



ADDED ITEM

# AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Special Order Request

Yes  No

Time

MEETING DATE	Sep 16 2015 10:15AM - Regular School Board Meeting
AGENDA ITEM	OPEN ITEMS
CATEGORY	LL. OFFICE OF PORTFOLIO SERVICES
DEPARTMENT	Athletics

Open Agenda

Yes  No

ITEM No.:

LL-2.

TITLE:

Agreement with Broward Health for Athletic Trainer Services

### REQUESTED ACTION:

Approve Agreement with Broward Health to provide athletic trainer services to student athletes attending twenty Broward County Public High Schools. The Agreement runs from October 5, 2015 through August 3, 2016. The School Board of Broward County, Florida, on August 4, 2015 extended the Agreement from August 5, 2015 to October 4, 2015 ensuring a continuation of training services for student athletes.

### SUMMARY EXPLANATION AND BACKGROUND:

The athletic trainer program between Broward Health and The School Board of Broward County, Florida, is consistent with the intent of Florida Statute 1012.46, Athletic Trainers. Pursuant to this provision, the goal of the Legislature is to have school districts employ and have available an athletic trainer in each high school. School districts may establish and implement the athletic injuries prevention and treatment program. Central to this program should be employment and availability of persons trained in the prevention and treatment of physical injuries that may occur during athletic activities.

See Supporting Docs for continuation of Summary Explanation and Background.

This Agreement has been reviewed and approved as to form and legal content by the Office of the General Counsel. The Agreement will be approved by Broward Health following School Board approval.

### SCHOOL BOARD GOALS:

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

### FINANCIAL IMPACT:

The total financial impact for the 2015-2016 school year is \$535,026. Currently, \$486,668 is budgeted in the Athletics and Student Activities Department budget. The remaining \$48,358 is being requested from the General Fund - Fund Balance.

### EXHIBITS: (List)

(1) Summary-Broward Health 2015-16 (2) First Amendment-Broward Health 2015-16 (3) Broward Health Agmt 2015-16

### BOARD ACTION:

# APPROVED

(For Official School Board Records Office Only)

### SOURCE OF ADDITIONAL INFORMATION:

Name: Damian Huttenhoff	Phone: 754-321-2550
Name: Rebecca McMahan	Phone: 754-321-2225

## THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Senior Leader & Title

Leslie M. Brown - Chief Portfolio Services Officer

Signature

Leslie M. Brown

Friday, September 11, 2015 9:33:14 AM

Approved In Open Board Meeting On:

By:

SEP 16 2015  
*Donna Fourn*

School Board Chair

Summary Explanation and Background Continued

September 16, 2015

LL-2

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There is an increase in financial costs to the school system for athletic trainer services for 2015-2016 in the amount of \$48,358. The financial increase is a result of compliance with the Affordable Care Act. This act requires employers to offer affordable healthcare coverage to their employees who work on average 30 hours per week.

The School Board of Broward County, Florida, contracts with Broward Health (formerly North Broward Hospital District) to provide athletic trainer services at high schools located in Broward Health's service zone (approximately 20 high schools). The athletic trainer provides immediate and essential services to protect the safety and welfare of students engaged in interscholastic sports. The function of the athletic trainer is to provide services regarding the prevention, recognition, emergency care, treatment and rehabilitation to student athletes. The athletic trainer directs the high schools sports medicine programs.

State licensed and nationally certified athletic trainers hold the highest level of skill and training in the sports medicine industry. Athletic trainers have extensive educational background in human anatomy, human physiology biomechanics and exercise physiology. Trainers are trained in six major practice domains: prevention, clinical evaluation and diagnosis, immediate care, treatment, rehabilitation and reconditioning, organization and administration and professional responsibility. Athletic trainers are critical to the health, welfare and safety of student athletes. Trainers are the first responders to students injured at practices and games.

