

**DEPARTMENT OF SPECIAL SERVICES  
TOWNSHIP OF UNION PUBLIC SCHOOLS  
M-E-M-O-R-A-N-D-U-M**

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**TO:** Dr. Scott Taylor

**C:** Diane Cappiello  
Gerald Benaquista  
Yolanda Koon  
Dr. Gretel Perez  
Bernadette Watson

**From:** Kim Conti 

**Re:** Board Agenda Item

**Date:** March 22, 2023

Approve Marilyn Kubichek MD, FAAP (Columbia Commons North Tower  
256 Columbia Turnpike, Suite 109, Florham Park NJ) to provide  
Neurological evaluations and Neurodevelopmental evaluations at the rate  
of \$675.00 per evaluation for the 2023-2024 school year, not to exceed  
\$12,000.00 (Acct # 11-000-219-320-01-19)



## CONTRACT FOR NEUROLOGICAL EVALUATION AND RELATED SERVICES

This AGREEMENT is made and entered into this 23<sup>rd</sup> day of March, 2023 by Marilyn Kubichek MD, Columbia Commons North Tower, 256 Columbia Tpke, Suite 109, Florham Park, NJ (hereinafter referred to as “Provider”) and Union Township Board of Education (hereinafter referred to as the “Board”), (collectively, the “Parties”).

Provider is engaged in the business of providing neurological evaluation and related services and consultations and Board has identified a need for such services to be provided to the students in the District of Union Township (“District”).

The Board is a duly organized Board of Education organized pursuant to N.J.S.A. 18A:18A-1 *et seq.*

In consideration of the mutual covenants expressed herein, Provider and Board agree to the provision of services for the 2023 – 2024 school year, for the fees set forth herein.

### I. Licensing/Certification

Provider shall only provide employees who are licensed or certified as may be required by State law.

### II. Criminal Background Check

Provider shall provide a Criminal History Record Information (CHRI), including fingerprint background check for each of its employees who provide direct services to a student during the term of this Agreement and shall provide the Board with verification of the CHRI. During the term of the Agreement, Provider shall report to the Board any modification of the CHRI including without limitation any arrest or conviction of any employees providing direct services to students.

### III. Sexual Abuse/Child Abuse Disclosure Release Form

Provider hereby acknowledges its obligations under the Sexual Abuse/Child Abuse Disclosure requirements of P.L. 2018, c.5, N.J.S.A. 18A:6-7.6 to 7.13 (commonly referred to as “Pass the Trash”, the “PTT Law”), as applicable, and certifies that it is compliant with the PTT Law and all obligations required therein.

Provider agrees to indemnify, defend and hold the Board and its respective officers, employees and agents harmless from and against any suits, actions, liabilities, claims, damages and expenses including, without limitation, costs of investigation, expert witness fees, and attorney fees for the defense of the underlying suit, arising out of or in any manner connected with Provider’s compliance with its obligations under the PTT Law, including services performed under this Agreement by Provider, or anyone directly or indirectly employed by it, for any acts or omissions for which Provider may be legally liable with respect to the PTT Law. If in any given case a court rules that Provider is not negligent and/or did not breach its statutory duty, then Provider would have no obligation to defend and indemnify the Board.

#### **IV. Insurance**

1. Provider shall maintain general liability and professional liability coverage for any negligent acts or omissions of its employees which may give rise to liability under this Agreement. Coverage shall be written on a "claims made basis" for a minimum of One Million Dollars (\$1,000,000.00) per individual and in the sum of Two Million Dollars (\$2,000,000.00) per occurrence.
2. Provider shall maintain, as its sole expense, Worker's Compensation insurance for its employees.
3. Provider shall file upon execution of the contract all certificates of insurance upon forms acceptable to Board. The certificates shall contain a provision that the coverage afforded on the policies will not be cancelled or materially changed during the term of the contract.

#### **V. Indemnification**

Provider agrees to indemnify and hold harmless Board from any and all claims, liability, damages and expenses, including but not limited to reasonable attorney's fees, arising out of, resulting from and/or related to the services which Provider, its agents and/or employees render pursuant to the within Agreement, whereby the claims, liability, damages and expenses are caused by any error, omission, negligence, willful misconduct, or intentional act of Provider, its agents and/or employees.

#### **VI. Billing and Payment of Personnel.**

- A. Provider, as an employer, shall remain responsible for the payment of wages and other compensation, reimbursement of expenses and compliance with Federal, State and local tax withholdings, Worker's Compensation, Social Security, employment and other insurance requirements for its personnel.
- B. Provider shall forward to Board an itemized bill on a monthly unless Board requires more frequent billing.
- C. Board agrees to pay submitted bills within thirty (30) days after the monthly Board meeting immediately following receipt by the Board of the billing.
- D. Provider shall be compensated at the rate of **\$675.00** per evaluation, provided that the total compensation to be paid for the 2023-2024 school year shall not exceed **\$12,000.00**.

#### **VII. Term and Termination**

- A. This Agreement will remain in effect through June 30 of the academic school year. This Agreement may be extended at the option of the Board, subject to satisfactory performance by Provider, availability of funds by the Board and applicable provisions of the Public School Contracts Law, N.J.S.A. 18A:18A-1 *et seq.*

- B. Either party may terminate this Agreement, for any reason, upon thirty (30) days prior written notice. Upon termination, any and all outstanding fees for services rendered by Provider shall be paid upon submission of the invoice to the Board.
- C. Either party may terminate this Agreement for cause due to breach of any material provisions in this Agreement by giving ten (10) days prior written notice.

