



THE SCHOOL DISTRICT OF PALM BEACH COUNTY  
**Agreement between the  
 School Board of Palm Beach County  
 and Florida Realtime Reporting**

AGENDA ITEM NUMBER	BOARD MEETING DATE January 19, 2005	
CONTACT Russell Feldman	PX 48626	
SCHOOL / DEPARTMENT Exceptional Student Education		

THIS AGREEMENT is entered into this twentieth day of January, 2005 by and between the SCHOOL BOARD OF PALM BEACH COUNTY, hereinafter referred to as "Board" and Florida Realtime Reporting, hereinafter referred to as "Consultant".

WHEREAS, the Board desires to enter into this Agreement with the Consultant, providing, among other things, for the Consultant's services to the Board; and

WHEREAS, the Consultant desires to enter into this Agreement with respect to his/her (hereinafter his) services to the Board, upon the terms and conditions hereinafter set forth.

WHEREAS, the Consultant 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 Consultant agree as follows:

**1. TERM**

The term of this Agreement shall commence on December 14, 2004 and shall end on May 31, 2005.

**2. RESPONSIBILITIES OF CONSULTANT**

A. The Consultant shall perform the following services:

Communication Access Realtime Translation (CART) for a deaf high school student for academic classes.

B. Time, date, and location of services:

4 periods per day at Spanish River High School each school day that the student is present as per the school district calendar

**3. CONSULTANT BACKGROUND INFORMATION**

Education Certified Realtime Reporter, Certified CART Provider

Position and Address President/Owner

Target Group/School/Department DHH student at Spanish River High School

Approximate Number to be Served 1 student

**4. EVALUATION/FOLLOW-UP METHOD**

Evaluation of the Consultant shall be provided by Susan Z. Alex

of the District at regular intervals and in accordance with the attached evaluation tool, Exhibit "A".

**FINANCIAL IMPACT**

The financial impact is \$40,800.00 The source of funds is IDEA

IA	FUND	FUNCTION	OBJECT	LOCATION	PROJECT	PROGRAM	GL
	<u>0421</u>	<u>5250</u>	<u>3935</u>	<u>1840</u>	<u>5514</u>	<u>6551</u>	

**5. COMPLIANCE WITH POLICIES AND LAWS**

The Consultant 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](http://www.schoolboardpolicies.com) and are incorporated herein. It shall be the Consultant'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 Consultant shall abide by all applicable federal, state and local laws.

**6. COMPENSATION**

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

forty thousand eight hundred dollars and no cents

( \$ 40,800.00 ), for a maximum of 408 hours which is based upon the following rate schedule.

Daily Rate: N/A Half Day Rate: N/A Hourly Rate: \$100.00 Flat Rate: N/A

I grant permission for any or all parts of this presentation to be videotaped.  Yes  No

B. 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 Consultant 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:

Susan Z. Alex

**7. CONFIDENTIALITY OF STUDENT RECORDS**

The Consultant is subject to all School District obligations relating to compliance with student records confidentiality laws. By signing this Agreement, the Consultant 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.

**8. BACKGROUND CHECKS/FINGERPRINTING**

The School District shall screen applicants and shall be governed by Fl. Stat. § 1012.32(2)(a) [§ 231.02(2)(a)]. The Consultant agrees to submit to a background check and fingerprinting by the School District's Police Department at the sole cost of the Consultant. The Consultant 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 Consultant on the basis of these compliance obligations. The Consultant agrees that neither the Consultant, nor any employee, agent or representative of the Consultant 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.

**9. INDEPENDENT CONTRACTOR**

The Consultant is, for all purposes arising under this Agreement, an independent contractor. The Consultant 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 Consultant or Board shall be deemed an officer, agent or employee of the other party. Neither the Consultant 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.

**10. OWNERSHIP**

A. All reports, studies, information, data, statistics, forms, designs, plans, procedures, systems, and other materials produced by the Consultant under this Agreement shall be the sole and exclusive property of Board. No such materials produced, either in whole or in part, under this Agreement shall be subject to private use, copyright or patent right by the Consultant in the United States or in any other country without the express written consent of Board.