Under the agreement, Broward Health will provide the following contractual services:

- Staff each high school with a licensed and nationally certified trainer. The athletic trainers must be certified by the National Board of Certification (BOC) and be licensed by the State of Florida.
- The certified athletic trainer conducts clinical assessment and administers standard techniques of first aid to the acutely ill/injured athlete, protecting the athlete from further injury. The athletic trainers educate the student athlete and provide direct services to the athlete on hydration, concussion recognition and awareness, conditioning, nutrition, performance, enhancement training and injury care. All athletic trainers are certified in CPR and First Aid. Before practices and games, the athletic trainers prepare athletes with pre-game taping, padding and bracing joints and limbs.
- Broward Health certified trainers will attend all football games, practices and other high trauma athletic events to provide immediate assessment, evaluation and basic treatment.
- Broward Health will provide certified athletic trainer coverage for special district events including but not limited to, BCAA All-Star games, BCAA County Championships and Middle School Championship events.
- Broward Health will offer pre-participation physical screenings to all athletes. All high school students participating in interscholastic sports are required by the School Board and Florida High School Athletic Association to undergo an annual physical examination. The physical examinations are performed by a certified physician (M.D. or D.O.).

Broward Health is responsible for hiring, employing, insuring and paying all athletic trainers. There is no cap on the number of hours performed by athletic trainers. Trainers provide full services to student athletes participating in practices, games and competitions during the entire school year.

Consistent with Florida Statute 1012.46, Dade County Public Schools and Palm Beach School Board provide nationally certified trainers at their high schools. A comparison of the costs and benefits of the program are provided below. It should be noted that to replicate the Dade model in Broward would cost approximately \$2,013,000. The Dade model employs full time athletic trainers and pays them on the teacher's salary schedule and includes full fringe benefit package.

	<b>Employment Status</b>	<b>Hours</b>	<b>Cost</b>	<b>Trainer Certification</b>
Dade County	Full time employees at all 38 high schools in Dade County Public Schools	No cap on hours	\$73,576 per year with benefits	Yes, licensed and nationally certified
Palm Beach County	Contract with multiple agencies for part time services at 23 public high schools	1,000 hours per year \$30.00 per hour max at each high school	\$30,000 per athletic trainer	Yes, licensed and nationally certified
Broward County	Contract with Broward Health for part-time services (30 hours +) 20 high schools	No cap on hours	Broward Health \$31,611	Yes, licensed and nationally certified



ADDED ITEM

# AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Special Order Request	
<input type="radio"/> Yes	<input checked="" type="radio"/> No
Time	
Open Agenda	
<input checked="" type="radio"/> Yes	<input type="radio"/> No

ITEM No.:

LL-2.

MEETING DATE

Aug 4 2015 10:15AM - Regular School Board Meeting

AGENDA ITEM

OPEN ITEMS

CATEGORY

LL OFFICE OF PORTFOLIO SERVICES

DEPARTMENT

Athletics

TITLE:

First Amendment to Service Agreement with Broward Health for Athletic Trainer Services

### REQUESTED ACTION:

Approve First Amendment to Service Agreement with Broward Health to extend the agreement for a period of two months from August 5, 2015 to October 4, 2015.

### SUMMARY EXPLANATION AND BACKGROUND:

The current contract between The School Board of Broward County, Florida and Broward Health for athletic trainers expires August 4, 2015. The parties to the contract have not reached agreement on a new contract. The School Board of Broward County, Florida and Broward Health seek to extend the current contract for two months through October 4, 2015. Such extension allows the continuation of sports medicine athletic services at 20 public high schools. It is the parties intention to reach agreement on a new one-year agreement during the month of August. See Supporting Docs for continuation of Summary Explanation and Background.

This Agreement has been approved by Broward Health. This Agreement has 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 total financial impact for the two month extension is \$97,205. The source of funding is the Department of Athletics and Student Activities budget.

### EXHIBITS: (List)

(1) Broward Health Summary (2) Broward Health First Amendment (3) Broward Health Agreement

### BOARD ACTION:

# APPROVED

(For Official School Board Records Office Only)

### SOURCE OF ADDITIONAL INFORMATION:

Name: Damian Huttenhoff

Phone: 754-321-2550

Name:

Phone:

## THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

### Senior Leader & Title

Leslie M. Brown - Chief Portfolio Services Officer

Signature

Leslie M. Brown

Monday, August 03, 2015 1:22:32 PM

Electronic Signature  
Form #4189 Revised 12/12  
RWR/LB/DH:sw

Approved In Open Board Meeting On:

By:

AUG 04 2015

School Board Chair

Summary Explanation and Background continued

August 4, 2015

LL-2

Athletic trainer services is consistent with the intent of Florida Statute 1012.46, Athletic Trainers. Pursuant to this provision, the goal of the Legislature is to have school districts employ and have available an athletic trainer in each high school. School districts may establish and implement the athletic injuries prevention and treatment program. Central to this program should be employment and availability of persons trained in the prevention and treatment of physical injuries that may occur during athletic activities.

