



ADDED ITEM

AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

MEETING DATE: 2020-06-23 10:05 - Regular School Board Meeting

AGENDA ITEM: ITEMS

CATEGORY: EE. OFFICE OF STRATEGY & OPERATIONS

DEPARTMENT: Procurement & Warehousing Services

Special Order Request
 Yes No

Time

Open Agenda
 Yes No

ITEM No.:

EE-25.

TITLE:

Recommendation of \$500,000 or Greater - FY21-002 - Education and Transportation Services for Transitioning Students with Disabilities

REQUESTED ACTION:

Approve the agreement with ARC Broward, Inc. Contract Term: August 19, 2020 through June 9, 2021, Eleven (11) Months; User Department: Exceptional Student Learning Support; Award Amount: \$684,601; Awarded Vendor(s): ARC Broward, Inc.; Small/Minority/Women Business Enterprise Vendor(s): None.

SUMMARY EXPLANATION AND BACKGROUND:

The School Board of Broward County, Florida, is required under federal legislation to educate and provide transition services to all identified transitioning students with disabilities. The intent of transition students is to create opportunities for youth with disabilities that lead to positive adult outcomes. ARC Broward, Inc. has the commitment and the expertise needed to educate eligible transitioning exceptional education students as defined by the State Board of Education rules.

See Supporting Docs for continuation of Summary Explanation and Background.

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

SCHOOL BOARD GOALS:

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

FINANCIAL IMPACT:

The estimated financial impact to the District will be \$684,601. Transition services cost will not exceed \$585,133, and transportation will not exceed \$99,468 for a combined total cost of \$684,601. The funds for transition services are Full-Time Equivalent generated dollars from the general fund. The source of funds for transportation services is included in Transportation's operating budget. The financial impact amount represents an estimated contract value; however, the amount authorized will not exceed the estimated contract award amount.

EXHIBITS: (List)

(1) Continuation of Summary Explanation and Background (2) Executive Summary (3) Financial Analysis Worksheet (4) Agreement (5) Projected Revenue for 2020-2021

BOARD ACTION:

APPROVED

(For Official School Board Records Office Only)

SOURCE OF ADDITIONAL INFORMATION:

Name: Sonja Clay	Phone: 754-321-3400
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

6/18/2020, 12:35:12 PM

Approved In Open Board Meeting On: JUN 23 2020

By: *Donna Jones*
School Board Chair

Recommendation for \$500,000 or Greater

FY20-040 – Education and Transportation Services for Transitioning Students with Disabilities

June 23, 2020, Board Agenda

CONTINUATION OF SUMMARY EXPLANATION AND BACKGROUND

The contract reflects a funding structure based on per-student allocation. Transportation will continue as a required support service for Transition students in this contract.

These programs will follow the Transition standards and benchmarks based on National Transition Standards adopted by The School Board of Broward County, Florida. The Transition Implementation Process based on Treatment and Education of Autistic and Related Communication Handicapped Children, is a structured teaching research-based program for individuals of all ages and skill levels.

EXECUTIVE SUMMARY

Recommendation of \$500,000 or Greater FY21-002 – Education and Transportation Services for Transitioning Students with Disabilities

Introduction

Responsible: Procurement & Warehousing Services (PWS)

This request is to approve the recommendation to award the Agreement ARC Broward Inc. – FY20-040 – Education and Transportation Services for Transitioning Students with Disabilities for a period of eleven (11) months from August 19, 2020 through June 9, 2021. This Board Item and Agreement will replace the current Agreement under FY20-040 – Education and Transportation Services for Transitioning Students with Disabilities, which expires on June 2, 2020. This Agreement provides classroom, vocational and community-based instruction to The School Board of Broward County, Florida (SBBC), students with disabilities in order to train and develop independence in the areas of vocational skills development, community functioning skills, daily living skills, employability skills, travel training, social and communication pragmatics in addition to accessing ARC’s social enterprises, including but not limited to, its entry-level culinary arts, electronics recycling businesses, and other programs.

The spending authority being requested is \$684,601.

Goods/Services Description

Responsible: Exceptional Student Learning Support (ESLS)

Broward County Public Schools is required under federal legislation to educate and provide Transition Services for all identified transitioning students with disabilities. “Transition Services” is a term used in the Individuals with Disabilities Education Act that defines a coordinated set of activities that may address, among others, the assessment, planning process, educational, and community experiences for youth with disabilities as they turn age fourteen (14). Transition services intend to create opportunities for youth with disabilities that lead to positive adult outcomes. SBBC seeks to enter into an agreement with ARC Broward Inc. to provide transition services to SBBC transitioning students. These adult community sites have the commitment and the expertise needed to educate eligible transitioning students with disabilities as defined by the State Board of Education Rules. The contracts reflect a funding structure based on per-student allocation.

These contracts include transportation as an essential support service for transitioning students with disabilities.

Annual evaluation measures will include performance outcome measures, observations, and mastery of Transition Individual Education Plan goals.

For research methodology, the program will follow the Transition Standards and Benchmarks based on National Transition Standards adopted by SBBC and the Transition Implementation Process based on Treatment and Education of Autistic and Related Communication Handicapped Children, a structured teaching research-based program for individuals of all ages and skill levels.

Procurement Method

Responsible: PWS

The procurement method chosen was through Direct Negotiation, which is allowed by Purchasing Policy 3320, Part II, Rule G, and Florida Administrative Code 6A-1.012(11)(a). The requirement for requesting competitive solicitations or prior School Board approval is hereby waived as authorized by chapter 6A-1.012,(F.A.C.) State Board of Education Administrative rules, for the purchase of professional services

Recommendation for \$500,000 or Greater

FY20-040 – Education and Transportation Services for Transitioning Students with Disabilities

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which shall include, without limitation, artistic services; academic program reviews; lectures by individuals; auditing services not subject to s218.391; legal services, including an attorney, paralegal, expert witness, court reporting, appraisal or mediator services; and health services involving examination, diagnosis, treatment, prevention, medical consultation or administration.

Financial Impact

Responsible: PWS and ESLs

The estimated financial impact to the District will be \$684,601. Transition services cost will not exceed \$585,133, and transportation costs will not exceed \$99,468 for a combined total of \$684,601. This Agreement reflects a not-to-exceed funding structure on a per-student allocation. Transportation will continue as a support service for transitioning students, as demonstrated below.

Presently, there are twenty (20) students enrolled at ARC Broward, Inc. that generates \$215,690 Full-Time Equivalent (FTE), plus \$99,468 from the transportation budget for a total of \$315,158. The current contract, under FY20-040, stipulates a maximum of twenty (20) students in an amount not to exceed \$315,158; this amount includes the cost of transportation.

