW 1st Street
Coral Springs, FL 33071

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

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3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

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3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman
Dr. Rosalind Osgood, Chair As the chair

ATTEST:

Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams
Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 21:45:16 -04'00'

Office of the General Counsel

FOR VENDOR

Michael Metallo
Witness

Maria Enlow
Signature

Kendra Enlow
Witness

Maria J. Enlow

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me by Maria Enlow
Insert Name Here
who is personally known to me or who produced _____ as
Type of Identification
identification and who did/did not first take an oath this 10th day of May,
2016.

My Commission Expires: June 1, 2017

Signature – Notary Public

Richard D. Colbacchini
Notary's Printed Name

(SEAL)

FF 003822
Notary's Commission No.

RICHARD D. COLBACCHINI
Notary Public - State of Florida
My Comm. Expires Jun 1, 2017
Commission # FF 003822

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide a current licensed occupational therapist under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

MICHAEL SALPETER
(hereinafter referred to as "VENDOR"),
whose principal place of business is
22861 Chelsea Wood Court
Boca Raton, Florida 33433

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 8, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services rendered for Occupational Therapy services at $64.00/hour. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Commitment**. Throughout the term of the Agreement, VENDOR shall take commercially reasonable steps and use commercially reasonable resources to identify SBBC-certified M/WBE vendors who may be engaged to fulfill various aspects of the Agreement, including, for instance, without limitation, M/WBE vendors to provide office supplies, travel, printing, janitorial supplies/services, consulting services, trade services, installation and repair services, medical supplies, where feasible. VENDOR agrees to provide monthly reports and to conduct quarterly meetings with SBBC to discuss progress in meeting the SBBC's objectives regarding M/WBE participation, including dollars spent on M/WBE vendors for the quarter; and to continue to assess throughout the term of the Agreement new possibilities for M/WBE vendor participation suggested by SBBC. If at any time during the term the parties agree that it is reasonably feasible to include a specific dollar figure for M/WBE participation, the Agreement shall be amended to include the dollar participation objective.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:	Superintendent of Schools The School Board of Broward County, Florida 600 S.E. 3rd. Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Michael Salpeter 22861 Chesla Wood Court Boca Raton, FL 33433

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

(Corporate Seal)

ATTEST:

Robert W. Runcie, Superintendent of Schools

FOR SBBC

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman for the chair
Dr. Rosalind Osgood, Chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams
Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 21:45:47 -04'00'

Office of the General Counsel

FOR VENDOR

Andrea Burnes
Witness

Signature

Witness

Michael Salpeter

STATE OF Florida

COUNTY OF Broward.

The foregoing instrument was acknowledged before me by Michael Sal Peter
Insert Name Here
who is personally known to me or who produced _____ as
Type of Identification
identification and who did/did not first take an oath this 12th day of May,
20 16.

My Commission Expires:
4/24/17

(SEAL)

WILMA L. BROOKS
MY COMMISSION # EE 873359
EXPIRES: April 24, 2017
Bonded Thru Notary Public Underwriters

Signature – Notary Public

Wilma L. Brooks
Notary's Printed Name

EE 873359
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide a current licensed occupational therapist under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities, only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

MYTHERAPYCOMPANY LLC
(hereinafter referred to as "VENDOR"),
whose principal place of business is
207 Canyon Boulevard, Suite 202
Boulder, Colorado 80302

