



AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

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|---------------------|--------------------------------------|
| MEETING DATE | Jun 28 2016 9:00AM - Special Meeting |
| AGENDA ITEM | SUPERINTENDENT'S RECOMMENDATION |
| CATEGORY | Superintendent's Recommendation |
| DEPARTMENT | Athletics |

| | |
|--------------------------------------|-------------------------------------|
| 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.:
2.

TITLE:
First Amendment to Agreement with Broward Health for Athletic Trainer Services

REQUESTED ACTION:
Approve First Amendment to Agreement with Broward Health to provide athletic trainer services to student athletes attending twenty Broward County Public High Schools. The original agreement runs from August 5, 2015 through August 3, 2016.

SUMMARY EXPLANATION AND BACKGROUND:
Broward Health entered into a Corporate Integrity Agreement (CIA) with the United States Department of Justice (DOJ) in August of 2015. A component of this agreement with the DOJ requires Broward Health to include language relating to the CIA in contracts. The agreement between Broward Health and The School Board of Broward County, Florida for athletic trainer services to student athletes at twenty Broward County Public High Schools was included in this requirement. The proposed amendment to the previously submitted agreement adds the CIA language that is now required in all contracts. The terms of the original agreement remain as initially described and the amendment does not change the athletic trainer services that have been provided during the 2015-2016 school year. The amendment will be executed by Broward Health after School Board approval. The agreement has been reviewed and approved as to form and legal content by the Office of the General Counsel. **See Supporting Docs for continuation of Summary Explanation and Background.**

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

FINANCIAL IMPACT:
There is no financial impact to the District associated with the amendment. The total financial impact for the 2015-2016 school year is \$632,231 and is addressed in the original agreement, Item No.: LL-2, approved on September 16, 2015.

EXHIBITS: (List)
(1) Summary-Broward Health (2) Broward Health 1st Amendment (3) Broward Health Ltr (4) Broward Health LL-2 9-16-15

| | | | | | |
|---|--|-------------------|---------------------|-------|--------|
| <p>BOARD ACTION:</p> <h2 style="text-align: center; margin: 0;">APPROVED</h2> <p style="text-align: center; font-size: small;">(For Official School Board Records Office Only)</p> | <p>SOURCE OF ADDITIONAL INFORMATION:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;">Name: Shawn Cerra</td> <td style="width: 30%;">Phone: 754-321-2550</td> </tr> <tr> <td>Name:</td> <td>Phone:</td> </tr> </table> | Name: Shawn Cerra | Phone: 754-321-2550 | Name: | Phone: |
| Name: Shawn Cerra | 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, June 20, 2016 2:40:08 PM

Approved In Open Board Meeting On: **JUN 28 2016**
 By: *Rosalind Arguel*
 School Board Chair

Summary Explanation and Background Continued
Item 2

On September 16, 2015, The School Board of Broward County, Florida approved LL-2, Agreement with Broward Health for Athletic Trainer Services. The agreement provides and funds nationally/state certified athletic trainers at twenty Broward County Public High schools. After School Board approval, the agreement was forwarded to Broward Health for execution. Due to the United States Department of Justice investigation, all Broward Health contracts were substantially delayed. Attached for your information is a letter from Maria Panyi, Vice President Physician Practices, Broward Health, explaining the contractual delay and the need now for a contract amendment. Although the contract approval process was delayed, there has been no interruption of athletic trainer services to Broward County Public School student athletes. Further, since a final agreement has not been executed by Broward Health, no payment for services by the School Board of Broward County has been made.

As Ms. Panyi cites in her letter, the delay in approving the athletic trainer agreement by Broward Health is “due to circumstances beyond our control.” Due to our strong partnership with Broward Health, important services performed by athletic trainers continued during challenging times.

**FIRST AMENDMENT TO
AGREEMENT**

⁷²
246 THIS FIRST AMENDMENT TO AGREEMENT is made and entered into as of this day of June, 2014, 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 D/B/A BROWARD HEALTH
(hereinafter referred to as "Broward Health"),
a special taxing district of the State of Florida,
whose corporate headquarters is
1800 NW 49th Street, Fort Lauderdale, FL 33309.

WHEREAS, SBBC and Broward health entered into an Agreement dated September 16, 2015 (hereafter "Agreement"); and

WHEREAS, the parties mutually desire to amend certain provisions of the Agreement.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows.

1.01 **Recitals.** The Parties hereby agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference. Where any of the terms and conditions set forth in this Amendment shall conflict with, modify, alter or change any provision in the Agreement, then this Amendment shall control.

1.02 **Defined Terms.** All capitalized terms used in this Amendment but not defined herein shall have the meanings ascribed to them in the Agreement.

