



AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

ITEM No.:

E-4.

MEETING DATE	2019-10-02 10:05 - School Board Operational Meeting
AGENDA ITEM	ITEMS
CATEGORY	E. OFFICE OF STRATEGY & OPERATIONS
DEPARTMENT	Procurement & Warehousing Services

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

TITLE:

Recommendation to Approve Agreement - FY20-126 - "Cook for Kids" Nutrition and Wellness Education Program

REQUESTED ACTION:

Approve the recommendation to award the above Agreement. Contract Term: October 2, 2019 through June 30, 2020, 9 Months; User Department: Food & Nutrition Services; Award Amount: None; Awarded Vendor(s): Wellness in the Schools, Inc.; Small/Minority/Women Enterprise Vendor(s): None.

SUMMARY EXPLANATION AND BACKGROUND:

This request is to approve the Agreement FY20-126 - "Cook for Kids" Nutrition and Wellness Education Program. Through this Agreement, Wellness in the Schools, Inc., will provide ten (10) schools with a "Cook for Kids" program and other related initiatives to promote good nutrition and wellness at the District's schools.

This Agreement has been reviewed and approved as to form and legal content by the Office of the General Counsel.

A copy of the bid documents are available online at: http://www.broward.k12.fl.us/supply/agenda/OriginalExecutedDocuments_FY20-126.pdf

SCHOOL BOARD GOALS:

Goal 1: High Quality Instruction Goal 2: Safe & Supportive Environment Goal 3: Effective Communication

FINANCIAL IMPACT:

There is no financial impact to the District.

EXHIBITS: (List)

(1) Executive Summary (2) Agreement (3) Original Executed Documents

BOARD ACTION:

APPROVED

(For Official School Board Records Office Only)

SOURCE OF ADDITIONAL INFORMATION:

Name: Mary Mulder	Phone: 754-321-0215
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Name: Mary C. Coker	Phone: 754-321-0501
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THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
Senior Leader & Title

Maurice L. Woods - Chief Strategy & Operations Officer

Signature

Maurice Woods

9/20/2019, 8:46:43 AM

Approved In Open Board Meeting On:

OCT 02 2019

By:

Heather P. Burkwood

School Board Chair

Electronic Signature

Form #4189 Revised 07/25/2019

RWR/ MLW/MCC/MM:ls

EXECUTIVE SUMMARY
Recommendation to Approve Agreement
FY20-126 – “Cook for Kids” Nutrition and Wellness Education Program

Introduction

Responsible: Procurement & Warehousing Services (PWS)

This request is to approve the recommendation to award the Agreement FY20-126 between Wellness in the Schools (WITS) and The School Board of Broward County, Florida (SBBC), commencing October 2, 2019 through June 30, 2020. Through this Agreement, WITS will provide a group of schools with a “Cook for Kids” program and other related initiatives to promote good nutrition and wellness at no cost to the District. There is no financial impact to the District.

This is a yearly agreement that is dependent on the annual funding secured by WITS, which is based on the education initiatives discussed and confirmed during the Summer months. WITS provides services after their funding is established and School Board approval. WITS secured private funds to continue the efforts in the identified pilot schools for the 2016-2017 school year and also for the 2017-2018 school year. The School Board initially approved the WITS agreement on February 22, 2017, as Item E-3 with a term commencing on the day following SBBC approval and concluding on June 30, 2017, with the program implementation in March of 2017. SBBC approved a subsequent agreement between WITS and SBBC on August 8, 2017, as Item E-5 for a ten (10) month term from August 9, 2017 through June 30, 2018. Through these Agreements, WITS provide a “Cook for Kids” and other related programs that include nutrition and wellness education at the schools at no cost to the District. WITS secured private funds to continue the efforts in the identified pilot schools for the 2018-2019 school year. This Agreement was approved by the School Board on June 12, 2018, as Item E-3 to amend the Agreement and extend its term for another year from July 1, 2018 through June 30, 2019. WITS has again secured private funds to continue the efforts in the identified schools for the 2019-2020 school year.

Goods/Services Description

Responsible: Food & Nutrition Services Department (FNS)

The Florida Department of Agriculture (FLDOA) identified and funded the WITS initiative during the 2015 and 2016 school year. At that time, two (2) Title I schools were selected to pilot the program based on their proximity to the Miami-Dade County line (Miami-Dade was also asked to participate in the program). The location parameter provided for ease of travel for FLDOA and WITS staff. FNS staff contacted principals utilizing this criterion, explaining, and presenting the opportunity to participate in the pilot. The first two (2) schools responding positively to the opportunity were identified and forwarded to FLDOA: McNicol Middle and Watkins Elementary Schools.

In June 2016, FLDOA contacted FNS to inform that FLDOA could only continue to fund the program if the pilot program, moving forward, was open to all sponsors. FLDOA made the decision to shift funding to other programs and WITS was no longer funded by FLDOA for the 2016-2017 school year.

WITS has agreed to provide its “Cook for Kids” and related wellness programs during the 2019-2020 academic school year. The WITS program is more fully described below.

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 FY20-126 – “Cook for Kids” Nutrition and Wellness Education Program
 October 2, 2019 - Board Agenda
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WITS will provide two (2) chef/wellness professionals who are employees of WITS (a "WITS Professional") who shall cover ten (10) Broward County Schools. After approval from the schools and confirmation of specific weekly schedules, the WITS Professional will focus on providing culinary and/or nutrition classes to increase consumptions of fruits, vegetables, whole grains, and plant proteins.

Through a WITS Professional, the following initiatives are facilitated, using WITS' best efforts:

- Obtain the support of the School’s Wellness Committee;
- Offer nutrition and wellness education at the school, in an attempt to connect students with healthy food choices offered in the cafeteria in the school;
- Partner with a local restaurant/chef to support the Program with tastings, cooking classes and events on mutually acceptable terms with the Wellness Committee;
- WITS may provide additional wellness activities which may include, without limitation, a WITS Cafe Day with a local chef, WITS culinary and/or nutrition classes, and WITS FIT BITS (fitness breaks), each on mutually acceptable terms with the Wellness Committee; and
- Liaise with and provide support to parents, students, and staff of the school, in an attempt to help the school obtain an optimal experience in WITS' implementation of the Program.

The chart below details the District’s participation in the WITS program in prior years:

YEAR	NUMBER OF SCHOOLS	TOPIC COVERED
2015-2016	2	Nutrition & Wellness Education
2016-2017	2	Nutrition & Wellness Education
2017-2018	2	Nutrition & Wellness Education
2018-2019	10	Nutrition & Wellness Education

All schools were invited to participate in a voluntary thirty (30) hour Cook’s Camp the Summer of 2018. Class criteria required both the Manager and the Cook from a school site to attend. All schools completing the Cook’s Camp are listed as participating schools.

The following is a list of participating schools who will offer the WITS program during the 2019-2020 school year:

Bennett Elementary	McNicol Middle Magnet	South Broward High
Colbert Museum Magnet	Northeast High	Watkins Elementary
Gulfstream Academy of Hallandale Beach K-8	Pasadena Lakes Elementary	
Hallandale Magnet High	Seminole Middle	

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Procurement Method
Responsible: PWS

Pursuant to Purchasing Policy 3320, Section II, N, a contract for commodities or contractual services may be awarded, without competitive solicitations, if state or federal law, a grant or a state or federal agency contract prescribes with whom The School Board must contract or if the rate of payment is established during the appropriations process.

Financial Impact
Responsible: PWS and FNS

There is no financial impact to the District.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 2nd day of October, 2019, 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

WELLNESS IN THE SCHOOLS, INC.
(hereinafter referred to as "WITS"),
whose principal place of business is
31 W 125th Street, 5th Floor
New York, New York 10027

WHEREAS, as of the date hereof, WITS is a duly organized and registered non-profit corporation of the State of New York and charitable organization within the meaning of section 501(c)(3) of the Internal Revenue Code dedicated to children's environmental health, nutrition, and fitness in schools;

WHEREAS, WITS has agreed to provide its Cook for Kids and related wellness programs, as more fully described below (collectively, the "**Program**"), at the ten designated schools during the 2019–2020 academic school year, subject to the conditions set forth below;

WHEREAS, the School has agreed to authorize the WITS's volunteers, chefs, and trainers (collectively, the "**WITS Personnel**") to operate the Program at the School during the 2019–2020 academic school year; and

WHEREAS, the parties desire to express to each other their mutual support and commitment in respect of the Program on the terms and conditions contained in 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 Section 3.05 of this Agreement, the term of this Agreement shall commence on upon the execution of all parties and shall conclude on June 30, 2020.

2.02 **Scope of Program.** The parties shall undertake the actions set forth in Exhibit A attached hereto.