### **VIII. Public Contracting Requirements**

- A. **Non-Collusion.** The Provider warrants and represents that this Agreement has not been solicited, secured or procured directly or indirectly in a manner contrary to the laws of the State of New Jersey and that the federal, state and local laws and regulations have not been violated and shall not be violated as they relate to the procurement or the performance of the Agreement by any conduct, including the paying or giving of any fee, commission, compensation, gift, gratuity or consideration of any kind, directly or indirectly, to any state or district employee, officer or official.
- B. **Business Registration.** Pursuant to N.J.S.A. 52:32-44, the Provider must provide a copy of its business registration certificate to the District prior to execution of the contract.
- C. **Pay-To-Play.** Pursuant to N.J.S.A. 19:44A-20.27 (P.L. 2005, c. 271), each contracting for-profit Provider shall file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission if the for-profit Provider receives contracts in excess of \$50,000 from public entities in a calendar year. It is the for-profit Provider's responsibility to determine if filing is necessary.
- D. **Non-Discrimination.** The Provider shall be fully responsible for the recruitment and hiring of staff necessary to perform this Agreement. The Provider shall operate in conformity with applicable provisions of all federal and state anti-discrimination statutes and directives, including the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq., the mandatory language of N.J.A.C. 17:27-3.4(a) and N.J.A.C. 17:27-7.4(a) and (b), regarding Affirmative action, and the requirements of 42 U.S.C. 121.01 et seq., regarding the Americans with Disabilities Act.

The Provider certifies that it is an Equal Opportunity Employer and will not discriminate in the recruitment, selection, hiring, promotion or demotion of staff or the selection of services provided to children on the basis of or against any person because of race, creed, religion, color, national origin/nationality, ancestry, age, sex/gender (including pregnancy), marital status/civil union partnership, familial status, affectional or sexual orientation, gender identity or expression, domestic partnership status, atypical hereditary cellular or blood trait, genetic information, disability, (including perceived disability, physical, mental, and/or intellectual disabilities), or liability for service in the Armed Forces of the United States.

- E. **Records.** Provider shall keep all records pertaining to its services under this Agreement for no less than five (5) years.

**IX. ADDITIONAL TERMS**

- A. **Governing Law.** This Agreement will be construed and governed in all respects according to the laws of the State of New Jersey. Any litigation shall be filed within the courts of the State of New Jersey.
- B. **Relationship to Parties.** Provider enters into this Agreement as an independent contractor. Nothing contained in this Agreement will be construed to create a partnership, joint venture, agency or employment relationship between the parties.
- C. **Assignment.** This Agreement may not be assigned by either party, in whole or part.
- D. **Modification of Terms.** No amendments or modifications to the terms of this Agreement will be binding unless evidenced in writing and signed by an authorized representative of each party hereto.
- E. **Notices.** Any Notice given in connection with this Agreement will be given in writing and will be delivered either by hand, by courier with proof of delivery, or by certified mail, return receipt requested, to the other party, at the party's address stated below.
- F. **Confidentiality.** Except for acknowledging the existence of this Agreement, the parties understand and agree that the terms of this Agreement, including all payment terms, shall be kept confidential unless disclosure is required by law or the parties agree, in writing, to such disclosure. All methods and mode of conduct of business for Board and Provider are to be kept confidential by Board and Provider and not disclosed to any other party or used in part or whole without the permission of Board and/or Provider.
- G. **Entire Agreement.** This writing constitutes the entire Agreement between Provider and Board; there are no prior written or oral promises or representations incorporated herein.
- H. **Force Majeure.** Neither Provider nor the Board shall be deemed to be in default of the Agreement if either party is prevented from performing any of the obligations hereunder by reason of fire, floods, strikes, boycotts, embargoes, unusually severe weather conditions, epidemics, pandemics or any other similarly extreme circumstance for which it is not responsible or which is not within its control. If any of the foregoing occur during the term of the Agreement and Provider is unable to perform, the Board shall not be responsible for payment of any services that are not performed.

**I. NOTICE**

All notices, requests, consents and approvals under this Agreement shall be served or given in writing by certified mail or courier with signature required and tracking confirmation.

**Notices to the Board shall be delivered to:**  
Yolanda Koon , Business Administrator/Secretary  
Union Township Board of Education  
2369 Morris Avenue  
Union, New Jersey 07083

With a copy of legal notices to:  
Lester E. Taylor, Esq.  
Florio Perrucci Steinhardt Cappelli Tipton & Taylor LLC  
430 Mountain Avenue, Suite 103  
New Providence, NJ 07974

**Notices to Provider shall be delivered to:**

**Marilyn Kubichek MD,**  
Columbia Commons North Tower  
256 Columbia Tpke, Suite 109  
Florham Park, NJ

**THE PARTIES hereby agree to the terms of this Rider:**

**PROVIDER**

**BOARD OF EDUCATION**

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\_\_\_\_\_

Print name/Title:

Print Name/Title:

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