FTE (Program Matrix 255)

The funds requested for transition services has increased to twenty-four (24) students, which is the maximum the contract can accept under the program. The per-student cost is \$24,380.53 x 24 students = \$585,133 (rounded) for FTE cost.

The funds for transition services are FTE generated dollars from the general fund. The source of funds for transportation services is included in Transportation's operating budget. The financial impact amount represents an estimated contract value; however, the amount authorized will not exceed the estimated contract award amount.

AGREEMENT

THIS AGREEMENT is made and entered into as of this 23rd day of June, 2020, 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

ARC BROWARD, INC.
(hereinafter referred to as "ARC BROWARD"),
a Florida Not for Profit Corporation,
whose principal place of business is
10250 Northwest 53rd Street
Sunrise, Florida 33351

WHEREAS, SBBC recognizes the advantages of working cooperatively with community agencies to increase the number of transition students with disabilities who return for a free and appropriate public education (FAPE), age 18 through 21, and who receive special education transition services in community-based training activities; and

WHEREAS, ARC BROWARD has the capability of providing classroom, vocational and community-based instruction to SBBC students with disabilities in order to train and develop independence in the areas of vocational skills development, community functioning skills, daily living skills, employability skills, travel training, social and communication pragmatics in addition to accessing ARC BROWARD's social enterprises, including but not limited to, its entry-level culinary arts, electronics recycling businesses, and other programs.

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 **August 19, 2020**, and conclude on **June 9, 2021**.

2.02 **Eligibility.** Transition students with disabilities, age 18 through 21, who have graduated with a standard high school diploma, exited with a certificate of completion or have opted to defer receipt of their standard high school diploma from the Broward County Public Schools, has a post-secondary employment goal and are returning for a free and appropriate public education (FAPE) through the end of the school year in which the student turns 22 years of age, are determined eligible to attend ARC BROWARD. The SBBC Supervisor for Exceptional Student Learning Support Transition Services shall approve any exemptions to the above eligibility requirements.

2.03 **SBBC Disclosure of Education Records.**

(a) SBBC shall provide ARC BROWARD with the types of education records listed in this section, pursuant to parental consent as listed in this section, for the development and implementation of an Individual Educational Plan (IEP), so ARC BROWARD teachers can assist SBBC students with career planning, independent life skills, and academic skills to successfully transition into a post-secondary environment.

(b) SBBC shall provide ARC BROWARD with access to the EdPlan Electronic Records Management System and additional records of the students ARC BROWARD serves. EdPlan access shall be limited only to records of SBBC students enrolled in the specified program, and limited to staff involved in developing and implementing the IEP and providing the services listed in this agreement. EdPlan contains the following records:

- 1) Individual Educational Plan (IEP);
- 2) Consent for Evaluation/Re-evaluation;
- 3) Functional Behavior Assessment/Positive Behavior Intervention Plan; and
- 4) Any other document necessary for the provision of FAPE.

Additional education records include:

- 5) Progress Notes;
- 6) Progress Reports; and
- 7) Any other information necessary to enroll the student.

(c) SBBC shall obtain written consent from each student's parent/guardian or student age 18 or older prior to providing ARC BROWARD with the education records (or access to the education records) listed in this section.

2.04 **ARC BROWARD Confidentiality of Education Records.**

(a) Notwithstanding any provision to the contrary within this Agreement, ARC BROWARD shall:

- 1) fully comply with the requirements of Sections 1002.22, 1002.221, and 1002.222, Florida Statutes; the Family Educational Rights and Privacy Act, 20 U.S.C § 1232g (FERPA) and its implementing regulations (34 C.F.R. Part 99), and any other state or federal law or regulation regarding the confidentiality of student information and records;
- 2) hold any education records in strict confidence and not use or re-disclose same except as required by this Agreement or as required or permitted by law unless the parent of each student or a student age 18 or older whose education records are to be shared provides prior written consent for their release;

- 3) ensure that, at all times, all of its employees who have access to any education records during the term of their employment shall abide strictly by its obligations under this Agreement, and that access to education records is limited only to its employees that require the information to carry out the responsibilities under this Agreement and shall provide said list of employees to SBBC upon request;
- 4) safeguard each education record through administrative, physical and technological standards to ensure that adequate controls are in place to protect the education records and information in accordance with FERPA's privacy requirements;
- 5) utilize the education records solely for the purposes of providing products and services as contemplated under this Agreement; and shall not share, publish, sell, distribute, target advertise, or display education records to any third party;
- 6) notify SBBC immediately upon discovery of a breach of confidentiality of education records by telephone at 754-321-0300 (Manager, Information Security), and 754-321-1900 (Privacy Officer), and email at privacy@browardschools.com; and take all necessary notification steps as may be required by federal and Florida law, including, but not limited to, those required by Section 501.171, Florida Statutes;
- 7) fully cooperate with appropriate SBBC staff, including Privacy Officer and/or Information Technology staff to resolve any privacy investigations and concerns in a timely manner;
- 8) prepare and distribute, at its own cost, any and all required breach notifications, under federal and Florida Law, or reimburse SBBC any direct costs incurred by SBBC for doing so, including, but not limited to, those required by Section 501.171, Florida Statutes;
- 9) be responsible for any fines or penalties for failure to meet breach notice requirements pursuant to federal and/or Florida law;
- 10) provide SBBC with the name and contact information of its employee who shall serve as SBBC's primary security contact and shall be available to assist SBBC in resolving obligations associated with a security breach of confidentiality of education records; and
- 11) securely erase education records from any media once that media equipment is no longer in use or is to be disposed; secure erasure shall be deemed the deletion of the education records using a single pass overwrite Secure Erase (Windows) or Wipe (Unix).

(b) All education records shall remain the property of SBBC, and any party contracting with SBBC serves solely as custodian of such information pursuant to this Agreement and claims no ownership or property rights thereto and, upon termination of this Agreement shall, at SBBC's request, return to SBBC or dispose of the education records in compliance with the applicable Florida Retention Schedules and provide SBBC with a written acknowledgment of said disposition.

(c) ARC BROWARD shall, for itself, its officers, employees, agents, representatives, contractors or subcontractors, 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. This section shall survive the termination of all performance required or conclusion of all obligations existing under this Agreement.

2.05 **Health Insurance Portability and Accountability Act (HIPAA) Compliance.** ARC BROWARD acknowledges that the Health Insurance Portability and Accountability Act ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH Act") (HIPAA and HITECH Act are collectively referred to herein as "HIPAA") protect the privacy of protected health information ("PHI") and may be applicable to student records in certain circumstances, and shall enter into SBBC's HIPAA Business Associate Agreement ("BAA") attached as **Attachment A**. PHI may be used and disclosed only in compliance with HIPAA.