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 12, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $61.20/hour;
Certified Occupational Therapist Assistant (COTA) at $44.20/hr.;
Physical Therapist at $61.20/hr.; and
Licensed Physical Therapist Assistant at $44.20/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Commitment**. Throughout the term of the Agreement, VENDOR shall take commercially reasonable steps and use commercially reasonable resources to identify SBBC-certified M/WBE vendors who may be engaged to fulfill various aspects of the Agreement, including, for instance, without limitation, M/WBE vendors to provide office supplies, travel, printing, janitorial supplies/services, consulting services, trade services, installation and repair services, medical supplies, where feasible. VENDOR agrees to provide monthly reports and to conduct quarterly meetings with SBBC to discuss progress in meeting the SBBC's objectives regarding M/WBE participation, including dollars spent on M/WBE vendors for the quarter; and to continue to assess throughout the term of the Agreement new possibilities for M/WBE vendor participation suggested by SBBC. If at any time during the term the parties agree that it is reasonably feasible to include a specific dollar figure for M/WBE participation, the Agreement shall be amended to include the dollar participation objective.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:	Superintendent of Schools The School Board of Broward County, Florida 600 S.E. 3rd. Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	MyTherapyCompany, LLC Attn: Michael McBurnie 207 W. Canyon Blvd., Suite 202 Boulder, CO 80302
With a Copy to:	MyTherapyCompany, LLC Attn: Laurie McCloskey 1297 Panorama Ridge Road Oceanside, CA 92056

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable

cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems._ Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by

or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

(Corporate Seal)

FOR SBBC

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman
Dr. Rosalind Osgood, Chair For the Chair

ATTEST:

Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams
Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 21:46:20 -04'00'

Office of the General Counsel

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

OT TIME, LLC
(hereinafter referred to as "VENDOR"),
whose principal place of business is
21396 Marina Cove Circle, J16
Aventura, Florida 33180

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 9, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $64.00/hour; and
Physical Therapist at $64.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-6895.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Jennifer Avidan
OT Time, LLC
21396 Marina Cove Circle, Unit J16
Aventura, Florida 33180

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

(Corporate Seal)

FOR SBBC

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By _____
Dr. Rosalind Osgood, Chair

ATTEST:

_____
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 21:46:57 -04'00'

_____
Office of the General Counsel

FOR VENDOR

(Corporate Seal)

OT TIME, LLC

ATTEST:

By Jennifer Avidan

_____, Secretary

-or-

_____
Witness

_____
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me this 6th day of May, 2016 by Jennifer Avidan (Name of Person) of OT Time, LLC (Name of Corporation or Agency), on behalf of the corporation/agency.

He/She is personally known to me or produced Florida Driver License (Type of Identification) as identification and did/did not first take an oath.

My Commission Expires:

MARIANGELA ZAVALA
Notary Public - State of Florida
My Comm. Expires Mar 5, 2017
Commission # EE 881251
Bonded Through National Notary Assn.

(SEAL)

Mariangela Zavala
Signature ~~- Notary Public~~

Mariangela Zavala
Printed Name of Notary

EE881251
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

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4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

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6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

PED & GERI REHAB, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
7756 NW 60th Lane
Parkland, Florida 33067

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 15, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services rendered for:

Occupational Therapy services at $64.00/hour;
Certified Occupational Therapist Assistant (COTA) at $45.00/hr.;
Physical Therapist at $64.00/hr.; and
Licensed Physical Therapist Assistant at $45.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-6609.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Eileen Gurr
Ped & Geri Rehab, Inc.
7756 NW 60th Lane
Parkland, FL 33067

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this

Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

ATTEST:

Robert W. Runcie, Superintendent of Schools

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman for the chair
Dr. Rosalind Osgood, Chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 21:47:36 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

PED & GERI REHAB, INC.

ATTEST:

By Eileen Gurr

_____, Secretary

-or-

_____
Witness

_____
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 6th day of May, 2016 by Eileen Gurr of
Name of Person
Ped & Geri Rehab, Inc., on behalf of the corporation/agency.
Name of Corporation or Agency
He/She is personally known to me or produced _____ as identification and did/did not first take an oath.
Type of Identification

My Commission Expires:

Charlene M. Walbroehl
Signature – Notary Public

Charlene M. Walbroehl
Printed Name of Notary

(SEAL)

CHARLENE M. WALBROEHL
MY COMMISSION # EE 179184
EXPIRES: July 14, 2016
Bonded Thru Budget Notary Services

Notary's Commission No.:

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

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17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

