

Name of Contract: Agreement between the School Board of Palm Beach County and Individual Provider CONTRACT REVIEW CHECKLIST

Board Item
Board Meeting Date 9/21/05

Consistency with Law and School Board Policy:

		Comments
Consistent with School Board Policy	Yes	
Consistent with Florida, federal and local laws	Yes	

Contract Terms:

		Comments
Term (Duration of Contract)	September 1, 2005- June 30, 2006	
Termination Clause	Standard 30 days without cause	
Insurance /Liability Issues/ Indemnification	Risk Management should review and approve all insurance clauses.	
Regulatory issues	None	
Confidentiality Provision	Yes	
Warranties	None	
Labor Issues	The Labor Relations Department should review any issues.	
Disclaimers	None	
Governing Law & Venue	Palm Beach County, Florida	

Business Principles:

		Comments
Sound Business Principles	Yes	
Reasonableness of Fees	Please refer to page 2 , Section 7 & page 3, Section 8.	
Payment Terms -Lump sum, installments -Payment Due dates -Late fees	Please refer to page 2, Section 7 & page 3, Section 8.	

Other Issues:

		Comments
Conflict of Interest Disclosures	Please refer to page 2, Section 4 D.	
Non-Negotiable Issues	Yes, those actions and responsibilities required by the law and the State of Florida, Department of Education.	
Miscellaneous Issues	None	
Appropriate Departmental Sign-off	Yes	

Special Considerations:

The issues noted above were explained to the appropriate District staff and/or Division Chief. YES NO

A. Denise Sagerholm

By: Attorney (Name and Date)

7/20/05

A. DENISE SAGERHOLM



THE SCHOOL DISTRICT OF PALM BEACH COUNTY
**Agreement between the
School Board of Palm Beach County
and _____** (Provider)

THIS AGREEMENT is entered into this _____ day of _____ by and between the SCHOOL BOARD OF PALM BEACH COUNTY, hereinafter referred to as "Board" and _____ hereinafter referred to as "Provider".

WHEREAS, the Board desires to enter into this Agreement with the Provider, for the purpose of providing supplemental education services in compliance with applicable law, including No Child Left Behind; and

WHEREAS, the Provider desires to enter into this Agreement with respect to its services to the Board, upon the terms and conditions hereinafter set forth; and

WHEREAS, the Provider is specially trained and possesses the necessary skills, experience, education and competency, and licenses or credentials to perform the required services.

NOW, THEREFORE, the Board and the Provider agree as follows:

1. TERM

The term of this Agreement shall commence on _____ and shall end on June 30, 2006. However, tutoring services shall commence on or before _____ and shall end on or before _____.

2. RESPONSIBILITIES OF PROVIDER

The Provider shall perform the following services:

- A. **Statement of Goals.** For each eligible student whose parent elects to receive SES from Provider, Provider and District shall develop a Statement of Goals in consultation with the student's parent. Provider shall make no changes to, or terminate, any student's Statement of Goals without the written consent of District and the student's parent. (See Exhibit "A") This consultation between the Provider, the School and each eligible student's parent(s) shall be held before any supplemental services are rendered. Provider shall not be reimbursed for any supplemental services it renders before this consultation has occurred.
- B. **Progress Reports.** For each student to whom Provider gives services under this Agreement, Provider shall, by the 10th day of the following month after services have been rendered, send to the District, the School and the student's parent a written report describing the student's progress, including benchmark data. If requested by District or a parent, Provider shall give these reports in the following languages: English, Spanish, Creole, and Portuguese. Failure to timely submit said reports may delay the processing of the monthly invoices until receipt of these reports or, at the discretion of the District, constitute "good cause" for termination of this Agreement.
- C. **Records of Attendance.** For each invoice, Provider shall submit monthly records of student attendance on a form or forms provided by District, including the name, address, and school of student; the hourly rate for the service given to student; the name of Provider's employee who rendered the service; the amount of time of such service for each day (measured to the nearest five minutes and initialed by the student's parent/guardian or the student if parent/guardian is absent); the total number of hours of such service for the month; and the amount due. Each record shall be signed by a representative of Provider, a representative of District and the Director of NCLB/Federal Grants. (See Exhibit "B")

