

January 14, 2015



COMMUNITY CONSOLIDATED SCHOOL DISTRICT 15

Joseph M. Kiszka Educational Service Center
580 N. 1st Bank Drive
Palatine, IL 60067-8110
(847) 963-3000

M E M O R A N D U M



DATE: January 9, 2015
TO: Board of Education
FROM: Susan Gehring
RE: Occupational Therapy Contract, Educational Based Services

Please review and approve the contract with Educational Based Services to provide occupational therapy services for the remainder of the school year. This is a replacement contract, due to the departure of a previously contracted OT. The cost of the contract, beginning January 5, 2015, is \$46,475.

**AGREEMENT FOR
PROFESSIONAL THERAPY SERVICES**

This Agreement is entered into this 9th day of December, 2014, between **EBS (Educational Based Services)** (hereinafter referred to as the "Provider") and the **BOARD OF EDUCATION OF COMMUNITY CONSOLIDATED SCHOOL DISTRICT NO. 15, COOK COUNTY, ILLINOIS** (hereinafter referred to as the "District").

WITNESSETH:

WHEREAS, the District has identified a need for certain therapy services in the areas it is authorized to provide to its students; and

WHEREAS, the Provider employs or contracts with qualified occupational therapists (hereinafter collectively referred to as "Therapists") who are able to provide therapy services for District students; and

WHEREAS, the District and the Provider desire to enter into this Agreement to procure certain therapy services for special education students in the District;

NOW, THEREFORE, in consideration of the terms and conditions contained herein and other good and valuable consideration, the receipt of which is expressly acknowledged by the parties, the District and the Provider agree as follows:

1. **Definition.** For the purpose of this Agreement the term "days" shall mean calendar days unless otherwise specified.

2. **Term.** This Agreement shall be effective from January 5, 2015, until June 12, 2015, unless otherwise terminated in accordance with this Agreement.

3. **Termination.** The District may terminate this Agreement at any time by giving written notice to the Provider at least thirty (30) days prior to the date of termination. Termination shall be effective upon the date stated in said notice.

4. **Therapist Services.** Pursuant to its general responsibilities set forth below in this Agreement, the Provider agrees to provide licensed Therapists to perform approximately **thirty-two and a half (32.5)** hours of occupational therapy services per week for students of the District. The name of the assigned Therapist, the services to be provided by that Therapist, the work location, work hours, and hourly rate of any Therapist performing services for the District under this Agreement shall be listed on separate *Statement of Work Forms*, a specimen of which is attached hereto as Exhibit A. The parties further acknowledge that this is not an exclusive contract. The District is fully entitled to utilize the services of other providers, independent contractors, and its own employees. Likewise, the Provider is fully entitled to provide services to other clients.

5. **Payment for Services.** The District shall reimburse the Provider at the hourly rate set forth on the *Statement of Work*. Fees for services used by the District shall be billed directly to the District on a monthly basis. Billing shall be in increments of 15 minutes. The District shall pay the Provider only for time actually worked by the Therapist and shall not be responsible for travel time. No overtime shall be paid to the Provider absent the prior written consent of the District. The District shall reimburse the Provider in accordance with the Illinois *Local Government Prompt Payment Act*. Unless otherwise directed in writing, the Provider shall send all invoices to the attention of the Coordinator of OT/PT Services at the District's administrative offices.

6. **Provider's General Responsibilities.** The Provider shall provide the services set forth below to the District. All services provided by the Provider shall be performed in accordance with the highest standards of professional care.

- A. The Provider shall make available to the District qualified Therapists to provide occupational therapy services to students of the District for an approved amount of hours as set forth in the *Statement of Work*.
- B. The Provider shall provide clinical support to and will monitor performance of all Therapists providing occupational therapy services to the District.
- C. The Provider shall ensure that the Therapist provides occupational therapy services to students, and generate and maintain all necessary records related to such services as are required by the District, in accordance with accepted standards of his/her profession, the code of ethics of his/her professional association, all applicable state, federal and local rules, regulations and laws, as well as District policies, and the student's Individualized Educational Plan (hereinafter referred to as "IEP").