2.03 **Location and Hours.** WITS shall implement the Program only on School grounds, during or after school hours, and during the 2019–2020 academic school year, in each case as mutually agreed to by the parties. For purposes of this Agreement, the 2019–2020 academic school year does not include days or weeks when the school is not operating or operating with limited hours because of scheduled holiday breaks, Teacher Work Days, or Half-Days.

2.04 **SBBC Disclosure of Education Records and Employee Information:** Although no student education records shall be disclosed pursuant to this Agreement, should WITS come into contact with education records during the course of contracted responsibilities, these records are confidential and protected by the Family Educational Rights and Privacy Act (FERPA) and state laws and may not be used or re-disclosed. Any use or re-disclosure may violate applicable federal and state laws. Likewise, no employee information shall be disclosed by SBBC to WITS. Should WITS come into contact with employee information, it may not be re-disclosed except as required or permitted by law.

2.05 **No Financial Arrangements.** This Agreement does not provide for any payment or exchange of money or financial obligations.

2.06 **Inspection of WITS Records by SBBC.** WITS shall establish and maintain books, records and documents (including electronic storage media) related to this Agreement. All of WITS 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 agent or its authorized representative. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to WITS Records from the effective date of this Agreement, for the duration of the term of the 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 WITS pursuant to this Agreement. SBBC's agent or its authorized representative shall provide WITS with reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction. SBBC's agent or its authorized representative shall have access to WITS facilities and to any and all records related to the Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section. WITS shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

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

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

With a Copy to: Director of Food and Nutrition Services
The School Board of Broward County, Florida
7720 West Oakland Park Boulevard, Suite 204
Sunrise, FL 33351

To WITS: Wellness in the Schools, Inc.
31 W 125th Street, 5th Floor
New York, New York 10027

With a Copy to: nancy@wellnessintheschools.org
marty@wellnessintheschools.org

2.08 **Background Screening.** WITS shall comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of WITS or its personnel providing any services under the conditions described in the previous sentence. WITS shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to WITS and its personnel. The parties agree that the failure of WITS 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. WITS agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from WITS failure to comply with the requirements of this section or with Sections 1012.32 and 1012.465, Florida Statutes.

2.11 **Public Records.** The following provisions are required by Section 119.0701, Florida Statutes, and may not be amended. WITS shall keep and maintain public records required by SBBC to perform the services required under this Agreement. Upon request from SBBC's custodian of public records, WITS shall provide SBBC with a copy of any requested public records or to allow the requested public records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law. WITS shall ensure that public records that are exempt or

confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement's term and following completion of the Agreement if WITS does not transfer the public records to SBBC. Upon completion of the Agreement, WITS shall transfer, at no cost, to SBBC all public records in possession of WITS or keep and maintain public records required by SBBC to perform the services required under the Agreement. If WITS transfers all public records to SBBC upon completion of the Agreement, WITS shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If WITS keeps and maintains public records upon completion of the Agreement, WITS shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

IF A PARTY TO THIS AGREEMENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 754-321-1900, RECORDREQUESTS@BROWARDSCHOOLS.COM, RISK MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600 SOUTHEAST THIRD AVENUE, FORT LAUDERDALE, FLORIDA 33301.

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

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

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

2.13 **Insurance Requirements.** WITS shall comply with the following insurance requirements throughout the term of this Agreement:

(a) **General Liability.** WITS shall maintain General Liability insurance during the term of this Agreement with limits not less than \$1,000,000 per occurrence for Bodily Injury/Property Damage; \$1,000,000 General Aggregate; and limits not less than \$1,000,000 for Products/Completed Operations Aggregate.

(b) **Workers' Compensation.** WITS shall maintain Workers' Compensation insurance during the term of this Agreement in compliance with the limits specified in Chapter 440, Florida Statutes, and Employer's Liability limits shall not be less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).

(c) **Auto Liability.** WITS shall maintain Owned, Non-Owned and Hired Auto Liability insurance with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit.

(d) **Acceptability of Insurance Carriers.** The insurance policies required under this Agreement shall be issued by companies qualified to do business in the State of Florida and having a rating of at least A- VI by AM Best or Aa3 by Moody's Investor Service.

(e) **Verification of Coverage.** Proof of the required insurance must be furnished by WITS to SBBC's Risk Management Department by Certificate of Insurance within fifteen (15) days of the date of this Agreement. To streamline this process, SBBC has partnered with EXIGIS Risk Management Services to collect and verify insurance documentation. All certificates (and any required documents) must be received and approved by SBBC's Risk Management Department before any work commences to permit WITS to remedy any deficiencies. WITS must verify its account information and provide contact details for its Insurance Agent via the link provided to it by email.

(f) **Required Conditions.** Liability policies must include the following terms on the Certificate of Insurance:

- 1) The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.
- 2) All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida.
- 3) Certificate Holder: The School Board of Broward County, Florida, c/o EXIGIS Risk Management Services, P.O. Box 4668-ECM, New York, New York 10163-4668.

(h) **Cancellation of Insurance.** WITS is prohibited from providing services under this Agreement with SBBC without the minimum required insurance coverage and must notify SBBC within two (2) business days if required insurance is cancelled.

(i) SBBC reserves the right to review, reject or accept any required policies of insurance, including limits, coverage or endorsements, herein throughout the term of this Agreement.

2.14 **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.

2.15 **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.

2.16 **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.

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

ARTICLE 3 – GENERAL CONDITIONS

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

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

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

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

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

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

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

3.07 **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.

3.08 **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 exclusively to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida or to the jurisdiction of the United States District Court for the Southern District of Florida. Each party agrees and admits that the state courts of the Seventeenth Judicial Circuit of Broward

County, Florida or the United States District Court for the Southern District of Florida shall have jurisdiction over it for any dispute arising under this Agreement.

3.09 **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.

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

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

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

3.13 **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.

3.14 **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.

3.15 **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.

3.16 **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 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.

3.17 **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.

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

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

3.20 **Counterparts and Multiple Originals.** This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Agreement.

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

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

[THIS SPACE INTENTIONALLY LEFT BLANK; SIGNATURE PAGES FOLLOW]



(Corporate Seal)

FOR SBBC:


THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

By 
Heather P. Brinkworth, Chair

ATTEST:


Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:


Digitally signed by
Eric Abend
Reason: WITS 2019
Date: 2019.08.28
09:05:43 -04'00'

Office of the General Counsel

[THIS SPACE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS]

FOR WITS:

(Corporate Seal)

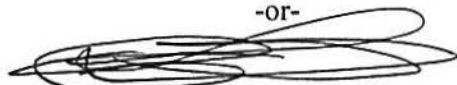
WELLNESS IN THE SCHOOLS, INC.

ATTEST:

By 

_____, Secretary

-or-



Witness

Witness

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

STATE OF New York

COUNTY OF New York

The foregoing instrument was acknowledged before me this 20 day of August, 2019 by Martin Hillis of Wellness In the Schools, Inc. on behalf of the corporation/agency.

He/She is personally known to me or produced New York State Driver License as identification and did/did not first take an oath. Name of Person
Name of Corporation or Agency Type of Identification

My Commission Expires:

JIMMY MA
Notary Public, State of New York
No. 01MA6116017
Qualified in New York County
Commission Expires Sept. 20, 2020

(SEAL)


Signature - Notary Public

Jimmy Ma
Printed Name of Notary

01MA6116017
Notary's Commission No.

EXHIBIT A

SCOPE OF PROGRAM

1. **Agreement of WITS.** Upon the terms and subject to the conditions hereof, WITS agrees that, for the duration of this Agreement, it shall:

a. Implement the Program at the School and work with the School's Wellness Committee (as defined below) in an attempt to improve the School's lunch experience in both food and physical activity;

b. In implementing the Program, provide two (2) chef/wellness professionals who are employees of WITS (a "WITS Professional") who shall cover ten (10) Broward County Schools. After approval from the schools and confirmation of specific weekly schedules, the WITS Professional will focus on providing culinary and/or nutrition classes to increase consumptions of fruits, vegetables, whole grains, and plant proteins.

c. Through a WITS Professional, facilitate the following initiatives, using WITS' s best efforts:

i. Obtain the support of the School's Wellness Committee;

ii. Offer nutrition and wellness education at the School, in an attempt to connect students with healthy food choices offered in the cafeteria in the School;

iii. Partner with a local restaurant/chef to support the Program with tastings, cooking classes and events on mutually acceptable terms with the Wellness Committee;

iv. WITS may provide additional wellness activities to the School, which may include, without limitation, a WITS Cafe Day with a local chef, WITS culinary and/or nutrition classes, and WITS FIT BITS (fitness breaks), each on mutually acceptable terms with the Wellness Committee; and

v. Liaise with and provide support to parents, students, and staff of the School, in an attempt to help the School obtain an optimal experience in WITS's implementation of the Program.