PEDIATRIC OT, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
3590 NW 84th Way
Cooper City, Florida 33024

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 15, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services.**

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $64.00/hour; and
Certified Occupational Therapist Assistant (COTA) at $45.00/hr.;

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Hispanic American, with SBBC, Certificate #7007-7140.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:

Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Cristina Ramirez
Pediatric OT, Inc.
3590 NW 84th Way
Cooper City, FL 33024

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems._ Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

ATTEST:

Robert W. Runcie, Superintendent of Schools

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman for the Chair
Dr. Rosalind Osgood, Chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams
Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 13:02:18 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

PEDIATRIC OT, INC.

ATTEST:

By Cristina Ramirez
Cristina Ramirez

_____, Secretary

-or-

Witness

Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 3RD day of May, 2016 by CRISTINA RAMIREZ of
Name of Person
PEDIATRIC OT, INC, on behalf of the corporation/agency.
Name of Corporation or Agency

He/She is personally known to me or produced _____ as identification and did/did not first take an oath.
Type of Identification

My Commission Expires:

PAMELA K. BATES
Notary Public - State of Florida
Commission # FF 925532
My Comm. Expires Jan 25, 2020
Bonded through National Notary Assn.

(SEAL)

Signature – Notary Public

PAMELA K. BATES
Printed Name of Notary

FF925532
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

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21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

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AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

PHYSICAL THERAPY FOR KIDS WITH SPECIAL NEEDS, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
5023 S.W. 90th Avenue
Cooper City, Florida 33328

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 15, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

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1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

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First: This Agreement, then;
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Third: Addendum No. 1, then;
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Occupational Therapy services at $64.00/hour;
Certified Occupational Therapist Assistant (COTA) at $45.00/hr.;
Physical Therapist at $64.00/hr.; and
Licensed Physical Therapist Assistant at $45.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-2533.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC: Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Debra Talmadge, President
Physical Therapy for Kids with Special Needs, Inc.
P.O. Box 291795
Davie, FL 33329

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC

employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

ATTEST:

Robert W. Runcie, Superintendent of Schools

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman for the chair
Dr. Rosalind Osgood, Chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams
Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 13:02:49 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

PHYSICAL THERAPY FOR KIDS WITH SPECIAL NEEDS, INC.

ATTEST:

By _____

_____, Secretary

-or-

_____
Witness

_____
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 5 day of May, 2016 by Debra Talmadge (Name of Person) of Physical Therapy for Kids (Name of Corporation or Agency), on behalf of the corporation/agency.

He/She is personally known to me or produced Florida Drivers license (Type of Identification) as identification and did/did not first take an oath.

My Commission Expires:

Randi Lynn Morales
Signature – Notary Public

(SEAL)

Randi Lynn Morales
Printed Name of Notary

_____
Notary's Commission No.

Notary Public State of Florida
Randi Lynn Morales
My Commission FF 947865
Expires 01/24/2020

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants must attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

PLAY-N-PROGRESS THERAPY SERVICES, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
2438 Taft Street
Hollywood, Florida 33020

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 17, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $64.00/hour;
Certified Occupational Therapist Assistant (COTA) at $45.00/hr.;
Physical Therapist at $64.00/hr.; and
Licensed Physical Therapist Assistant at $45.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Hispanic American, with SBBC, Certificate #7007-6863.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Camille Arevalo
Play-N-Progress Therapy Services, Inc.
2438 Taft Street
Hollywood, FL 33020

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC

employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

ATTEST:

Robert W. Runcie, Superintendent of Schools

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman
Dr. Rosalind Osgood, Chair for the chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams
Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 13:23:59 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

ATTEST:

PLAY-N-PROGRESS THERAPY SERVICES, INC.