3. PROVIDER AGREES:

- A. To measure the student's progress toward achieving the goals stated above by the following method(s):

- B. To regularly inform the parents and the School District regarding progress of the student toward achieving the goals stated above (select each that apply):

_____ weekly

_____ monthly

_____ other: _____

Progress will be reported to the following School District employee: _____

- C. To improve the student's achievement related to the goals stated above according to the following timetable that is, if applicable, consistent with the student's Individualized Education Program (IEP): _____

- D. To provide services to the student according to the following schedule:

Beginning Date: _____ Ending Date: _____
(Not to exceed the last day of the academic school year in which services were initiated.)

Sessions per Week: _____ # Sessions per Month: _____

Type of Service: _____ (small group or other)

Time/Day of Sessions: _____

Location of Sessions: _____

Such services shall include all of the accommodations stated in the student's IEP, LEP Plan, and 504 Plan, if applicable.

4. PROVIDER FURTHER AGREES:

- A. To supervise students at all times.
- B. To supervise students from dismissal until parent pick-up or appropriate arrangements are met.
- C. To provide evidence of appropriate screening of providers, including fingerprints and background checks, on an ongoing basis.

5. EVALUATION/FOLLOW-UP METHOD

Evaluation of the Provider shall be provided by _____
TITLE OF THE PROVIDER'S SUPERVISOR
of the District at regular intervals and in accordance with the attached evaluation tool. (See Exhibit "C")

6. COMPLIANCE WITH POLICIES AND LAWS

The Provider shall comply with all current School Board of Palm Beach County's Policies. The School Board's policies are located at <http://www.palmbeach.k12.fl.us/> or www.schoolboardpolicies.com and are incorporated herein. It shall be the Provider's responsibility to comply with all School Board Policies as they may be modified from time to time during the term of this Agreement. The Provider shall abide by all applicable federal, state and local laws.

7. COMPENSATION

- A. The School Board shall pay the Provider the maximum sum of (write out amount).

(\$ _____), for a maximum of _____ hours which is based upon the following rate schedule,
Daily Rate: _____ Half Day Rate: _____ Hourly Rate: _____ Flat Rate: _____

- B. Provider shall submit to District monthly invoices itemized by name and address of student, service provided, and amount owed. Such invoices shall be submitted by the 10th day of the following month after services have been rendered. District shall process payments to Provider within forty-five (45) days of submission of such invoices. Failure to timely submit said invoices to the District may result in

the delay of processing of the monthly invoices and, at the discretion of the District, constitute "good cause" for termination of this Agreement.

- C. No payment shall be made unless and until the Board verifies that all services for which payment is requested have been fully and satisfactorily performed. The Provider shall submit to the Board any documentation necessary to substantiate the full and satisfactory performance of the services for which payment is requested. The administrator who will verify the services have been performed and approve the invoice is:
-

8. **METHOD OF PAYMENT:** Each supplemental services provider will submit a monthly calendar indicating services for the student and signed off by the parent. This calendar will identify the hourly rate per student. The Provider may receive up to \$1,280 for the 2005-2006 school year for supplemental services for this student. Any request for additional funds is outside the responsibility of the District and rests with the supplemental services provider and parent. Payment will be based on the total number of hours the student actually attends.

The Agency/Provider will submit a request for payment, along with a student attendance record, by the 15th of each month to:

Parent and supplemental services provider agree to an hourly payment rate of \$ _____

- A. Payment will not be made for any absences.

9. **CONFIDENTIALITY OF STUDENT RECORDS**

The Provider is subject to all School District obligations relating to compliance with student records confidentiality laws. By signing this Agreement, the Provider acknowledges and agrees to comply with the Family Educational Rights and Privacy Act (FERPA) and all State and Federal Laws relating to the confidentiality of student records.

