


F-41

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

TO: Greg Tatum
C: Diane Cappiello
Julia Vicidomini
From: Kim Conti 
Re: Board Agenda
Date: June 4, 2019

Approve First Children at 330 South Ave. Fanwood NJ 07023 for BCBA consultation to include Functional Behavior Assessment, Behavior Intervention Plans, IEP meetings, and parent training at the rate of \$100.00 per hour, Registered Behavior Technician at the rate of \$60.00 per hour, and Behavior Technician at the rate of \$50.00 per hour, not to exceed \$400,000.00 for the 2019-2020 school year. (Account #11-000-216-320-01-19)

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CLIENT AGREEMENT

This is a contract entered into by First Children Learning Services, LLC (hereinafter referred to as "the Provider") and Union Public School Board of Education (hereinafter referred to as "the Client") on this date June 1, 2019.

BACKGROUND

- A.** First Children Learning Services corporate location is 1256 Markkress Road, Cherry Hill, NJ 08003.
- B.** The Provider is a Pennsylvania Limited Liability company, provides home, school, and community based therapeutic services to children. The Provider recruits, trains and compensates its employees to provide services throughout New Jersey.
- C.** The Provider wishes to contract with the Client to supply Therapeutic Services. (SEE APPENDIX A)

NOW, THEREFORE, in consideration of the foregoing and the terms and conditions hereinafter contained, and for other good and valuable consideration the receipt of which is hereby acknowledged, the parties, intending to be legally bound hereby, agree as follows:

AGREEMENT

1. Services of First Children Learning Services, LLC.

- 1.1** The Provider shall use commercially reasonable efforts to supply qualified professional(s) as Client requests from time to time. All such individuals shall be independent contractors and/or Employees of the Provider, and neither the Provider nor Client shall hold such individuals out to third parties as employees of Client. Client shall notify the Provider, as soon as practicable, of its requirements for requested services. Such notice shall specify the date(s), time(s) and location(s) of service, the number of First Children Employees required, and the nature of the position to be filled.
- 1.2** The Provider shall, promptly following the written request of the Client, withdraw the assignment of any staff member for excess absenteeism, performance substantially below the standards of performance reasonably required by the Client, staff member's personal conflicts that will affect performance and if staff member is alleged to have committed acts of dishonesty or fraud in connection with the rendering of services to client. The Provider will use reasonable efforts to offer a substitute staff member to client if possible.

1256 Markkress Road
Cherry Hill, New Jersey 08003

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- 1.3** If requested by Client, the Provider shall provide Client with (i) photocopies of licenses, certifications, registrations, criminal history clearance, references and any other documents required by state law and client. The Provider also agrees to provide (ii) a certificate of professional and general liability insurance with limits of \$1,000,000 per claim and \$2,000,000 in the annual aggregate for professional liability, negligence, and errors and omissions.
- 1.4** Provider shall ensure all staff under the auspice of its services meet all state and federal regulation required to provide care and/or support to children including criminal background checks.
- 1.5** In accordance with the New Jersey "Pass the Trash" law, N.J.S.A. 18A:6-7.6 to 7.13 (hereinafter "Law"), which became effective June 1, 2018, the Provider hereby acknowledges its obligations under the Law and certifies that it is in compliance with the Law and all obligations required therein. The Provider agrees to continue to comply with all requirements of the Law during the term of this contract.

Furthermore, the Provider shall indemnify, defend, and hold, the Board and its respective officers, employees, servants, agents, assigns and affiliates ("Indemnified Parties"), harmless from and against, any and all suits, actions, liabilities, losses, claims, damages, and expenses including, without limitation, cost of investigation and defense (including cost of private investigation and surveillance), cost for medical treatment, expert witness fees, legal fees (e.g. fees of attorneys, paralegals and other legal professionals for the defense of the underlying suits, etc.), expenses and diminution of value, whether or not involving a third party claim, arising out of or in any manner connected with the Providers compliance with, or lack thereof, its obligations under the Law, N.J.S.A. 18A:6-7.6 to 7.13, to be provided for the Indemnified Parties, including, but not limited to, services performed under this Agreement and Addendum, or any such work performed for the Indemnified Parties, in any way related to the acts or omissions of the Provider, its agents, servants, employees, Subcontractors, subconsultants, anyone directly or indirectly employed by them or anyone for whose acts or omissions they may be legally liable ("Covered Parties") to the extent that such suits, actions, liabilities, losses, claims, damages and expenses are caused by the Covered Parties. If in a given case a court rules that the Provider is not negligent and/or did not breach its statutory duty, then the Provider no longer has an obligation to defend and indemnify the Indemnified Parties in such case.