1.03 **Amended Provisions by Interlineation.** The parties agree that the Agreement shall be amended by interlineation to replace the following provisions of the Agreement as follows:

a. Responsibilities of Broward Health:

i. Section 2.03(a) of the Agreement shall be deleted in its entirety.

b. Responsibilities of SBBC:

i. Section 2.05(a) shall be deleted in its entirety.

ii. Section 2.05(b) shall be deleted in its entirety.

c. Special Provisions:

i. Section 2.06(a) shall be replaced by the following:

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. Under no circumstances shall the athletic trainers limit such referrals to Broward Health facilities or hospitals.

d. Compensation:

i. Section 2.07(c) shall be replaced by the following:

Broward Health agrees to pay all salaries, benefits and other administrative personnel expenses associated with the provision of Services under this Agreement as appropriate with applicable Broward Health policies and procedures.

1.04 **Provisions Added by Interlineation.** The parties agree that the Agreement shall be amended by interlineation as follows:

a. The following shall be ADDED to the end of existing Article 2.13:

PRIVACY: The Parties warrant and represent to each other that the Services provided pursuant to this Agreement will comply with all applicable final regulations including the Health Insurance Portability and Accountability Act (collectively, "HIPAA"), the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH"), and including, without limitation, the Florida Information Protection Act ("FIPA"), section 501.171, Florida Statutes, as well as any more stringent Florida law enacted 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 will enter into SBBC's HIPAA Business Associate Agreement ("BAA") substantially in the form attached hereto and incorporated herein as **Attachment "B."**

b. The following new articles are ADDED to the Agreement:

2.14 Public Records: In order to comply with Florida's public records laws, the parties shall:

- (a) Keep and maintain public records that ordinarily and necessarily would be required by Broward Health in order to perform the services under the Agreement.
- (b) Provide the public with access to public records on the same terms and conditions that Broward Health would provide the 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.
- (d) Meet all requirements for retaining public records and transfer, at no cost, to Broward Health all public records in possession of SBBC upon termination of the Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to Broward Health in a format that is compatible with the information technology systems of Broward Health.
- (e) Immediately, provide written notice to Broward Health upon receipt of a public records, records request in connection with services under the Agreement.

2.15 Compliance Education: If applicable, each party agrees that if it provides patient care items or services or performs billing or coding functions on behalf of Broward Health under the Agreement or this Amendment, the party shall complete at least one (1) hour of training regarding the Anti-Kickback Statute and the Stark Law in accordance with the training plan of Broward Health under the Corporate Integrity Agreement, effective as of August 31, 2015 between Broward Health and the Office of Inspector General of the United States Department of Health and Human Services. By executing this Amendment, each party certifies that, if applicable, it shall not violate the Anti-Kickback Statute or the Stark Law, as applicable with respect to its performance of the Agreement

and this Amendment. Broward Health shall provide each party to this Amendment with a copy of the Broward Health Code of Conduct and its policies and procedures regarding the Stark Law and Anti-Kickback Statute.

2.16 Counterparts: This Agreement may be executed in two (2) or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such signature page were an original thereof.

2.17 Family Educational Rights and Privacy Act (FERPA) Compliance: In addition to the requirements under Section 3.09 of the Agreement, Student Records, 3.09, Broward Health will comply with the requirements of **Attachment "A,"** Safeguarding the Confidentiality of Student Records and Information.

1.05 Order of Precedence Among Agreement Documents. In the event of conflict between the provisions of the Agreement and the provisions contained herein, the provisions of the following documents shall take precedence in this order:

- a) this First Amendment to Agreement; and
- b) the Agreement.

1.06 Other Provisions Remain in Force. Except as expressly provided herein, all other portions of the Agreement remain in full force and effect.

1.07 Authority. Each person signing this First Amendment to Agreement on behalf of either party individually warrants that he or she has full legal power to execute this First Amendment to 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 First Amendment to Agreement.

[SIGNATURE PAGE FOLLOWS]

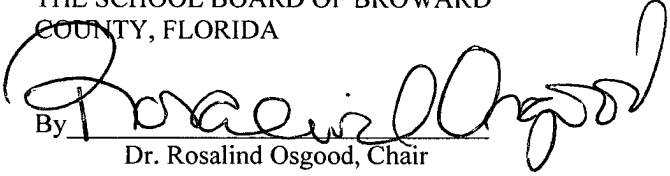
IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the dates set forth below. By executing this Amendment, each party certifies that it will not violate the Anti-Kickback Statute or the Stark Law with respect to such party's performance of its obligations under the Agreement.