10. **STUDENT RECORD SECURITY**

All student records shall be kept in a secure location preventing access by unauthorized individuals. Provider shall maintain an access log delineating date, time, agency, and identity of any individual accessing student records who is not in the direct employ of Provider. Provider shall not forward to any person other than parent or Board any student record, including, but not limited to, the student's identify, without the written consent of the parent and Board. Upon termination of this Agreement, Provider shall turn over to Board all student records of Board's eligible students to whom Provider has provided services under this Agreement.

11. **PROVIDER FACILITY ACCESS**

Provider shall allow access to its facilities for periodic monitoring of each student's instructional program by District and shall be invited to participate in any review of each student's progress by Board. Board representatives shall have access to observe each student at work, observe the instructional setting, interview Provider, and review each student's progress.

12. **PROVIDER RECORDS**

Provider shall provide access to all records or reports, or other matter relating to this Agreement upon request by District. Provider shall maintain fiscal records for five (5) years and shall keep them available for audit.

13. **BACKGROUND CHECKS/FINGERPRINTING**

The School District shall be governed by Fl. Stat. § 1012.32(2)(a) [§ 231.02(2)(a)]. The Provider agrees to submit to a background check and fingerprinting as stated in the attached "Addendum". The Provider shall not begin providing services contemplated by this Agreement until clearance by the School District. The School Board shall not be liable for rejection of the Provider on the basis of these compliance obligations. The Provider agrees that neither the Provider, nor any employee, agent or representative of the Provider who has been convicted or who is currently under investigation for a crime against children in accordance with § 435.04, Florida Statutes will enter onto any school site. Furthermore, the Parties agree to enter into the attached "Addendum" concerning fingerprinting due to the passage of the "Jessica Lunsford Act".

14. INDEPENDENT CONTRACTOR

The Provider is, for all purposes arising under this Agreement, an independent contractor. The Provider and its officers, agents or employees may not, under any circumstances, hold themselves out to anyone as being officers, agents or employees of the Board. No officer, agent or employee of the Provider or Board shall be deemed an officer, agent or employee of the other party. Neither the Provider nor Board, nor any officer, agent or employee thereof, shall be entitled to any benefits to which employees of the other party are entitled, including, but not limited to, overtime, retirement benefits, workers compensation benefits, injury leave, or other leave benefits.

15. INDEMNIFICATION/HOLD HARMLESS

The Provider shall, in addition to any other obligation to indemnify the Palm Beach County School Board and to the fullest extent permitted by law, protect, defend, indemnify and hold harmless the School District, their agents, officers, elected officials and employees from and against all claims, actions, liabilities, losses (including economic losses), costs arising out of any actual or alleged bodily injury, sickness, disease or death, or injury to or destruction of tangible property including the loss of use resulting there from, or any other damage or loss arising out of, or claimed to have resulted in whole or in part from any actual or alleged act or omission of the Provider, or anyone directly or indirectly employed by them, or of anyone for whose acts any of them may be liable in the performance of the work; or violation of law, statute, ordinance, governmental administration order, rule or regulation in the performance of the work; claims or actions made by the Provider or other party performing the work. The indemnification obligations hereunder shall not be limited to any limitation on the amount, type of damages, compensation or benefits payable by or for Provider under workers' compensation acts; disability benefit acts, other employee benefit acts or any statutory bar. Any cost or expenses, including attorney's fees, incurred by the Palm Beach County School District to enforce this Agreement shall be borne by the Provider. The Provider recognizes the broad nature of this indemnification and hold harmless article, and voluntarily makes this covenant for good and valuable consideration provided by the School Board in support of this indemnification in accordance with the laws of the State of Florida. This article will survive the termination of this Agreement.

16. PROVIDER'S INSURANCE REQUIREMENTS:

- A. Commercial General Liability Coverage
Limits: \$1,000,000 Each Occurrence
\$2,000,000 Aggregate

Coverage shall include bodily injury, property damage, personal injury, contractual liability, sexual abuse and molestation coverage.