## FIRST AMENDMENT TO SERVICE AGREEMENT

THIS FIRST AMENDMENT TO SERVICE AGREEMENT ("First Amendment"), by and between THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA ("Contractor") and the NORTH BROWARD HOSPITAL DISTRICT, a special taxing district of the State of Florida, ("Broward Health") takes effect August 5, 2015 ("Effective Date").

### RECITALS

WHEREAS, Broward Health and Contractor entered into a certain Service Agreement ("Agreement") effective August 5, 2014 through August 4, 2015 ("Term"); and

WHEREAS, the parties agree to amend the Agreement as set forth herein, and now wish to reduce the terms of their agreement to writing pursuant to Article 3.20 of the Agreement.

NOW THEREFORE, in consideration 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:

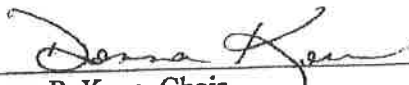
- I. **RECITALS.** The foregoing recitals are true and correct in all respects and are incorporated herein by reference.
- II. Section 2.01 of the Agreement is amended by interlineation to include the following language: The Term is extended for a period of two (2) months, extending up to and including October 4, 2015 ("Extended Term"), subject, however, to prior termination only as herein provided.
- III. **NO OTHER CHANGES.** Except as modified by this First Amendment, all terms, covenants, obligations and provisions of the Agreement shall remain unaltered, shall continue in full force and effect, and are hereby ratified, approved and confirmed by the Parties in every respect. If the terms and conditions set forth in this Amendment shall directly conflict with any provision contained in the Agreement, then this First Amendment shall control.

IN WITNESS WHEREOF, the Parties have signed this Amendment to Service Agreement to be effective as of the Effective Date.

**FOR SBBC**

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Donna P. Korn, Chair

ATTEST:

  
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

 8-3-15  
Office of the General Counsel

**FOR BROWARD HEALTH**

(Corporate Seal)

NORTH BROWARD HOSPITAL DISTRICT  
D/B/A BROWARD HEALTH

ATTEST:

By Robert K Martin  
Robert K. Martin, Senior VP/CFO

\_\_\_\_\_, Secretary

Robert Davis  
Witness  
Susan Leutinger  
Witness

**APPROVED AS TO LEGAL FORM**

[Signature]  
LEGAL DEPARTMENT  
Broward Health  
Date: 7/24/15

**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 30 day of July, 2015 by Robert K. Martin of

North Broward Hospital District d/b/a Broward Health Name of Person  
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

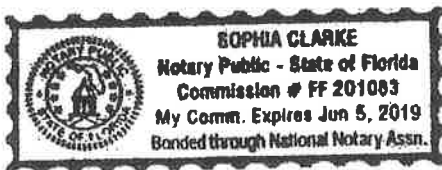
My Commission Expires:

[Signature]  
Signature - Notary Public

Sophia Clarke  
Printed Name of Notary

FF 201083  
Notary's Commission No.

(SEAL)





**AGREEMENT**

**THIS AGREEMENT** is made and entered into as of this 16<sup>th</sup> day of September, 2015, 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

**NORTH BROWARD HOSPITAL DISTRICT**  
(hereinafter referred to as "Broward Health"),  
a Florida special taxing district,  
whose principal place of business is  
Broward Health Medical Center  
1625 Southeast Third Avenue, 5<sup>th</sup> Floor, Fort Lauderdale, Florida 33316

**WHEREAS**, Broward Health provides a wide range of health care services, including, without limitation, sports medicine and orthopedic services and an Athletic Training Program, which provides education, supervision and treatment for high school athletes throughout SBBC's high schools, and is qualified to provide certified athletic trainers and related services to students participating in interscholastic sports; and

**WHEREAS**, Broward Health recognizes the need to ensure access to quality services for all persons in the community by making available qualified, trained, licensed and certified athletic trainers; and

**WHEREAS**, Broward Health desires to provide Athletic Trainers and other clinical support to SBBC to provide Sports Medicine services to the high schools listed on **Exhibit 1**. The function of the athletic trainers shall be to recognize, evaluate, treat, rehabilitate student athletic injuries and educate and counsel students on sports medicine issues including injury prevention and concussion management; and

**WHEREAS**, SBBC desires to engage the athletic training services of Broward Health through the services of certified athletic trainers on a non-exclusive basis and in accordance with the terms of this Agreement;

**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 Sections 3.04 or 3.05 of this Agreement, the term of this Agreement shall commence on October 5, 2015 and conclude on August 3, 2016.

