

F-15

DEPARTMENT OF SPECIAL SERVICES
Township of Union Public Schools
M-E-M-O-R-A-N-D-U-M

TO: Greg Tatum
C: Julia Vicidomini, Diane Cappiello
FROM:
RE: Board Agenda
DATE: April 28, 2020

Approve Effective School Solutions, LLC (ESS) to provide therapeutic mental health services through licensed professionals to students in our District for the 2020-2021 school year (not to exceed \$497,700.00. [Account #11-000-216-320-01-19/7043], in accordance with the information in the hands of each Board member.1

AGREEMENT

This Agreement made this ____ day of _____, 2020 between Effective School Solutions, LLC which has offices located at 121 Chanlon Road, Suite 310, New Providence, NJ 07974 (hereinafter referred to as “Effective School Solutions” or “ESS”), and the Union Township Board of Education, which has offices located at 2369 Morris Ave Union, NJ 07083 (hereinafter referred to as the “Board of Education”) (sometimes hereinafter, collectively, “the parties”).

WHEREAS, Effective School Solutions provides therapeutic mental health services through licensed professionals to students in public school districts; and

WHEREAS, the Board of Education is desirous of procuring such services from Effective School Solutions for students enrolled at Burnett Middle School, Kawameeh Middle School (for Autism Spectrum Disorder “ASD”) and at Union High School (hereinafter referred to as the “School”); and

WHEREAS, Effective School Solutions and the Board of Education are desirous of entering into a contract for the provision of therapeutic mental health services for the 2020-2021 school year (“school year program”) and during the 2020 summer program (“summer program”, defined as a five-week program scheduled during the months of July and August 2020);

WHEREAS, the Board of Education has the requisite legal authority to enter into an agreement to procure mental health services from Effective School Solutions.

NOW THEREFORE, based on the foregoing recitals, and in consideration of the mutual promises and covenants of the parties set forth below, the parties agree as follows:

1. Effective School Solutions shall provide the services of two (2) full time New Jersey licensed mental health professionals in Burnett Middle School and one (1) in the High

School who are trained and experienced in adolescent psychiatric treatment during the school year program. Effective School Solutions shall also provide the services of one (1) full time New Jersey licensed mental health professional in the Kawameeh Middle School to provide (i) services outlined in this Agreement for a lower caseload than is provided in the other schools, but (ii) assist with additional services of working with students diagnosed with ASD. ASD treatment approaches will include skill development, comorbid approaches, family counseling and evidenced-based assessment tools. ESS shall be given access to school personnel and the respective students' parents for consultation as reasonably requested. The mental health professionals shall work under the direction and supervision of Effective School Solutions, and in conjunction with staff designated by the School. The licensed mental health professionals shall satisfy the requirements of the criminal history record check prescribed by N.J.S.A. 18A:6-7.1 et seq. before providing services to the Board of Education. These mental health professionals shall be present at all times when school is in session. However, as indicated in Section six ("6") of this Agreement, when the professional stays late on a given day to provide family services, he/she shall be entitled to take "compensation time" at some other point in the same week. 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, Effective School Solutions hereby acknowledges its obligations under the Law and certifies that it is in compliance with the Law and all obligations required therein. The Effective School Solutions agrees to continue to comply with all requirements of the Law during the term of the Contract. Furthermore, Effective School Solutions 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 reasonable expenses including, without limitation, costs of

investigation and defense (including costs of private investigation and surveillance), costs for medical treatment, expert witness fees, legal fees (e.g., fees for attorneys, paralegals and other legal professionals for the defense of the underlying suits, etc.), and expense whether or not involving a third party claim, which are proximately caused by Effective School Solutions (including Effective School Solutions' agents, employees, subcontractors and sub consultants) obligations under the Law, N.J.S.A. 18A:6-7.6 to 7.13, to be provided for the Indemnified Parties related to services performed under this Agreement.