B. Board shall have unrestricted authority to publish, disclose, distribute and otherwise use, copyright or patent any such materials produced by the Consultant under this Agreement.

**11. INDEMNIFICATION/HOLD HARMLESS**

The Consultant 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 Consultant, 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 Consultant 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 Consultant 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 Consultant. The Consultant 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.

**12. TRAVEL**

Travel  is  is not allowable for this contract. Estimated travel expense is not to exceed           \$0.00           for the term of the contract. The Consultant agrees to submit all necessary documentation and proof of expenses in accordance with F. S. § 1 12.061 and School Board Policy #6.01. The Consultant further agrees that reimbursement for travel must be submitted on travel reimbursement forms with the rates determined by F.S. § 112.061 and School Board Policy 6.01 and must be authorized by the appropriate administrator(s).

**13. 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.

**14. ASSIGNMENT**

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

**15. 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.

**16. 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 School Board determines that the Consultant's services are not being performed as agreed upon, the Consultant 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 Consultant 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 others, the Consultant 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 Consultant shall be paid for the services that it satisfactorily performed prior to the termination but, in no event, shall the Consultant 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 Consultant shall be entitled to payment only for work actually performed prior to the termination and to any additional sums.

**17. MINORITY STATUS**

The School District strongly encourages active minority/women business enterprise participation with all professional services. The Consultant certifies that:

This business is minority owned and operated (minimum 51%)  Yes  No

If a consultant not representing a firm, I am a minority.  Yes  No

If either statement above was checked yes, please indicate minority group.

Black or African American     Asian     Native Hawaiian or Other Pacific Islander     Hispanic or Latino  
 American Indian or Alaskan Native     Disabled     White Female     Other

**18. 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.

**19. 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 addresses:

Consultant: (Add Consultant's address)

Florida Realtime Reporting  
12505 Orange Drive, Suite 907  
Ft. Lauderdale, FL 33330 (954-767-0450)

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





20. MANDATORY CONTRACT DOCUMENTS

This Agreement includes the terms and conditions set forth in this document, and set forth in the following additional documents attached hereto and incorporate herein: (approval will not be granted without these mandatory attachments)

- "Exhibit A" - Provide consultant evaluation
- "Exhibit B" - Beneficial Interest and Disclosure of Ownership Affidavit (PBSD 1997)

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

This contract was recommended for approval by:

 SIGNATURE OF LEGAL SERVICES DESIGNEE	12-14-04 DATE	 SIGNATURE OF PRINCIPAL / DIRECTOR	12/14/04 DATE
Kimberly Hall PRINT NAME		Russell Feldman, Executive Director PRINT NAME	
 SIGNATURE OF CHIEF OFFICER	12-17-04 DATE	 SIGNATURE OF APPROPRIATE ASSOCIATE / AREA / ASSISTANT SUPERINTENDENT	12-17-04 DATE
Ann Killets PRINT NAME		Janice S. Cover PRINT NAME	

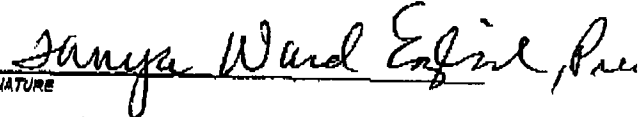
The School Board of  
Palm Beach County, Florida

Consultant

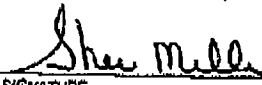
By: \_\_\_\_\_  
THOMAS E. LYNCH  
CHAIRMAN  
DATE \_\_\_\_\_

Florida Realtime Reporting  
Tanya Ward-English, Pres.  
PRINT CONSULTANT NAME


Attest:  
By: \_\_\_\_\_  
ARTHUR C. JOHNSON, Ph. D.  
SUPERINTENDENT  
DATE \_\_\_\_\_

By:   
SIGNATURE  
12/14/04  
DATE  
Tanya Ward English, Pres.  
PRINT NAME

Witnesses: (Two are required)

  
SIGNATURE  
Sheri Miller  
PRINT NAME  
\_\_\_\_\_  
SIGNATURE  
\_\_\_\_\_  
PRINT NAME

Witnesses: (Two are required)