2. **Agreement of the School.** Upon the terms and subject to the conditions hereof, the School agrees that, for the duration of this Agreement, it shall:

a. Create and maintain a school-based wellness committee, consisting of parents of current students, school staff and administration, and current students, that will meet each month during the academic school year, to undertake appropriate actions and provide School personel advice and suggestions to advance the interests of, and implement the Program (the "**Wellness Committee**");

b. Designate a liaison on the Wellness Committee who shall be responsible for working closely with the WITS Professional and for scheduling, organizing and presiding

over monthly Wellness Committee meetings with parents, students, and other interested members of the School community; and

c. Use its best efforts to commit to, and to make, the School a healthier place for its students to nourish their minds and bodies, including without limitation, provide WITS with the resources, such as sufficient facilities and School personnel, if available, that WITS requests in order to successfully implement the Program.

d. Provide Lab Bins and Ingredients for the WITS culinary and/or nutrition education.



AGENDA REQUEST FORM
THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

MEETING DATE	Feb 22 2017 10:35AM - Regular School Board Meeting	Special Order Request <input type="radio"/> Yes <input checked="" type="radio"/> No
ITEM No.:	AGENDA ITEM	Time
E-3.	CONSENT ITEMS	
	CATEGORY	Open Agenda <input type="radio"/> Yes <input checked="" type="radio"/> No
	E. OFFICE OF STRATEGY & OPERATIONS	
	DEPARTMENT	
	Procurement & Warehousing Services	

TITLE:
Agreement between Wellness in the Schools, Inc., and The School Board of Broward County, Florida

REQUESTED ACTION:
Approve the agreement between Wellness in the Schools, Inc., and The School Board of Broward County, Florida.

SUMMARY EXPLANATION AND BACKGROUND:
The Agreement will provide two (2) schools with a Cook for Kids program and other related initiatives to promote good nutrition and wellness at the District's schools.
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:
There is no financial impact to the District.

EXHIBITS: (List)
(1) Executive Summary (2) Agreement

BOARD ACTION:
APPROVED
(For Official School Board Records Office Only)

SOURCE OF ADDITIONAL INFORMATION:	
Name: Mary Mulder	Phone: 754-321-0215
Name: Mary C. Coker	Phone: 754-321-0501

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
Senior Leader & Title

Maurice L. Woods - Chief Strategy & Operations Officer

Approved In Open Board Meeting On: FEB 2 2 2017

Signature
Maurice Woods
2/14/2017, 10:31:10 AM

By: *Abby M. Freedman*
School Board Chair

EXECUTIVE SUMMARY

Agreement between Wellness in the Schools, Inc., and The School Board of Broward County, Florida

Outlined below is the Agreement between Wellness in the Schools, Inc. (WITS) and The School Board of Broward County, Florida.

Program	"Cook for Kids" and related programs that include nutrition and wellness education at the schools.
Status	Request approval of the agreement to provide a "Cook for Kids program with Wellness in the Schools, Inc."
Funds Requested	None
Financial Impact Statement	There is no financial impact to the District.
Managing Department/School	Food and Nutrition Services Department
Project Description	The agreement between WITS and The School Board of Broward County, Florida, will provide one (1) chef/wellness professional who is an employee of WITS. This employee shall work in the school for a minimum of twenty-five (25) hours per week during the term to facilitate initiatives such as: <ol style="list-style-type: none">1. Culinary training to cafeteria personnel to enhance visibility and presentation of healthy menu choices.2. Introduce new menu items at the school.3. Offer nutrition and wellness education to connect students with healthy food choices.4. Partnerships with chefs and local restaurants in support of the program with food tastings, cooking classes, and events.

The Florida Department of Agriculture (FLDOA) identified and funded the "Wellness in the School" initiative during the 2015/16 school year.

The District's Food and Nutrition Services Department was offered the opportunity to participate in the pilot program. The department was asked to select two (2) pilot schools with the parameters: a Title I School with proximity to the Miami-Dade line, as Miami-Dade was also asked to participate in the program. The location parameter provided for ease of travel for FLDOA and WITS staff. Food and Nutrition Services staff contacted principals utilizing this criterion, explaining and presenting the opportunity to participate in the pilot. The first two schools responding positively to the opportunity were identified and forwarded to FLDOA: McNicol Middle and Watkins Elementary Schools.

The Food and Nutrition Services department was contacted by FLDOA in June 2016 and informed FLDOA could only continue to fund the program if the pilot program, moving forward, was open to all sponsors. The decision was made by FLDOA to shift funding to other programs. WITS was no longer funded by FLDOA for the 2016/17 school year.

**Agreement between Wellness in the Schools, Inc., and
The School Board of Broward County, Florida
February 22, 2017 Board Agenda
Page 2**

WITS secured private funds to continue the efforts in identified pilot schools for the 2016/17 school year. Food and Nutrition Services was contacted with this opportunity and is requesting Board approval to continue with the pilot program at McNicol Middle and Watkins Elementary Schools.

FOOD SERVICE AGREEMENT

THIS AGREEMENT (the "Agreement") is made and entered into as of this 22nd day of February, 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

WELLNESS IN THE SCHOOLS, INC.
(hereinafter referred to as "WITS"),
whose principal place of business is
PO Box 250832
New York, New York 10025

WHEREAS, as of the date hereof, WITS is a duly organized and registered non-profit corporation of the State of New York and charitable organization within the meaning of section 501(c)(3) of the Internal Revenue Code dedicated to children's environmental health, nutrition, and fitness in schools;

WHEREAS, WITS has agreed to provide its Cook for Kids and related wellness programs, as more fully described below (collectively, the "**Program**"), at the two designated schools during the 2016–2017 academic school year, subject to the conditions set forth below;

WHEREAS, the School has agreed to authorize the WITS's volunteers, chefs, and trainers (collectively, the "**WITS Personnel**") to operate the Program at the School during the 2016–2017 academic school year; and

WHEREAS, the parties desire to express to each other their mutual support and commitment in respect of the Program on the terms and conditions contained in 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 Section 3.05 of this Agreement, the term of this Agreement shall commence on the day following SBBC approval and conclude on June 30, 2017.

2.02 **Scope of Program.** The parties shall undertake the actions set forth in Exhibit A hereto.

2.03 **Location and Hours.** WITS shall implement the Program only on School grounds, during or after school hours, and during the 2016–2017 academic school year, in each case as mutually agreed to by the parties. For purposes of this Agreement, the 2016–2017 academic school year does not include days or weeks when the school is not operating or operating with limited hours because of scheduled holiday breaks, Teacher Work Days, or Half-Days. Unless otherwise agreed to by the parties, WITS shall have no obligation to implement the Program other than at the location, and dates and times set forth in this section.

2.04 **Confidentiality; Non-Disclosure; Ownership of Property.**

(a) **Confidentiality and Non-Disclosure:** Each party acknowledges that it may receive or be exposed to certain confidential and proprietary information about the other parties. Except as set forth in the non-disclosure section below, each party shall hold confidential and shall not disclose, publish, or use for the benefit of itself or any third party, any such confidential or proprietary information. This restriction shall not apply if the confidential or proprietary information: (i) was known by the receiving party prior to receipt from the party that provided confidential information; (ii) is generally available to the public other than by a breach of this Agreement; (iii) is lawfully acquired from third parties who have a right to disclose such information; or (iv) is required to be disclosed by law or legal proceeding. As soon as commercially practical after being requested by one of the parties, the other parties will destroy or return all confidential or proprietary information, and all copies and all related work product thereof, provided by the requesting party. All confidential information will remain the property of the party that provided Agreement it and will only be used by the parties for the intended purpose stated in this Agreement. Confidential information will be kept strictly confidential and will not be disclosed to any person in any manner whatsoever, except that the parties receiving the confidential information may disclose confidential information or portions thereof to its directors, officers, employees, agents, advisors, and representatives (the “**Representatives**”) who need to know such information. If any receiving party or any of its Representatives becomes legally compelled (by deposition, interrogatory, request for documents, subpoena, civil investigative demand or similar compulsory process) to disclose any of the confidential information, the receiving party shall provide the party that provided the confidential information with prompt notice of such requirement in accordance with the notice information set forth below (where such notice is not prohibited by law) so that the party that provided confidential information, in its discretion and at its sole cost and expense, may seek a protective order or other appropriate remedy.