By _____

_____, Secretary

-or-

_____
Witness

_____
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 23rd day of May, 2016 by Camille Arevalo of
Name of Person
Play-N-Progress Therapy Svcs, Inc, on behalf of the corporation/agency.
Name of Corporation or Agency

He/She is personally known to me or produced _____ as identification and did/did not first take an oath.
Type of Identification

My Commission Expires:

Kathleen L. O'Brien
Signature – Notary Public

Kathleen L. O'Brien
Printed Name of Notary

(SEAL)

1-16-2017
Notary's Commission No.

KATHLEEN L O'BRIEN
MY COMMISSION # EE 859024
EXPIRES: January 16, 2017
Bonded Thru Notary Public Underwriters

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

PRIME HEALTHCARE STAFFING, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
27240 Haggerty Road, Suite E-15
Farmington Hills, Michigan 48331

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 15, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $61.00/hour;
Certified Occupational Therapist Assistant (COTA) at $40.00/hr.;
Physical Therapist at $61.00/hr.; and
Licensed Physical Therapist Assistant at $40.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Commitment**. Throughout the term of the Agreement, VENDOR shall take commercially reasonable steps and use commercially reasonable resources to identify SBBC-certified M/WBE vendors who may be engaged to fulfill various aspects of the Agreement, including, for instance, without limitation, M/WBE vendors to provide office supplies, travel, printing, janitorial supplies/services, consulting services, trade services, installation and repair services, medical supplies, where feasible. VENDOR agrees to provide monthly reports and to conduct quarterly meetings with SBBC to discuss progress in meeting the SBBC's objectives regarding M/WBE participation, including dollars spent on M/WBE vendors for the quarter; and to continue to assess throughout the term of the Agreement new possibilities for M/WBE vendor participation suggested by SBBC. If at any time during the term the parties agree that it is reasonably feasible to include a specific dollar figure for M/WBE participation, the Agreement shall be amended to include the dollar participation objective.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice.** When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:	Superintendent of Schools The School Board of Broward County, Florida 600 S.E. 3rd. Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Elizabeth Rozelle, President Prime HealthCare Staffing, Inc. 27240 Haggerty Road, Suite E-15 Farmington Hills, Michigan 48331

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems._ Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

(Corporate Seal)

FOR SBBC

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman
Dr. Rosalind Osgood, Chair For the chair

ATTEST:

Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams
Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 13:03:17 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

PRIME HEALTHCARE STAFFING, INC.

ATTEST:

By Elizabeth Rozelle

_____, Secretary

-or-

Witness

Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF MICHIGAN

COUNTY OF WAYNE

The foregoing instrument was acknowledged before me this 3RD day of MAY, 2016 by ELIZABETH ROZELLE (Name of Person) of PRIME HEALTHCARE STAFFING, INC (Name of Corporation or Agency), on behalf of the corporation/agency.

He/She is personally known to me or produced DRIVER'S LICENSE (Type of Identification) as identification and did/did not first take an oath.

My Commission Expires: 10.28.18

(SEAL)

PERICLES LOUIS CHIATALAS
NOTARY PUBLIC
STATE OF MICHIGAN
COUNTY OF WAYNE
My Commission Expires 10/28/2018

Signature – Notary Public

PERICLES LOUIS CHIATALAS

Printed Name of Notary

N/A

Notary's Commission No.

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

PRO-TECH SEARCH, INC. OF FLORIDA
(hereinafter referred to as "VENDOR"),
whose principal place of business is
9948 SE Oak Tree Terrace
Jupiter, Florida 33469

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 13, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services rendered for:

Occupational Therapy services at $64.00/hour;
Certified Occupational Therapist Assistant (COTA) at $45.00/hr.;
Physical Therapist at $64.00/hr.; and
Licensed Physical Therapist Assistant at $45.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Commitment**. Throughout the term of the Agreement, VENDOR shall take commercially reasonable steps and use commercially reasonable resources to identify SBBC-certified M/WBE vendors who may be engaged to fulfill various aspects of the Agreement, including, for instance, without limitation, M/WBE vendors to provide office supplies, travel, printing, janitorial supplies/services, consulting services, trade services, installation and repair services, medical supplies, where feasible. VENDOR agrees to provide monthly reports and to conduct quarterly meetings with SBBC to discuss progress in meeting the SBBC's objectives regarding M/WBE participation, including dollars spent on M/WBE vendors for the quarter; and to continue to assess throughout the term of the Agreement new possibilities for M/WBE vendor participation suggested by SBBC. If at any time during the term the parties agree that it is reasonably feasible to include a specific dollar figure for M/WBE participation, the Agreement shall be amended to include the dollar participation objective.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:	Superintendent of Schools The School Board of Broward County, Florida 600 S.E. 3rd. Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Pro-Tech Search, Inc. of Florida 9948 SE Oak Tree Terrace Jupiter, FL 33469
With a Copy to:	Rick McCrary, Director of Healthcare Staffing Pro-Tech Search, Inc. of Florida P.O. Box 1792 Welcome, North Carolina 27374

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds.** Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records.** Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or

become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

(Corporate Seal)

FOR SBBC

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman
Dr. Rosalind Osgood, Chair for the chair

ATTEST:

Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 13:03:50 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

PRO-TECH SEARCH, INC. OF FLORIDA

ATTEST:

By Rick McCrary

Carole Mize
, Secretary

-or-

Witness

Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF North Carolina

COUNTY OF Davidson

The foregoing instrument was acknowledged before me this 12th day of May, 2016 by Rick McCrary of
Name of Person
Pro-Tech Search Inc. of Florida, on behalf of the corporation/agency.
Name of Corporation or Agency
He/She is personally known to me or produced Driver License as identification and did/did not first take an oath.
Type of Identification

My Commission Expires: 04/28/2019

Signature – Notary Public

JOHNNA M CROTTS
Printed Name of Notary

Notary's Commission No.

(SEAL)

JOANNA M CROTTS NOTARY PUBLIC DAVIDSON COUNTY, NC

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

PROGRESSUS THERAPY, LLC
(hereinafter referred to as "VENDOR"),
whose principal place of business is
2701 N. Rocky Point Drive, Suite 650
Tampa, Florida 33067

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 15, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $63.50/hour;
Certified Occupational Therapist Assistant (COTA) at $45.00/hr.;
Physical Therapist at $63.50/hr.; and
Licensed Physical Therapist Assistant at $45.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Commitment**. Throughout the term of the Agreement, VENDOR shall take commercially reasonable steps and use commercially reasonable resources to identify SBBC-certified M/WBE vendors who may be engaged to fulfill various aspects of the Agreement, including, for instance, without limitation, M/WBE vendors to provide office supplies, travel, printing, janitorial supplies/services, consulting services, trade services, installation and repair services, medical supplies, where feasible. VENDOR agrees to provide monthly reports and to conduct quarterly meetings with SBBC to discuss progress in meeting the SBBC's objectives regarding M/WBE participation, including dollars spent on M/WBE vendors for the quarter; and to continue to assess throughout the term of the Agreement new possibilities for M/WBE vendor participation suggested by SBBC. If at any time during the term the parties agree that it is reasonably feasible to include a specific dollar figure for M/WBE participation, the Agreement shall be amended to include the dollar participation objective.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:	Superintendent of Schools The School Board of Broward County, Florida 600 S.E. 3rd. Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	President and CEO Progressus Therapy, LLC 2701 N. Rocky Point Drive, Suite 650 Tampa, Florida 33607
With a Copy to:	Contracts and Proposals Manager Progressus Therapy, LLC 2701 N. Rocky Point Drive, Suite 650 Tampa, Florida 33607

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems._ Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman
Dr. Rosalind Osgood, Chair for the chair

ATTEST:

Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams
Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 13:23:00 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

ATTEST:

PROGRESSUS THERAPY, LLC

By _____, CEO

_____, Secretary

-or-

_____
Witness

_____
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Pennsylvania

COUNTY OF Bucks

The foregoing instrument was acknowledged before me this 12 day of May, 2016 by Jason T. Ralph (Name of Person) of Progressus Therapy LLC (Name of Corporation or Agency), on behalf of the corporation/agency.