FOR SBCC

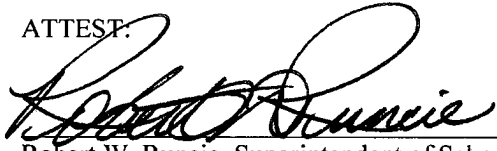
(Corporate Seal)

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: 2016.06.16 16:29:35 -0400

Office of the General Counsel

FOR BROWARD HEALTH

(Corporate Seal)

NORTH BROWARD HOSPITAL DISTRICT
D/B/A BROWARD HEALTH

ATTEST:

By Art Wallace 7/14/16

_____, Secretary

Art Wallace, III
V.P. Finance/Interim CFO

-or-

[Signature]

Printed Name: _____

Witness, [Signature]

Title: _____

Witness, [Signature]

Witness

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 14th day of July, 2016 by Arthur Wallace III of North Broward Hospital District on behalf of the corporation/agency. He/She is personally known to me or produced _____ as identification and _____ as identification and did/did not first take an oath.

My Commission Expires: 7-12-17

Katherine M Cameron
Signature - Notary Public

Katherine M Cameron
Printed Name of Notary

EE 883196
Notary's Commission No.



ATTACHMENT "A"

Safeguarding the Confidentiality of Student Records and Information

The parties acknowledge that Sections 1002.022, 1002.221 and 1002.222, Fla. Stat. and the Family Educational Rights and Privacy Act (FERPA, 20 U.S.C. § 1232g) and its implementing regulations (34 C.F.R. Part 99), protect the privacy rights of students and their parents with respect to information and records created and/or maintained by public schools. The student personally identifiable information (PII) may be disclosed only in compliance with FERPA. Pursuant to FERPA, the information provided by SBBC shall be limited to that which is necessary to effectively serve the student.

Each party participating in this Agreement further agrees to:

(1) Hold the student records and information in strict confidence and not use or disclose except as required by this Agreement or as required or permitted by law unless the parent of a student provides prior written consent for their release. All shared student records will be disclosed only to those who have a need to access the information in order to perform their assigned duties in the performance of this Agreement. Absent consent from the parent or eligible student, student records and information will not be disclosed except as allowed by the aforementioned laws.

(2) Safeguard the student records through administrative, physical and technological safety standards to ensure adequate controls are in place to protect the student information in accordance with FERPA's privacy requirements.

(3) Continually monitor its operations and take all actions necessary to assure that the student information and records are safeguarded in accordance with the terms of this Agreement, and

(4) Ensure that all employees, appointees or agents of each party to this Agreement who are granted access to shared student records will have successfully completed (a) the background screening requirements under Section 435.04, Florida Statutes, under Level 2 screening standards and (b) a FERPA training webinar, as it may become available, at the U.S. Department of Education, Privacy Technical Assistance Center website: <http://www2.ed.gov/policy/gen/guid/ptac/index.html>, <http://ptac.ed.gov/> including but not limited to <http://www2.ed.gov/policy/gen/guid/ptac/pdf/slides.pdf> Each party to this Agreement agrees to notify the other party immediately upon discovery of a breach of confidentiality of student information and to take all necessary notification steps as may be required by federal and Florida law. A breach of the confidentiality requirements shall constitute grounds for immediate termination of this Agreement without advance notice. Any provisions within this Agreement concerning the resolution of disputes shall not be applicable to a breach of the requirements of this Attachment "A."

This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such student records are returned to The School Board of Broward County, Florida ("SBBC") or disposed of in compliance with the applicable Florida Retention Schedules and a written acknowledgment of said disposition is provided to SBBC.

ATTACHMENT "B"

HIPAA BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("**Agreement**") is made and entered into as of this 28th day of June, 2016 (the "**Effective Date**"), by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "**SBBC**" or "**Covered Entity**"),
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
D/B/A BROWARD HEALTH (hereinafter referred to as "**Business Associate**"),
whose corporate headquarters is
1800 NW 49th Street, Fort Lauderdale, FL 33309.

WHEREAS, by virtue of some of the services that Business Associate performs for SBBC, Business Associate may be a "business associate," as that term is defined at 45 C.F.R. §160.103; and

WHEREAS, SBBC and Business Associate may share Protected Health Information ("PHI") (as defined below) in the course of their relationship; and

WHEREAS, SBBC and Business Associate understand that, with respect to coverages subject to regulation under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), they are subject to the requirements governing business associates, including but not limited to the Privacy Rule and the Security Rule (both defined below) of HIPAA, the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH"), the Omnibus Rule of 2013, and applicable Florida law, any of which may be amended from time to time or supplemented by new legislation or guidance (hereinafter collectively referred to as "Business Associate Requirements"); and

WHEREAS, SBBC and Business Associate intend to fully comply with current and future Business Associate requirements and mutually desire to outline their individual responsibilities with respect to Protected Health Information ("**PHI**") as mandated by the "Privacy Rule", the "Security Rule", and the HITECH Act; and