7. **District's General Responsibilities.** The District shall:

- A. Provide each Therapist with access to relevant District policies and procedures for the purpose of orientation.
- B. Provide all necessary equipment, treatment space, and materials for provision of the therapy services as set forth in a student's IEP.
- C. Provide supervision via a District supervisor with respect to Therapist interaction with staff and students. However, the Therapist is solely responsible for all matters pertaining to the therapy services he/she provides to students.

8. **Compliance With Applicable Statutes, Ordinances and Regulations.** In performing the services required under this Agreement, the Provider shall comply with all county, municipal, state, and federal ordinances, rules, and laws now in force, or which may hereafter be in force, pertaining to the services provided under this Agreement.

9. Compliance With Applicable Licensing and Certification Requirements. The Provider shall ensure that all Therapists providing services under the Agreement shall hold and maintain licenses, certifications, and qualifications as required under the Illinois *School Code* and by all applicable government authorities.

10. Removal of Therapist. The District retains the right to reject any individual Therapist assigned to it. The Provider shall immediately remove a Therapist from the District worksite at the request and in the sole discretion of the District with cause. Upon the request of the District, without cause, within thirty (30) days the Provider shall remove the therapist and supply a replacement for said Therapist.

11. Non-Solicitation. It is agreed between the Provider and the District that any Therapist providing services under the terms of this Agreement shall not be allowed to and shall not solicit for or provide private services to students served by the Therapist in accordance with this Agreement. The Provider or its affiliates shall not solicit or offer employment to any District-employed therapist during the term of this Agreement and for a period of twelve (12) months following its termination. During the term of this Agreement and for a period of twelve (12) months thereafter, the District agrees not to directly or indirectly contract or employ any Therapist who has been assigned by the Provider to service the District.

12. Insurance.

A. Form and Limits of Coverage

The Provider shall at all times during the term of this Agreement, and any extension or continuation thereof, at its sole cost and expense, secure and maintain the following insurance: (1) a standard comprehensive general liability insurance policy, on an occurrence basis, at limits of not less than \$1,000,000 in the aggregate and per occurrence, naming the District, its individual Board members, agents, consultants and employees as additional insureds; and (2) a professional liability insurance policy at limits of not less than \$1,000,000.

The Provider shall also obtain an insurance policy covering both Provider and the District from claims under Workers Compensation laws for not less than the limits of liability under applicable federal and Illinois statutory requirements. To the fullest extent permitted by each insurance policy and without invalidating any coverage thereunder, the Provider waives any right of subrogation that it or any of its agents may have.

B. Certificates of Insurance

Prior to any Therapist performing services under the terms of this Agreement, the Provider shall deliver to the District certificates of insurance evidencing the insurance required under this Agreement. Such insurance shall be primary and non-contributory. Each certificate of insurance shall contain a clause stating that policies will not be canceled or reduced without thirty (30) days prior written notice to the District.

13. Independent Contractor Status. No relationship of employer and employee is created by this Agreement between the Provider, or Therapists, and the District, it being understood that the Provider, its agents and employees, including the Therapists, will act hereunder as independent contractors. The Provider acknowledges that it is providing therapy services separately and independently from the District's control, supervision, direction and evaluation; that it has a full opportunity to find other business; that it has made its own investment in its business; and that it will utilize a high level of skill necessary to perform the services described herein. This Agreement shall not be construed as creating any joint employment relationship between the Provider and the District, and the District will not be liable for any obligation incurred by the Provider, including, but not limited to, unpaid minimum wages and/or overtime premiums. Further, the Provider shall be responsible for payroll taxes and other taxes associated with the employment of the Provider's Therapists.

The provision of services by any Therapist under this Agreement shall not constitute probationary service or otherwise contribute toward tenure with the District under the Illinois *School Code*. The Provider and its Therapists shall have no claim under this Agreement or otherwise against the District for vacation pay, sick leave, retirement benefits, workers' compensation, disability or unemployment insurance benefits, or any other wages or benefits of any kind.