2. Effective School Solutions shall provide therapeutic mental health services for up to nine (9) students per full-time mental health professional enrolled at the Burnett Middle School and Union High School at any given time during the school year program, and up to six (6) students per full-time mental health professional enrolled at the Kawameeh Middle School (hereinafter referred to as "cohort"). The students in the cohort need not necessarily be the same students for the entire period.

3. Unless otherwise determined by Effective School Solutions based on an assessment of the needs of a particular student or students, the therapeutic mental health services during the school year program shall include and be scheduled, as follows:

- (a) one (1) individual or family psychotherapy session each week for each student;
- (b) one (1) daily group therapy session, in which the number of students assigned to a specific group shall not be greater than eleven (11) on a consistent basis; and
- (c) one (1) multifamily group therapy session each month.

If elected by the Board of Education, Effective School Solutions will provide its summer program for up to ten (10) students per mental health professional enrolled at the School as noted below to the fee set forth in Section 11. The summer program is a five-week program and includes twice-weekly group therapy sessions of ninety (90) minutes each and individual or family therapy sessions every other week. The students in the Summer Program need not necessarily be the same students for the entire period.

4. In the event one of the licensed mental health professionals is absent, if so requested by the Board of Education, Effective School Solutions shall exert its best efforts to assign a qualified substitute to provide the services. If a substitute cannot be obtained, Effective School Solutions shall provide the Board of Education with a credit of five hundred dollars (\$500) for each day of service missed in a school year after there has been an aggregated total of four missed days per full-time mental health professional in a school year.

5. In addition to the services listed in section three (“3”) of this Agreement, during the school year program, Effective School Solutions shall:

- (a) if so requested by the Board of Education, direct its mental health professionals to participate four days per full school week in a school teacher-led study skills class that is solely comprised of students in the cohort;
- (b) if so requested by the Board of Education, have one (1) mental health professional assist an appropriately trained school employee monitor one (1) daily lunch period at the School that is solely comprised of students in the cohort;

- (c) ensure that a mental health professional attend IEP meetings and Section 504 committee meetings, as needed, for students either in a cohort or being considered for enrollment in a cohort, provided that they do not conflict with the other scheduled services outlined in this Agreement; and
- (d) provide up to six (6) hours of in-service training to certificated and non-certificated staff who have assigned responsibility to students at the School during normal school hours on regularly scheduled school days or staff development days.
- (e) Once per year, ESS will host a regional professional learning conference that can include up to five district personnel (regardless of their assigned school).

6. Effective School Solutions shall provide all the services outlined in this Agreement during normal school hours on regularly scheduled school days, except that multi-family therapy sessions and some individual family therapy sessions may be scheduled at the School during evening hours at the discretion of Effective School Solutions. If the student is absent on the date the individual or family therapy session is scheduled, or school is not held on the scheduled day for the services, such services will not be rescheduled.

7. The Board of Education shall provide Effective School Solutions with:

- (a) a confidential office for the mental health professionals to provide individual therapy sessions at the School;
- (b) a classroom or similar space to conduct group therapy sessions, multifamily therapy groups and study skills classes;

- (c) filing cabinet(s) with locking mechanisms to secure confidential records;
and
- (d) use of telephones and computers for each assigned mental health professional with internet capabilities for each mental health professional at no cost to Effective School Solutions.
- (e) Access to the School's database tracking the grades, attendance rates and disciplinary incidents for each student enrolled in ESS.