  
SIGNATURE  
Dawn Tobe  
PRINT NAME  
\_\_\_\_\_  
SIGNATURE  
\_\_\_\_\_  
PRINT NAME

**ADDENDUM NO. 1 TO CONSULTANT CONTRACT BETWEEN THE SCHOOL BOARD OF PALM BEACH COUNTY AND Florida Realtime Reporting**

This Addendum No. 1 to the Consultant Agreement dated January 20, 2005, (Addendum”) is made between The School Board of Palm Beach County (“School Board”) and Florida Realtime Reporting, hereafter referred to as “Consultant.”

**RECITALS**

**WHEREAS**, Consultant has agreed to provide services to the students within the School District of Palm Beach County and,

**WHEREAS**, School Board and Consultant agree to modifications to the original Agreement.

**NOW THEREFORE**, in consideration of the mutual covenants herein contained, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, School Board and Consultant hereby agree as follows:

1. The parties hereby warrant and represent that the foregoing Recitals are accurate and correct and hereby incorporate them herein.
2. Consultant represents and warrants that its policies and protocols, its services and fee structure, and its billing for private, federal and/or state reimbursement practices shall be in strict compliance with all federal, state and local regulations.
3. Consultant represents and warrants that its policies and protocols for maintaining medical records and patient consents shall be in strict compliance with all local, federal, and state laws and regulations. Consultant shall be responsible for the disposal and treatment of hazardous and medical waste in accordance with all applicable laws.
4. Consultant represents and warrants that it shall perform its services in accordance with any and all applicable federal, state and local laws or ordinances regarding the operation, licensure, and regulatory compliance of providing CART services, including credentialing of all clinical personnel providing services and/or employed therein. Consultant represents and warrants that all Consultant’s partners, joint ventures, employees, subcontractors, and/or consultants shall provide it services and/or conduct its activities in accordance with any and all applicable federal, state and local laws or ordinances.
5. A. Consultant shall, during the term of this Agreement, maintain in full force and effect self insured or commercial general liability insurance, including contractual liability insurance in the amount specified in Section 768.28, Florida Statutes, to specifically cover all School Board and Consultant exposures associated with the terms and conditions of this Agreement.

B. Consultant at its sole cost and expense shall maintain medical malpractice and professional liability insurance coverage in the amount of \$1,000,000 for each of its physicians, medical directors, nurse practitioners and other health care professionals. On or before the execution of this Agreement, Consultant must supply School Board with a Certificate of Insurance as required by this section. Such Certificate shall provide written notice to School Board thirty days prior to any cancellation of said insurance. Receipt of such notice shall be considered a default under the terms of this Agreement.

C. Consultant must comply with Chapter 440, Florida Statutes, Workers' Compensation and Employees' Liability Insurance with minimum statutory limits.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute this Addendum as of the date written below.

The School Board of  
Palm Beach County, Florida

By: \_\_\_\_\_  
Thomas E. Lynch  
Chairman

Date: \_\_\_\_\_

Attest:

By: \_\_\_\_\_  
Arthur C. Johnson, Ph.D.  
Superintendent

Date: \_\_\_\_\_

Witnesses: (Two are required)

\_\_\_\_\_  
Signature

Sheri Miller  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

Consultant

Florida Realtime Reporting  
By: \_\_\_\_\_  
Tanya Ward English  
Print Name

Witnesses: (Two are required)

\_\_\_\_\_  
Signature

Dawn Jobe  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

## Business Associate Agreement

This Business Associate Agreement ("Agreement") dated \_January 20, 2005 Effective Date"), is entered into by and between The School District of Palm Beach County("Facility") and Florida Realtime Reporting (Business Associate").