- 2. Responsibilities of Client:** Within 10 days following the end of each calendar month during the term of the agreement, the Provider shall furnish to client an invoice setting forth the total number of hours and/or days worked for Client and each staff member's hourly rate. Within (30) thirty days after receipt of said invoice, the Client shall pay to the Provider the amount of the total costs of services.
- 2.1** The Client agrees that during the term of this Agreement and for a period of twelve (12) months after termination of this Agreement, regardless of the reason for the termination, the Client will refrain from soliciting or offering a position to any staff member who was provided to the Client through the Provider or whose name or resume the Provider furnished to the Client without the expressed written permission of the Provider, in accordance with paragraph 2.3 below.

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2.2 Following written approval from the Provider, the Client may offer direct employment, with proof of offer, to such staff member. Upon such approval from the Provider, the Client shall pay to the Provider 40% of staff member's gross annual salary offered by the Client, following which the Provider will release the Client and applicable staff member from the related non-solicitation and non-compete obligations, with respect to such direct employment by the Client as set forth in paragraph 2.2. In no event shall Client offer direct employment or otherwise offer to contract directly with a staff member without the prior written approval of The Provider.

3. Non Discrimination

In the performance of its obligations under this Agreement, the Provider and the Client shall comply with the provisions of all applicable federal, state, and local laws prohibiting discrimination on the grounds of age, race, color, sex, national origin, religion, citizenship, disability, sexual persuasion, or veteran status.

4. Term of Agreement

The term of this Agreement ("Term") shall be from July 1, 2019 – June 30, 2020. The Term shall automatically renew for successive one-year periods unless either party provides written notice of termination at least thirty (30) days before the expiration of the initial term or any renewal term. The Parties acknowledge that the Provider is entitled to amend the fees during any renewal term. Either party hereto may terminate this Agreement for any reason and or cancel services of a Staff member previously agreed upon, either before services begin or during services, by giving at least thirty (30) days prior written notice to the other.

The Client shall pay the Provider for services rendered according to the payment schedule below:

SERVICE	RATES
Behavior Technician	\$50/Hour
Registered Behavior Technician™ (RBT) <i>The RBT is a highly trained behavior technician, appropriate for implementation of complex behavior analytic services.</i>	\$60/Hour
BCBA Consultation <i>Includes: FBA, Behavior Implementation Plans, IEP Meetings, Parent Training and Social Skill Groups.</i>	\$100/Hour

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5. Representations and Warranties of the Provider

The Provider represents and warrants that this Agreement constitutes a valid and binding agreement by The Provider, enforceable in accordance with its terms; and neither the execution and delivery of this Agreement nor compliance with any of the provisions hereof will violate or conflict with or constitute a default under (or give rise to any right of termination, cancellation, or acceleration under) the terms or conditions or provisions of any certificate, note, instrument, bond, lease, mortgage, obligation, agreement, understanding, arrangement, regulation, law or restriction of any kind whatsoever to which the Provider is a party or by which it or its assets are bound or subject.

6. Representations and Warranties of the Client

The Client represents and warrants that this Agreement constitutes a valid and binding agreement by the Client, enforceable in accordance with its terms; and neither the execution, delivery or performance of this Agreement nor the compliance with any provisions hereof will violate, conflict with, or constitute a default under (or give rise to said right of termination, cancellation, or acceleration under), the terms or conditions or provisions of any certificate, note, instrument, bond, lease, mortgage, obligation, agreement, understanding, arrangement, regulation, law, or restriction of any kind whatsoever to which Client is a party or by which it or its assets are bound or subject.

7. Governing Law

This Agreement shall be governed by and interpreted under the laws of the Commonwealth of Pennsylvania, without regard to principles of conflicts of laws. The parties hereby consent to the jurisdiction of the state courts sitting in Bucks County, Pennsylvania.

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Signatures

In witness of their agreement to the terms above, the parties or their authorized agents hereby affix their signatures:

Name (District Representative):	
Title:	
Date:	
Signature:	
Address:	Street:
	City/Town:
	State/Zip Code:

Name (Agency Representative):	Cynthia Conley, MS, BCBA
Title:	Director, Behavior Health Treatment Services
Date:	
Signature:	

Please return signed contract to:

First Children Learning Services
 Attn: Steve Ripa
 1256 Markkress Road
 Cherry Hill, NJ 08003
sripa@firstchildrenservices.com