He/She is personally known to me or produced _____ (Type of Identification) as identification and did/did not first take an oath.

My Commission Expires:

Morgan Dooley
Signature – Notary Public

(SEAL)

Morgan Dooley
Printed Name of Notary

1239982
Notary's Commission No.

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
MORGAN DOOLEY, Notary Public
Warwick Township, Bucks County
My Commission Expires February 22, 2020

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

SCHOOL DAYS THERAPY SERVICES, LLC
(hereinafter referred to as "VENDOR"),
whose principal place of business is
5088 Alencia Court
Delray Beach, Florida 33484

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 16, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $64.00/hour;
Certified Occupational Therapist Assistant (COTA) at $45.00/hr.;
Physical Therapist at $64.00/hr.; and
Licensed Physical Therapist Assistant at $45.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-6855.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	School Days Therapy Services, LLC Attn: Lisa Shindore Taormina, Owner 5088 Alencia Court Delray Beach, Florida 33484
With a Copy to:	Justin N. Shindore, Esq. Registered Agent & Legal Counsel 100 S. Ashley Drive, Suite 1900 Tampa, Florida 33602

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems._ Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

ATTEST:

Robert W. Runcie, Superintendent of Schools

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman
Dr. Rosalind Osgood, Chair
For the Chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams
Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 13:23:29 -04'00'

Office of the General Counsel

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR will complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

S.M.I.L.E. OCCUPATIONAL THERAPY, INC
(hereinafter referred to as "VENDOR"),
whose principal place of business is
11902 SW 47th Court
Cooper City, Florida 33330

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 1, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $63.00/hour;
Certified Occupational Therapist Assistant (COTA) at $41.00/hr.;
Physical Therapist at $63.00/hr.; and
Licensed Physical Therapist Assistant at $41.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-6304.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Vikki Goettert, OTR/L, President
S.M.I.L.E Occupational Therapy, Inc
11902 SW 47th Court
Cooper City, Florida 33330

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC

employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems._ Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman
Dr. Rosalind Osgood, Chair fa the chair

ATTEST:

Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams
Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 13:04:20 -04'00'

Office of the General Counsel

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

SMITH & FLEMING, LLC
(hereinafter referred to as "VENDOR"),
whose principal place of business is
505 North Park Avenue, Suite 209
Winter Park, Florida 32789

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated December 30, 2015 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $64.00/hour;
Certified Occupational Therapist Assistant (COTA) at $43.00/hr.;
Physical Therapist at $64.00/hr.; and
Licensed Physical Therapist Assistant at $43.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Hispanic American, with SBBC, Certificate #7007-6883.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:

Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Mardly R. Perez-Smith
Smith & Fleming, LLC
505 N. Park Avenue, Suite 209
Winter Park, FL 32789

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor.** The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC

employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

ATTEST:

Robert W. Runcie, Superintendent of Schools

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman
Dr. Rosalind Osgood, Chair
for the chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams
Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 13:04:51 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

ATTEST:

SMITH & FLEMING, LLC

By _____

_____, Secretary

-or-

_____
Witness

_____
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Orange

The foregoing instrument was acknowledged before me this 3 day of May, 2016 by Mardly Smith of Smith & Fleming, on behalf of the corporation/agency.

Name of Person

Name of Corporation or Agency

He/She is personally known to me or produced Driver's License as identification and did/did not first take an oath.