2.06 **Teacher Certification.** ARC BROWARD shall provide a teacher certified according to State Statutes and Board of Education rules regarding the following: teacher certification and requirements for special funding for students with disabilities. ARC BROWARD shall provide a minimum of one job coach.

2.07 **Administrative Responsibility.**

(a) SBBC shall assign a principal to be responsible for reporting the instructional full-time equivalent (FTE) and maintaining necessary audit documentation.

(b) ARC BROWARD shall provide administrative supervision of the instructional program, including providing the school system administrator(s) responsible for reporting the instructional and transportation FTE, with the documentation necessary to generate FTE and to fulfill audit requirements for eligible students.

2.08 **Technical Assistance.**

(a) SBBC shall provide technical assistance to ARC BROWARD in interpreting and implementing State Board of Education Rules and School Board policies related to the education and placement of transition students with disabilities as defined by section 2.02.

(b) ARC BROWARD shall provide twelve (12) hours of release time annually for the instructional staff to attend in-service training jointly approved by SBBC and ARC BROWARD.

(c) SBBC shall train ARC BROWARD teachers and paraprofessionals on community-based strategies, curriculum, transition assessments, and the Transition Process Implementation Steps and Expectations based on the SBBC adopted Transition Standards and Benchmarks.

(d) ARC BROWARD shall be responsible for training new staff hired after initial trainings. SBBC shall provide ARC BROWARD with a current copy of SBBC's Special Programs and Procedures document.

2.09 **Guidelines Medically Related Practices.** SBBC shall provide guidelines for medically related health services practices and procedures and training to identify such practices.

(a) ARC BROWARD shall comply with SBBC's medically related health services practices and procedures; and ensure that release time is provided to staff to attend medically related health services staff development activities and purchase necessary supplies related to the implementation of the health services practices.

2.10 **Transition Individual Education Plan/Designee at Staffings.** ARC BROWARD shall provide a person who is qualified to be the designee of the Director of Exceptional Student Learning Support and who shall attend and be responsible for organizing, coordinating and conducting all Transition Individual Education Plans (hereinafter referred to as "TIEP") staffings for potential students with disabilities as well as all interim TIEP reviews and reevaluation meetings, as defined in section 2.02 and are to be enrolled in ARC BROWARD.

(a) ARC BROWARD shall ensure that a TIEP for students, ages 18 through 21, as defined in section 2.02, with specific, measurable educational goals and postsecondary goals, has been established for each student which shall be implemented within an age-appropriate educational curriculum to meet each transition student's individualized needs.

(b) Additional meetings to review and revise a student's TIEP may be initiated by SBBC, ARC BROWARD or the parent/guardian and conducted upon notification to all parties.

(c) ARC BROWARD shall ensure that parents of students eligible for ARC BROWARD's transition services are invited to participate in the TIEP and Placement staffings and all TIEP review meetings.

2.11 **Transportation and Associated Costs.** ARC BROWARD to provide pupil transportation services for eligible students with disabilities as defined in section 2.02. SBBC shall pay Twenty-One Dollars and 63/100 Cents (\$21.63) per day per student for the transportation services, in addition to Ten Dollars and 00/100 Cents (\$10.00) per day per student for transportation services to and from community-based instructional sites, agreed upon within this Agreement. ARC BROWARD shall organize, coordinate, administer, supervise, and operate pupil transportation services as follows:

(a) Pupil transportation services for transition students shall be provided from:

- 1) The student's official pickup point to ARC BROWARD.
- 2) Return from ARC BROWARD to the student's official pickup point or to a location specified and agreed to by the students' parents or guardians.
- 3) ARC BROWARD to the student's community-based instruction sites.
- 4) Return from community-based instruction sites to ARC BROWARD.

(b) Pupil transportation services shall be provided in compliance with the following provisions:

- 1) Vehicles shall be owned and operated by or contracted by ARC BROWARD. Owned and operated vehicles may include passenger vans and cars.
- 2) Drivers and attendants and/or any and all personnel who ride on or who shall be in attendance on the vehicle at the time students are on the vehicle shall be an employee of ARC BROWARD or a volunteer at ARC BROWARD and receive clearance from

SBBC through fingerprinting and security checks, or go through the HRS security clearance procedures.

- 3) Individual employees assigned to drive at the time students are on the vehicle shall be licensed by the Florida State Department of Highway Safety and Motor Vehicles, Drivers License Division to operate a vehicle of this size and type.
- 4) ARC BROWARD shall develop policies and procedures concerning the transportation of students and ensure that appropriate personnel is given an orientation regarding these procedures. Policies and procedures shall not be in conflict with any policy or procedure of SBBC.

(c) All vehicles under the terms of this Agreement shall meet the following standards:

- 1) ARC BROWARD shall meet all insurance requirements of SBBC and the State of Florida and agree to maintain insurance in accordance with the following (**also outlined in section 2.31**):
 - i) Auto Liability Insurance with bodily injury limits of no less than \$1,000,000 per occurrence. SBBC shall be named as an additional insured;
 - ii) Worker's Compensation and Employer's Liability Insurance with statutory limits; and
 - iii) Hold harmless clause.
- 2) Equipped with seatbelts, or wheelchair securement devices (where appropriate), which are used at all times to secure students while being transported.
- 3) Maintained to Original Equipment Manufacturers (EOM) standards and comply with the requirements of Chapter 234, Florida Statutes, Transportation of School Children.
- 4) ARC BROWARD shall make its personnel available at a time and in a place stipulated by SBBC for in-service training of vehicle drivers and/or attendants. This in-service training shall not exceed eight hours in any one year exclusive of travel time to and from the training.
- 5) Special provisions for providing this transportation service shall be those listed below:
 - i) Eligible students shall be those students who are enrolled in the educational program contracted by SBBC of Broward County, FL in the following area high schools: J.P. Taravella, Piper, Coconut Creek, Coral Glades, Coral Springs, Monarch, Stoneman Douglas, and Plantation. Any students considered for ARC BROWARD's Transition services not enrolled in any of the above-mentioned high schools would require approval from the Supervisors for Transition Services Supervisor.
 - ii) ARC BROWARD shall provide for FTE survey counts using the same forms and providing the same information as that required of vehicle drivers serving the public schools.