**WHEREAS**, Facility and Business Associate have or are entering into agreements or other documented arrangements (collectively, "Business Arrangements") pursuant to which Business Associate may provide services for Facility that require Business Associate to access health information that is protected by state and/or federal law;

**WHEREAS**, Business Associate and Company desire that Business Associate obtain access to such information in accordance with the terms specified herein:

**NOW THEREFORE**, in consideration of the mutual promises set forth in this Agreement and other good and valuable consideration, the sufficiency and receipt of which are hereby severally acknowledged, the parties agree as follows:

1. **Business Associate Obligations**, Business Associate may receive from Facility health information that is protected under applicable state and/or federal law, including without limitation, protected health information ("PHI") as defined in the regulations at 45 C.F.R. Parts 160 and 164 (the "Privacy Standards") promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") All capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in the Privacy Standards. Business Associate agrees not to use or disclose (or permit the use or disclosure of) PHI in a manner that would violate the requirements of the Privacy Standards if the PHI were used or disclosed by Facility in the same manner. Business Associate shall use appropriate safeguards to prevent the use or disclosure of PHI other than as expressly permitted under this Agreement.

2. **Use of PHI**, Business Associate may use PHI solely for Facility's benefit and only (i) for the purpose of performing services for Facility as such services are defined in Business Arrangements, and (ii) as necessary for the proper management and administration of the Business Associate or to carry out its legal responsibilities, provided that such uses are permitted under federal and state law. Facility shall retain all rights in the PHI not granted herein. Use and disclosure of de-identified health information is not permitted unless expressly authorized in this Agreement or in writing by Facility.

3. **Disclosure of PHI**, Business Associate may disclose PHI as necessary to perform its obligations under the Business Arrangement and as permitted by law, provided that Business Associate shall in such case: (a) obtain reasonable assurances from any person to whom the information is disclosed that it will be held confidential and further used and disclosed only as required by law or for the purpose for which it was disclosed to the person or entity; (b) agree to immediately notify Facility of any instances of which it is aware that PHI is being used or disclosed for a purpose that is not otherwise provided for in this Agreement or for a purpose not expressly permitted by the Privacy Standards; and (c) ensure that all disclosures of PHI are subject to the principle of "minimum necessary use and disclosure. "i.e. only the minimum PHI that is necessary to accomplish the intended purpose may be disclosed. If Business Associate discloses PHI received from Facility, or created or received by Business Associate on behalf of Facility, to agents, including a subcontractor (collectively, "Recipients"), Business Associate shall require Recipients to agree in writing to the same restrictions and conditions that apply to the business Associate under this Agreement. To the extent permitted by law, Business Associate shall be fully liable to Facility for any acts, failures or omissions of Recipients in furnishing the services as if they were the Business Associate's own acts, failures or omissions. Business Associate shall report to Facility any use or disclosure of PHI not permitted by this Agreement, of which it becomes aware, such report to be made within five (5) days of the Business Associate becoming aware of such use or disclosure. Business Associate agrees to mitigate, to the extent practical and unless

otherwise requested by Facility in writing, any harmful effect that is known to Business Associate and is the result of a use or disclosure of PHI in violation of the Agreement.

4. **Individual Rights Regarding Designated Record Sets**, If Business Associate maintains a Designated Record Set on behalf of Facility, Business Associate shall (a) permit an individual to inspect or copy PHI contained in that set about the individual under conditions and limitations required under 45 CFR § 164.524, as it may be amended from time to time, and (b) amend PHI maintained by Business Associate as requested by Facility. Business shall respond to any requests from Facility for access by an individual within five (5) days of such request and shall make any amendment requested by Facility within ten (10) days of such request. The information shall be provided in the form or format requested, if it is readily producible in such form or format, or in summary, if the individual has agreed in advance to accept the information in summary form. A reasonable, cost-based fee for copying PHI may be charged. Business Associate shall accommodate an individual's right to have access to PHI about the individual in a Designated Record Set in accordance with the Privacy Standards set forth at 45 CFR § 164.526, as it may be amended from time to time, unless the regulation provides for a denial or an exception expressly applies. Facility shall determine whether a denial is appropriate or an exception applies. Business Associate shall notify Facility within five (5) days of receipt of any request for access or amendment by an individual. Business Associate shall have a process in place for requests for amendments and for appending such requests to the Designated Record Set. This section 4 of the Agreement shall become effective on April 14, 2003 or on such later date that compliance with the federal Privacy Standards is required by the regulations, subject to any earlier state laws requirements.