Type of Identification

My Commission Expires: 2/10/20

_____
Signature – Notary Public

(SEAL)

ASHLEY ZAYAS
MY COMMISSION # FF959600
EXPIRES: February 10, 2020

Ashley Zayas
Printed Name of Notary

FF959600
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

S.N.N. THERPAY PROVIDERS, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
1421 W. Fairway Road
Pembroke Pines, Florida 33026

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 15, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services rendered for Occupational Therapy services at $64.00/hour. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Commitment**. Throughout the term of the Agreement, VENDOR shall take commercially reasonable steps and use commercially reasonable resources to identify SBBC-certified M/WBE vendors who may be engaged to fulfill various aspects of the Agreement, including, for instance, without limitation, M/WBE vendors to provide office supplies, travel, printing, janitorial supplies/services, consulting services, trade services, installation and repair services, medical supplies, where feasible. VENDOR agrees to provide monthly reports and to conduct quarterly meetings with SBBC to discuss progress in meeting the SBBC's objectives regarding M/WBE participation, including dollars spent on M/WBE vendors for the quarter; and to continue to assess throughout the term of the Agreement new possibilities for M/WBE vendor participation suggested by SBBC. If at any time during the term the parties agree that it is reasonably feasible to include a specific dollar figure for M/WBE participation, the Agreement shall be amended to include the dollar participation objective.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:	Superintendent of Schools The School Board of Broward County, Florida 600 S.E. 3rd. Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Susana N. Nappi S.N.N. Therapy Providers, Inc. 1421 N. Fairway Road Pembroke Pines, FL 33026

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or

become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

ATTEST:

Robert W. Runcie, Superintendent of Schools

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman for the chair
Dr. Rosalind Osgood, Chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 13:05:24 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

ATTEST:

S.N.N. THERPAY PROVIDERS, INC.

By Susana N. Nappi

_____, Secretary

-or-

K. Shell
Witness

Lily Suarez
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 10th day of May, 2016 by Susana N. Nappi, President (Name of Person) of SNN Therapy Providers, Inc. (Name of Corporation or Agency), on behalf of the corporation/agency.

He/She is personally known to me or produced Florida Driver License (Type of Identification) as identification and did/did not first take an oath.

My Commission Expires:

RENEE L. SMITH
Notary Public - State of Florida
My Comm. Expires Sep 2, 2017
Commission # FF 050252
Bonded Through National Notary Assn.

Renee L. Smith
Signature – Notary Public

Renee L. Smith
Printed Name of Notary

FF 050252
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

SOLUTIONS FOR THERAPISTS INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
7 Oakwood Drive
Stuart, Florida 34996

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated December 30, 2015 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $64.00/hour;
Certified Occupational Therapist Assistant (COTA) at $45.00/hr.;
Physical Therapist at $64.00/hr.; and
Licensed Physical Therapist Assistant at $45.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-6846.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Martin Corson, Vice President
Solutions for Therapists, Inc.
7 Oakwood Drive
Stuart, FL 34996

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC

employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

ATTEST:

Robert W. Runcie, Superintendent of Schools

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman
Dr. Rosalind Osgood, Chair
for Mr. Cohen

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams
Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 13:22:29 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

ATTEST:

SOLUTIONS FOR THERAPISTS, INC.

By Martin L Corson

_____, Secretary

-or-

Taylor Corson Taylor Corson

Witness

Alejandro perez

Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Martin

The foregoing instrument was acknowledged before me this 20th day of May, 2016 by Martin L Corson of
Name of Person
Solutions For Therapists, Inc. on behalf of the corporation/agency.
Name of Corporation or Agency

He/She is personally known to me or produced FL Driver Lic. as identification and did/did not first take an oath.
Type of Identification

My Commission Expires:

Signature – Notary Public

(SEAL)

FELIPE LOPEZ NOTARY My Comm. Expires March 22, 2018 No. FF 92502 PUBLIC STATE OF FLORIDA

Felipe Lopez
Printed Name of Notary

March 22, 2018
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

SPEECH REHAB SERVICES, LLC
(hereinafter referred to as "VENDOR"),
whose principal place of business is
950 Peninsula Corporate Circle, #1014
Boca Raton, Florida 33487

