

AGREEMENT

THIS AGREEMENT is made and entered into as of this 14th day of August, 2001, 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

RIVERWOOD ENTERPRISES, INC.

(hereinafter referred to as "RIV")
whose principal place of business is
4850 North State Road 7, Lauderdale Lakes, Florida 33319

WHEREAS, SBBC recognizes the advantage of working cooperatively with RIV to increase the number of economically disadvantaged four year olds who receive preschool education, and

WHEREAS, RIV has the capability of providing developmentally appropriate preschool education to economically disadvantaged four-year olds,

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 **Funding.** SBBC will pay RIV 85% of the generated six hour instructional FTE for each child who is determined eligible as a Prekindergarten Early Intervention (PreK E.I.) student and who is enrolled in membership and in attendance (not to exceed a combined total of 110) at RIVERWOOD at Headway Plaza, 4850 North State Road 7, Lauderdale Lakes, (not to exceed 60) and RIVERWOOD at City Center, 6820 West Sunrise Blvd, Plantation, (not to exceed 50) during one of the eleven days of the official FTE count periods in October and February. If during the term of this contract the State of Florida reduces the amount the district receives, a pro-rata reduction will be passed on to RIV. Total funding excluding the four hour extended day will not exceed \$299,200 for 110 students.

To the extent that the Prekindergarten Early Intervention funding allows, provide additional funding to support a four hour extended day for families when the caregiver works or is in school/training. Fees would be reimbursed according to attendance records at the rate of \$1.35 per hour or \$5.40 per child per day for a four hour extension of the day, not to exceed \$126,360 for 130 students which may include eligible preschoolers with disabilities.

2.02 **Administrative Responsibility.** SBBC will assign a principal to be responsible for reporting the instructional FTE and maintaining necessary audit documentation.

2.03 **Technical Assistance.** SBBC will assign support staff to RIV as follows:
Social Worker to promote and enhance parent involvement, and to provide assistance to teachers related to behavior management, home visitation, and social services to families.

Teacher Specialist to provide instructional support and technical assistance, screening review and follow-up.

Administration to monitor program compliance including documentation for collection of FTE, student database and audit requirements, and to coordinate and support the recruitment and enrollment process.

SBBC will provide technical assistance to RIV in interpreting and implementing State Statute and School Board policies related to the Prekindergarten Early Intervention Program.

SBBC will provide an orientation and training session for newly hired RIV teachers, and assistants.

2.04 **Dental.** SBBC will provide dental screening and treatment for eligible students enrolled in the program.

2.05 **Program Review/Audit.** SBBC will reserve the right to review the instructional program provided by RIV, and audit records and bookkeeping procedures in compliance with this contract. A 30 day written notice will be given prior to the audit which will be conducted within 90 days after the end of the contract period. The written notice and the examination will be conducted by SBBC of Broward County's Management Audit Department. Upon completion, a copy of the audit will be provided to RIV. The instructional program review will be completed annually prior to the end of each contract period.

2.06 **Referrals.** SBBC will make proper referrals to Florida Diagnostic & Learning Resources System (FDLRS) and area prekindergarten assessment teams. Children who are eligible under State Board Rules for Exceptional Student Education will be considered for a continuum of placements and services. Appropriate procedures will be utilized to ensure an educational setting which is least restrictive.

2.07 **Inservice.** SBBC will offer inservice training for RIV instructional staff at various days and times throughout the year, including but not limited to training for hearing, vision, and developmental screening.

2.08 **Equipment/Materials.** SBBC will provide initial basic classroom furniture, equipment, and instructional materials which are developmentally appropriate for the nonintegrated Prekindergarten Early Intervention Program classes.

2.09 **Disputes.** SBBC will refer any complaints or disputes regarding the provision of services which are brought to the attention of SBBC to RIV immediately for proper action by RIV. Methods of resolution may include informal meetings, mediation, and conferences.

2.10 **Volunteer Forms.** SBBC will provide Volunteer Registration Forms to be completed by adults and students volunteering at RIV.

