



# Orange County Public Schools

ESE Transition Services • 445 West Amelia Street • Orlando, FL 32801 • Phone 407.317.3200

## COMMUNITY-BASED VOCATIONAL EDUCATION AGREEMENT

*Between*

**THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA**

*and*

**CITY OF ORLANDO, FLORIDA**

This Community-Based Vocational Education Agreement ("Agreement") is made and entered into by and between The School Board of Orange County, Florida, a political subdivision of the State of Florida, 445 West Amelia Street, Orlando, Florida 32801, and City of Orlando, Florida c/o its Family Parks & Recreation Department, 595 N. Primrose Drive, Orlando, Florida 32803 (hereinafter "Community Partner"), 595 N. Primrose Drive, Orlando, Florida 32803 (individually, "Party", or collectively, "Parties").

### WITNESSETH:

WHEREAS, OCPS operates a Community-Based Vocational Education Program (hereinafter "CBVE Program"). Traditionally, these programs function under the direction of a secondary school system to prepare Exceptional Students, meaning those with disabilities who meet state guidelines for special education, for paid employment;

WHEREAS, the CBVE Program is designed to work in partnership with local participating businesses to provide vocational training for qualified Exceptional Students based on each student's individual training plan;

WHEREAS, the CBVE Program is designed and executed in such a manner that students are *not* classified as employees in accordance with the Fair Labor Standards Act (hereinafter "FLSA") criteria and are *not* paid for their participation or activities in the CBVE Program;

WHEREAS, it is understood that Community Partner has expressed a desire to assist OCPS in its CBVE Program and now intends to partner with OCPS in furtherance of this goal;

WHEREAS, the Parties agree to coordinate efforts to provide for the educational needs of the Exceptional Students; and

WHEREAS, the terms of this Agreement are intended to provide the administrative framework for the Parties to cooperate in the performance of this joint project.

NOW, THEREFORE, in consideration of the mutual benefits hereinafter set forth, and for other good and valuable consideration, the Parties hereto agree as follows:

**ARTICLE 1.**            **RECITATIONS**

The recitations above are true and correct, form a material part of this Agreement, and are incorporated herein.

**ARTICLE 2.**            **SCOPE OF WORK**

OCPS and Community Partner shall make all reasonable efforts to conduct the Scope of Work ("SOW") for this Agreement, set forth in Exhibit "A" and incorporated herein by reference.

**ARTICLE 3.**            **PERIOD OF PERFORMANCE**

This Agreement shall cover a period of performance beginning on November 2, 2015 and extending through June 8<sup>th</sup>, 2019 ("Period of Performance") unless the Period of Performance is extended by modification of this Agreement.

**ARTICLE 4.**            **FINANCIAL SUPPORT**

This is an Agreement that does not involve the exchange of funds between the Parties. The SOW, payment schedule, and related milestones for this Agreement are set forth in Exhibit "A."

**ARTICLE 5.**            **NOTICE**

CITY OF ORLANDO  
C/O Families, Parks & Recreation Department  
595 N. Primrose Drive  
Orlando, Florida 32803

Phone : 407-246-4300  
Email :

SCHOOL BOARD OF ORANGE COUNTY,  
FLORIDA  
445 West Amelia Street  
Orlando, Florida 32801

Phone : 407 317-3200  
Email :

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**ARTICLE 6.**            **AUDIT**

The SOW performed under this Agreement may be subject to audit by a cognizant audit agency.

**ARTICLE 7.**            **FERPA**

To the extent the SOW involves the access to confidential student information, Community Partner shall adhere to all standards included in the Family Educational Rights and Privacy Act (FERPA) and Sections 1001.41 and 1002.22, Florida Statutes (the Protection of Pupil Privacy Acts), and other applicable laws and regulations as they relate to the release of student information.

## **ARTICLE 8.**            **CONFIDENTIALITY**

For purposes hereof, "Confidential Information" shall mean any non-public information of the other Party that is designated as confidential, or that the receiving Party knew or reasonably should have known was confidential because it derives independent value from not being generally known to the public. Confidential Information shall not include any information which: (a) a Party can demonstrate was rightfully in its possession prior to the date of disclosure to it by the other Party; (b) at the time of disclosure or later, is published or becomes part of the public domain through no act or failure to act on the part of a Party; (c) a Party has developed information independently without reference to any Confidential Information of the other Party; or (d) a Party can demonstrate such information came into its possession from a third-party who had a bona fide right to make such information available. The Party receiving Confidential Information will not at any time disclose to any person or entity (including, without limitation, any member of the media) or use for its own benefit or the benefit of anyone, Confidential Information of the other Party without the prior written consent of said Party. Neither Party shall be liable for disclosure of Confidential Information if made in response to a valid order of a court, authorized agency of government, or in compliance with Chapter 119, Florida Statutes; provided that, to the extent legally permissible, five (5) days' notice first be given to the other Party so a protective order, if appropriate, may be sought by such Party.

## **ARTICLE 9.**            **PUBLIC RECORDS**

This Agreement is subject to and governed by the laws of the State of Florida, including without limitation Chapter 119, Florida Statutes, which generally makes public all records or other writings made by or received by the Parties. Community Partner acknowledges its legal obligation to comply with Section 119.0701, Florida Statutes. Community Partner shall keep and maintain public records, as that phrase is defined in the Florida Public Records Act, which would be required to be kept and maintained by OCPS in order to perform the scope of services. Community Partner shall provide public access to the public records on the same terms and conditions that OCPS would provide the records and at a cost that does not exceed the cost allowed by law. Community Partner shall not disclose public records that are exempt or confidential and exempt from public records disclosure unless specifically authorized by law. Community Partner shall comply with all requirements for retaining public records and shall transfer, at no cost to OCPS, all public records in the possession of Community Partner upon termination or expiration of this Agreement. Community Partner shall destroy any duplicate public records that are exempt, or confidential and exempt, from public records disclosure requirements. All public records stored electronically must be provided to OCPS in a format that is compatible with the information technology systems of OCPS.