WHEREAS, SBBC and Business Associate understand and agree that the Business Associate requirements require SBBC and Business Associate to enter into a Business Associate Agreement which shall govern the use and/or disclosure of PHI and the security of ePHI.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE 1 – RECITALS

1. **Definitions.** When used in this Agreement and capitalized, the following terms have the following meanings:
- (a) “**Breach**” has the same meaning as that term is defined in §13400 of the HITECH Act and shall include the unauthorized acquisition, access, use, or disclosure of PHI that compromises the security or privacy of such information.
 - (b) “**Business Associate**” shall mean Business Associate named above and shall include all successors and assigns, affiliates, subsidiaries, and related companies.
 - (c) “**Designated Record Set**” has the same meaning as the term “designated record set” in 45 CFR §164.501, which includes enrollment, payment, billing, claims adjudication and case or medical management record systems maintained by or for a health plan, or other information used in whole or part by or for the Plan to make decisions about individuals.
 - (d) “**EDI Rule**” shall mean the Standards for Electronic Transactions as set forth at 45 CFR Parts 160, Subpart A and 162, Subpart A and I through R.
 - (e) “**HIPAA**” means the Health Insurance Portability and Accountability Act of 1996.
 - (f) “**HITECH Act**” means the Health Information Technology for Economic and Clinical Health Act of 2009.
 - (g) “**Individual**” shall have the same meaning as the term “Individual” in 45 C.F.R. §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. §164.502(g).
 - (h) “**Minimum Necessary**” means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
 - (i) “**Omnibus Rule**” means the HIPAA Omnibus Rule of 2013.
 - (j) “**Privacy Rule**” shall mean the Standards for Privacy of Individually Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164, subparts A and E.
 - (k) “**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” in 45 C.F.R. §160.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.

- (l) "**Required by Law**" shall have the same meaning as the term "required by law" in 45 C.F.R. §164.103.
- (m) "**Secretary**" shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (n) "**Security Rule**" shall mean the Standards for Security of ePHI as set forth at 45 C.F.R. Parts 160 and 164 Subpart C.
- (o) "**Unsecured PHI**" shall mean PHI that is not secured through the use of a technology or methodology specified by the Secretary in guidance or as otherwise defined in §13402(h) of the HITECH Act.

Terms used but not defined in this Agreement shall have the same meaning as those terms in 45 C.F.R. §§ 164.103 and 164.501 and the HITECH Act.

ARTICLE 2 – SPECIAL CONDITIONS

2. Obligations and Activities of Business Associate Regarding PHI.

- (a) Business Associate agrees to not use or further disclose PHI other than as permitted or required by this Agreement or as Required by Law.
- (b) Business Associate agrees to comply with the "Minimum Necessary" rule when using, disclosing, or requesting PHI, except when a specific exception applies under HIPAA or the HITECH Act.
- (c) Business Associate agrees to use appropriate safeguards and comply, where applicable, with the HIPAA Security Rule to prevent use or disclosure of the PHI other than as provided for by this Agreement.
- (d) Business Associate agrees to report to SBBC, as soon as reasonably practicable, any impermissible use or disclosure of PHI it becomes aware of, and any use or disclosure of PHI not provided for by this Agreement. Any report of breach should be in substantially the same form as Exhibit A hereto.
- (e) Business associate shall promptly inform SBBC of a Breach of Unsecured PHI following the first day on which Business Associate knows of such Breach or following the first day on which Business Associate should have known of such Breach.
- (f) For the Breach of Unsecured PHI in its possession:
 - 1. Business Associate will perform a Risk Assessment to determine if there is a low probability that the PHI has been compromised. Business Associate will provide SBBC with documentation showing the results

of the Risk Assessment. The Risk Assessment will consider at minimum the following factors :

- a. The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;
 - b. The unauthorized person who used the PHI or to whom the disclosure was made;
 - c. Whether the PHI was actually acquired or viewed; and
 - d. The extent to which the risk to the PHI has been mitigated.
2. Business Associate will prepare and distribute, at its own cost, any and all required notifications under Federal and Florida law, or reimburse SBBC any direct costs incurred by SBBC for doing so.
 3. Business Associate shall be responsible for all fines or penalties incurred for failure to meet Breach notice requirements pursuant to by Federal and/or Florida law.
- (g) Business Associate agrees to ensure that, and obtain assurance from, any and all agents, including sub-contractors (excluding entities that are merely conduits), to whom it provides PHI agree to the same restrictions and conditions that apply to Business Associate with respect to such information. All agents and subcontractors engaged by the Business Associate that create, maintain, receive or transmit PHI must comply with the HIPAA Rules, including the rules to extend the requirements to the agent's or subcontractor's subcontractors.
- (h) Business Associate agrees to provide access, at the request of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set that is not also in SBBC's possession, to SBBC in order for SBBC to meet the requirements under 45 C.F.R. § 164.524.
- (i) Business Associate agrees to make PHI available for amendment and incorporate all amendments to PHI in a Designated Record Set that SBBC directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of SBBC or an Individual in the time and manner designated by SBBC. Business Associate agrees to make internal practices, policies, books and records relating to the use and disclosure of PHI available to SBBC, or at a request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for purposes of the Secretary determining SBBC's compliance with the Privacy Rule. Business Associate shall immediately notify SBBC upon receipt or notice of any and all requests by the Secretary to conduct an investigation with respect to PHI received from SBBC.