2.11 **Budget.** RIV will develop a budget and submit to SBBC before August 27, 2001 providing evidence showing that 90% of the funding for the Prekindergarten Early Intervention Program is being spent on direct services in accordance with state laws and rules. Direct services are defined as: salary/fringe for classroom teacher and paraprofessional, salary/fringe for substitute teacher/aide, instructional materials and supplies, testing materials, health screenings and field trips. All other expenditures are considered indirect.

RIV agrees to reimburse SBBC all sums of money which SBBC may be required to reimburse to the State due to any acts or omissions by RIV.

RIV agrees to submit a final disbursement report to SBBC on or before July 26, 2002. Undisbursed funds will be carried forward to be applied to the next fiscal year.

2.12 **Retention of Records.** RIV will retain all financial records, supporting documents, statistical records, and any other documents pertinent to this contract for a period of five (5) years after termination of this contract, or if an audit has been initiated and audit findings have not been resolved at the end of five (5) years, the records shall be retained until resolution of the audit findings.

2.13 **Program Review/Audit.** RIV will allow appropriate staff of SBBC to formally audit RIV records and bookkeeping procedures and the instructional program in compliance with this contract.

2.14 **Legal Compliance.** RIV will secure fire inspections and health, safety and sanitation inspections annually from agencies having jurisdiction. Said inspections shall be in strict compliance with handicapped accessibility codes, Life Safety 101, Florida State Statute 4A-36 and State Requirements for Educational Facilities (SREF). A copy of the annual inspections shall be furnished to SBBC's representative with the first invoice. Any violations cited in the aforementioned reports shall be abated by RIV within the time limits prescribed by the inspecting agency.

RIV will 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.

RIV will 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.

RIV will prohibit smoking at the site to be in compliance with the Pro-Children Act of 1994.

2.15 **Certificate of Insurance.** RIV will furnish SBBC with a certificate of insurance naming SBBC as an additional insured before August 27, 2001. The coverage shall be provided by the companies licensed to write insurance in the State of Florida in amounts not less than:

Worker's Compensation	Statutory
General Liability	One million dollars (\$1,000,000)

2.16 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 RIV: RIV 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 RIV, its agents, servants or employees; the equipment of RIV, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of RIV or the negligence of RIV'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 RIV, SBBC or otherwise.

2.17 Medically Related Health Services. RIV will 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.

2.18 Supervision. RIV will provide administrative supervision and evaluation of the instructional programs and program staff.

RIV will ensure that supervisory personnel with direct responsibility for the program will demonstrate competency in early childhood as set forth by Florida Statute, Section 230.2305.

2.19 FTE Documentation. RIV will provide SBBC's principal responsible for reporting the Prekindergarten Early Intervention Instructional FTE, with the documentation necessary to generate FTE and to fulfill audit requirements.

RIV will provide demographic and other registration information required as prescribed by SBBC for the computerized statewide student database and any other surveys required by the state. The initial data elements are due at least two weeks prior to the beginning of the FTE count in October. All withdrawals and entries will be kept current throughout the year on a monthly basis.

RIV will report the attendance, including withdrawal and entries, accurately on a monthly basis as directed by the principal who is responsible for reporting the FTE and maintaining audit documentation of the instructional program.

2.20 Parent Information. RIV will disseminate information and notify parents/guardians of students at RIV of the availability of training opportunities and parent support groups.

2.21 Security Clearance. RIV will have teachers and aides go through SBBC'S security clearance process.

2.22 **Certification.** RIV will complete and submit Preclearance and Intent to Hire forms to SBBC'S Certification Department when filling a teacher vacancy and wait for approval from the Certification Department before hiring a new teacher.