(b) Ownership of Property: The School shall have no right, title or interest in or to any intellectual property of WITS, including, without limitation, any trademark, trade name, slogan, logo or other identification of WITS, and further agrees that any such intellectual property is and shall remain the sole property of WITS. WITS may provide the School with intellectual property, including, without limitation, trademarks, service marks, logos, names trade names, taglines or other proprietary designation (collectively the "WITS Marks") for use in connection with the Program, and the School shall not use any of the WITS Marks without having first obtained the prior written consent of WITS in each instance for such use.

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

To SBBC:	Superintendent of Schools The School Board of Broward County, Florida 600 Southeast Third Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Director of Food and Nutrition Services The School Board of Broward County, Florida 7720 West Oakland Park Boulevard, Suite 204 Sunrise, FL 33351
To WITS:	Wellness in the Schools, Inc. PO Box 250832 New York, New York 10025
With a Copy to:	nancy@wellnessintheschools.org greg@wellnessintheschools.org

2.06 Background Screening. WITS agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of WITS or its personnel providing any services under the conditions described in the previous sentence. WITS shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to WITS and its personnel. The parties agree that the failure of WITS 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. WITS agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from WITS's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3.
GENERAL CONDITIONS

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

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

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

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

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

3.06 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party thirty (30) days' written notice to cure the default. However, in the event said default cannot be

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

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

3.08 **Public Records**. The following provisions are required by Section 119.0701, Florida Statutes, and may not be amended. WITS shall keep and maintain public records required by SBBC to perform the services required under this Agreement. Upon request from SBBC's custodian of public records, WITS shall provide SBBC with a copy of any requested public records or to allow the requested public records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law. WITS shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement's term and following completion of the Agreement if WITS does not transfer the public records to SBBC. Upon completion of the Agreement, WITS shall transfer, at no cost, to SBBC all public records in possession of WITS or keep and maintain public records required by SBBC to perform the services required under the Agreement. If WITS transfer all public records to SBBC upon completion of the Agreement, WITS shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If WITS keeps and maintains public records upon completion of the Agreement, WITS shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

IF A PARTY TO THIS AGREEMENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 754-321-1900, REQUEL.BELL@BROWARDSCHOOLS.COM, RISK MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600 SOUTHEAST THIRD AVENUE, FORT LAUDERDALE, FLORIDA 33301.

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 Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or

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

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

3.11 **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 nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.16 **Incorporation by Reference.** Exhibit A 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 affect 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, 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 **Contract Administration**. SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

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

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

(b) **By WITS:** WITS agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising out of or resulting from the gross negligence, recklessness, or intentional wrongful conduct of WITS, its agents, servants or employees, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by WITS, SBBC or otherwise; provided that WITS's indemnification obligations under this section shall in no event exceed an aggregate of twenty-five thousand dollars (\$25,000).


3.26 **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 REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

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

(Corporate Seal)

ATTEST


Robert W. Runcie, Superintendent of Schools

FOR SBBC
THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

By: 
Abby M. Freedman, Chair

Approved as to Form and Legal Content:

Janette M. Smith, Esq.

Office of the General Counsel

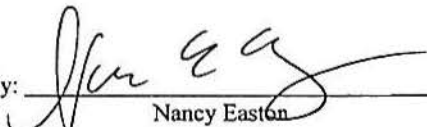
Digitally signed by Janette M. Smith, Esq.
DN: c=Janette M. Smith, Esq., o=The School Board of Broward
County, Florida, ou=General Counsel's Office,
email=janette.smith@browardschools.com, c=US
Date: 2017.01.11 09:29:50 -0500

(Corporate Seal)

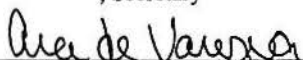
FOR WITS

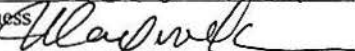
WELLNESS IN THE SCHOOLS, INC.

ATTEST:

By: 
Nancy Easton

_____, Secretary

-or- 

Witness 

Witness _____

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

STATE OF Florida
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 9th day of JANUARY, 2017 by NANCY EASTON of _____
Name of Person

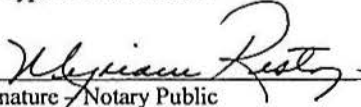
WELLNESS IN THE SCHOOLS, INC., on behalf of the corporation/agency.
Name of Corporation or Agency

He/She is personally known to me or produced DL: 251 248 372 as identification and did/did not first take an oath. Type of Identification

My Commission Expires:



(SEAL)


Signature Notary Public

MYRIAM RESTREPO
Printed Name of Notary

FF 053731
Notary's Commission No.

EXHIBIT A

SCOPE OF PROGRAM

1. **Agreement of WITS.** Upon the terms and subject to the conditions hereof, WITS agrees that, for the duration of this Agreement it shall:

a. Implement the Program at the School and work with the School's Wellness Committee (as defined below) in an attempt to improve the School's lunch experience in both food and physical activity;

b. In implementing the Program, provide one (1) chef/wellness professional who is an employee of WITS (a "WITS Professional") who shall work in the school for a minimum of twenty-five (25) hours per week during the Term and shall work with any other WITS Personnel; provided that the twenty-five (25) hours per week requirement does not apply if School is not operating or is operating with limited hours during any given week; and

c. Through a WITS Professional, facilitate the following initiatives, using WITS' s best efforts:

i. Obtain the support of the School's Wellness Committee;

ii. Offer culinary training to cafeteria personnel employed at the School, in an attempt to enhance the visibility and presentation of healthy menu choices and introduce new menu items at the School;

iii. Offer nutrition and wellness education at the School, in an attempt to connect students with healthy food choices offered in the cafeteria in the School;

iv. Partner with a local restaurant/chef to support the Program with tastings, cooking classes and events on mutually acceptable terms with the Wellness Committee;

v. WITS may provide additional wellness activities to the School from and after approval of this agreement, which may include, without limitation, a WITS Cafe Day with a local chef, WITS culinary and/or nutrition classes, and WITS FIT BITS (fitness breaks), each on mutually acceptable terms with the Wellness Committee; and

vi. Liaise with and provide support to parents, students, and staff of the School, in an attempt to help the School obtain an optimal experience in WITS's implementation of the Program.

2. **Agreement of the School.** Upon the terms and subject to the conditions hereof, the School agrees that, for the duration of this Agreement, it shall:

a. Create upon approval of this agreement, and maintain, a school-based wellness committee that meets each month during each of the academic school year, is given express authority by the School to undertake the actions or provide direction to School personnel to undertake the actions or actions relating to such actions described herein or otherwise agreed

to by the Parties, and shall consist of parents of current students who attend the School, School staff and administration and current students who attend the School, as appropriate (the "Wellness Committee");

b. Designate a liaison on the Wellness Committee who shall be responsible for working closely with the WITS Professional and for scheduling, organizing and presiding over monthly Wellness Committee meetings with parents, students, and other interested members of the School community; and

c. Use its best efforts to commit to, and to make, the School a healthier place for its students to nourish their minds and bodies, including without limitation provide WITS with the resources, such as sufficient facilities and School personnel, if available, that WITS requests in order to successfully implement the Program.



AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

MEETING DATE 2017-08-08 10:05 - School Board Operational Meeting

AGENDA ITEM ITEMS

CATEGORY E. OFFICE OF STRATEGY & OPERATIONS

DEPARTMENT Procurement & Warehousing Services

Special Order Request
 Yes No

Time

Open Agenda
 Yes No

ITEM No.:
E-5.

TITLE:
Recommendation to Approve Agreement - 58-044B - "Cook for Kids" Nutrition and Wellness Education Program Agreement

REQUESTED ACTION:
Approve the Agreement between Wellness in the Schools, Inc., and The School Board of Broward County, Florida. Contract Term: August 9, 2017 through June 30, 2018, 10 Months; User Department: Food & Nutrition Services; Award Amount: None; Awarded Vendor(s): Wellness in the Schools, Inc.; Minority/Women Enterprise Vendor(s): None.

SUMMARY EXPLANATION AND BACKGROUND:
 This request is to approve agreement 58-044B for the "Cook for Kids" Nutrition and Wellness in the Schools, Inc., Program. Through this Agreement, Wellness in the Schools, Inc., will provide two (2) schools with a "Cook for Kids" program and other related initiatives to promote good nutrition and wellness at the District's schools.
 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:
 There is no financial impact to the District.