- iii) If ARC BROWARD purchases a management letter as part of an annual audit the management letter shall be received by SBBC one hundred and twenty (120) days following the close of the ARC BROWARD fiscal year.
 - iv) The operating calendar shall be the same as the operating calendar of SBBC for high schools during the regular term. (**Attachment B**).
 - v) ARC BROWARD shall accommodate the special needs of students being transported. Special needs are defined as lifts, assistance in entering and exiting a vehicle and adequate care and supervision of all students while in the vehicle, and with attendants on the vehicles where appropriate.
 - vi) Special care shall be given to assure the time limit spent on the vehicle is not excessive. No student should be required to spend time in excess of one hour on each one-way trip. ARC BROWARD may be required to commission additional vehicles and employ additional drivers and attendants to ensure compliance with this provision.
 - vii) ARC BROWARD shall modify routes as student demographics change and shall notify students and parents of all route changes.
 - viii) Termination of transportation services for a student shall be consistent with the requirements for termination from the education program for which SBBC is contracting.
 - ix) Vehicles shall be maintained in a safe operating condition as determined by the State of Florida Highway Patrol. SBBC reserves the right to halt all processing of payments due under this Agreement until deficiencies in the safety of the vehicles are corrected.
 - x) Drivers shall maintain, on the vehicle, an updated list of all students assigned to the vehicle. This list shall contain as a minimum the name, address, telephone number, emergency telephone number, address, and the special needs of the student.
 - xi) ARC BROWARD shall ensure that all students and their families are notified of all changes in the route.
 - xii) Shall complete the ARC BROWARD FTE transportation survey.
- 6) As it relates to motor vehicle records when hiring vehicle operators for the purpose of transporting students, ARC BROWARD shall require vehicle operators:
- i) License to be checked at the initial time of employment.
 - ii) License checked prior to the first day of the fall semester.
 - iii) License checked quarterly throughout the school year.
- 7) As it related to drug testing, when employing vehicle operators for the purpose of transporting students, ARC BROWARD shall require vehicle operators to:

- i) Pre-employment drug test.
 - ii) Undergo random drug testing.
 - iii) Drug test as a result of reasonable suspicion
- 8) Schedule transportation services to accommodate six approved early release days.

2.12 **Dispute Process.** In the event a dispute arises between the parties regarding this Agreement during its term, the aggrieved party shall send a notice to the other party pursuant to section 2.29, setting forth the basis of the dispute. The parties shall arrange for appropriate administrators to meet within thirty (30) calendar days of the service of said notice to attempt to amicably resolve the pending dispute. In the event such efforts do not resolve the dispute, the aggrieved party may take such action, as it deems appropriate.

2.13 **ARC BROWARD Transition Program Design.** ARC BROWARD shall provide a one hundred eighty (180)-day instructional program starting on **August 19, 2020**, and one instructional area per 12 transition students with disabilities ages 18 through 21, as defined in section 2.02. Transition students shall attend the instructional program as specified on the TIEP, including ARC BROWARD's social enterprises, including entry-level culinary arts, electronic recycling, and other appropriate programs operated by ARC BROWARD. Full-time programs are scheduled for a minimum of twenty five (25) hours per week (unless the vacation schedule prohibits a full week's instruction). SBBC and ARC BROWARD shall mutually agree on the methodology, curriculum, transition implementation process, and assessments used to instruct and train transition students with disabilities.

2.14 **Supervision.** ARC BROWARD shall provide supervision and evaluation of the instructional staff.

2.15 **Parent Training.** SBBC shall disseminate information to ARC BROWARD about parent education programs and support groups for parents of students with disabilities transitioning to adult living as defined by section 2.02. ARC BROWARD shall disseminate information and notify parents/guardians of students in the ARC BROWARD transition program of the availability of training opportunities and parent support groups.

2.16 **Facilities, Classroom Equipment, Materials & Supplies.** ARC BROWARD shall provide appropriate facilities, classroom equipment, instructional and evaluation materials, and supplies which are age-appropriate for transition students with disabilities who are age 18 through age 21 in order to provide services required under this Agreement.

2.17 **Special Programs and Procedures.** ARC BROWARD shall comply with SBBC's current Special Programs and Procedures document, procedures for Due Process, procedural safeguards and the protection of confidentiality of student records, and assure that parents are provided with access to and copies of their child's records. SBBC shall provide ARC BROWARD with a current copy of SBBC's Special Programs and Procedures document.

2.18 **Communication.** ARC BROWARD shall allow appropriate personnel of SBBC to confer with ARC BROWARD staff in matters regarding student evaluation, placement, and TIEP development.

2.19 **Custodial Services.** ARC BROWARD shall provide daily custodial services to keep the classrooms clean and disinfected.

2.20 **Class Size.** The SBBC sets the maximum number of students assigned to each teacher at twenty-four (24) students in transition community-based classes. ARC BROWARD shall ensure that pupil/instructional ratios do not exceed four (4) to one (1) for transition students. Exceptions to these ratios shall be mutually agreed upon by the President/CEO of ARC BROWARD and SBBC Director of Exceptional Student Education or designee.

2.21 **Attendance/Quarterly Reports.** ARC BROWARD shall report the attendance of the students as directed by the principal who is responsible for reporting the FTE and maintaining audit documentation. In addition, quarterly reports on the student's progress in meeting the educational goals, with the final quarter being the annual summary, shall be developed for each student and maintained at the Agreement site for review, including a Summary of Performance document when students age out and exit the program upon request, by appropriate school SBBC personnel. The form of the report shall be agreed upon by ARC BROWARD and SBBC.

2.22 **Health/Safety Standards and Legal Compliance.** ARC BROWARD shall secure fire inspections and health, safety, and sanitation inspections annually from agencies having jurisdiction. ARC BROWARD shall comply with local or state standards for the health and safety of students whichever are more stringent. Said inspections shall be in strict compliance with handicapped accessibility codes, Life Safety 101, Florida Statutes, Florida Administrative Code, and State Requirements for Educational Facilities (SREF). A copy of the annual inspections shall be furnished to an ARC BROWARD representative with the first invoice.

(a) Any violations cited in the aforementioned reports shall be abated by ARC BROWARD within the time limits prescribed by the inspecting agency.

(b) ARC BROWARD shall prohibit smoking at the site to be in compliance with the Pro-children Act of 1994. ARC BROWARD shall comply with applicable provisions of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1974, Section 504 of the Rehabilitation Act of 1973.

(c) ARC BROWARD shall prohibit any policy or procedure, which results in discrimination on the basis of age, color, disability, gender, national origin, marital status, race, religion, or sexual orientation.

2.23 **Therapy Services.** ARC BROWARD shall provide certified and/or licensed occupational therapists or certified occupational therapy assistants (COTA), physical therapists or registered physical therapy assistants (PTA) and speech-language pathologists as needed to implement TIEPs, with no out-of-field waivers permitted. ARC Broward shall use approved vendors and may access SBBC vendors. The supervising occupational or physical therapists shall perform all evaluations and attend all TIEP meetings. ARC BROWARD shall send therapists or assistants to a minimum of one scheduled team meeting annually for any or all of the following:

- (a) training in policies and procedures
- (b) in-service training
- (c) participation in therapy program development
- (d) participation in case study conferences; and
- (e) sharing information among therapists in both agency and school system programs.

