

6-30

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  
Bernadette Watson  
Gerald Benaquista  
Yolanda Koon  
Dr. Gretel Perez

From: Kim Conti 

Re: Board Agenda

Date: June 6, 2022

Approve 123 ABA, 150 Main Street Chatham, New Jersey 07928 for Behavior Technician at the rate of \$70.00 per hour, Supervision and Program Development at the rate of \$125.00 per hour, Functional Behavior Assessment at the rate of \$125.00 per Hour, Behavior Intervention Plan at the rate of \$125.00 per hour and Behavioral Consultation /observations/meetings/training and written recommendations at the rate of \$125.00 per hour not to exceed \$ 900,000.00 for the 2022-2023 school year.  
(Account #11-000-216-320-01-19)

Shannon Fera, Director  
150 Main Street  
Chatham, NJ 07928



### Contract

This Contractor Agreement is entered into this 30<sup>th</sup> day of June, 2022, by and between *Township of Union Public Schools*, and *123ABA, LLC*, an independent vendor, in consideration of the mutual promises made herein, as follows:

#### Term of Agreement

This Agreement will become effective on the 30th day of June, 2022 and will continue to date to be determined by district with giving 30 days- notice to *123ABA, LLC*.

#### Services to be Rendered by 123ABA, LLC.

123ABA, LLC shall provide behavior technician support and BCBA support as determined by district need.

#### Compensation

In consideration for the services to be performed by *123ABA, LLC*, *Township of Union Public Schools* agrees to pay *123ABA, LLC* the following fee schedule: behavior technician support \$70 per hour and BCBA support \$125 per hour.

#### Termination of Agreement

Notwithstanding any other provisions of this Agreement, either party hereto may terminate this Agreement at any time by giving 30 days written notice to the other party.

#### General Provisions

- *123ABA, LLC* will provide a written report by the therapist at the conclusion of each session via session notes to be given to the parents and the district. In addition monthly progress reports will be given to district written by BCBA.
- The District shall make available to *123ABA, LLC* the IEP as developed by the IEP Team, as well as any other relevant records in the student's file.

Office: 201-259-0817

Fax: 973-241-7509

Email: [service@123aba.com](mailto:service@123aba.com)

[www.123aba.com](http://www.123aba.com)

Shannon Fera, Director  
150 Main Street  
Chatham, NJ 07928



- *123ABA, LLC* attests to be certified and licensed, as applicable, to provide the requested services in accordance with State and Federal statutory and regulatory requirements.
- *123ABA, LLC* will provide copies of appropriate certifications for all representatives providing services to the Board.
- *Township of Union Public Schools* does hereby agree to indemnify and hold harmless *123ABA, LLC* from any and all liability claims, including legal fees and costs associated with same, arising out of the terms and conditions of the agreement between the parties and any acts of omission or commission by the independent contractors, therapists, and/or representatives of *123ABA, LLC*.
- *123ABA, LLC* shall comply with all regulations, guidelines, and policies prescribed for employees of the Boards of Education under New Jersey law and/or Township of Union Public Schools. Included among these requirements are reporting requirements to DYFS and/ or local law enforcement and requirements concerning the reporting of incidents of harassment, intimidation and bullying.

Entire Agreement This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the performance of services by Contractor for Corporation, and contains all of the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement will be effective only if it is in writing signed by the party to be charged.

(123ABA, LLC signature)

4/25/2022

(date)

(Business Administrator)

(date)

Office: 201-259-0817

Fax: 973-241-7509

Email: [service@123aba.com](mailto:service@123aba.com)

[www.123aba.com](http://www.123aba.com)



## **RIDER FOR PUBLIC SCHOOL SERVICE CONTRACTS**

This Rider is incorporated fully into the terms of the attached Agreement between **123 ABA, LLC** and the **Union Tp. BOE**. To the extent that there are any inconsistencies between the terms of the Agreement and this Rider, the terms of the Rider take precedence.

### **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 PPT 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 Three Million Dollars (\$3,000,000.00) 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 in accordance with the rates set forth in its Proposal, provided that **the total compensation to be paid for the 2022-2023 school year shall not exceed \$9,000,000.00.**

#### 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. **Each Attachment, Fee Schedule, Proposal or other documents referenced herein and/or attached to this Agreement are incorporated herein as if the same was set out in full in the text of this Agreement, but to the extent any terms included in a Proposal conflict with the terms of the Rider, this Rider takes precedence.**



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:**

Shannon Fera, Director  
123 ABA, LLC  
150 Main Street  
Chatham, New Jersey 07928

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

**PROVIDER**

**BOARD OF EDUCATION**

\_\_\_\_\_

\_\_\_\_\_

Print name/Title:

Print Name/Title:

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

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