EXHIBITS: (List)
 (1) Executive Summary (2) Agreement (3) Wellness in the Schools Accomplishments

BOARD ACTION:
APPROVED
 (For Official School Board Records Office Only)

SOURCE OF ADDITIONAL INFORMATION:

Name: Mary Mulder	Phone: 754-321-0215
Name: Mary C. Coker	Phone: 754-321-0501

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Senior Leader & Title
 Maurice L. Woods - Chief Strategy & Operations Officer

Signature
 Maurice Woods
 7/26/2017, 2:36:45 PM

Approved In Open Board Meeting On: _____

By: *Abby M. Freedman*
 School Board Chair

EXECUTIVE SUMMARY

Recommendation to Approve Agreement 58-044B – “Cook for Kids” Nutrition and Wellness Education Program Agreement

Outlined below is the agreement between Wellness in the Schools, Inc. (WITS) and The School Board of Broward County, Florida.

Program	“Cook for Kids” and related programs that include nutrition and wellness education at the schools.
Status	Request approval of the agreement to provide a “Cook for Kids program with Wellness in the Schools, Inc.”
Funds requested	None
Financial Impact Statement	There is no financial impact to the District.
Managing Department/School	Food & Nutrition Services
Project Description	The agreement between WITS and The School Board of Broward County, Florida, will provide one (1) chef/wellness professional who is an employee of WITS. This employee shall work in the school for a minimum of twenty-five (25) hours per week during the term to facilitate initiatives such as: <ol style="list-style-type: none">1. Culinary training to cafeteria personnel to enhance visibility and presentation of healthy menu choices.2. Introduce new menu items at the school.3. Offer nutrition and wellness education to connect students with healthy food choices.4. Partnerships with chefs and local restaurants in support of the program with food tastings, cooking classes, and events.

The Florida Department of Agriculture (FLDOA) identified and funded the “Wellness in the School” initiative during the 2015/16 school year.

Food & Nutrition Services (2) pilot schools with the parameters: a Title I School with proximity to the Miami-Dade line, as Miami-Dade was also asked to participate in the program. The location parameter provided for ease of travel for FLDOA and WITS staff. Food & Nutrition Services staff contacted principals utilizing this criterion, explaining, and presenting the opportunity to participate in the pilot. The first two (2) schools responding positively to the opportunity were identified and forwarded to FLDOA: McNicol Middle and Watkins Elementary Schools.

The Food & Nutrition Services was contacted by FLDOA in June 2016 and was informed that FLDOA could only continue to fund the program if the pilot program, moving forward, was open to all sponsors. The decision was made by FLDOA to shift funding to other programs. WITS was no longer funded by FLDOA for the 2016/17 school year.

WITS secured private funds to continue the efforts in identified pilot schools for the 2016/17 school year and also for the 2017/18 school year. The School Board approved the WITS agreement on February 22, 2017, with the program implementation in March of 2017. Food & Nutrition Services is requesting School Board approval to continue with the program at McNicol Middle and Watkins Elementary Schools.

Recommendation to Approve Agreement
58-044B – “Cook for Kids” Nutrition and Wellness Education Program Agreement
August 8, 2017 Board Agenda
Page 2

The Principals at McNicol Middle and Watkins Elementary were contacted regarding the opportunity to continue the program due to the short length of time the program was operational during 2016/17 school year. Both Principals reported positive responses within the school community and have agreed to continue hosting the program for the 2017/18 school year.

FOOD SERVICE AGREEMENT

THIS AGREEMENT (the "Agreement") is made and entered into as of this ^{8th}~~19th~~ day of ~~May~~^{August}, 2017, 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

WELLNESS IN THE SCHOOLS, INC.
(hereinafter referred to as "WITS"),
whose principal place of business is
PO Box 250832
New York, New York 10025

WHEREAS, as of the date hereof, WITS is a duly organized and registered non-profit corporation of the State of New York and charitable organization within the meaning of section 501(c)(3) of the Internal Revenue Code dedicated to children's environmental health, nutrition, and fitness in schools;

WHEREAS, WITS has agreed to provide its Cook for Kids and related wellness programs, as more fully described below (collectively, the "Program"), at the two designated schools during the 2017–2018 academic school year, subject to the conditions set forth below;

WHEREAS, the School has agreed to authorize the WITS's volunteers, chefs, and trainers (collectively, the "WITS Personnel") to operate the Program at the School during the 2017–2018 academic school year; and

WHEREAS, the parties desire to express to each other their mutual support and commitment in respect of the Program on the terms and conditions contained in 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 Section 3.05 of this Agreement, the term of this Agreement shall commence on the day following SBBC approval and conclude on June 30, 2018.

2.02 **Scope of Program.** The parties shall undertake the actions set forth in Exhibit A hereto.

2.03 **Location and Hours.** WITS shall implement the Program only on School grounds, during or after school hours, and during the 2017–2018 academic school year, in each case as mutually agreed to by the parties. For purposes of this Agreement, the 2017–2018 academic school year does not include days or weeks when the school is not operating or operating with limited hours because of scheduled holiday breaks, Teacher Work Days, or Half-Days. Unless otherwise agreed to by the parties, WITS shall have no obligation to implement the Program other than at the location, and dates and times set forth in this section.

2.04 **Confidentiality; Non-Disclosure; Ownership of Property.**

(a) **Confidentiality and Non-Disclosure:** Each party acknowledges that it may receive or be exposed to certain confidential and proprietary information about the other parties. Except as set forth in the non-disclosure section below, each party shall hold confidential and shall not disclose, publish, or use for the benefit of itself or any third party, any such confidential or proprietary information. This restriction shall not apply if the confidential or proprietary information: (i) was known by the receiving party prior to receipt from the party that provided confidential information; (ii) is generally available to the public other than by a breach of this Agreement; (iii) is lawfully acquired from third parties who have a right to disclose such information; or (iv) is required to be disclosed by law or legal proceeding. As soon as commercially practical after being requested by one of the parties, the other parties will destroy or return all confidential or proprietary information, and all copies and all related work product thereof, provided by the requesting party. All confidential information will remain the property of the party that provided Agreement it and will only be used by the parties for the intended purpose stated in this Agreement. Confidential information will be kept strictly confidential and will not be disclosed to any person in any manner whatsoever, except that the parties receiving the confidential information may disclose confidential information or portions thereof to its directors, officers, employees, agents, advisors, and representatives (the “**Representatives**”) who need to know such information. If any receiving party or any of its Representatives becomes legally compelled (by deposition, interrogatory, request for documents, subpoena, civil investigative demand or similar compulsory process) to disclose any of the confidential information, the receiving party shall provide the party that provided the confidential information with prompt notice of such requirement in accordance with the notice information set forth below (where such notice is not prohibited by law) so that the party that provided confidential information, in its discretion and at its sole cost and expense, may seek a protective order or other appropriate remedy.

(b) Ownership of Property: The School shall have no right, title or interest in or to any intellectual property of WITS, including, without limitation, any trademark, trade name, slogan, logo or other identification of WITS, and further agrees that any such intellectual property is and shall remain the sole property of WITS. WITS may provide the School with intellectual property, including, without limitation, trademarks, service marks, logos, names trade names, taglines or other proprietary designation (collectively the "WITS Marks") for use in connection with the Program, and the School shall not use any of the WITS Marks without having first obtained the prior written consent of WITS in each instance for such use.

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

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

With a Copy to: Director of Food and Nutrition Services
The School Board of Broward County, Florida
7720 West Oakland Park Boulevard, Suite 204
Sunrise, FL 33351

To WITS: Wellness in the Schools, Inc.
PO Box 250832
New York, New York 10025

With a Copy to: nancy@wellnessintheschools.org
greg@wellnessintheschools.org

2.06 Background Screening. WITS agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of WITS or its personnel providing any services under the conditions described in the previous sentence. WITS shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to WITS and its personnel. The parties agree that the failure of WITS 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. WITS agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from WITS's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3.
GENERAL CONDITIONS

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

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

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

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

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

3.06 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party thirty (30) days' written notice to cure the default. However, in the event said default cannot be

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

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

3.08 **Public Records**. The following provisions are required by Section 119.0701, Florida Statutes, and may not be amended. WITS shall keep and maintain public records required by SBBC to perform the services required under this Agreement. Upon request from SBBC's custodian of public records, WITS shall provide SBBC with a copy of any requested public records or to allow the requested public records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law. WITS shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement's term and following completion of the Agreement if WITS does not transfer the public records to SBBC. Upon completion of the Agreement, WITS shall transfer, at no cost, to SBBC all public records in possession of WITS or keep and maintain public records required by SBBC to perform the services required under the Agreement. If WITS transfer all public records to SBBC upon completion of the Agreement, WITS shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If WITS keeps and maintains public records upon completion of the Agreement, WITS shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

IF A PARTY TO THIS AGREEMENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 754-321-1900, REQUEL.BELL@BROWARDSCHOOLS.COM, RISK MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600 SOUTHEAST THIRD AVENUE, FORT LAUDERDALE, FLORIDA 33301.