2.24 **Substitutes.** ARC BROWARD shall provide a substitute teacher according to SBBC policy for each classroom teacher who is not in his or her designated classroom for one or more days.

2.25 **Staffings.** ARC BROWARD shall organize, coordinate, and conduct TIEP staffings on students who may be eligible as defined in section 2.02 to be enrolled in ARC BROWARD.

2.26 **Food Services.** SBBC shall make available to ARC BROWARD the SBBC's food services program for students to participate in the National School Lunch Program. ARC BROWARD shall ensure that refrigeration is available for students' lunches brought from home.

2.27 **Early Release.** ARC BROWARD shall provide six (6) early release days to coincide with SBBC approved 2019-2020 school calendar and implement a program of staff development activities on those days as set forth on **Attachment B**.

2.28 **Publicity.** ARC BROWARD shall identify SBBC's role as a partner in instructional services for transition students with disabilities in any and all public documents, brochures, videos, and newsletters, which are developed for the transition services.

2.29 **Disputes.** ARC BROWARD shall resolve any complaints or disputes brought to ARC BROWARD by SBBC. Potential methods of resolving disputes include informal meetings, mediation, and conferences.

2.30 **Volunteers.** ARC BROWARD shall complete SBBC's Volunteer Registration Form for every volunteer assisting students and teachers at ARC BROWARD. SBBC shall provide Volunteer Registration Forms to be completed by adults and students volunteering at ARC BROWARD.

2.31 **Insurance Requirements.** ARC BROWARD shall comply with the following insurance requirements throughout the term of this Agreement:

(a) **General Liability.** ARC BROWARD 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) **Professional Liability/Errors & Omissions.** ARC BROWARD shall maintain Professional Liability/Errors & Omissions insurance during the term of this Agreement with a limit of not less than \$1,000,000 per occurrence covering services provided under this Agreement.

(c) **Workers' Compensation.** ARC BROWARD 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).

(d) **Auto Liability.** ARC BROWARD 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.

(e) **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 has a rating of at least A-VI by AM Best or Aa3 by Moody's Investor Service.

(f) **Verification of Coverage.** Proof of the required insurance shall be furnished by ARC BROWARD 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) shall be received and approved by SBBC's Risk Management Department before any work

commences to permit ARC BROWARD to remedy any deficiencies. ARC BROWARD shall verify its account information and provide contact details for its Insurance Agent via the link provided to it by email.

(g) Required Conditions. Liability policies shall 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 collectible 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. ARC BROWARD is prohibited from providing services under this Agreement with SBBC without the minimum required insurance coverage and shall notify SBBC within two (2) business days if required insurance is canceled.

(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.

2.32 EasyIEP®. ARC BROWARD shall have available a computer and LCD projector for the purpose of implementing EasyIEP®, the web-based electronic management system used for all students with disabilities in the school SBBC. Additionally, ARC BROWARD shall make available a meeting room with internet access to be used to access EasyIEP® during all TIEP meetings.

2.33 Cost and Payment.

(a) The SBBC shall pay ARC BROWARD on a monthly basis and be responsible for maintaining an accurate audit file for funds paid to ARC from the generated FTE.

(b) SBBC shall pay ARC BROWARD for the FTE generated for each of students determined eligible as transition students with disabilities, according to State Board of Education rules and who are enrolled in and attending the ARC BROWARD exceptional student education transition services program during each of the FTE survey periods. Funding for the first semester shall begin with a projected allocation based on the student enrollment count taken on the tenth day of the 180-day school calendar for the August and September payments. The total first-semester allocation shall then be adjusted to the number of students eligible during the October FTE Survey week, and the October through December payments shall capture the increase or decrease in the allocation. Funding for the second semester shall begin with a projected allocation based on the number of students eligible during the October FTE Survey week for the January payment. The total second-semester allocation shall then be adjusted to the number of students eligible during the February FTE Survey week, and February through May payments shall capture the increase or decrease. Payment shall be provided for the instructional program, which includes classroom instruction and the therapy services for a maximum of 25 hours per student.

(c) If during the term of this Agreement, the State of Florida reduces the amount the SBBC receives under the Florida Educational Finance Program by more than 3%, a pro-rata reduction shall be passed on to the contracting agency. This provision shall remain in force, even if the agreement is terminated, for a period of one (1) year or until all state audits are conducted, whichever occurs first. The projected total cost to SBBC is not to exceed Five Hundred Eighty-five Thousand, One Hundred Thirty-three Dollars and 00/100 Cents (\$585,133.00).

2.34 **Inspection of ARC BROWARD's Records by SBBC.** ARC BROWARD 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 ARC BROWARD's applicable 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 the applicable business records of ARC BROWARD directly relating to this Agreement in order to verify the accuracy of invoices provided to SBBC. Such audit shall be no more than one (1) time per calendar year.

(a) **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 ARC BROWARD'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 ARC BROWARD pursuant to this Agreement.

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

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

(d) **Failure to Permit Inspection.** Failure by ARC BROWARD 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 SBBC's denial of some or all of any ARC BROWARD's claims for payment.

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

(f) **Inspection of Subcontractor's Records.** If applicable, ARC BROWARD 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 ARC BROWARD 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 Payees' costs from amounts payable by SBBC to ARC BROWARD pursuant to this Agreement and such excluded costs shall become the liability of ARC BROWARD.

(g) **Inspector General Audits.** ARC BROWARD 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.

2.35 **Notice.** When any of the parties desire to give notice to the other, such notice shall 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: Supervisor, ESLS Transition Services
The School Board of Broward County, Florida
Exceptional Student Learning Support Division
1701 NW 23rd Avenue, 2nd Floor
Fort Lauderdale, FL 33311

To ARC Broward President/CEO
ARC Broward, Inc.
10250 NW 53 Street
Sunrise, Florida 33351

With a Copy to: Vice President/Programs
ARC Broward, Inc.
10250 NW 53 Street
Sunrise, Florida 33351

2.36 **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, up to the limits of Section 768.28, Florida Statutes, for any damages resulting from said negligence.

(b) By ARC BROWARD. ARC BROWARD 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 ARC BROWARD, its agents, servants or employees; the equipment of ARC BROWARD, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of ARC BROWARD or the negligence of ARC BROWARD'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 ARC BROWARD, SBBC or otherwise.