2.02 **Definitions.** For the purpose of this Agreement, the following terms shall have the meanings ascribed thereto unless otherwise clearly required by the context in which such term is used.

(a). **Patient:** The term “Patient” shall mean an SBBC student athlete, actively participating in approved interscholastic activities sponsored by SBBC, and under the care of a Broward Health Athletic Trainer.

(b). **Broward Health Athletic Trainer:** The term “Broward Health Athletic Trainer” shall mean Florida licensed and BOC Certified Athletic Trainer provided to SBBC by Broward Health under the terms of this Agreement.

(c). **Schools:** The term “Schools” shall mean those district high schools operated by SBBC that require athletic training services provided under this Agreement. A list of said Schools is attached to this Agreement as **Exhibit 1** and is incorporated herein by reference.

2.03 **Responsibilities of Broward Health.** Provide from the medical staffs of various Broward Health facilities and other personnel as deemed appropriate by Broward Health to provide the following services to the schools listed in **Exhibit 1** above, including but not limited to:

(a). Broward Health may refer Athletes to their primary care physicians other health care providers, including but not limited to Broward Health care facilities, for complete pre-participation physical screenings. Such health care providers shall have the right to bill Patients, other responsibilities parties or third party payors for such pre-participation physical screenings in accordance with applicable law and the facilities policies and procedures..

(b). State of Florida Licensed Athletic Trainers, and/or graduate athletic training students. Broward Health may also utilize and supervise athletic training student interns from area Athletic Training Education Programs (“Athletic Trainers”) at each of the program sites. All members of the Sports Medicine Program will be supervised by the Broward Health Director, Sports Medicine. The Director of Sports Medicine shall cooperate with SBBC’s Director of Athletics and Student Activities to coordinate the activities, events and other arrangements for the Athletic Trainers contemplated for this service. The Director of Sports Medicine shall provide supervision for the Athletic Trainers.

(c). Assist the SBBC in educating principals, coaches and school system staff on sports medicine issues through:

- Sports medicine workshops and symposiums,
- Coaching ethics,
- Printed materials and published guidelines on sports medicine issues such as hydration, concussion management, etc., and
- Sports medicine recommendations to the Department of Athletics and Student Activities.

(d). Provide materials to SBBC's Director of Athletics and Student Activities for the promotion of the sports medicine partnership through game announcements and banner displays (e.g. gym/stadium) at participating high schools.

2.04. **Background Screening.** Broward Health agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and Broward Health 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 Broward Health or its personnel providing any services under the conditions described in the previous sentence. Broward Health will 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 Broward Health and its personnel. The Parties agree that the failure of Broward Health 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.

2.05. **Responsibilities of SBBC:**

(a). Pay teachers their teaching salaries, benefits and other expenses associated with their SBBC responsibilities.

(b). Make reasonable efforts to place teachers who are nationally certified as athletic trainers who meet per diem eligibility requirements of Broward Health.

(c). Provide Broward Health athletic trainers at each high school with an Automatic External Defibrillator (AED) for their exclusive and individual use while on duty as an athletic trainer.

(d). Provide Broward Health athletic trainers at each high school with a WeatherBug storm-warning device or the SBBC officially sanctioned storm-warning device for their exclusive and individual use while on duty as an athletic trainer.

(e). Every effort will be made to ensure that all sports medicine equipment used in connection with the athletic program (e.g. electric muscle stimulators, ultrasound machines, ice makers, whirlpools, hydro collators, etc.) at each high school is in good working condition, maintained and serviced annually as per manufacturers' recommendations.

(f). Provide each athletic trainer a locked file drawer.

(g). Provide each athletic trainer with needed office supplies to conduct business.

(h). Provide each athletic trainer with access to a copy machine.

(i). Provide each athletic trainer access to the school weight room for rehabilitation of athletic injuries.

(j). Provide each athletic trainer with a device (walkie-talkie radio) for communication with school personnel while they are on duty.

(k). Provide a reasonably accessible storage area in each athletic training facility for athletic training supplies.

(l). Provide sports medicine supplies annually for each Broward Health athletic trainer assigned to a high school.

(m). Provide for the purchase of appropriate sports medicine equipment annually for each Broward Health athletic trainer assigned to a high school.