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 Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or

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

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

3.11 **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 nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

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

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

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

(b) **By WITS:** WITS agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising out of or resulting from the gross negligence, recklessness, or intentional wrongful conduct of WITS, its agents, servants or employees, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by WITS, SBBC or otherwise; provided that WITS's indemnification obligations under this section shall in no event exceed an aggregate of twenty-five thousand dollars (\$25,000).

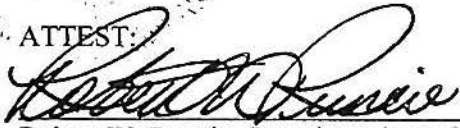
3.26 **Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this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

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

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

(Corporate Seal)

ATTEST:



Robert W. Runcie, Superintendent of Schools

FOR SBBC
THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

By: 
Abby M. Freedman, Chair

Approved as to Form and Legal Content:



Office of the General Counsel

FOR WITS

(Corporate Seal)

WELLNESS IN THE SCHOOLS, INC.

ATTEST:

By: [Signature]
Nancy Easton

_____, Secretary

-or- [Signature]

Witness [Signature]
Witness

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

STATE OF New York
COUNTY OF New York

The foregoing instrument was acknowledged before me this 19th day of May, 2017 by Nancy Easton of Wellness in the Schools, on behalf of the corporation/agency.

Name of Corporation or Agency
He/She is personally known to me or produced US Passport as identification and did/did not first take an oath. Type of Identification

My Commission Expires:

[Signature]
Signature - Notary Public

Danny Espinal
Printed Name of Notary

3/17/2018
Notary's Commission No.



EXHIBIT A

SCOPE OF PROGRAM

1. **Agreement of WITS.** Upon the terms and subject to the conditions hereof, WITS agrees that, for the duration of this Agreement, and subject in all respects to having obtained all payments then-owed by the School under this Agreement, it shall:

a. Implement the Program at the School and work with the School's Wellness Committee (as defined below) in an attempt to improve the School's lunch experience in both food and physical activity;

b. In implementing the Program, provide one (1) chef/wellness professional who is an employee of WITS (a "WITS Professional") who shall work in the school for a minimum of twenty-five (25) hours per week during the Term and shall work with any other WITS Personnel; provided that the twenty-five (25) hours per week requirement does not apply if School is not operating or is operating with limited hours during any given week; and

c. Through a WITS Professional, facilitate the following initiatives, using WITS' s best efforts:

i. Obtain the support of the School's Wellness Committee;

ii. Offer culinary training to cafeteria personnel employed at the School, in an attempt to enhance the visibility and presentation of healthy menu choices and introduce new menu items at the School;

iii. Offer nutrition and wellness education at the School, in an attempt to connect students with healthy food choices offered in the cafeteria in the School;

iv. Partner with a local restaurant/chef to support the Program with tastings, cooking classes and events on mutually acceptable terms with the Wellness Committee;

v. WITS may provide additional wellness activities to the School from and after approval of this agreement, which may include, without limitation, a WITS Cafe Day with a local chef, WITS culinary and/or nutrition classes, and WITS FIT BITS (fitness breaks), each on mutually acceptable terms with the Wellness Committee; and

vi. Liaise with and provide support to parents, students, and staff of the School, in an attempt to help the School obtain an optimal experience in WITS's implementation of the Program.

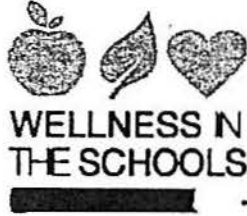
2. **Agreement of the School.** Upon the terms and subject to the conditions hereof, the School agrees that, for the duration of this Agreement, it shall:

a. Create upon approval of this agreement, and maintain, a school-based wellness committee that meets each month during each of the academic school year, is given express authority by the School to undertake the actions or provide direction to School personnel

to undertake the actions or actions relating to such actions described herein or otherwise agreed to by the Parties, and shall consist of parents of current students who attend the School, School staff and administration and current students who attend the School, as appropriate (the “Wellness Committee”);

b. Designate a liaison on the Wellness Committee who shall be responsible for working closely with the WITS Professional and for scheduling, organizing and presiding over monthly Wellness Committee meetings with parents, students, and other interested members of the School community; and

c. Use its best efforts to commit to, and to make, the School a healthier place for its students to nourish their minds and bodies, including without limitation provide WITS with the resources, such as sufficient facilities and School personnel, if available, that WITS requests in order to successfully implement the Program.



Wellness in the Schools (WITS) Accomplishments in Broward County 2016-2017

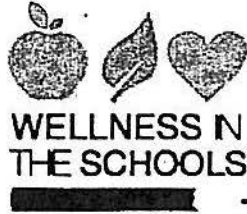
WITS Chefs work with schools to teach scratch cooked recipes, train school staff, and provide nutrition education to students. This year we had the pleasure of launching our program in two Broward County Schools. McNicol Middle School (WITS Chef Leonor) and Watkins Elementary School (WITS Chef Jason). Our daily goal is for students to return to class after lunch and recess ready to focus and learn. Our long-term goal is to teach children healthy habits that will last a lifetime.

- Our Chefs taught 2 **WITS Labs** (seasonal culinary and nutrition education classes for students) at both schools.
 - 1) **Roasted Potato Lab** (Roasted Red Potatoes with rosemary and olive oil)
 - 2) **Salad Greens Lab** (Balsamic and Honey Mustard dressings with greens and a healthy yogurt dip with fresh strawberries).

In the Labs, students prepare simple, affordable, and healthy recipes. At each school we teach about 500 students per lab throughout the course of a week. The lessons introduce students to the importance of healthy eating and seasonal ingredients, inspiring them to share their newly acquired knowledge with their families. The students get to participate hands on in the classes where they learn nutrition facts, knife skills and safety, how to read food labels, what their food looks like before being processed and where it comes from geographically, and team building skills. The teachers love these lessons as they tie into their math and science curriculum like using ratios when measuring and the chemical bond of emulsification when making dressings. Most importantly the students leave with the knowledge and power to re-create these recipes at home. Programs like these have been shown to positively influence children's food preferences and behaviors, according to recent studies. Both Chefs have been stopped in the halls and told by students how they have made these recipes at home with great results.

- This year we also taught 3 **WITS BITS** lessons. These are simple 20-minute classroom lessons that use hands-on demonstrations to emphasize basic nutrition concepts.
 - 1) **Eating the Rainbow** (To teach students the benefits of eating a variety of color in their fruits and vegetables and why each color helps the body in different ways).
 - 2) **Blubber Burger** (A hands on demo teaching children about the fat content in processed foods by weighing out the equivalent of fat

Wellness In the Schools inspires healthy eating, environmental awareness and fitness as a way of life for kids in public schools.



in a typical fast food meal)

- **3) Sugar Overload** (A hands on demo where students measure out the amount of sugar in popular sodas and sports drinks and then compare them to water and low-sugar beverages)

Other accomplishments:

- **WITS Café Day-** This year we had a WITS Café Day at Watkins Elementary where local Chef Partner Clark Bowen came to the school cafeteria and offered an interactive tasting during lunch. This unique experience tied the cucumbers being served off the line with the "rainbow" bean salad Chef Clark had prepared. We gave samples to the students when they were on their way to their seats and encouraged them to choose healthy foods and sample new items.
- **Family Fitness Fun Nights at both schools-** During Family Fitness Fun Night (FFFN), up 200 student's and family members participate in exciting fitness classes led by local WITS Fitness Partners (e.g. yoga, Zumba, and soccer). Complete with a complimentary healthy dinner of wraps and salads. FFFNs provide an opportunity for the entire family to come together in a fun and festive atmosphere. Both schools have requested more fitness nights next year.
- **Walking Wednesdays at McNicol-** Chef Leonor noticed a large group of students sitting in the media center each morning before school eating junk food. She decided to create an exercise program and each Wednesday morning, she and about 80 students began walking the track to get moving before class begun. The feedback has been amazing and both the students and teachers are now involved.
- **McNicol Field Trip-** Chef Partner Michael Schwartz invited Chef Leonor and 20 students from McNicol to his pizzeria in Miami. They all had a healthy lunch and learned about different fresh vegetables they could put on their pizza's like kale and zucchini.
- **McNicol Garden Cooking Demos and Parent classes-** Chef Leonor partnered with Mr. Torres and created a pesto cooking class and tasting to both students and parents when they harvested their basil throughout the year. The students learned to cook during science class and the parents held their classes after school and during PTA meetings.
- **Tastings in the cafeteria-** This year we offered roasted potato tastings and roasted green bean tastings in the cafeterias. After the tastings we offered/served them off the lines as the vegetables of the day. We promoted healthy and simple scratch cooked recipes to increase the participation of the students and reactions were excellent. After promoting

Wellness in the Schools inspires healthy eating, environmental awareness and fitness as a way of life for kids in public schools.



the tastings, we actually ran out of the vegetables we served off the line at both schools. The students get very engaged when the chef is in the cafeteria sitting with them and trying new things and this helps increase their involvement.