- (j) Business Associate agrees to document any and all disclosures of PHI and information related to such disclosures that are not excepted under 45 C.F.R. § 164.528(a)(1) as would be reasonably required for SBBC to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
- (k) Business Associate agrees to provide to SBBC or an Individual, in a time and manner designated by SBBC, information collected in accordance with paragraph (j) above, to permit SBBC to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
- (l) Business Associate agrees to use or disclose PHI pursuant to the request of SBBC; provided, however, that SBBC shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by SBBC.
- (m) Business Associate agrees to mitigate, to the extent practicable, any and all harmful effects that are known to Business Associate of a use or disclosure of PHI, or a Breach of Unsecured PHI, by Business Associate in violation of the requirements of this Agreement, the Privacy Rule, the Security Rule, the HITECH Act or HIPAA generally.
- (n) Business Associate shall provide SBBC with a copy of any notice of privacy practices it produces in accordance with 45 C.F.R. § 164.520, as well as any and all changes to such notice.
- (o) Business Associate, if performing a function that applies to Covered Entity, agrees to comply with the requirements that apply to the Covered Entity.

3. Permitted Uses and Disclosures of PHI by “Business Associate”.

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC as previously agreed to by the parties (the “Service Agreement”) provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.
- (b) Except as otherwise limited in this Agreement, Business Associate may use PHI for the proper management and administration of Business Associate and to carry out the legal responsibilities of Business Associate.
- (c) Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of Business Associate and to carry out the legal responsibilities of Business Associate if: (i) such disclosure is Required by Law, or (ii) Business Associate obtains reasonable assurances from the person to whom the information is disclosed

that such information will remain confidential and used or further disclosed only as Required by Law or for the purposes for which it was disclosed to the person, and the person agrees to notify Business Associate of any and all instances of which it is aware that the confidentiality of the information has been breached.

- (d) Except as otherwise limited in this Agreement, Business Associate may use PHI to provide Data Aggregation services to SBBC as permitted by 42 C.F.R. § 164.504(e)(2)(i)(B).

4. Obligations of SBBC Regarding PHI.

- (a) SBBC shall provide Business Associate with the notice of privacy practices that SBBC produces in accordance with 45 C.F.R. § 164.520, as well as any changes to such notice.
- (b) SBBC shall provide Business Associate with any and all changes in, or revocation of, authorization by an Individual to use or disclose PHI, if such changes affect Business Associate permitted or required uses and disclosures.
- (c) SBBC shall notify Business Associate of any and all restrictions to the use or disclosure of PHI that SBBC has agreed to in accordance with 45 C.F.R. § 164.522.
- (d) SBBC and its representatives shall be entitled with ten (10) business days prior written notice to Business Associate to audit Business Associate from time-to-time to verify Business Associate compliance with the terms of this Agreement. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate compliance with the terms of this Agreement. SBBC shall conduct its review during the normal business hours of Business Associate, as the case may be, and to the extent feasible without unreasonably interfering with Business Associate normal operations.

5. Security of Electronic Protected Health Information.

- (a) Business Associate has implemented policies and procedures to ensure that its receipt, maintenance, or transmission of "electronic protected health information" (as defined in 45 C.F.R. §160.103) ("ePHI") on behalf of SBBC complies with the applicable administrative, physical, and technical safeguards required for protecting the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 160 and 164 subpart C.
- (b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 164.

- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined 45 C.F.R. Part 164.304 and in accordance with applicable Florida law) of which it becomes aware. Business Associate agrees to report the Security Incident to SBBC as soon as reasonably practicable, but not later than 10 business days from the date the Business Associate becomes aware of the incident.
- (d) SBBC agrees and understands that SBBC is independently responsible for the security of ePHI in its possession or for ePHI that it receives from outside sources including "Business Associate".

6. Compliance with EDI Rule.

Business Associate agrees that, on behalf of SBBC, it will perform all transactions for which a standard has been developed under the EDI Rule that Business Associate could reasonably be expected to perform in the ordinary course of its functions on behalf of SBBC.