5. **Accounting of Disclosures**, Business Associate shall make available to Facility in response to a request from an individual, information required for an accounting of disclosures of PHI with respect to the individual, in accordance with 45 CFE § 164.528, as it may be amended from time to time, incorporating exceptions to such accounting designated under the regulation. Such accounting is limited to disclosures that were made in the six (6) years prior to the request and shall not include any disclosures that were made prior to the compliance date of the Privacy Standards. Business Associate shall provide such information necessary to provide an accounting within thirty (30) days of Facility's request. Such accounting must be provided without cost to the individual or to Facility if it is the first accounting requested by an individual within any twelve (12) month period; however, a reasonable, cost-based fee may be charged for subsequent accountings if Business Associate informs the Facility and the Facility informs the individual in advance of the fee, and the individual is afforded an opportunity to withdraw or modify the request. Such accounting shall be provided as long as Business Associate maintains PHI. This section 5 of the Agreement shall become effective on April 14, 2003 or on such later date that compliance with the Privacy Standards is required by the regulations, subject to any earlier state law requirements.

6. **Withdrawal of Consent of Authorization** If the use or disclosure of PHI in this Agreement is based upon an individual's specific consent or authorization for the use of his or her PHI, and (i) the individual revokes such consent or authorization in writing (ii) the effective date of such authorization has expired, or (iii) the consent or authorization is found to be defective in any manner that renders it invalid, Business Associate agrees, if it has notice of such revocation or invalidity, to cease the use and disclosure of any such individual's PHI except to the extent it has relied on such use or disclosure, or where an exception under the Privacy Standard expressly applies.

7. **Records and Audit**, Business Associate shall make available to Facility and to the United Department of Health and Human Services or its agents, its internal practices, books, and records relating to the use and disclosure of PHI received from, created, or received by Business Associate on behalf of Facility for the purpose of determining Facility's compliance with the Privacy Standards or any other health oversight agency, in a time a manner designated by Facility of the Secretary. Except to the extent prohibited by law, Business, Associate agrees to notify Facility immediately upon receipt by Business Associate of any and all requests served upon Business Associate for information or documents by or on behalf of any and all government authorities.



8. **Notice of Privacy Practices.** Facility shall provide to Business Associate its Notice of Privacy Practices ("Notice") when adopted, and any amendments thereafter. Any use or disclosure permitted by this Agreement may be amended by such Notice. Business Associate agrees that it will abide by the limitations of any Notice published by Facility of which it has knowledge. The amended Notice shall not affect permitted uses and disclosures on which Business Associate has relied prior to the receipt of such Notice.

9. **Confidentiality.** Business Associate shall take any steps required to (i) protect PHI from unauthorized uses or disclosures and (ii) maintain the confidentiality and integrity of PHI. Prior to any permitted disclosure of PHI, Business Associate shall require the person or entity to which it intends to disclose PHI to assume all of the same duties with respect to PHI that Business Associate has under this Agreement. Business Associate shall be fully liable to Facility and any affected individuals for any acts, failures or omissions of Recipients as though they were its own acts, failures or omissions.

10. **Terms and Termination.**

10.1 This Agreement shall commence on the Effective Date and shall remain in effect until terminated in accordance with the terms of this section 10, provided, however, that any termination shall not affect the respective obligations or rights of the parties arising under this Agreement prior to the effective date of termination, all of which shall continue in accordance with their terms; and provided that the effective date of Sections 4 and 5 shall be in accordance with the provisions of those sections.

10.2 Facility shall have the right to terminate this Agreement for any reason upon thirty (30) days written notice to Business Associate.

10.3 Facility, at its sole discretion, may immediately terminate this Agreement and shall have no further obligations to Business Associate hereunder if any of the following events shall have occurred and be continuing:

- (a) Business Associate shall fail to observe or perform any material covenant or agreement contained in this Agreement for ten (10) days after written notice thereof has been given to Business Associate by Facility;
- or
- (b) A violation by Business Associate of any provision of the Privacy Standards or applicable federal or state privacy law.

10.4 Under the termination of all Business Arrangements, either party may terminate this Agreement by providing written notice to the other party.