2.23 **Staff.** RIV will provide for each classroom, a teacher and an instructional aide and for each classroom with both disadvantaged and exceptional students, a second instructional aide. The teacher must hold current Florida state certification in either a) prekindergarten/primary, or b) preschool education for classes with Prekindergarten Early Intervention students. Total class size will not exceed 20 students. Out-of-field teachers must obtain one of the certifications above within 2 years of employment or she/he is no longer eligible to teach the Prekindergarten Early Intervention class as set forth by Florida Statute, Section 230.2305. The instructional aide will meet statutory requirements for a high school diploma, 20, 10 and 10 hours of DCF child care training (begun within the first 90 days of employment in the preschool class) during the first year of employment in the program and 8 hours each subsequent year. Both will be employed by RIV. Proof of 20, 10 and 10 hours or 8 hour training will be provided to SBBC within 90 days of completion.

2.24 **Substitutes.** RIV will provide a substitute teacher and aide in classes for students according to SBBC policy for each teacher and aide who is not in their designated classroom for one or more days.

2.25 **Communication.** RIV will allow appropriate personnel of SBBC to confer with RIV staff in matters regarding student screening, evaluation, and quality of service.

RIV will allow assigned SBBC support staff access to classroom and student records associated with SBBC Preschool Programs at all times.

2.26 **Inservice Training.** RIV will provide paid release time annually to the instructional staff to attend inservice training provided by SBBC. Teachers new to the program must be available for a minimum of five days per year.

2.27 **Demographics.** RIV will refer all age-eligible children who are enrolled in RIV to the Director of Child Development Services or designee and provide available demographic, educational, therapeutic and developmental information pertinent to the child.

2.28 **Class Size.** RIV will ensure that student/teacher ratios be maintained at 10:1 at all times. Group size will not exceed 20 children in one room.

2.29 **Classroom.** RIV will provide an appropriate and separate classroom for each group of 20 children with a minimum 36 square feet per child. Each classroom will include direct access to children's restrooms and running water.

RIV will provide daily custodial services to keep classrooms clean and disinfected.

2.30 **Screening.** RIV will provide hearing, developmental and vision screening within 45 days of initial enrollment for students enrolled in the program.

2.31 **Home Visits/Conferences.** RIV will provide a minimum of two home visits and two other parent conferences by the child's teacher for each of the students during the school year.

2.32 **Food Services.** RIV will ensure that students are provided with a free breakfast, snack and lunch each day.

2.33 **Programs.** RIV will provide 180 days of a high quality developmentally appropriate instructional program based on the High/Scope philosophy for Prekindergarten Early Intervention students for a ten hour day (not to exceed 110 students), a four hour extended day (not to exceed 20 students) for eligible students with disabilities. Any additional care beyond a 10 hour day 180 days that is needed for the Prekindergarten Early Intervention student will be between RIV and the parent/guardian.

2.34 **Enrollment.** RIV will notify SBBC promptly in writing if the number enrolled in the Prekindergarten Early Intervention program is fewer than those stated.

RIV will return all Prekindergarten Early Intervention student records to SBBC within 10 days of the student's withdrawal or within 10 days of the last day of school for students, whichever comes first.

RIV will provide SBBC with periodic progress reports on the program within ten (10) working days after receiving a written request to include client identifiable information, statistics and data on the number of persons served and other such reports and information as may be required by SBBC and Department of Education.

2.35 **Early Release.** RIV will provide eight early release days to coincide with SBBC'S approved 2001-2002 calendar and implement a program of staff development activities on those days.

2.36 **Publicity.** RIV will identify SBBC'S role as a provider of instructional services for preschool students in any and all public documents, brochures, videos, and newsletters which are developed for the preschool program.

2.37 **Disputes.** RIV will resolve any complaints or disputes brought to RIV by SBBC. Potential methods of resolving disputes include informal meetings, mediation, and conferences.

2.38 **Volunteers.** RIV will complete SBBC'S Volunteer Registration Form for every volunteer assisting students and teachers at RIV.

2.39 **Supplemental Materials/Supplies.** NL will provide adequate supplemental instructional materials and consumable supplies (including food and materials for cooking activities) which are required to provide a developmentally appropriate program for four-year-olds.