Business Associate agrees that it will comply with all applicable EDI standards. Business Associate further agrees that it will use its best efforts to comply with all applicable regulatory provisions in addition to the EDI Rule and the Privacy Rule that are promulgated pursuant to the Administrative Simplification Subtitle of HIPAA.

7. Subsequent Legislative or Regulatory Changes.

Any and all amendments to the laws or regulations affecting the Privacy Rule, Security Rule, the HITECH Act, Omnibus Rule, or HIPAA in general shall be deemed to amend this Agreement to incorporate said changes without further action.

8. Amendment.

The parties agree to take any and all actions necessary to amend this Agreement from time to time so that SBBC is in compliance with the Privacy Rule, the Security Rule, the HITECH Act and HIPAA in general. The parties may agree to amend this Agreement from time to time in any other respect that they deem appropriate. This Agreement shall not be amended except by written instrument executed by the parties.

9. Term and Termination.

- (a) ***Term.*** This Agreement shall be effective as of the Effective Date and shall remain in effect until such time as SBBC exercises its rights of termination under section 9(b) or 9(c) and until the requirements of Section 9(d) below are satisfied. The rights and obligations of Business Associate under Section 9(d) shall survive termination of this Agreement.
- (b) ***Termination for Convenience.*** This Agreement may be terminated without cause and for convenience by SBBC during the term thereof upon thirty (30) days written notice to Business Associate.

- (c) ***Termination for Cause by SBBC.*** Upon SBBC's knowledge of a material breach by Business Associate, SBBC shall provide an opportunity for Business Associate to cure the breach. If Business Associate does not cure the breach within thirty (30) days from the date that SBBC provides notice of such breach to Business Associate, SBBC shall have the right to terminate this Agreement, the Service Agreement, or both, by providing thirty (30) days advance written notice of such termination to Business Associate.

SBBC may terminate this Agreement without penalty or recourse to SBBC if SBBC determines that Business Associate has violated a material term of this Agreement.

Upon Business Associate knowledge of a material breach by SBBC, for example, if SBBC makes illegal demands on Business Associate, Business Associate shall provide an opportunity for SBBC to cure the breach. If SBBC does not cure the breach within thirty (30) days of the date that Business Associate provides notice of such breach to SBBC, Business Associate shall have the right to terminate this Agreement, the Service Agreement, or both, by providing thirty (30) days advance written notice of such termination to Covered Entity.

- (d) ***Effect of Termination.*** Except as set forth in this Section 9(d), upon termination of this Agreement for any reason, at the request of SBBC, Business Associate shall return or destroy all PHI received from SBBC, or created or received by Business Associate on behalf of SBBC. Business Associate shall not retain any copies of the PHI. In the event that Business Associate determines that returning or destroying the PHI is infeasible, such as in the use of data aggregation, Business Associate shall provide to SBBC written notification of the conditions that make return or destruction infeasible. If the return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

10. Indemnification.

- (a) **By SBBC:** SBBC agrees to be fully responsible for its acts of negligence or its agent's 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 Business Associate:** Business Associate 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 cost, court costs and all other sums which SBBC, its agents, servants and employees must 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 Business Associate, its agents, servants or employees; the equipment of Business Associate, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate agents when acting within the scope of their employment or agency, whether such claims, judgments, costs and expenses be for damages, damage to property including Business Associate property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.

ARTICLE 3 – GENERAL CONDITIONS

11. No Waiver of Sovereign Immunity.

Nothing contained 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 as a waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

12. 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. 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.

13. Non-Discrimination.

The parties shall not discriminate against any employee or participant in the performance of the duties, responsibilities and obligations under this Agreement because of age, color, disability, gender identity, gender expression, national origin, marital status, race, religion, sex or sexual orientation.

14. Records.

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.

15. 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.

16. 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. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

17. 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.

18. Binding Effect.

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

19. 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.

20. 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.

21. 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.

22. Notices.

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 Southeast 3rd Avenue
Ft. Lauderdale, FL 33301

With a Copy to: Director – Athletics and Student Activities
The School Board of Broward County, Florida
600 Southeast 3rd Avenue
Ft. Lauderdale, FL 33301

Privacy Officer
Risk Management Department
The School Board of Broward County, Florida
600 S.E. 3rd Avenue, 11th Floor
Ft. Lauderdale, FL 33301

To Business Associate: Director, Contracts Administration Department
Broward Health
1800 N.W. 49th Street
Ft. Lauderdale, FL 33309

With a Copy to: Frank Walters, PhD, ATC, LAT
Director, Sports Medicine
Broward General Medical Center
1625 SE 3rd Avenue, 5th Floor
Ft. Lauderdale, FL 33316

23. Severability.

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, unlawful, unenforceable or void in any respect, the invalidity, illegality, unenforceability or unlawful or void nature of that provision shall not affect any other provision and this Agreement shall be considered as if such invalid, illegal, unlawful, unenforceable or void provision had never been included herein.