14. Indemnification. To the fullest extent permitted by law, the Provider shall defend, indemnify, and hold harmless the District from any and all claims, suits, disputes, demands, losses, damages, injuries, liabilities, judgments, costs and expenses (including attorneys' fees) resulting from, arising out of, based upon or connected in any way with any act or omission of the Provider, its employees, agents, and contractors or any breach of this Agreement. The foregoing indemnification shall survive the expiration or termination of this Agreement. Additionally, the Provider waives any and all rights against the District it may have under any Worker's Compensation Act or interpretations of the such laws, including, but not limited to those rights under the judicial decision in *Kotecki v. Cyclops Welding Corporation*.

15. Conditions of Contractual Service. Prior to any Therapist providing services to any District student, the Provider shall tender the following information to the District for each assigned Therapist:

- A. Evidence of a physical exam and a negative patch or Tuberculosis test (documentation must include date of exam/test performed by a licensed physician not more than ninety (90) days prior to the commencement of services with the District); and
- B. Written verification of Hepatitis B vaccine or waiver; and
- C. Evidence of required certification and/or licenses; and
- D. Completed fingerprint criminal background check, including required checks of the Statewide Sex Offender Database and Child Murderer and Violent Offender Against Youth Database; and

- E. Evidence of training regarding occupational exposure to blood borne pathogens; and
- F. Evidence of training in the mandated reporter requirements under the Illinois *Abused and Neglected Child Reporting Act*, and
- G. Completed Department of Children and Family Services Child Abuse Registry background investigation;

16. In-Service Training. The District may require an assigned Therapist, at his/her own expense, to attend training deemed by the District to be necessary for performing professional services.

17. Notices. Every notice or other communication required to be given by either party to the other with respect to this Agreement shall be in writing and shall not be effective for any purpose unless the same is served personally, by registered United States mail, or by express overnight delivery, addressed to the following parties:

If to the District:

Susan Arndt, Coordinator of OT/PT Services
 Community Consolidated
 School District No. 15
 580 North First Bank Drive
 Palatine, IL 60067

If to the Provider:

EBS
 PO Box 911
 Concordville, PA 19331
 800-578-7906 (F 610-558-94310)

18. Student Records. The District and the Provider acknowledge and agree that all medical or other student records generated in performing therapy services hereunder shall be the property of District. The parties agree to comply with all state and federal laws, including, but not limited to, the *Illinois Student Records Act*, the *Illinois Mental Health Act* and the federal *Family Educational Rights and Privacy Act*, and all rules and regulations governing the release of student and medical records. The Provider and its Therapists who are assigned to provide services for the District shall also abide by all other student confidentiality obligations of the District.

19. Non-Discrimination. The Provider agrees to comply fully with the requirements of the *Illinois Human Rights Act* (775 ILCS 5/1-101 *et seq.*) including, but not limited to, the provision of sexual harassment policies and procedures pursuant to Section 2-105 of the Act. The Provider further agrees to comply with all federal Equal Employment Opportunity Laws, including, but not limited to, the *Americans With Disabilities Act* (42 U.S.C. § 12101 *et seq.*), and their rules and regulations.

As required by Illinois law, in the event of the Provider's non-compliance with the provisions of this non-discrimination provision, the *Illinois Human Rights Act*, or the Rules and Regulations of the Illinois Department of Human Rights ("Department"), the Provider may be declared ineligible for future contracts or sub-contracts with the State of Illinois or any of its

political subdivisions or municipal corporations, and this Agreement may be canceled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation.

During the performance of this Agreement, the Provider agrees as follows:

- A. That it will not discriminate against any employee or applicant for employment because of race, color, religion, creed, sex, sexual orientation, marital status, national origin or ancestry, age, citizenship, physical or mental handicap or disability, military status, unfavorable discharge from military service or arrest record status; and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.
- B. That, if it hires additional employees in order to perform this Agreement or any portion thereof, it will determine the availability (in accordance with the Department's Rules) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.
- C. That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service.
- D. That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the Provider's obligation under the *Illinois Human Rights Act* and the Department's Rules. If any such labor organization or representative fails or refuses to cooperate with the Provider in its efforts to comply with such Act and Rules, the Provider will promptly so notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations thereunder.
- E. That it will submit reports as required by the Department's Rules, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the *Illinois Human Rights Act* and the Department's Rules.
- F. That it will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain compliance with the *Illinois Human Rights Act* and the Department's Rules.