Wellness In the Schools inspires healthy eating, environmental awareness and fitness as a way of life for kids in public schools.



AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

ITEM No.:
E-3.

MEETING DATE	2018-06-12 10:05 - School Board Operational Meeting
AGENDA ITEM	ITEMS
CATEGORY	E. OFFICE OF STRATEGY & OPERATIONS
DEPARTMENT	Procurement & Warehousing Services

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

Time

Open Agenda
<input type="radio"/> Yes <input checked="" type="radio"/> No

TITLE:
Recommendation to Approve First Amendment - 58-044B - "Cook for Kids" Nutrition and Wellness Education Program Agreement

REQUESTED ACTION:
Approve the First Amendment for the above Agreement - 58-044B - "Cook for Kids" Nutrition and Wellness Education Program. Contract Term: August 9, 2017 through June 30, 2019, 1 Year; 11 Months; User Department: Food & Nutrition Services; Award Amount: None; Awarded Vendor(s): Wellness in the Schools, Inc.; Small/Minority/Women Enterprise Vendor(s): None.

SUMMARY EXPLANATION AND BACKGROUND:
Approve the First Amendment to the Agreement. The current Agreement expires on June 30, 2018; therefore, this request is presented to amend the term of the current Agreement for one (1) additional year. Through this Agreement, Wellness in the Schools, Inc., will provide two (2) schools with a "Cook for Kids" program and other related initiatives to promote good nutrition and wellness at the District's schools.
The amendment to the 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:
There is no financial impact to the District.

EXHIBITS: (List)
(1) Executive Summary (2) First Amendment Agreement (3) Approved ARF 8-8-2017 SBOM E-5 (4) Broward Accomplishments 2017-2018

BOARD ACTION:

APPROVED
(For Official School Board Records Office Only)

SOURCE OF ADDITIONAL INFORMATION:	
Name: Mary Mulder	Phone: 754-321-0215
Name: Mary C. Coker	Phone: 754-321-0501

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
Senior Leader & Title
Maurice L. Woods - Chief Strategy & Operations Officer

Signature
Maurice Woods
5/25/2018, 9:54:40 AM

Electronic Signature
Form #4189 Revised 08/04/2017
RWR/ MLW/MCC/MM:ls

Approved In Open Board Meeting On: **JUN 12 2018**
By: *Nora Rupert*
School Board Chair

EXECUTIVE SUMMARY

Recommendation to Approve First Amendment to Agreement 58-044B – “Cook for Kids” Nutrition and Wellness Education Program Agreement

The Florida Department of Agriculture (FLDOA) identified and funded the “Wellness in the School” (WITS) initiative during the 2015/2016 school year. At that time, two Title I schools were selected to pilot the program based on their proximity to the Miami-Dade County line (Miami-Dade was also asked to participate in the program). The location parameter provided for ease of travel for FLDOA and WITS staff. Food & Nutrition Services staff contacted principals utilizing this criterion, explaining, and presenting the opportunity to participate in the pilot. The first two (2) schools responding positively to the opportunity were identified and forwarded to FLDOA: McNicol Middle and Watkins Elementary Schools.

In June 2016, FLDOA contacted Food & Nutrition Services to inform that FLDOA could only continue to fund the program if the pilot program, moving forward, was open to all sponsors. FLDOA made the decision to shift funding to other programs and WITS was no longer funded by FLDOA for the 2016/2017 school year.

WITS secured private funds to continue the efforts in the identified pilot schools for the 2016/2017 school year and also for the 2017/2018 school year. The School Board approved the WITS agreement on February 22, 2017, with the program implementation in March of 2017.

The School Board of Broward County, Florida (SBBC), approved the agreement between WITS and SBBC on August 8, 2017, for an eleven (11) month term from August 9, 2017 through June 30, 2018. Through this Agreement, WITS provides a “Cook for Kids” and other related programs that include nutrition and wellness education at the schools at no cost to the District.

WITS secured private funds to continue the efforts in the identified pilot schools for the 2018/2019 school year.

A WITS chef/wellness professional works in the school for a minimum of twenty-five (25) hours per week to facilitate initiatives such as:

1. Culinary training to cafeteria personnel to enhance visibility and presentation of healthy menu choices.
2. Introduce new menu items at the school.
3. Offer nutrition and wellness education to connect students with healthy food choices.
4. Partnerships with chefs and local restaurants in support of the program with food tastings, cooking classes, and events.

The Principals at McNicol Middle and Watkins Elementary were contacted regarding the opportunity to provide continuity of the program and reported positive responses to continue hosting the programs for the 2018/2019 school year.

Food & Nutrition Services is requesting School Board approval to continue with the program at McNicol Middle and Watkins Elementary Schools for the 2018/2019 school year.

**FIRST AMENDMENT TO
FOOD SERVICE AGREEMENT**

THIS AGREEMENT (the "Agreement") is made and entered into as of this 12th day of June, 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

WELLNESS IN THE SCHOOLS, INC.
(hereinafter referred to as "WITS"),
whose principal place of business is
31 W. 125th Street, 5th Floor
New York, NY 10027

WHEREAS, SBBC and WITS entered into an Agreement dated August 8th, 2017 (hereinafter referred to as "Agreement"); under Contract Number 58-044B, Wellness in the Schools, Inc., for the purpose of operating its Cook for Kids and related wellness programs as fully described in Exhibit A incorporated herein.

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 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.

1.02. **Term of Agreement.** The Agreement is hereby extended from July 1, 2018 through June 30, 2019, unless terminated earlier pursuant to Section 3.05 of the Agreement.

1.03. **Order of Precedence Among Agreement Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: First Amendment to the Agreement, then
Second: Agreement

1.04. **Other Provisions Remain in Force.** Except as expressly provided herein, all other portions of the Agreement and First Amendment to Agreement remain in full force and effect.


1.05. **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.

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

FOR SBBC



ATTEST:


Robert W. Runcie, Superintendent of Schools

THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

By: 
Nora Rupert, Chair

Approved as to Form and Legal Content:

Janette M. Smith

Digitally signed by Janette M.
Smith
Date: 2018.04.24 14:49:13
-04'00'

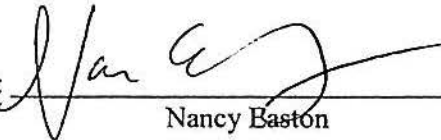
Office of the General Counsel

FOR WITS

(Corporate Seal)

WELLNESS IN THE SCHOOLS, INC.

ATTEST:

By: 
Nancy Easton

_____, Secretary

-or-

Witness

Witness

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

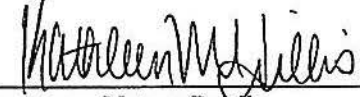
STATE OF New York
COUNTY OF New York

The foregoing instrument was acknowledged before me this 12th day of April, 2018 by Nancy Easton of _____
Name of Person

Wellness In The Schools, on behalf of the corporation/agency.
Name of Corporation or Agency

He/She is personally known to me or produced New York State Drivers License as identification and did/did not first take an oath. Type of Identification

My Commission Expires:


Signature - Notary Public

Kathleen M. Hillis
Printed Name of Notary

(SEAL)

01HI6239834
Notary's Commission No.

Exp Date: 04/25/2019

EXHIBIT A

SCOPE OF PROGRAM

1. **Agreement of WITS.** Upon the terms and subject to the conditions hereof, WITS agrees that, for the duration of this Agreement, and subject in all respects to having obtained all payments then-owed by the School under this Agreement, it shall:

a. Implement the Program at the School and work with the School's Wellness Committee (as defined below) in an attempt to improve the School's lunch experience in both food and physical activity;

b. In implementing the Program, provide one (1) chef/wellness professional who is an employee of WITS (a "WITS Professional") who shall work in the school for a minimum of twenty-five (25) hours per week during the Term and shall work with any other WITS Personnel; provided that the twenty-five (25) hours per week requirement does not apply if School is not operating or is operating with limited hours during any given week; and

c. Through a WITS Professional, facilitate the following initiatives, using WITS' s best efforts:

i. Obtain the support of the School's Wellness Committee;

ii. Offer culinary training to cafeteria personnel employed at the School, in an attempt to enhance the visibility and presentation of healthy menu choices and introduce new menu items at the School;

iii. Offer nutrition and wellness education at the School, in an attempt to connect students with healthy food choices offered in the cafeteria in the School;

iv. Partner with a local restaurant/chef to support the Program with tastings, cooking classes and events on mutually acceptable terms with the Wellness Committee;

v. WITS may provide additional wellness activities to the School from and after approval of this agreement, which may include, without limitation, a WITS Cafe Day with a local chef, WITS culinary and/or nutrition classes, and WITS FIT BITS (fitness breaks), each on mutually acceptable terms with the Wellness Committee; and

vi. Liaise with and provide support to parents, students, and staff of the School, in an attempt to help the School obtain an optimal experience in WITS's implementation of the Program.