24. Captions.

The captions, section numbers, title and headings appearing in this Agreement are inserted only as a matter of convenience 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.

25. 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. The person signing on behalf of "Business Associate" has authority to bind "Business Associate" with respect to all provisions contained in this Agreement.

26. No Waiver of Rights, Powers and Remedies.

No failure or delay by a party hereto in exercising any right, power or remedy under this Agreement, and no course of dealing between the parties hereto, will operate as a waiver of any such right, power or remedy of the party. No single or partial exercise of any right, power or remedy under this Agreement by a party hereto, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, will preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto will not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Agreement will entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand. The terms and provisions of this Agreement may be waived, or consent for the departure there from granted, only by written document executed by the party entitled to the benefits of such terms or provisions. No such waiver or consent will be deemed to be or will constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent will be effective only in the specific instance and for the purpose for which it was given, and will not constitute a continuing waiver or consent.

27. Regulatory References.

A reference in this Agreement to a section in the Privacy Rule, the Security Rule, the HITECH Act, or HIPAA in general means the referenced section or its successor, and for which compliance is required.

28. Governing Law.

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.

29. Entire Agreement.

This Agreement 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 Agreement. Accordingly, the parties agree

that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

30. Interpretation.

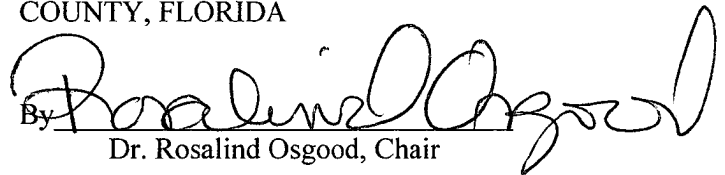
Any ambiguity in this Agreement shall be interpreted in a manner that permits SBBC to comply with the Privacy Rule, Security Rule, the HITECH Act, HIPAA in general and any subsequent legislation or regulations otherwise affecting Business Associates.

IN WITNESS WHEREOF, the parties have executed this Business Associate Agreement as of the Effective Date.

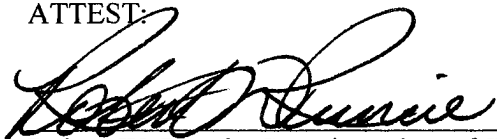
(Corporate Seal)

FOR SBBC

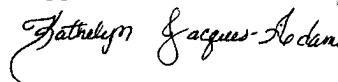
THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

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: 2016.06.16 18:37:51 -04'00'

Office of the General Counsel

FOR BUSINESS ASSOCIATE

Art Wallace 7/14/16
Signature

Print Name and Title

[Handwritten Signature]
Witness

Art Wallace, III
V.P. Finance/Interim CFO

Witness

STATE OF Florida

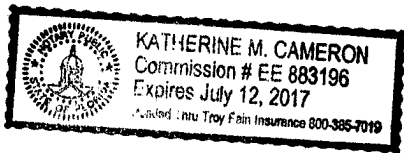
COUNTY OF Broward

The foregoing instrument was acknowledged before me by Arthur Wallace III who is personally known to me or who produced _____ as identification and who did / did not first take an oath this 14th day of July, 2016.

My Commission Expires: 7-12-17

Katherine M. Cameron
Signature – Notary Public

Katherine M. Cameron
Notary's Printed Name



EE 883196
Notary's Commission No.

EXHIBIT A

NOTIFICATION TO THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

ABOUT A BREACH OF UNSECURED PROTECTED HEALTH INFORMATION

This notification is made pursuant to Section 2(d) of the Business Associate Agreement between THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA ("SBBC") and _____ (Business Associate).

Business Associate hereby notifies SBBC that there has been a breach of unsecured (unencrypted) protected health information (PHI) that Business Associate has used or has had access to under the terms of the Business Associate Agreement.