2.37 **Background Screening.** ARC BROWARD shall comply with all requirements of Sections 1012.32, 1012.465, 1012.467, and 1012.468 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 ARC BROWARD or its personnel providing any services under the conditions described in the previous sentence. ARC BROWARD 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 ARC BROWARD and its personnel. The parties agree that the failure of ARC BROWARD 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. ARC BROWARD 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 ARC BROWARD's failure to comply with the requirements of this section or with Sections 1012.32, 1012.465, 1012.467, and 1012.468, Florida Statutes.

2.38 **Public Records.** The following provisions are required by Section 119.0701, Florida Statutes, and may not be amended. ARC BROWARD 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, ARC BROWARD 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. ARC BROWARD 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 ARC BROWARD does not transfer the public records to SBBC. Upon completion of the Agreement, ARC BROWARD shall transfer, at no cost, to SBBC all public records in possession of ARC BROWARD or keep and maintain public records required by SBBC to perform the services required under the Agreement. If ARC BROWARD transfers all public records to SBBC upon completion of the Agreement, ARC BROWARD shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If ARC BROWARD keeps and maintains public records upon completion of the Agreement, ARC BROWARD shall meet all applicable requirements for retaining public records. All records stored electronically shall 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.

2.39 **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.

2.40 **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.

2.41 **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.

2.42 **Incorporation by Reference.** Attachment A and Attachment B attached hereto and the RFP, its Addenda, and the Proposal which are 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) calendar days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) calendar days 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) calendar 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) calendar 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 PAGE TO FOLLOWS]

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

ATTEST:


Robert W. Runcie, Superintendent of Schools

By 
Donna P. Korn, Chair

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-
Adams, Esq. - kathelyn.jacques-
adams@gbrowardschools.com
Reason: Arc Broward, Inc. - FY21-002
Date: 2020.06.17 11:38:38 -04'00'

Office of the General Counsel

[THIS SPACE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE TO FOLLOW]

FOR ARC BROWARD

(Corporate Seal)

ARC BROWARD, INC.

ATTEST:

By [Signature]

Print Name: DENNIS HAAS

Title: PRESIDENT/CEO

_____, 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 FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 06/17/2020 (date) by Dennis Haas, President/CEO (name of officer or agent, title of officer or agent) of Arc Broward, Inc (name of corporation acknowledging), a FLORIDA (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ (type of identification) as identification and who did/ did not first take an oath this 17 day of June, 2020.

My Commission Expires: 03/17/2022

[Signature]
Signature - Notary Public

Danielle C Johnson
Notary's Printed Name

(SEAL)



DANIELLE C JOHNSON
Commission # GG 178460
Expires March 17, 2022
Bonded Thru Budget Notary Services

GG 178460
Notary's Commission No.

**ATTACHMENT A
HIPAA BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("*Agreement*") is made and entered into as of this 23rd day of June, 2020 the "*Effective Date*", by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "*SBBC*" or "*Covered Entity*"),
a body corporate and political subdivision of the State of
Florida, whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida
33301

and

ARC BROWARD, INC.
(hereinafter referred to as "*Business Associate*"),
whose principal place of business is
10250 Northwest 53rd Street
Sunrise, Florida 33351

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

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

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

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

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

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE 1 – RECITALS

1. **Definitions.** When used in this Agreement and capitalized, the following terms have the following meanings:
 - (a) "***Breach***" has the same meaning as that term is defined in §13400 of the HITECH Act and shall include the unauthorized acquisition, access, use, or disclosure of PHI that compromises the security or privacy of such information.

ARTICLE 1 – RECITALS

- (b) "**Business Associate**" shall mean Business Associate named above and shall include all successors, assigns, affiliates, subsidiaries, and related companies.
- (c) "**Designated Record Set**" has the same meaning as the term "designated record set" in 45 CFR §164.501, which includes enrollment, payment, billing, claims adjudication and case or medical management record systems maintained by or for a health plan, or other information used in whole or part by or for the Plan to make decisions about individuals.
- (d) "**EDI Rule**" shall mean the Standards for Electronic Transactions as set forth at 45 CFR Parts 160, Subpart A and 162, Subpart A and I through R.
- (e) "**Electronic PHI**" or "ePHI", shall mean PHI that is transmitted by or maintained in electronic media.
- (f) "**HIPAA**" means the Health Insurance Portability and Accountability Act of 1996.
- (g) "**HITECH Act**" means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (h) "**Individual**" shall have the same meaning as the term "Individual" in 45 C.F.R. §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. §164.502(g).
- (i) "**Minimum Necessary**" means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
- (j) "**Omnibus Rule**" means the HIPAA Omnibus Rule of 2013.
- (k) "**Privacy Rule**" shall mean the Standards for Privacy of Individually Identifiable Health Information as set forth in 45 C.F.R. Parts 160 and 164, subparts A and E.
- (l) "**Protected Health Information**" or "**PHI**" shall have the same meaning as the term "protected health information" in 45 C.F.R. §160.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (m) "**Required by Law**" shall have the same meaning as the term "required by law" in 45 C.F.R. §164.103.
- (n) "**Secretary**" shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (o) "**Security Rule**" shall mean the Standards for Security of ePHI as set forth in 45 C.F.R. Parts 160 and 164 Subpart C.
- (p) "**Unsecured PHI**" shall mean PHI that is not secured through the use of a technology or methodology specified by the Secretary in guidance or as otherwise defined in §13402(h) of the HITECH Act.

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

ARTICLE 2 – SPECIAL CONDITIONS

2. Obligations and Activities of Business Associate Regarding PHI.

- (a) Business Associate agrees to not use or further disclose PHI other than as permitted or required by this Agreement or as Required by Law.
- (b) Business Associate agrees to comply with the “Minimum Necessary” rule when using, disclosing, or requesting PHI, except when a specific exception applies under HIPAA or the HITECH Act.
- (c) Business Associate agrees to use appropriate safeguards and comply, where applicable, with the HIPAA Security Rule to prevent use or disclosure of the PHI other than as provided for by this Agreement.
- (d) Business Associate agrees to report to SBBC, as soon as reasonably practicable, any impermissible use or disclosure of PHI it becomes aware of, and any use or disclosure of PHI not provided for by this Agreement. Any report of breach should be in substantially the same form as Exhibit A hereto.
- (e) Business associate shall promptly inform SBBC of a Breach of Unsecured PHI within the next business day of when Business Associate knows of such Breach
- (f) For the Breach of Unsecured PHI in its possession:
 - 1. Business Associate will perform a Risk Assessment to determine if there is a low probability that the PHI has been compromised. Business Associate will provide SBBC with documentation showing the results of the Risk Assessment. The Risk Assessment will consider at minimum the following factors:
 - a. The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;
 - b. The unauthorized person who used the PHI or to whom the disclosure was made;
 - c. Whether the PHI was actually acquired or viewed; and
 - d. The extent to which the risk to the PHI has been mitigated.
 - 2. Business Associate will prepare and distribute, at its own cost, any and all required notifications under Federal and Florida law, or reimburse SBBC any direct costs incurred by SBBC for doing so.
 - 3. Business Associate shall be responsible for all fines or penalties incurred for failure to meet Breach notice requirements pursuant to Federal and/or Florida law.

