

## AGREEMENT

**THIS AGREEMENT** is made and entered into as of this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, 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

**PUBLIC CONSULTING GROUP, INC.**

(hereinafter referred to as "PCG"),  
whose principal place of business is  
148 State Street  
Boston, MA 02109

**WHEREAS**, PCG owns and licenses professional development courses and customized professional development programs and solutions ("Course(s)") on PCG's Professional Learning Platform ("Platform"), which is hosted and made available online by PCG, and as may be updated by PCG from time to time, through which users may access Courses, access and use of the materials in the resource library, and collaboration opportunities; and

**WHEREAS**, the parties wish to set forth the terms and conditions pursuant to which PCG can license to SBBC Seats in Course(s) on, and access to, the Platform, whereby Seats means one unit of access to a Course purchased by a Customer for a "User," which means any employee, contractor, and other authorized user of the Customer who will be granted access to a Seat or to the Platform, accessible for so long as such Course remains available, under the terms of this Agreement, on the Platform.

**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 5.05 of this Agreement, the term of this Agreement shall commence on upon the execution of both parties and conclude on January 21, 2021.

2.02 **Purpose.** PCG will provide online professional development for district staff members that reflects the priorities and needs of Broward County Public Schools to support educational practitioners in creating cultures in schools that promote equity in education and ensure that all children reach their full potential. The online course was designed to provide educators with tools and strategies needed to examine the impact of race, competently address persistent educational and opportunity gaps faced by students, and to improve academic achievement for all.

2.03 **Scope of Work.** PCG shall provide the following services to SBBC throughout the term of this Agreement:

(a) PCG grants to Customer, and Customer accepts, (i) a non-exclusive, non-transferable right and license, during the Term only, to access via the Internet, 500 Seats, for the course entitled “Courageous Conversations about Race,” for the Customer’s education-related purposes, and (ii) a non-exclusive, non-transferable license, during the Term only, under PCG’s copyrights in PCG’s Documentation to reproduce and distribute modified and original versions of Documentation and, if such Documentation is in an on-line format, allow Customer Users to make print copies of the same. “Documentation” means all technical information, training materials, instructions, manuals, and diagrams (in printed, electronic, or other media) pertaining to the Course(s) and the Platform.

(b) PCG grants to Customer, and Customer accepts, a non-exclusive, non-transferable right and license, during the Term only, to access via the Internet, the Platform for 500 Customer Users for the Customer’s education-related purposes.

2.04 **Fees.**

Service	Fees	Unit	Total
Course License (per seat)	\$529	500	\$227,500
Textbook Fee (Courageous Conversations about Race: A Field Guide for Achieving Equity in Schools)	\$36	500	\$18,000
Platform Access (per user)	\$50	500	\$25,000
PLP Implementation and Ongoing Support (Setup)	\$25,000	1	\$25,000
On-site client support and weekly project management updates (12-weeks)	\$160,000	1	\$160,000
		<b>TOTAL</b>	\$492,500

2.05 **Payment.** PCG shall submit an invoice to SBBC on January 20, 2020 in the amount of Two Hundred Forty-Six Thousand, Two Hundred Fifty Dollars and 00/100 Cents (\$246,250.00) for services rendered. PCG shall submit an invoice to SBBC on June 30, 2020 in the amount of Two Hundred Forty-Six Thousand, Two Hundred Fifty Dollars and 00/100 Cents (\$246,250.00) for services rendered. SBBC will pay PCG within thirty (30) days of receipt of a proper and appropriate invoice.

2.06 **SBBC Disclosure of Education Records.** Although no student education records shall be disclosed pursuant to this Agreement, should PCG 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.

2.07 **SBBC Disclosure of Employee Records.** Information will be disclosed to PCG in order to register and enroll for the course. Information being disclosed is detailed below:

- (a) Teacher's first and last name
- (b) Work email address

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

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

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

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

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

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

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

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

(h) Inspector General Audits. PCG shall comply and cooperate 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.

2.09 **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: Antoine Hickman  
Executive Director, Student Support Initiatives  
Lauderdale Manors Early Learning & Resource Center  
1400 NW 14th Court  
Fort Lauderdale, Florida 33311

To PCG: Public Consulting Group, Inc.  
Attention: Legal  
148 State Street  
Boston, MA 02109

2.10 **Background Screening.** To the extent applicable, PCG 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 PCG or its personnel providing any services under the conditions described in the previous sentence. PCG 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 PCG and its personnel. The parties agree that the failure of PCG 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. PCG 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 PCG's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

**2.11 Insurance Requirements.** PCG shall comply with the following insurance requirements throughout the term of this Agreement.