2.40 **Sliding Fee.** RIV will collect the fees from enrolling parents of Prekindergarten Early Intervention students based upon the sliding fee scale established by the Broward County School Readiness Coalition and as required by Section 411.01, Florida Statutes. RIV shall remit such fees to SBBC within 30 (thirty) days of their collection.

2.41 **Method of Payment.** Payment by SBBC to RIV for the five month period of August 27, 2001, through January 17, 2002, for the six hour program day will be based upon the number of students enrolled as of October 8, 2001 and in attendance during one of the eleven days of the official FTE survey period in October 2001. Payment by SBBC to RIV for the five month period of January 22, 2002, through June 13, 2002, for the six-hour program day will be based upon the number of students enrolled as of February 4, 2002 and in attendance during one of the eleven days of the official FTE survey period in February 2002.

Payment by SBBC to RIV for the five month period of August 27, 2001, through January 17, 2002, for the four hour extended day will be based upon the number of students enrolled and in attendance each month. This number may not exceed the number of students enrolled as of October 8, 2001, and in attendance during one of the eleven days of the official FTE survey period in October 2001. Payment by SBBC to RIV for the five month period of January 22, 2002, through June 13, 2002, for the four hour extended day will be based upon the number of students enrolled and in attendance each month. This number may not exceed the number of students enrolled as of February 4, 2002 and in attendance during one of the eleven days of the official FTE survey period in February 2002.

Payments by SBBC to RIV will be made in ten installments (September 2001 through June 2002) payable as a now payment after receipt of invoice for the previous month not to exceed \$425,560. If the actual number of students enrolled and in attendance for the six hour program day is fewer than 110 students, adjustments will be made to each payment subsequent to the October and February survey periods. In order to facilitate payment, RIV will provide monthly disbursement reports and documentation of student enrollment and attendance to SBBC to support each monthly invoice.

Payments by SBBC will be made to:

RIVERWOOD ENTERPRISES, INC.
351 North State Road 7, Suite 300
Plantation, Florida 33317

The above payments are subject to the terms and conditions noted in Article 2.01

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing contained in this Agreement is intended to serve as a waiver of sovereign immunity by any agency to which sovereign immunity may be applicable.

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

3.03 **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 race, age, religion, color, gender, national origin, marital status, disability or sexual orientation.

3.04 **Termination.** This Agreement may be canceled by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement.

3.05 **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 of non-compliance with that law.

3.06 **Entire 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.

3.07 **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.

3.08 **Preparation of Agreement.** The parties acknowledge that they have sought and obtained whatever competent advise 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.

3.09 **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.

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

3.11 **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.

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

3.13 **Assignment.** Neither this Agreement or any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party.

3.14 **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.

3.15 **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.

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

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

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

With a Copy to: Kathy Sedlack, Prekindergarten Early Intervention
600 Southeast Third Avenue, Sixth Floor
Fort Lauderdale, Florida 33301

To RIV Enterprises, Inc.: Judy L. Perlin, CEO, Director of Operations
4850 N. State Road 7
Lauderdale Lakes, Florida 33319

3.18 **Captions.** The captions, section numbers, article 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.

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

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

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

ATTEST:

By _____
Paul D. Eichner, Esq., Chairperson

Franklin L. Till, Jr., Superintendent of
Schools

Approved as to Form:

School Board Attorney

FOR RIV

(Corporate Seal)

RIVERWOOD ENTERPRISES, INC.

ATTEST:

_____, Secretary

By _____
Judy L. Perlin, CEO, Director of Operations

Printed Name: _____

-or-

Title: _____

Witness

Witness

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

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2001 by _____ of

Name of Person

Riverwood Enterprises, Inc. on behalf of the corporation. He/She is personally known to me or produced _____ as identification and did/did not first take an oath.

Type of Identification

My Commission Expires:

Signature – Notary Public

(SEAL)

Printed Name of Notary

Notary's Commission No.