ARTICLE 2 – SPECIAL CONDITIONS

- (g) Business Associate agrees to ensure that, and obtain assurance from, any and all agents, including sub-contractors (excluding entities that are merely conduits), to whom it provides PHI, to agree to the same restrictions and conditions that apply to Business Associate with respect to such information. All agents and subcontractors engaged by the Business Associate that create, maintain, receive or transmit PHI must comply with the HIPAA Rules, including the rules to extend the requirements to the agent's or subcontractor's subcontractors.
- (h) Business Associate agrees to provide SBBC access, at the request of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set, in order for SBBC to meet the requirements under 45 C.F.R. § 164.524.
- (i) Business Associate agrees to amend PHI in a Designated Record Set at SBBC's, or an Individual's, direction pursuant to 45 C.F.R. § 164.526, in the time and manner designated by SBBC. Business Associate agrees to make internal practices, policies, books and records relating to the use and disclosure of PHI available to SBBC, or at the request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for purposes of the Secretary determining SBBC's compliance with the Privacy Rule. Business Associate shall immediately notify SBBC upon receipt or notice of any and all requests by the Secretary to conduct an investigation with respect to PHI received from SBBC.
- (j) Business Associate agrees to document any and all disclosures of PHI and information related to such disclosures that are not excepted under 45 C.F.R. § 164.528(a)(1) as would be reasonably required for SBBC to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
- (k) Business Associate agrees to provide to SBBC or an Individual, in a time and manner designated by SBBC, information collected in accordance with paragraph (j) above, to permit SBBC to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
- (l) Business Associate agrees to use or disclose PHI pursuant to the request of SBBC; provided, however, that SBBC shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by SBBC.
- (m) Business Associate agrees to mitigate, to the extent practicable, any and all harmful effects that are known to Business Associate of a use or disclosure of PHI, or a Breach of Unsecured PHI, by Business Associate in violation of the requirements of this Agreement, the Privacy Rule, the Security Rule, the HITECH Act or HIPAA generally.
- (n) Business Associate shall provide SBBC with a copy of any notice of privacy practices it produces in accordance with 45 C.F.R. § 164.520, as well as any and all changes to such notice.
- (o) Business Associate, if performing a function that applies to Covered Entity, agrees to comply with the requirements that apply to the Covered Entity.

ARTICLE 2 – SPECIAL CONDITIONS

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

- (a) Except as otherwise limited by this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC pursuant to any Agreements for services between the parties provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.
- (b) Except as otherwise limited by this Agreement, Business Associate may use PHI for the proper management and administration of Business Associate and to carry out the legal responsibilities of Business Associate.
- (c) Except as otherwise limited by this Agreement, Business Associate may disclose PHI for the proper management and administration of Business Associate and to carry out the legal responsibilities of Business Associate if: (i) such disclosure is Required by Law, or (ii) Business Associate obtains reasonable assurances from the person to whom the information is disclosed that such information will remain confidential and used or further disclosed only as Required by Law or for the purposes for which it was disclosed to the person, and the person agrees to notify Business Associate of any and all instances of which it is aware that the confidentiality of the information has been breached.
- (d) Except as otherwise limited by this Agreement, Business Associate may use PHI to provide Data Aggregation services to SBBC as permitted by 42 C.F.R. § 164.504(e)(2)(i)(B).

4. Obligations of SBBC Regarding PHI.

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

5. Security of Electronic Protected Health Information.

- (a) Business Associate has implemented policies and procedures to ensure that its receipt, maintenance, or transmission of “electronic protected health information” (as defined in 45 C.F.R. §160.103) (“ePHI”) on behalf of SBBC complies with the applicable administrative, physical, and technical safeguards required for protecting the confidentiality and integrity of ePHI in 45 C.F.R. Part 160 and 164 subpart C.

ARTICLE 2 – SPECIAL CONDITIONS

- (b) Business Associate agrees that it will ensure that its agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI pursuant to 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined by 45 C.F.R. Part 164.304 and in accordance with applicable Florida law) of which it becomes aware. Business Associate agrees to report the Security Incident to SBBC as soon as reasonably practicable, but not later than 10 business days from the date the Business Associate becomes aware of the incident.
- (d) SBBC agrees and understands that SBBC is independently responsible for the security of ePHI in its possession or for ePHI that it receives from outside sources including Business Associate.

6. Compliance with EDI Rule.

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

7. Subsequent Legislative or Regulatory Changes.

Any and all amendments to the laws or regulations affecting the Privacy Rule, Security Rule, the HITECH Act, Omnibus Rule, or HIPAA shall be deemed to amend this Agreement and be incorporated without further action of the parties.

8. Amendment.

The parties shall amend this Agreement, as is necessary, so that SBBC remains in compliance with any future changes to the Privacy Rule, the Security Rule, the HITECH Act and HIPAA. The parties may amend this Agreement for any other reasons as they deem appropriate. This Agreement shall not be amended except by written instrument executed by the parties.

9. Term and Termination.

- (a) *Term.* This Agreement shall be effective upon the execution of all parties and shall remain in effect until such time as SBBC exercises its rights of termination under section 9(b) or 9(c) and until the requirements of Section 9(d) below are satisfied. The rights and obligations of Business Associate under Section 9(d) shall survive termination of this Agreement.
- (b) *Termination for Convenience.* This Agreement may be terminated without cause and for convenience by SBBC during the term thereof upon thirty (30) days written notice to Business Associate.
- (c) *Termination for Cause by SBBC.* Upon SBBC's knowledge of a material breach by Business Associate, SBBC shall provide an opportunity for Business Associate to cure the breach. If Business Associate does not cure the breach within thirty (30) days from the date that SBBC provides notice, SBBC shall have the right to terminate this Agreement, the Service Agreement, or both, by providing thirty (30) days advance written notice of such termination to Business Associate.