- B. Worker Compensation Insurance
Limits: Coverage A Statutory
Coverage B \$500,000

If the Provider is entreating School Board premises for services, a waiver of subrogation must be provided.

- C. Auto Liability (if the Provider is transporting students)
Limits: \$5,000,000 Each Occurrence
\$5,000,000 Aggregate

- D. Errors and Omissions
Limits: \$1,000,000 Each Claim
\$1,000,000 Aggregate

The Provider agrees to continue insurance coverage for 24 months after cancellation/termination of this agreement.

17. THE PROVIDER AND THE BOARD MUTUALLY AGREE:

- A. This Contract terminates automatically upon payment of the total amount for supplemental services or as of the close of business on the specified ending date of Contract.
- B. This District assumes no liability related to the provision of services by the Provider beyond reimbursement to the Provider for services as identified in this Contract.
- C. Transportation to and from the Provider is the responsibility of parent, guardian, or other adult unless other adult unless other arrangements have been agreed upon as follows: _____
- D. Absences in excess of two (2) consecutive sessions of the contracted days will result in termination of services.

18. AMENDMENT

This Agreement may be amended only with the mutual consent of the parties. All amendments must be in writing and must be approved by the School Board.

19. ASSIGNMENT

Neither the Provider nor the Board may assign or transfer any interest in this Agreement without the prior written consent of the other party.

20. GOVERNING LAW AND VENUE

This Agreement shall be construed in accordance with the laws of the State of Florida. Any dispute with respect to this Agreement is subject to the laws of Florida, venue in Palm Beach County, Florida. The prevailing party shall be entitled to attorney's fees and costs incurred as a result of any action or proceeding under this Agreement.

21. TERMINATION

The Board reserves the right to terminate this contract at any time and for any reason, upon giving thirty (30) days notice to the other party. If said contract should be terminated for convenience as provided herein, the Board will be relieved of all obligations under said contract and the Board will only be required to pay that amount of the contract actually performed to the date of termination with no payment due for unperformed work or lost profits. In the event the School Board determines that the Provider's services are not being performed as agreed upon, the Provider shall be deemed to be in default and the School Board reserves the right to cancel this contract with five (5) days notice and to withhold all monies due the Provider until such time as the Board, in its sole discretion shall determine whether to have the contract services completed by others or to cease obtaining the services. In the event that the Board determines to have the contract completed by other, the Provider shall be liable for any costs of completion in excess of that called for in this contract. In the event that the Board determines not to have the contract completed by others, the Provider shall be paid for the services that it satisfactorily performed prior to the termination but, in no event, shall the Provider be paid for any work not actually performed or for lost profits.

In the event that it is determined that a termination for cause was unjustified, the termination shall be deemed a termination for convenience and the Provider shall be entitled to payment only or work actually performed prior to the termination and to any additional sums.

22. LEGAL REVIEW

The parties hereto represent that they have reviewed the Agreement and have sought legal advice concerning the legal significance and ramifications of the provisions contained herein.

23. NOTICES

Any notice *permitted or required* under this Agreement shall be in writing and signed by the party giving or serving the same, and shall be served either by personal delivery or *certified mail to the following persons and at the following address:*

Provider: (add Provider's address)

SCHOOL BOARD OF PALM BEACH
COUNTY, FLORIDA
Purchasing Department
3300 Forest Hill Boulevard, Suite A-323
West Palm Beach, FL 33406

NOW, THEREFORE, the parties hereto have affixed their signatures on the day and year first above written.

The School Board of
Palm Beach County, Florida

By: _____
THOMAS E. LYNCH, CHAIRMAN

DATE

Attest:

By: _____
ARTHUR C. JOHNSON, PH.D.

DATE

Provider

PRINT PROVIDER NAME

By: _____
SIGNATURE

DATE

PRINT NAME