10.5 Upon termination of this Agreement for any reason, Business Associate agrees either to return to Facility or to destroy all PHI received from Facility or otherwise through the performance of services for Facility, that it is in the possession or control of Business Associate or its agents. In the case of information for which it is not feasible to "return or destroy," Business Associate shall continue to comply with the covenants in this Agreement with respect to such PHI and shall comply with other applicable state or federal law, which may require a specific period of retention, redaction, or other treatment. Termination of this Agreement shall be cause for Facility to terminate any Business Arrangement.

11. **Indemnification.** Business Associate will indemnify, defend and hold Facility and its officers, directors, employees, agents, successors and assigns harmless, from and against any and all losses, liabilities, damages, costs and expenses (including reasonable attorney's fees) arising out of or related to any third-party claim based upon any breach of this Agreement by Business Associate or similar breach by Recipients ("Claim"). If Business Associate assumes the defense of a Claim, Facility shall have the right, at its expense; to participate in the defense of such Claim and Business Associate shall not take any final action with respect to such Claim without the prior written consent of Facility.

12. **No Warranty.** PHI IS PROVIDED TO BUSINESS ASSOCIATE SOLELY ON AN "AS IS" BASIS. FACILITY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE.

13. **Ineligible Persons.** Business Associate represents and warrants to Facility that Business Associate (i) is not currently excluded, debarred, or otherwise ineligible to participate in any federal health care program as defined in 42 U.S.C. Section 1320a-7b(f) ("the Federal Healthcare Programs"); (ii) has not been convicted of a criminal offense related to the provision of health care items or services and has not yet been excluded, debarred, or otherwise declared ineligible to participate in the Federal Healthcare Programs, and (iii) is not under investigation or otherwise aware of any circumstances which may result in Business Associate being excluded from participation in the Federal Healthcare Programs. This shall be an ongoing representation and warranty during the term of this Agreement, and Business Associate shall immediately notify Facility of any change in the status of the representations and warranty set forth in this section. Any breach of this section shall give Facility the right to terminate this Agreement immediately for cause.

14. **Miscellaneous.**

14.1 **Notice.** All notices, requests, demands and other communications required or permitted to be given or made under this Agreement shall be in writing, shall be effective upon receipt or attempted delivery, and shall be sent by (a) personal delivery; (b) certified or registered United States mail, return receipt requested; (c) overnight delivery service with proof of delivery; or (d) facsimile with return facsimile acknowledging receipt. Notices shall be sent to the addresses below. Neither party shall refuse delivery of any notice hereunder.

Florida Realtime Reporting  
12505 Orange Dr., Ste. 907  
Ft. Lauderdale, FL 33330

The School Board of Palm Beach County  
3310 Forest Hill Boulevard, C-225  
West Palm Beach, Florida 33406-5813

Attention: Tanya Ward-English  
Tel. No.: 954-767-0450  
Fax No.: 954-767-3348

Attention: \_\_\_\_\_  
Tel. No.: \_\_\_\_\_  
Fax No.: \_\_\_\_\_

Copy to \_\_\_\_\_ COUNSEL:

Copy to: School Board Counsel

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_  
Tel. No.: \_\_\_\_\_  
Fax No.: \_\_\_\_\_

Attention: \_\_\_\_\_  
Tel. No.: \_\_\_\_\_  
Fax No.: \_\_\_\_\_

14.2 **Waiver.** No provision of this Agreement or any breach thereof shall be deemed waived unless such waiver is in writing and signed by the party claimed to have waived such provision or breach. No waiver of a breach shall constitute a waiver of or excuse any different or subsequent breach.

14.3 **Assignment.** Neither party may assign (whether by operation or law or otherwise) any of its rights or delegate or subcontract any of its obligations under this Agreement without the prior written consent of the other party. Notwithstanding the foregoing, Facility shall have the right to assign its rights and obligations hereunder to any entity that is an affiliate or successor of Facility, without the prior approval of Business Associate.

14.4 **Severability.** Any provision of this Agreement that is determined to be invalid or unenforceable will be ineffective to the extent of such determination without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such remaining provisions.