ARTICLE 2 – SPECIAL CONDITIONS

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

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

- (d) *Effect of Termination.* Upon termination of this Agreement for any reason, Business Associate shall return or destroy all PHI received from SBBC, or created or received by Business Associate on behalf of SBBC. Business Associate shall not retain any copies of the PHI except to the extent that the destruction or return of the PHI is infeasible. Business Associate shall provide to SBBC written notification of the conditions that make return or destruction of the PHI infeasible. If it is determined by SBBC that the return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that SBBC explicitly authorizes in writing for so long as Business Associate maintains such PHI.

10. Indemnification.

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

11. No Waiver of Sovereign Immunity.

Nothing contained herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or as a waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

12. No Third-Party Beneficiaries.

The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. The parties agree that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

13. Non-Discrimination.

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

14. Records.

Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law.

15. Preparation of Agreement.

The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

16. Waiver.

The parties agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

17. Compliance with Laws.

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

18. Binding Effect.

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

19. Assignment.

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

ARTICLE 3 – GENERAL CONDITIONS

20. Force Majeure.

Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

21. Place of Performance.

All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

22. Notices.

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

- | | |
|-----------------|---|
| To SBBC: | Superintendent of Schools
The School Board of Broward County, Florida
600 Southeast 3 rd Avenue
Fort Lauderdale, Florida 33301 |
| With a Copy to: | Executive Director
Exceptional Student Education and Support Services
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23rd Avenue, Room 277
Fort Lauderdale, FL 33311 |
| | Privacy Officer
Risk Management Department
The School Board of Broward County, Florida
600 S.E. 3 rd Avenue, 11 th Floor
Ft. Lauderdale, FL 33301 |
| To ARC Broward | President/CEO
ARC Broward, Inc.
10250 NW 53 Street
Sunrise, Florida 33351 |
| With a Copy to: | Vice President/Programs
ARC Broward, Inc.
10250 NW 53 Street
Sunrise, Florida 33351 |

ARTICLE 3 – GENERAL CONDITIONS

23. Severability.

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

24. Captions.

The captions, section numbers, title and headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

25. Authority.

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

26. No Waiver of Rights, Powers, and Remedies.

The parties agree that each requirement, duty, right 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.

27. Regulatory References.

A reference in this Agreement to any part of the Privacy Rule, the Security Rule, the HITECH Act, or HIPAA shall refer to the most current form of legislation, and shall incorporate any future amendments.

28. Governing Law.

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

29. Entire Agreement.

This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this Agreement. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

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 
Donna P. Korn, Chair

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams,
Esq. - kathelyn.jacques-
adams@gbrowardschools.com
Reason: Arc Broward, Inc. - FY21-002
Date: 2020.06.17 11:39:12 -04'00'

Office of the General Counsel

[THIS SPACE IS INTENTIONALLY LEFT BLANK; SIGNATURE PAGE TO FOLLOW]

FOR BUSINESS ASSOCIATE

ARC BROWARD, INC.

[Handwritten Signature]

Signature

By: DEMUS HAAS PRESIDENT/CEO

Print Name and Title

[Handwritten Signature]

Witness

[Handwritten Signature]

Witness

The Following Notarization is Required for this Agreement

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 06/17/2020 (date) by Dennis Haas, President/CEO (name of officer or agent, title of officer or agent) of ARC BROWARD, INC (name of corporation acknowledging), a FLORIDA (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ (type of identification) as identification and who did/ did not first take an oath this 17 day of June, 2020.

My Commission Expires: 03/17/2022

[Handwritten Signature]
Signature – Notary Public

Danielle C Johnson
Notary's Printed Name

(SEAL)



DANIELLE C JOHNSON
Commission # GG 178460
Expires March 17, 2022
Bonded Thru Budget Notary Services

GG 178460
Notary's Commission No.

EXHIBIT A

**NOTIFICATION TO THE SCHOOL BOARD OF BROWARD COUNTY,
FLORIDA ABOUT A BREACH OF UNSECURED PROTECTED HEALTH
INFORMATION**

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

_____ (Business Associate).

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

Description of the breach: _____

Date or date range of the breach: _____

Date of the discovery of the breach: _____

Number of individuals affected by the breach: _____

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

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

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

Contact information to ask questions or learn additional information:

Name: _____

Title: _____

Address: _____

Email Address: _____

Phone Number: _____

ATTACHMENT B



2020 – 2021 SCHOOL CALENDAR

August 2020

Wednesday, August 12, 2020, through Tuesday, August 18, 2020 – No School for Students
Wednesday, August 19, 2020 – First Day of School

September 2020

Monday, September 7, 2020 – Schools and Administrative Offices Closed
Friday, September 11, 2020 – Interim Reports Issued
Monday, September 28, 2020 - Schools and Administrative Offices Closed

October 2020

Friday, October 16, 2020 - Early Release Day
Monday, October 19, 2020 - Employee Planning (no school for students)

November 2020

Tuesday, November 3, 2020- Employee Planning (no school for students)
Wednesday, November 11, 2020 - Schools and Administrative Offices Closed
Thursday, November 12, 2020 - Report Cards Issued
Tuesday, November 17, 2020- Interim Reports Issued
Monday, November 23 through Friday, November 27, 2020 - School Thanksgiving Break

December 2020

Monday, December 21, 2020 through January 1, 2021 - School Winter Break

January 2021

Thursday, January 7, 2021 - Early Release Day
Friday, January 8, 2021 - Employee Planning (no school for students)
Monday, January 18, 2021 - Schools and Administrative Offices Closed

February 2021

Wednesday, February 3, 2021 - Report Cards Issued
Tuesday, February 9, 2021 - Interim Reports Issued
Monday, February 15, 2021 - Schools and Administrative Offices Closed
Thursday, February 18, 2021 - Early Release Day

ATTACHMENT B



2020 – 2021 SCHOOL CALENDAR

March 2021

Thursday, March 18, 2021 - Early Release Day

Friday, March 19, 2021 - Employee Planning (no school for students)

Monday, March 22, 2021, through Friday, March 26, 2021 - School Spring Break

April 2021

Friday, April 2, 2021 - Schools and Administrative Offices Closed

Thursday, April 8, 2021 - Early Release Day

Wednesday, April 14, 2021 - Report Cards Issued

Thursday, April 29, 2021 - Interim Reports Issued

May 2021

Monday, May 31, 2021 - Schools and Administrative Offices Closed

June 2021

Wednesday, June 9, 2021 - Last Day of School

Wednesday, June 9, 2021 - Early Release Day

Thursday, June 10, 2021 - Employee Planning (no school for students)

Wednesday, June 30, 2021 - Report Cards Issued

Hurricane makeup days in order of preference:

Friday, October 16, 2020

Thursday, January 7, 2021

Thursday, February 18, 2021

Thursday, March 18, 2021

Thursday, April 8, 2021

Wednesday, June 9, 2021