2. **Agreement of the School.** Upon the terms and subject to the conditions hereof, the School agrees that, for the duration of this Agreement, it shall:

a. Create upon approval of this agreement, and maintain, a school-based wellness committee that meets each month during each of the academic school year, is given express authority by the School to undertake the actions or provide direction to School personnel

to undertake the actions or actions relating to such actions described herein or otherwise agreed to by the Parties, and shall consist of parents of current students who attend the School, School staff and administration and current students who attend the School, as appropriate (the **“Wellness Committee”**);

b. Designate a liaison on the Wellness Committee who shall be responsible for working closely with the WITS Professional and for scheduling, organizing and presiding over monthly Wellness Committee meetings with parents, students, and other interested members of the School community; and

c. Use its best efforts to commit to, and to make, the School a healthier place for its students to nourish their minds and bodies, including without limitation provide WITS with the resources, such as sufficient facilities and School personnel, if available, that WITS requests in order to successfully implement the Program.



AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

ITEM No.:
E-5.

MEETING DATE	2017-08-08 10:05 - School Board Operational Meeting
AGENDA ITEM	ITEMS
CATEGORY	E. OFFICE OF STRATEGY & OPERATIONS
DEPARTMENT	Procurement & Warehousing Services

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

TITLE:

Recommendation to Approve Agreement - 58-044B - "Cook for Kids" Nutrition and Wellness Education Program Agreement

REQUESTED ACTION:

Approve the Agreement between Wellness in the Schools, Inc., and The School Board of Broward County, Florida. Contract Term: August 9, 2017 through June 30, 2018, 10 Months; User Department: Food & Nutrition Services; Award Amount: None; Awarded Vendor(s): Wellness in the Schools, Inc.; Minority/Women Enterprise Vendor(s): None.

SUMMARY EXPLANATION AND BACKGROUND:

This request is to approve agreement 58-044B for the "Cook for Kids" Nutrition and Wellness in the Schools, Inc., Program. Through this Agreement, Wellness in the Schools, Inc., will provide two (2) schools with a "Cook for Kids" program and other related initiatives to promote good nutrition and wellness at the District's schools.
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:

There is no financial impact to the District.

EXHIBITS: (List)

(1) Executive Summary (2) Agreement (3) Wellness in the Schools Accomplishments

BOARD ACTION:
APPROVED
(For Official School Board Records Office Only)

SOURCE OF ADDITIONAL INFORMATION:	
Name: Mary Mulder	Phone: 754-321-0215
Name: Mary C. Coker	Phone: 754-321-0501

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
Senior Leader & Title

Maurice L. Woods - Chief Strategy & Operations Officer

Approved In Open Board Meeting On: _____

Signature
Maurice Woods
7/26/2017, 2:36:45 PM

By: *Abby M. Freedman*
School Board Chair



Wellness in the Schools (WITS) Accomplishments in Broward County 2017-2018

WITS Chefs work with schools and partner with school counties to teach scratch cooked recipes, train school staff, and provide nutrition education to students. This was our second year working in Broward County. WITS Chef Leonor was in both McNicol Middle School and Watkins Elementary School modeling our Tier 2 Program for the schools. This means that she was in each school 2-3 days a week. Our daily goal is for students to return to class after lunch ready to focus and learn. Our long-term goal is to teach children healthy habits that will last a lifetime.

- **Chefs Move to Broward:** Each month, from October 2017- May 2018, a local South Florida Celebrity Chef introduced one of their recipes to the Broward School Cafeteria. Tastings were conducted where the WITS chefs would prepare the dish, Celebrity Chef would pass out samples, during the students scheduled lunch time, and discussion with the chef would take place with the microphone.
 - **Due to the success of these tastings, we will be conducting CookCamps this summer to train 7-10 Broward County Schools on how to implement these on the School Lunch Line Starting Fall 2018.**
 - **October:** Chef Michael Schwartz from Harry's Pizzeria served his Kale Pizza
 - **November:** Chef Clarke Bowen, Boulud Sud, served his Black bean and plantain quesadilla
 - **December:** Nancy Easton and WITS Chef Leonor demo'd the vegetarian chili at the 2017 Broward Food Show.
 - **January:** WITS Chefs passed out samples of Scratch Made Salad Dressings
 - **February:** Chef Aria Kagan, from the Food Network, served her Pesto Panini
 - **March:** Chef Julie Frans, from the Wynwood Yard served Roasted Vegetables
 - **April: No CM2B**
 - **May:** Whole Foods Market will be serving their Pesto Pasta with Tomatoes.
- Chef Leonor taught 4 **WITS Labs** (seasonal culinary and nutrition education classes for students) at both schools.
 - 1) **Applesauce**
 - 2) **Vegetarian Chili**
 - 3) **Braised Carrots**

Wellness in the Schools teaches kids healthy habits to learn and live better.



- 4) **Salad Greens Lab** (Lemon Honey & Fresh dressings with greens and a healthy yogurt dip with fresh strawberries).

In the Labs, students prepare simple, affordable, and healthy recipes. At each school we teach about 500 students per lab throughout the course of a week. The lessons introduce students to the importance of healthy eating and seasonal ingredients, inspiring them to share their newly acquired knowledge with their families. The students get to participate hands on in the classes where they learn nutrition facts, knife skills and safety, how to read food labels, what their food looks like before being processed and where it comes from geographically, and team building skills. The teachers love these lessons as they tie into their math and science curriculum like using ratios when measuring and the chemical bond of emulsification when making dressings. Most importantly the students leave with the knowledge and power to re-create these recipes at home. Programs like these have been shown to positively influence children's food preferences and behaviors, according to recent studies. Chef Leonor is constantly being stopped in the halls and told by students how they have made these recipes at home with great results.

- This year we also taught 3 **WITS BITS** lessons. These are simple 20-minute classroom lessons that use hands-on demonstrations to emphasize basic nutrition concepts.
 - 1) **My Plate:** (To teach students the components of a balanced meal, and the importance of each component)
 - 2) **Brown Bag Challenge:** (To help students become more confident in reading ingredients and nutrition labels in order to help them make better choices; and to help students become cognizant of processed vs. fresh foods.
 - 3) **Vegetable ID:** To get students excited about vegetables.

Other accomplishments:

- **Family Fitness Fun Nights at both schools-** During Family Fitness Fun Night (FFFN), up 200 student's and family members participate in exciting fitness classes led by local WITS Fitness Partners (e.g. yoga, Zumba, and soccer). Complete with a complimentary healthy dinner of wraps and salads. FFFNs provide an opportunity for the entire family to come together in a fun and festive atmosphere. Both schools have requested more fitness nights next year.
 - This year at **Watkins Elementary** we had a record breaking attendance of over 200 people!

Wellness in the Schools teaches kids healthy habits to learn and live better.



- **Track Tuesdays at McNicol-** Chef Leonor noticed a large group of students sitting in the media center each morning before school eating junk food. She decided to create an exercise program and each Wednesday morning, she and about 80 students began walking the track to get moving before class begun. The feedback has been amazing and both the students and teachers are now involved.
 - This has been taking place for two years now and the school has taken hold of the morning walk. This is a great example of creating sustainability.
 - Due to the start of this, Leonor has been able to build a successful Wellness Committee at McNicol. There is not a Wellness Committee Meeting at McNicol consisting of about 5-6 teachers who meet on a regular basis to promote wellness activities.
- **McNicol Tower Gardens** - Chef Leonor partnered with Mr. Torres and applied to a Whole Kids Foundation Grant. This year, with the help of the grant, Chef Leonor & Mr. Torres launched 4 tower gardens to grow produce in the classroom!
 - Leonor was able to come to visit classrooms from time to time to conduct salad tastings with homemade salad dressings.
- **Painting at Watkins!** - Wellness in the Schools strives to become a part of the school culture throughout its course. If help is needed somewhere besides the Cafeteria, we try to help! A group of 15 volunteers were brought in to help paint the School Library in March.

Wellness in the Schools teaches kids healthy habits to learn and live better.