(a) **General Liability.** Limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate. Limits not less than \$1,000,000 for Products/Completed Operations Aggregate.

(b) **Professional Liability/Technical Errors & Omissions.** Limit not less than \$1,000,000 per occurrence covering services provided under this Agreement.

(c) **Acceptability of Insurance Carriers.** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated at least A- VI by AM Best or Aa3 by Moody's Investor Service.

(d) **Verification of Coverage.** Proof of Insurance must be furnished within 15 days of execution of this Agreement. To streamline this process, SBBC has partnered with EXIGIS Risk Works to collect and verify insurance documentation. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit PCG time to remedy any deficiencies. Please verify your account information and provide contact details for your company's Insurance Agent via the link provided in the email upon award.

(e) **Required Conditions.** Liability policies must contain the following provisions. In addition, the following wording must be included 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; and

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.

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

### ARTICLE 3 – LICENSE CONDITIONS

3.01 SBBC shall not grant to any person or entity other than SBBC's Users the right to use Seats or the Platform, which Users shall be subject to the terms set forth herein. Unless otherwise authorized herein, SBBC shall not distribute, market, or sublicense Seats or the access to the Platform, and shall not permit any Customer User or third party to do so.

3.02 SBBC shall ensure that appropriate proprietary notices indicating PCG's Intellectual Property Rights in the Courses, related Documentation, and Platform are placed on all copies of written materials distributed by SBBC relating thereto. SBBC shall not remove, modify, or suppress any confidentiality legends or proprietary notices placed on or contained within the Courses or Platform, and shall not permit anyone to do so. SBBC shall not distribute any PCG Documentation or Intellectual Property made available through this Agreement to any individual or organization that is not a SBBC User, and shall not permit anyone to do so.

3.03 **Intellectual Property.** "Intellectual Property" means all rights associated with: (i) patents, patent applications, patent disclosures, Inventions (whether or not patentable or reduced to practice) and any Improvements thereto, together with all reissues, continuations, continuations in part, divisions, revisions, extensions and/or reexaminations thereof; (ii) trademarks, service marks, trade dress trade names, logos, corporate names, domain names and all other source identifiers (whether registered or unregistered), and all registrations and applications for registration thereof (including, but not limited to, all translations, adaptations, derivations and combinations of the foregoing), together with all the goodwill associated therewith; (iii) copyrights, mask works, copyrightable works and works of authorship (whether registered or unregistered), and all registrations and applications for registration thereof and all associated moral rights; (iv) computer software (including, but not limited to, all source code, object code, libraries, modules, components, designs, utilities, scripts, templates, objects, program listings, processes, tools, interfaces, reconfigurations, models, diagrams, methodologies, programs, analyses, frameworks and specifications), data, databases and documentation therefor; (v) trade secrets and other Confidential Information (as defined herein); (vi) Courses; (vii) all intellectual property acquired by PCG from Knowledge Delivery Systems, Inc. ("KDS") including its name and logo; (viii) the Platform; and (ix) all other intellectual property rights (of every kind and nature throughout the world and however designated, whether arising by operation of law, contract, license or otherwise).

3.04 SBBC acknowledges and agrees that, as between PCG and SBBC, PCG and its licensors own all rights, title and interest (including, but not limited to, all Intellectual Property) in Courses, Documentation, and the Platform. Except as expressly permitted under this Agreement, SBBC may not use any Intellectual Property of PCG without its prior written consent. Without limiting the generality of the foregoing, SBBC may not use, reproduce, display, modify, or create derivative works of, publicly perform, publicly display or distribute any Intellectual Property of PCG except to the extent expressly permitted under this Agreement.

3.05 PCG reserves all rights not expressly granted to SBBC by this Agreement.

### ARTICLE 4 – CONFIDENTIALITY

4.01 To the extent allowable by applicable law, including public records laws, for purposes of fulfilling its obligations under this Agreement, one party ("Disclosing Party") may

convey to the other party (“Receiving Party”) information that is considered confidential to the Disclosing Party.