8. Effective School Solutions shall be designated as a "school official" by the Board of Education solely for the purpose of providing services to students pursuant to the terms of this Agreement (i.e. this designation as a school official shall not be interpreted as entitling Effective School Solutions to any workers compensation or other insurance or benefits of the Board of Education). All records of the services provided by Effective School Solutions to students of the Board of Education shall be considered Education Records pursuant to FERPA and shall be maintained by Effective School Solutions in accordance with applicable law on behalf of the Board of Education. Effective School Solutions shall make all records of services provided to such students in the cohort available to the Board of Education upon request or as required in order to deliver services to the student at issue, including but not limited to, in the event of a due process hearing under state or federal law. Effective School Solutions shall provide parents/students with an acknowledgement for their signature which confirms that any information received by Effective School Solutions from the student may become part of the student's educational records retained by the Board of Education. Once a student is no longer receiving services, Effective School Solutions shall deliver all original records pertaining to that student to the Board of Education for

future reference, and any copies retained by Effective School Solutions shall continue to be treated as Educational Records pursuant to FERPA.

9. All computers furnished by the Board of Education in accordance with the terms of this Agreement shall be password protected with access limited to Effective School Solutions. The Board of Education shall ensure that there will not be any unauthorized access to the confidential information contained on any such computer.

10. It is within the sole discretion of Effective School Solutions to determine whether a student can enter or remain in the cohort once the student has been referred by the School for the services outlined in this Agreement. However, it is expressly understood that the primary reason for Effective School Solutions to either reject a student or remove a student from the cohort, after considering the input of the appropriate personnel of the School, is a student's unwillingness to appropriately participate in the services outlined in this Agreement or, in the sole opinion of Effective School Solutions staff, the student is a danger to himself/herself or others.

11. The Board of Education shall pay Effective School Solutions four-hundred and ninety-seven thousand and seven hundred dollars (\$497,700) for the services set forth in this Agreement. Payment shall be made in ten (10) equal and consecutive monthly installments of forty-nine thousand and seven-hundred and seventy dollars (\$49,770). The first payment shall be due on September 1, 2020 and shall be due on the first day of every month thereafter. In addition to the above amounts, if the Board of Education elects to have a summer program, the summer program will be billed separately on July 1 of every year according to the following rates:

- (a) for a summer program of up to two mental health professionals, the Board of Education will be billed \$8,000

- (b) for every subsequent mental health professional providing services for a summer program, the Board of Education will be billed \$4,000

If the Board of Education executes and returns this contract on or before May 22, 2020, the summer program will be provided at no additional cost. The Board of Education shall furnish Effective School Solutions with vouchers which Effective School Solutions shall execute and timely submit for payment. Invoices for each month of service shall be submitted by Effective School Solutions to the Board upon the completion of each month of service. The parties each acknowledge and agree that Effective School Solutions does not bill directly to Medicaid or to any other state-funded programs. The Board of Education will hold harmless, indemnify and defend Effective School Solutions and its directors, employees, agents, successors and permitted assigns from any and all losses, damages, liabilities, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, incurred by Effective School Solutions, relating to or resulting from any claim arising out of or occurring in connection with any actual or alleged overpayments or billings errors or improprieties concerning Medicaid or any other state or publicly funded programs, or any other actual or alleged violation by the Board of Education, its employees, representatives, agents, or assigns, of any applicable federal, state, or local statute, regulation, ordinance, or order. Unless otherwise required by law, the Board of Education shall not release the terms and conditions of this Agreement, including but not limited to the financial terms of this Agreement, to any person and/or entity.

12. This Agreement may be terminated by either party by providing the other party with thirty (30) days written notice of its decision to terminate this Agreement.

13. Effective School Solutions agrees to comply with the following:

- (a) Requirements of N.J.S.A. 10:2-1 et seq., “The Law Against Discrimination”, and the equal employment requirements of N.J.S.A. 10:5-31 et seq., N.J.A.C. 6A:7-1 et seq., and N.J.A.C. 17:27-1 et seq. which are set forth at length in Exhibit “A” which is attached hereto, made a part hereof and incorporated herein by reference;
- (b) Remit a copy of its Business Registration Certificate to the Board of Education in accordance with the provisions of N.J.S.A. 52:32-44 no later than the execution of this Agreement. Effective School Solutions shall provide written notice to anyone other than employees providing the Services on behalf of Effective School Solutions of the responsibility to submit proof of Business Registration to Effective School Solutions, if applicable. The requirement of proof of Business Registration extends down through all levels (tiers) of the Services; and
- (c) Provisions of the New Jersey Pay-to-Play Law, N.J.S.A. 19:44A-20.4 et seq., and shall submit the required disclosure forms to the Board of Education upon request no later than ten (10) days prior to the Board’s approval of this Agreement.

