

AGREEMENT

THIS AGREEMENT is made and entered into as of this _____ day of _____
2016, by and between

**THE CHILDREN'S SERVICES COUNCIL OF
BROWARD COUNTY**

(hereinafter referred to as
"CSC"),
a special district created by Chapter 2000-461, Laws of Florida,
whose principal place of
business is
6600 West Commercial Blvd, Lauderdale, Florida
33319

and

**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

WHEREAS, the CSC and SBBC wish to improve instruction by significantly increasing the number of children ready for school, achieving academically once in school, and staying in school through graduation; and

WHEREAS, the achievement of those goals will greatly benefit the academic progress of students within Broward County, Florida; and

WHEREAS, the CSC has committed to partner with the SBBC to sustain the delivery of 21st Century Community Learning Center (21st CCLC) serving high school youth funded by the Florida Department of Education (FDOE); and

WHEREAS, the CSC desires to sustain the programmatic portion with a FY16/17 CSC allocation of \$1,864,220 for fully sustaining eight (8) high schools and providing a cash match for the three (3) schools currently funded by the FDOE, while the SBBC will continue to provide transportation, USDA approved snacks and/or meals, and minimal facility usage fees during the school year when schools are open, on Saturday's if required to do so by the FDOE, and when schools are open during the summer at all eleven (11) high schools; and

WHEREAS, CSC funded agencies provide high schools (including youth with special needs programs) afterschool and summer programs that support student success within Broward County.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other goods 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 upon execution by all parties and conclude on July 31, 2017.

2.02 **CSC Responsibilities:**
CSC shall:

- a. The CSC has committed to partner with the SBBC for the delivery of 21st CCLC programming to enhance the academic enrichment and remediation offered after school and during the summer by the three (3) FDOE funded programs (i.e. Piper High School, Plantation High School, and McArthur High School), and eight (8) CSC fully sustained 21st CCLC LEAP High School programs after school and during the summer at: Stranahan High School, Dillard High School, Hallandale High School, Blanche Ely High School, Northeast High School, Boyd Anderson High School, Deerfield Beach High School and Miramar High School; and
- b. Ensure that CSC funded programs are supporting student gains during the regular school day.
- c. Customize CSC 21st Century and CSC funded high school programs to target SBBC priorities such as decreasing internal/external suspensions, decreasing bullying behaviors, and/or increasing Florida Standards Assessment and End of Course Exam scores. See **Attachment A** for list of current CSC funded programs and schools.
- d. Enhance the quality of CSC social service programs delivered to students and families as indicated in program outcomes.
- e. Allow each high school principal to recommend someone from their school leadership team to serve as the 21st CCLC Site Lead, 45 days prior to school year 2016-17.

- f. Provide the SBBC with a copy of the 21st CCLC Summative Evaluation for active 21st CCLC programs, and a copy of CSC's Annual Performance Measures for the CSC funded LEAP High schools.

SBBC Responsibilities:

SBBC shall:

- a. Provide transportation for CSC 21st CCLC/LEAP High afterschool programs home for the duration of the 2016/2017 School Year at no cost to the CSC or CSC high school service providers.
- b. Provide two (2) educational field trips per week during the operation of the 21st CCLC and CSC sustained LEAP High summer programs at each school (one bus will be available for field trips on one day per week, and two buses will be available for field trips on one day a week);
- c. Provide USDA Supper Program and approved snacks to all students in the afterschool program.
- d. Provide access to TERMS data via web portal developed for SBBC and CSC data transfer.
- e. Work with the CSC to implement a transportation plan for the Summer 2017 21st CCLC/LEAP High program.
- f. Work with the CSC to provide USDA Supper Program and approved snacks to all students in the Summer program.
- g. Waive the CSC from the requirements set forth in the BCPS Before and After School Child Care Request For Proposal 17-004V and continue to grant access to the following eleven (11) schools hosting CSC's 21st CCLC programs at the existing facilities usage charge of \$250 during the school year and \$250 during the summer: Piper High School, Plantation High School, McArthur High School, Stranahan High School, Dillard High School, Hallandale High School, Blanche Ely High School, Northeast High School, Boyd Anderson High School, Deerfield Beach High School and Miramar High School.

2.03 Contact Persons: Unless altered by notice given pursuant to Section 3.16 of this Agreement, the contact persons for the respective parties to this Agreement are as follows:

For CSC: Cindy J. Arenberg Seltzer, President/CEO
The Children's Services Council of Broward County
6600 West Commercial Blvd.
Lauderhill, Florida 33319

With a Copy to: Sue Gallagher, Director of Research & Planning
The Children's Services Council of Broward County
6600 West Commercial Blvd
Lauderhill, Florida 33319

To SBBC: Robert Runcie
Superintendent of Schools
The School Board of Broward County, Florida
600 SE Third Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Michaelle Valbrun-Pope, Executive Director
Student Support Initiatives
Lauderdale Manors Early Learning & Resource Center
1400 NW 14 Court
Fort Lauderdale, FL 33311

2.04 **Background Screening.** CSC 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 CSC or its personnel providing any services under the conditions described in the previous sentence. CSC 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 CSC and its personnel. The parties agree that the failure of CSC 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. CSC 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 CSC'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 Agreement with Children's Services Council of Broward County

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 or 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. Exhibits 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.

Agreement with Children's Services Council of Broward County

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 CSC: CSC 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 CSC, its agents, servants or employees; the equipment of CSC, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of CSC or the negligence of CSC'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 CSC, SBBC or otherwise.

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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 CSC

**CHILDREN'S SERVICES COUNCIL OF
BROWARD COUNTY**

By _____
Cindy J. Arenberg Seltzer

Approved as to form by:

JOHN MILLEDGE, ESQ.
200 Las Olas Circle Building
200 SW First Avenue, Suite 800
Ft. Lauderdale, FL 33301

John Milledge, Esq.
Children's Services Council of Broward County

FOR SBBC


(Corporate Seal)

THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

By _____
Rosalind Osgood, Chair

ATTEST

Approved as to Form and Legal Consent



School Board Attorney

Robert W. Runcie
Superintendent Broward County