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 15, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $64.00/hour;
Certified Occupational Therapist Assistant (COTA) at $45.00/hr.;
Physical Therapist at $64.00/hr.; and
Licensed Physical Therapist Assistant at $45.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-6672.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Janet L. Sandler, President Speech Rehab Services, LLC 950 Peninsula Corporate Circle, Suite 1014 Boca Raton, FL 33487

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC

employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

FOR SBBC

(Corporate Seal)

ATTEST:

Robert W. Runcie, Superintendent of Schools

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman for the Chair

Dr. Rosalind Osgood, Chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 13:05:56 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

ATTEST:

SPEECH REHAB SERVICES, LLC

By _____

_____, Secretary

-or-

_____
Witness

_____
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 01 day of May, 20 19 by Janet Sandler of
Name of Person
Speech Rehab Services LLC on behalf of the corporation/agency.
Name of Corporation or Agency
He/She is personally known to me or produced FL DL as identification and did/did not first take an oath.
Type of Identification

My Commission Expires:
02/16/2020

(SEAL)
ANDRES FELIPE LOPEZ
Notary Public, State of Florida
Commission# FF 961024
My comm. expires Feb. 16, 2020

Andres Felipe Lopez
Signature – Notary Public

Andres Felipe Lopez
Printed Name of Notary

FF 961024
Notary's Commission No.

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR will complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

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14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

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19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21st day of June, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

THERA-PEDS, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
11651 NW 32nd Manor
Sunrise, Florida 33323

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 11, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $64.00/hour;
Certified Occupational Therapist Assistant (COTA) at $44.00/hr.;
Physical Therapist at $64.00/hr.; and
Licensed Physical Therapist Assistant at $44.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-6672.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:

Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Shannon Visentin, OTR/L, President
Thera-Peds, Inc.
11651 NW 32nd Manor
Sunrise, FL 33323

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC

employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

ATTEST:

Robert W. Runcie, Superintendent of Schools

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M Freedman for Mc Graw

Dr. Rosalind Osgood, Chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 13:06:27 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

ATTEST:

THERA-PEDS, INC.

By _____

_____, Secretary

-or-

Goldman TATYANA GOLDMAN
Witness

Janet Carbia
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 6 day of May, 2016 by Shannon Visentin (Name of Person) of thera-peds, Inc (Name of Corporation or Agency), on behalf of the corporation/agency.

He/She is personally known to me or produced FL Drivers License (Type of Identification) as identification and did/did not first take an oath.

My Commission Expires: 11/26/2017

_____
Signature – Notary Public

Janet Marie Carbia
Printed Name of Notary

(SEAL)

FF073382
Notary's Commission No.

JANET MARIE CARBIA
MY COMMISSION #FF073382
EXPIRES November 26, 2017
(407) 398-0153 FloridaNotaryService.com

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

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AGREEMENT

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THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

TM THERAPY, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
4712 NW 119th Avenue
Coral Springs, Florida 33076

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 12, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

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First: This Agreement, then;
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Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

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Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-5947.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: TM Therapy, Inc.
Tina Morris RPT
4712 NW 119th Avenue
Coral Springs, FL 33076

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC

employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By Abby M. Freedman
Dr. Rosalind Osgood, Chair
for the chair

ATTEST:

Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams
Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 13:06:58 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

TM THERAPY, INC.

ATTEST:

By Tina Morris

_____, Secretary

-or-

Witness

Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 04th day of May, 2016 by Tina Morris of TM Therapy Inc, on behalf of the corporation/agency.

Name of Person

Name of Corporation or Agency

He/She is personally known to me or produced Drivers License as identification and did/did not first take an oath.

Type of Identification

My Commission Expires: Dec 18, 2019

Signature – Notary Public

(SEAL)

CLAUDIA VALERIA WICKHAM
Notary Public, State of Florida
Commission# FF 939598
My comm. expires Dec. 18, 2019

Claudia Valeria Wickham

Printed Name of Notary

FF939598

Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR will complete all appropriate documentation for Medicaid Reimbursement. Awardees will be compensated for direct student services and student related activities only.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants must attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.