14. Effective School Solutions shall maintain liability insurance coverage in the minimum amount of \$1,000,000.00 to cover any and all liability arising out of and/or related to the provisions of therapeutic mental health services by Effective School Solutions to the Board of Education. Effective School Solutions shall furnish the Board of Education with a copy of the certificate of insurance prior to the rendering of the services set forth in this Agreement.

15. The Board of Education agrees that it shall not hire or otherwise use as a consultant any employee or former employee of Effective School Solutions, who provides and/or provided services to the School in particular, or the Board of Education in general, pursuant to this Agreement for a period of two (2) years from the date the employee last provided services to the Board of Education as an employee of Effective School Solutions. Additionally, the Board of Education agrees that it shall not utilize the services of any employee or former employee of Effective School Solutions, who provides and/or provided services to the School in particular, or the Board of Education in general, as an employee and/or an independent contractor of a vendor other than Effective School Solutions, as an independent contractor or otherwise with respect to the provision of services contemplated by this Agreement, for a period of two (2) years from the date the employee last provided services to the Board of Education as an employee of Effective School Solutions. Since damages for violating this Agreement are incapable of precise calculation, the parties agree that liquidated damages in an amount of two-hundred thousand dollars (\$200,000) is fair and reasonable and does not constitute a penalty. The provisions of this Section "15" of this Agreement shall remain in full force and effect, regardless of whether the Agreement is terminated prior to the expiration of the term of this Agreement or the Agreement is not renewed by the parties upon the expiration of the term of this Agreement.

16. This Agreement shall be governed, construed, and interpreted in all respects in accordance with the laws of the State of New Jersey. The Superior Court of the State of New Jersey, in the County of Union, shall have jurisdiction to hear and determine any claims or disputes pertaining directly or indirectly to this Agreement or to any matter arising therefrom. Each of the parties hereby expressly submits and consents in advance to such jurisdiction in any action or proceeding commenced by the other in such court.

17. Failure by either party at any time to require performance by the other party or to claim a breach of any provision of this Agreement shall not be construed as a waiver of any right accruing under this Agreement; nor shall it affect any right that either party may have under the terms of this Agreement or preclude the party from seeking enforcement or claiming damages by instituting a lawsuit in a court of competent jurisdiction.

18. Neither party may transfer or assign any of its rights or obligations under this Agreement without prior written consent of the other. Any such transfer or assignment shall be null and void.

19. The provisions of this Agreement shall apply to, bind, and inure to the benefit of each of the parties hereto, and to their respective successors, assigns, and legal representatives.

20. Any and all notices and demands required or desired to be given under this Agreement shall be in writing and shall be deemed to have been given upon receipt by the other party, either by personal delivery or mail.

IN WITNESS WHEREOF, the parties have hereunto set their hand and seals the day and year first above written.

EFFECTIVE SCHOOL SOLUTIONS, LLC

By: _____

UNION TOWNSHIP BOARD OF EDUCATION

By: _____

EXHIBIT A

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE N.J.S.A. 10:5-31 et seq. (P.L. 1975, C.127) N.J.A.C. 17:27

GOODS, PROFESSIONAL SERVICES AND GENERAL SERVICE CONTRACTS

During the performance of this contract, the Contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges,

universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval

Certificate of Employee Information Report

Employee Information Report Form AA302 (electronically provided by the Division and distributed to the public agency through the Division's website at: www.state.nj.us/treasury/contract_compliance)

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase & Property, CCAU, EEO Monitoring Program as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Purchase & Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.**