Description of the breach: _____

Date or date range of the breach: _____

Date of the discovery of the breach: _____

Number of individuals affected by the breach: _____

The types of unsecured PHI that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code): _____

Description of what Business Associate is doing to investigate the breach, to mitigate losses, and to protect against any further breaches: _____

Recommended steps the individuals whose information was breached should take to protect themselves from potential harm resulting from the breach: _____

Contact information to ask questions or learn additional information:

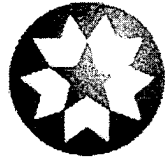
Name: _____

Title: _____

Address: _____

Email Address: _____

Phone Number: _____



BROWARD HEALTH

March 4, 2016

Mr. Damian Huttenhoff
Director Athletics and Activities
The School Board of Broward County
600 Southeast Third Avenue, 3rd Floor
Ft. Lauderdale, Fl. 33301-3125

Dear Mr. Huttenhoff:

I am writing you at the request of our Director of Sports Medicine, Frank Walters who met with you on Monday, February 29, 2016 to discuss our proposed addendum to the previously submitted agreement between Broward Health and the School Board of Broward County to provide athletic trainer services to student athletes at twenty Broward County Public High Schools. I am aware that the School Board has already submitted a signed agreement in September to Broward Health for our review and signature to continue this service and agreement between both entities. Unfortunately, due to circumstances beyond our control at the time this agreement was submitted to us Broward Health was required to put several new mandated requirements in to many contracts and agreements. I'd like to explain the delay in returning the fully executed and signed agreement from Broward Health as well as describe our current request for the approval of an addendum to the agreement.

You are probably aware that in August of 2015 Broward Health entered in to a Corporate Integrity Agreement (CIA) with the United States Department of Justice (DOJ). A component of this agreement with the DOJ requires Broward Health to include language relating to the CIA in contracts. As you can imagine due to the sheer size of Broward Health, the large number of contracts and agreements with outside entities that we have, the agreement between Broward Health and the School Board of Broward County was included in this requirement. In addition, the agreement (and many others also) was required to be reviewed for other regulatory requirements. These processes have resulted in the delay of returning a fully executed contract to you.

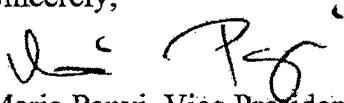
We have included with this letter an addendum to the agreement that we would ask you to present to your board and legal team for review and signature by the Superintendent. The addendum adds the CIA language that we are required to add (Section III). Section II modifies the agreement by deleting sections (2.03(a), 2.05(a), 2.05(b)) that are no longer needed by either Broward Health and or the School Board. Section 2.06(a) has been amended describing the assessment of athletes. Finally, section 2.07(c) is also amended describing Broward Health's compensation responsibilities. I believe that you

and your counsel will find that the basic terms of the proposed agreement remain as initially described and that the addendum submitted does not change the services that our athletic trainers have provided during this time without a signed agreement. Most importantly the value of the agreement has remained the same thus having no economic impact at all to either Broward Health or the School Board of Broward County.

I would appreciate you reviewing the addendum and if you agree forwarding it to your counsel and Superintendent for signature. Once we have received the signed addendum we will have our team submit the agreement to our Interim CEO for his signature. Should you have any questions and or concerns please feel free to contact me or Dr. Frank Walters.

Thanks in advance for your time, patience and cooperation with us at Broward Health. I look forward to maintaining the outstanding partnership that we have established to provide athletic trainers and assure the safety and well-being of the youth within our community who participate in Broward County Public Schools interscholastic athletic activities in the twenty schools we serve.

Sincerely,

A handwritten signature in black ink, appearing to read 'Maria Panyi', written in a cursive style.

Maria Panyi, Vice President
Physician Practices

Cc: Lynn Barrett, General Counsel



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 |

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

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:

SEP 16 2015

Dana Fournier

School Board Chair

Summary Explanation and Background Continued

September 16, 2015

LL-2

Page 2

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.).

Summary Explanation and Background Continued

September 16, 2015

LL-2

Page 3

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.

| | Employment Status | Hours | Cost | Trainer Certification |
|-------------------|--|--|---------------------------------|--|
| 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

Approved In Open Board Meeting On: **AUG 04 2015**
By: *Donna Koun*
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)

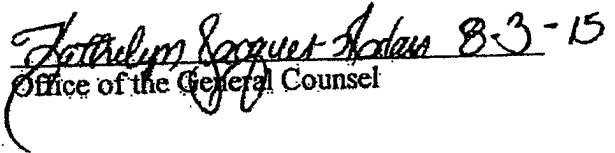
THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

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

APPROVED AS TO LEGAL FORM

John Davis
Witness
Susan Ruthmeyer
Witness

[Signature]
LEGAL DEPARTMENT
Broward Health
Date: 7/24/2015

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 ^{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]
Signature - Notary Public

Sophia Clarke
Printed Name of Notary

(SEAL)

FF 201083
Notary's Commission No.



AGREEMENT

THIS AGREEMENT is made and entered into as of this 16th 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, 5th 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. 49th 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 3rd Avenue, 5th 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. 17th Street, 6th Floor
Fort Lauderdale, FL 33316

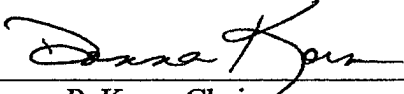
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IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.


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:


 9-10-15
Office of the General Counsel

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