(n). Provide regular maintenance and janitorial service (trash removal, hazardous waste removal, normal cleaning and mopping) for the athletic training room located in each school building.

#### 2.06 Special Provisions:

(a). Athletic Trainers shall make an initial assessment of athletes requiring services under this Agreement. Each student will be diagnosed and treated for their specific condition if the services are available at the school. If not available, the athletic trainers may refer the student to the student's primary care provider or other health care providers in the community, including, but not limited to, a Broward Health facility or hospital.

(b). In the event an athlete is referred to a physician, specialist or hospital for treatment, that entity shall retain the sole and exclusive right to bill and collect from Medicare, Medicaid, Third Party payors and any other party for reimbursement, including the athlete or his/her family, for services provided to the athlete. The entity shall have the responsibility for billing and collections. All funds collected shall remain the sole and exclusive property of that entity and the SBBC shall not have a claim or right to any of said funds.

(c). The hours of operation, activities, events and other arrangements contemplated under this Agreement will be determined mutually by the program coordinators but within officially sanctioned time periods for covered athletic events.

## 2.07 Compensation:

(a). SBBC shall pay to Broward Health the sum of \$592,886 for the provision of athletic trainer services to the Schools listed in **Exhibit 1**. Additional funding in the amount of \$39,345 will be provided to cover additional sports medicine services for state tournaments, Broward County Athletic Association (BCAA) special events, school tournaments and supplemental coverage to schools that require further sports medicine services for the 2015-2016 school year.

(b). SBBC shall pay Broward Health in two equal payments as invoiced by Broward Health to the SBBC's Director of Athletics and Student Activities. Said compensation shall be payable within thirty (30) days after receipt of invoice by SBBC.

(c). Broward Health agrees to pay all salaries, benefits and other administrative personnel expenses associated with the provision of Services under this Agreement, including, but not limited to, social security, health insurance, unemployment compensation and other employee benefits.

(d). It is understood and agreed that Broward Health will not separately bill Patients/student athletes or third party payors for Services provided by Broward Health Athletic Trainers under this Agreement. However, Broward Health reserves the right to bill Patients/student athletes or third party payors for services rendered by Broward Health at one of its facilities.

(e). It is the intent of SBBC and Broward Health ("the Parties") that the payments made under this Agreement for Services are not intended to be made in return for the referral of ongoing business, if any, or in return for the purchasing, leasing, or ordering or any other services other than the specific Services described in this Agreement. All payments specified in this Agreement are consistent with what the Parties reasonably believe to be a fair market value for the Services provided.

(f). SBBC acknowledges and agrees that the terms and/or conditions of this Agreement shall not serve as a waiver of Broward Health's duty and/or responsibility to provide care as required by law to a Patient. SBBC further acknowledges and agrees that should such care be outside of the Services articulated within this Agreement Broward Health has the right to bill and collect payments from such Patient or third party payor pursuant to Broward Health's normal billing practices and/or procedures separate and apart from the terms and conditions of this Agreement.

## 2.08 Independent Contractor:

Pursuant to this Agreement, Broward Health and SBBC intend to enter into an arms-length commercial relationship. The parties confirm and agree that no employment relationship is intended nor will be created by provision of the Services contemplated by this Agreement. Broward Health and its employees, in performing the Services, shall act solely as an independent contractor. Broward Health, and any employees or agents of Broward Health, shall under no circumstances be treated as or deemed to be employees of SBBC. Nothing in this Agreement

shall be construed to create a partnership, agency, joint venture, or employer-employee relationship as between SBBC and Broward Health, or as between SBBC and Broward Health's employees. Broward Health understands SBBC has no federal, state, or local obligations regarding employee liability or insurance.. Broward Health expressly represents and agrees that it is solely responsible for timely remittance to appropriate authorities of all federal, state, and local taxes and charges incident to the provision of and payment of compensation and/or benefits owing to its employees for Services and to the operation of Broward Health's business, including but not limited to, payment of workers' compensation insurance premiums, social security taxes (FICA, OASDI, Medicare hospitalization), and federal and state income taxes (including quarterly estimated taxes). NEITHER BROWARD HEALTH NOR ITS EMPLOYEES SHALL HOLD ITSELF (OR HIMSELF OR HERSELF, AS THE CASE MAY BE) OUT OR OTHERWISE REPRESENT ITSELF (OR HIMSELF OR HERSELF, AS THE CASE MAY BE) TO ANY PERSON OR ENTITY AS ANYTHING OTHER THAN AN INDEPENDENT CONTRACTOR OF SBBC. Neither Broward Health nor its employees shall be entitled to enter into any contract, agreement, arrangement, or association on behalf of SBBC. Broward Health shall comply with all state and federal laws which relate to the employment of its employees and the conduct of its business.