- G. That it will include verbatim or by reference the provisions of this clause in every sub-contract it awards under which any portion of the Agreement obligations are undertaken or assumed, so that such provisions will be binding upon such sub-contractor. In the same manner as with other provisions of this Agreement, the Provider will be liable for compliance with applicable provisions of this clause by such sub-contractors, and, further, it will promptly notify the contracting agency and the Department in the event any sub-contractor fails to refuse to comply therewith. In addition, the Provider will not utilize any sub-contractor declared by the Illinois Human Rights Commission to be ineligible for contractors or sub-contractors with the State of Illinois or any of its political subdivisions or municipal corporations

20. **Default.** If either party violates any of the terms of this Agreement, such violation shall entitle the other party to terminate this Agreement, provided that the party desiring to terminate for such cause shall give the offending party at least fifteen (15) days' written notice. Said notice shall specify the particulars of the default and the party's intent to terminate this Agreement if such default is not remedied within the 15-day period.

21. **Complete Understanding.** This Agreement contains all of the terms agreed upon by the parties with respect to the subject matter of this contract and supersedes all prior agreements, arrangements, and communications between the parties concerning such subject matter, whether oral or written.

22. **Severability Clause.** If any provision of this Agreement is held invalid, such invalidity shall not affect the other provisions of this Agreement, which may be given effect without the invalid provision.

23. **Choice of Law.** The rights and duties arising under this Agreement shall be governed by the laws of the State of Illinois.

24. **Successors and Assignees.** This Agreement binds and benefits the heirs, successors, and assignees of the parties.

25. **Amendments.** Any modification of this Agreement will be effective only if it is in writing and signed by all parties to this Agreement.

26. **Third Party Beneficiaries.** This Agreement is solely between the District and the Provider. No other party, including any third party, either express or implied, may rely upon the terms and conditions hereof whatsoever.

27. **Execution.** Each of the parties executing this Agreement represents and warrants that they have the proper and necessary authority to execute this Agreement and to bind their representative entities. The parties agree to accept facsimile copies of this Agreement as if original copies.

IT WITNESS WHEREOF, the undersigned duly authorize representatives of the parties have executed this Agreement on the date specified above.

**EBS
PO Box 911
Concordville, PA 19331**

**BOARD OF EDUCATION OF
COMMUNITY CONSOLIDATED
SCHOOL DISTRICT NO. 15
COOK COUNTY, ILLINOIS**

By: _____
(Title)

By: _____
President

ATTEST: _____
(Title)

ATTEST: _____
Secretary

EXHIBIT A

STATEMENT OF WORK

Therapist Name: Nichole Thompson

Assignment: Occupational Therapist

Hourly Rate: \$65.00

Location: CCSD15 schools, Jane Addams, WR Sundling Junior High, Virginia Lake, Winston Campus Junior High and Kimball Hill

Assigned Therapist shall provide services to the District from January 5, 2015 to June 12, 2015. **Therapist shall work thirty-two and a half (32.5) hours of onsite service per week** during the term of this assignment. In the event of illness or other absence, services shall not be billed. No overtime shall be paid to Provider absent the prior written consent of the District.

Specifically, Therapist's duties shall include:

direct OT services to students, evaluation of students, consult with staff and parents, team meetings, IEP meetings, and completion of required reports/paperwork under the guidance and direction of EBS National OT Lead, Cynthia Haynes, EBS Regional OT Lead, Amy Mulick and EBS OT Iyla Margulius.

The undersigned Therapist is subject to the terms and conditions of this Statement of Work as well as the terms and provision of the Professional Services Agreement.

[EBS]

By: _____

Date: _____