4.02 “Confidential Information” is defined as information – including but not limited to trade secrets, strategies, financial information, sales information, pricing information, operational techniques, software, and intellectual property -- that (i) has not previously been published or otherwise disclosed by the Disclosing Party to the general public, (ii) has not previously been available to the Receiving Party or others without confidentiality restrictions, or (iii) is not normally furnished to others without compensation, and which the Disclosing Party wishes to protect against unrestricted disclosure or competitive use. Confidential Information does not include information that, without a breach of this Agreement, is developed independently by the Receiving Party, or that is lawfully known by the Receiving Party and received from a source that was entitled to have the information and was not bound to the Disclosing Party by any confidentiality requirement.

4.03 The Receiving Party shall hold Confidential Information in strict confidence, in perpetuity, and shall disclose such information to its employees only for purposes of this Agreement. The Receiving Party shall use at least the same standard of care for protecting Confidential Information that it uses to prevent disclosure of its own confidential information, but in no case less than reasonable care.

4.04 Nothing in this Agreement prohibits the Receiving Party from disclosing Confidential Information pursuant to a lawful order of a court or government agency, but only to the extent of such order, and only if the Receiving Party gives immediate notice of such order to the Disclosing Party in order that it may take action to protect the information that was ordered to be disclosed.

4.05 Rights and obligations under this Agreement shall take precedence over legends or statements that may be associated with Confidential Information.

4.06 Upon termination of this Agreement, each party shall cease use of Confidential Information received from the other party and shall promptly return or destroy (with a written certification) such Confidential Information. If return or destruction is not practicable, the Receiving Party shall notify the Disclosing Party and keep such information secure and confidential in perpetuity.

## **ARTICLE 5 – GENERAL CONDITIONS**

5.01 **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.

5.02 **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.

5.03 **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.

5.04 **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.

5.05 **Termination.** This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to PCG 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.

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

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

shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

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

5.09 **Public Records**. The following provisions are required by Section 119.0701, Florida Statutes, and may not be amended. PCG 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, PCG 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. PCG 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 PCG does not transfer the public records to SBBC. Upon completion of the Agreement, PCG shall transfer, at no cost, to SBBC all public records in possession of PCG or keep and maintain public records required by SBBC to perform the services required under the Agreement. If PCG transfer all public records to SBBC upon completion of the Agreement, PCG shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If PCG keeps and maintains public records upon completion of the Agreement, PCG 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](mailto:RECORDREQUESTS@BROWARDSCHOOLS.COM), RISK MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600 SOUTHEAST THIRD AVENUE, FORT LAUDERDALE, FLORIDA 33301.**

5.10 **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.

5.11 **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.

5.12 **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 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.

5.13 **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.

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

5.15 **Assignment.** Neither this Agreement or any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

5.16 **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.

5.17 **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.

5.18 **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.

5.19 **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.

5.20 **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.

5.21 **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.

5.22 **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.

5.23 **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.

5.24 **Indemnification 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 PCG: PCG 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 PCG, its agents, servants or employees; the equipment of PCG, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of PCG or the negligence of PCG’s agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC’s property, and injury or death of any person whether employed by PCG, SBBC or otherwise.

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

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

**FOR SBBC**

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

ATTEST:

By \_\_\_\_\_  
Donna P. Korn, Chair

\_\_\_\_\_  
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

\_\_\_\_\_  
Office of the General Counsel

**FOR PCG**

(Corporate Seal)

**PUBLIC CONSULTING GROUP, INC.**

ATTEST:

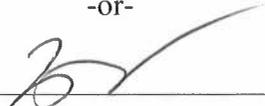
By   
Signature

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

Printed Name: JACK M'LAUGHLIN

-or-

Title: MANAGER

  
Witness

  
Witness

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

STATE OF \_\_\_\_\_

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

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

\_\_\_\_\_  
Name of Person  
, on behalf of the corporation/agency.

\_\_\_\_\_  
Name of Corporation or Agency

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

My Commission Expires:

\_\_\_\_\_  
Signature – Notary Public

(SEAL)

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

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

*Please see attached document*

Notary Public 

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of SANTA CRUZ )

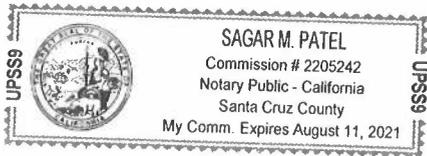
On 12/17/19 before me, SAGAR M PATEL, NOTARY PUBLIC  
*Date Here Insert Name and Title of the Officer*

personally appeared JACK MCLAUGHLIN  
*Name(s) of Signer(s)*

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Signature]  
*Signature of Notary Public*

*Place Notary Seal Above*

**OPTIONAL**

*Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_  
Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_