SBBC shall have no right to direct or control the independent professional acts, decisions or judgment of Broward Health or its Broward Health Athletic Trainers in the performance of the Services hereunder. Broward Health has agreed to make personnel who are qualified as described herein available to SBBC to provide the Services. Broward Health covenants and agrees that it will instruct and supervise its Broward Health Athletic Trainers to (i) use diligent efforts and professional skills and judgment, (ii) provide Services in accordance with and in a manner consistent with customary and recognized standards of the profession, (iii) conduct himself or herself in a manner consistent with the applicable rules and policies of SBBC, and, in the event that a Broward Health Athletic Trainer fails to meet these requirements, Broward Health will terminate the individual Broward Health Athletic Trainer's Services to SBBC immediately. Failure by Broward Health to do so will constitute a material breach of this Agreement.

#### **2.09 Indemnification:**

Each party agrees to be fully responsible 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. Nothing in this Section is intended to alter or waive either party's entitlement to sovereign immunity, or extend either party's liability beyond the limits established in Section 768.28, Florida Statutes, as amended.

#### **2.10 Incident Notice:**

In the event that either SBBC or Broward Health become aware of any alleged injury arising out of the care or treatment of any Patient in connection with the Services, such party shall give the other party written notice, at the addresses for notice set forth herein, containing the particulars sufficient to identify the alleged injured person, place and circumstances of the alleged incident, as well as the identity of any witnesses.

## 2.11 **Insurance:**

The parties hereto are sovereign entities as defined by Florida law and, as such, are afforded the protections of Florida Statutes Section 768.28, et seq. Each party further warrants that it will maintain for itself, its commissioners, agents, representatives, and employees, any and all applicable insurance coverage and financial responsibility required by Florida law and provide proof of same to the other party. Each party further warrants that it will keep such self-insurance in full force and effect to respond to any claims arising out of the actions of its actions or those of , its agents, representatives, and employees, during the term of this Agreement and for the two year period immediately following the termination or expiration of this Agreement.

## 2.12 **Inspection of Broward Health's Records by SBBC:**

Broward Health 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 Broward Health'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 Broward Health or any of Broward Health's payees pursuant to this Agreement. Broward Health'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. Broward Health'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 .

2.12.1 **Broward Health's Records Defined.** For the purpose of this Agreement, the term "Broward Health'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, and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

2.12.2 **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 Broward Health'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 Broward Health pursuant to this Agreement.

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

2.12.4 **Audit Site Conditions.** Subject to the provision of notice as required herein, SBBC's agent or its authorized representative shall have reasonable access to Broward Health'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.

2.13 **HIPAA Compliance/Confidentiality:**

Each party, including its agents who may become privy to HIPAA information, hereby warrants that the Services to be provided pursuant to this Agreement will comply with all final regulations implementing the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") (42 U.S.C. Sec. 201, et seq.) including, without limitation, Standards for Privacy of Individual Identifiable Health Information, as well as more stringent Florida law on and after the effective date of such final regulations as they are promulgated, revised and interpreted from time to time during the term of this Agreement.

Broward Health hereby acknowledges that SBBC shall or may, in reliance of this Agreement, provide Broward Health access to confidential and proprietary information, knowledge, or data of or relating to SBBC, its students and/or parent names and contact information, student medical conditions or impairments, student eligibility for sports or activities, and other similar information, and that the provisions of this Agreement are reasonably necessary to protect SBBC and its good will. All records, files, plans, documents and the like relating to the business of SBBC which Broward Health shall prepare, use, or come into contact with shall be and shall remain the sole property of SBBC, shall not be copied without written permission, and shall be immediately returned to SBBC upon termination of this Agreement or at any time upon SBBC's request. Broward Health agrees, during the term of this Agreement, and forever thereafter, to keep confidential all confidential information provided to Broward Health, its agents, affiliates, officers, employees, representatives, and independent contractors, directors.

Broward Health has reviewed and is familiar with the confidentiality requirements imposed by State and Federal law and SBBC policy on confidential information, including without limitation student health records, and agrees to notify the Broward Health Athletic Trainers of these requirements and to strictly enforce the Broward Health Athletic Trainers' compliance with these requirements. Any failure of Broward Health or the Broward Health Athletic Directors to fully comply with this Section shall constitute a material breach of this Agreement.