14.5 **Entire Agreement.** This Agreement constitutes the complete agreement between Business Associate and Facility relating to the matters specified in this Agreement, and supersedes all prior representations or agreements, whether oral or written, with respect to such matters. In the event of any conflict between the terms of this Agreement and the terms of the Business Arrangements or any such later agreement(s), the terms of the Agreement shall control unless the terms of such Business Arrangements are more strict with respect to PHI and comply with the Privacy Standards, or the parties specifically otherwise agree in writing. No oral modification or waiver of any of the provisions of this Agreement shall be binding on either party. No obligation on either party to enter into any transaction is to be implied from the execution or delivery of this Agreement. This Agreement is for the benefit of, and shall be binding upon the parties, their affiliates and respective successors and assigns. No third party has any rights as a result of this Agreement.

14.6 **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State in which Facility is located, excluding its conflicts of laws provisions. Jurisdiction and Venue for any dispute relating to this Agreement shall exclusively rest with the state and federal courts in the county in which Facility is located.

14.7 **Equitable Relief.** Business Associate understands and acknowledges that any disclosure or misappropriation of any PHI in violation of this Agreement will cause Facility irreparable harm, the amount of which may be difficult to ascertain, and therefore agrees that Facility shall have the right to apply to a court of competent jurisdiction for specific performance and/or an order restraining and enjoining any such further disclosure or breach and for such other relief as Facility shall deem appropriate. Such right of Facility is to be in addition to the remedies otherwise available to Facility at law or in equity. Business Associate expressly waives the defense that a remedy in damages will be adequate and further waives any requirement in an action for specific performance or injunction for the posting of a bond by Facility.

14.8 **Nature of Agreement.** Nothing in this Agreement shall be construed to create (i) a partnership, joint venture or other joint business relationship between the parties or any of their affiliates, or (ii) a relationship of employer and employee between the parties. This Agreement does not express or imply any commitment to purchase or sell goods or services.

14.9 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. In making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart executed by the party against whom enforcement of this Agreement is sought.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

Florida Realtime Reporting

THE SCHOOL BOARD OF PALM BEACH COUNTY

By: Janyia Ward Esfah

By: Janice S. Gawn

12/14/04  
Date

12.17.04  
Date



THE SCHOOL DISTRICT OF PALM BEACH COUNTY  
**Consultant Evaluation**

PO NUMBER

School/Department Exceptional Student Education  
 Name of Consultant Florida Realtime Reporting  
 Contract Period From December 14, 2004 To May 31, 2005

Rating: 5 - Superior 4 - Satisfactory Plus 3 - Satisfactory 2 - Satisfactory Minus 1- Unsatisfactory

**JOB KNOWLEDGE AND SKILL**

	5	4	3	2	1
1. Technical and procedural know-how to complete the project					
2. Knowledge of his/her specialty area					
3. Ingenuity, creativity, and innovation					
4. General quality of the work performed					

**PRODUCTIVITY**

1. Services provided matched the specifications of the contract					
2. Results produced					
3. Ability to meet goals as scheduled					
4. Success of the project					

**COMMUNICATION**

1. Listening skills					
2. Returned phone calls, follow-up information, etc. in a timely manner					
3. Overall communication skills					
4. Overall accessibility/availability					

**INTERACTION**

1. Working relationships with teachers and/or students					
2. Ability to work as part of a team					
3. Status updates and information received as the project progressed					

Rating: A - Agree D - Disagree N/A - Not Applicable

	A	D	N/A
1. Demonstrates dependability			
2. Demonstrates ingenuity/creativity/innovation			
3. Performs well under pressure			
4. Effective when presenting ideas orally			
5. Expresses ideas clearly and uses correct grammar in written communication			
6. Listens effectively			
7. Provides feedback in a constructive and timely manner			
8. Is self-reliant and requires little or no supervision			
9. Treats staff and/or students with fairness, respect and integrity.			

I would hire this consultant again.  Yes  No

\_\_\_\_\_  
 SIGNATURE OF EVALUATOR DATE  
 Susan Z. Alex  
 PRINT NAME OF EVALUATOR