**ARTICLE 3 – GENERAL CONDITIONS**

3.01 **Sovereign Immunity.** The parties hereto acknowledge that each party is a political subdivision of the State of Florida and enjoys sovereign immunity. Nothing in this Agreement shall be construed to require one party to indemnify or insure the other party for the other party's negligence or to assume any liability for the other party's negligence. Further, any provision in this Agreement that requires one party to indemnify, hold harmless or defend the other party from liability shall not constitute a waiver of sovereign immunity or extend its liability beyond the limits established in Section 768.28, Florida Statutes, as amended.



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 **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.

3.04 **Termination.** This Agreement may be terminated with or without cause by either party during the term hereof upon thirty (30) days written notice to the other party of its desire to terminate this Agreement.

3.05 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party may 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 or 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 3.04.

3.06 **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.

3.07 **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 with interest calculated from the date of the erroneous payment or overpayment.

Interest shall be calculated using the interest rate for judgments under Section 55.03, Florida Statutes, applicable at the time the erroneous payment or overpayment was made by SBBC.

3.08 **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 contract 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.

3.09 **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 Section 1002.22, Florida Statutes, or 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 the other and its officers, agents and employees for any violation of this section, including, without limitation, defending the other party and its officers, agents employees against any third party complaint, administrative or judicial proceeding, payment of any penalty imposed upon the other party, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon the other party 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 Section 1002.22, Florida Statutes.

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

3.11 **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.

3.12 **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.

3.13 **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.

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

3.15 **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.

3.16 **Incorporation by Reference.** Exhibits attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.17 **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.

3.18 **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.

3.19 **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.

3.20 **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.

3.21 **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.

3.22 **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.

3.23 **Survival.** All representations and warranties made herein, indemnification obligations, obligation to pay Broward Health, 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.

3.24 **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.

3.25 **Notices:**

Whenever any notice, demand or consent is required or permitted under this Agreement, such notice, demand or consent shall be written and shall be deemed given when sent by certified mail, return receipt requested to the following address:

**To Broward Health:** Director, Contracts Administration Department  
Broward Health  
1800 N.W. 49<sup>th</sup> Street  
Fort Lauderdale, FL 33309

**With a copy to :** Frank Walters, PhD, ATC, LAT  
Director, Sports Medicine  
Broward General Medical Center  
Wellness Center  
1625 SE 3<sup>rd</sup> Avenue, 5<sup>th</sup> floor  
Ft. Lauderdale, FL 33316

**To SBBC:**

Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

**With a copy to :**

Director – Athletics and Student Activities  
The School Board of Broward County, Florida  
600 SE Third Avenue  
Fort Lauderdale, Florida 33301

**If Legal Notice  
To Broward Health:**

General Counsel  
Broward Health  
303 S.E. 17<sup>th</sup> Street, 6<sup>th</sup> Floor  
Fort Lauderdale, FL 33316

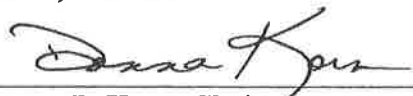
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IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.


**FOR SBBC**

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Donna P. Korn, Chair

ATTEST:

  
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

  
Office of the General Counsel

**FOR BROWARD HEALTH**

(Corporate Seal)

NORTH BROWARD HOSPITAL DISTRICT  
D/B/A BROWARD HEALTH

ATTEST:

By \_\_\_\_\_  
Robert K. Martin, Senior VP/CFO

\_\_\_\_\_  
, 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 \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_ by \_\_\_\_\_ of

Name of Person

\_\_\_\_\_, 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

(SEAL)

\_\_\_\_\_  
Printed Name of Notary

\_\_\_\_\_  
Notary's Commission No.

## **Exhibit 1**

### **High Schools provided Sports Medicine Services by Broward Health**

1. Blanche Ely
2. Boyd Anderson
3. Coconut Creek
4. Coral Glades
5. Coral Springs
6. Cypress Bay
7. Deerfield Beach
8. Dillard
9. Fort Lauderdale
10. Monarch
11. Northeast
12. Nova
13. Piper
14. Plantation
15. Pompano Beach
16. South Plantation
17. Stoneman Douglas
18. Stranahan
19. Taravella
20. Western