## **ARTICLE 10.**           **TERMINATION**

Either Party may terminate this Agreement upon thirty (30) days' written notification to the other.

## **ARTICLE 11.**           **NO ASSIGNMENT**

Neither Party may assign or transfer its rights and remedies nor transfer its obligations or subcontract for any of the services to be performed under this Agreement, in whole or part, without the prior approval of the other Party.

## **ARTICLE 12.**           **ASSUMPTION OF RISK**

Each Party assumes any and all risks of personal injury and property damage attributable to the negligent acts or omissions of that Party and its officers, employees, servants, and agents thereof while acting within the scope of their employment. OCPS warrants and represents that it is self-funded for liability insurance, both public and property, with said protection being applicable to officers, employees, servants, and agents while acting within the scope of their employment. The Parties further agree that nothing contained herein shall be construed or interpreted as (a) denying to either party any remedy or defense available to such party under the laws of the State of Florida; (b) the consent of the State of Florida or its agents and agencies to be sued; or (c) a waiver of sovereign immunity of the State of Florida beyond the waiver provided in Section 768.28, Florida Statutes.

#### **ARTICLE 13.           INSURANCE**

Community Partner is a Florida municipal corporation and is self-insured, for including for claims for injuries to persons or damages to property which may arise from or in connection with the performance of the SOW provided herein by Community Partner, its agents, representatives, employees, or subcontractors. Community Partner shall furnish Certificates of Self-Insurance to OCPS upon request, for approval, prior to the commencement of the SOW. The Certificate shall clearly indicate that Community Partner has obtained insurance of the type, amount, and classification as required for strict compliance with this Agreement and that no material change or cancellation of the insurance shall be effective without ten (10) calendar days' prior written notice to OCPS. Compliance with the foregoing requirements shall not relieve Community Partner of its liability and obligations under this Agreement.

- (a) Community Partner shall maintain during the term of this Agreement, standard Professional Liability Insurance, or Errors and Omissions Insurance, of amounts determined by the City of Orlando's Risk Manager.
- (b) Required Minimum Limits of Insurance:
  - i. Workers Compensation Insurance - Statutory Limits
  - ii. Employer Liability - amounts determined by the City of Orlando's Risk Manager
  - iii. General Liability - amounts determined by the City of Orlando's Risk Manager
- (c) Both parties shall maintain, during the life of this Agreement, adequate Workers Compensation Insurance and Employer's Liability Insurance in at least such amounts as are required by law for all of its employees performing work pursuant to this Agreement.
- (d) All insurance, other than Professional Liability and Workers Compensation to be maintained by Community Partner shall specifically include OCPS as an "Additional Insured".
- (e) Within seven (7) days of this Agreement, Community Partner shall provide OCPS proof of insurance specifying these limits of liability maintained by Community Partner if requested. All Community Partner policies are to be considered primary to OCPS coverage and shall not contain co-insurance provisions.

#### **ARTICLE 14.           INDEPENDENT CONTRACTOR**

In the performance of all services hereunder, each Party shall be deemed to be, and shall be, an independent contractor. This Agreement shall not be deemed to create any other form of employment relationship or business organization between the Parties. Neither Party is authorized or empowered to

act as agent for the other for any purpose and shall not, on behalf of the other, enter into any contract, warranty or representation as to any matter. Neither Party shall be bound by the acts or conduct of the other.

#### **ARTICLE 15.**            **REMEDIES**

The Parties understand and agree that a Party may suffer irreparable harm in the event of breach of any of the obligations under this Agreement and that monetary damages may be inadequate to compensate for such breach. Accordingly, the Parties agree that, in the event of a breach or threatened breach by a Party, of any of the provisions of this Agreement a Party, in addition to any other available rights, remedies, or damages, a Party shall be entitled to seek a temporary restraining order, preliminary injunction, and/or permanent injunction in order to prevent or to restrain any such breach by the Party, or its employees, servants, agents, and any and all persons directly or indirectly acting for the Party.

#### **ARTICLE 16.**            **LIMITATION OF DAMAGES**

In no event will OCPS be responsible for any direct damages, indirect damages, incidental damages, consequential damages, exemplary damages of any kind, lost goodwill, lost profits, lost business, and/or any indirect economic damages whatsoever regardless of whether such damages arise from claims based upon contract, negligence, tort (including strict liability or other legal theory), a breach of any warranty or term of this Agreement, and regardless of whether a Party was advised or had reason to know of the possibility of incurring such damages in advance.

#### **ARTICLE 17.**            **NO WARRANTIES**

OCPS IS A NON-PROFIT EDUCATIONAL INSTITUTION. OCPS MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

#### **ARTICLE 18.**            **NON-USE OF NAMES AND TRADEMARKS**

OCPS and Community Partner may not use each other's name or trademarks in any promotion, statement, advertisement, press release, or communication to the general public or any third party without each Party's express written consent. Any proposed public statement, advertisement, press release, or communication by either Party shall be submitted to the other Party for its review and written approval at least thirty (30) days prior to the planned dissemination or publication, unless otherwise required.

#### **ARTICLE 19.**            **WAIVER**

No failure or delay by a Party hereto to insist on the strict performance of any term of this Agreement, or to exercise any right or remedy consequent to a breach thereof, shall constitute a waiver of any breach or any subsequent breach of such term. No waiver of any breach hereunder shall affect or alter the remaining terms of this Agreement, but each and every term of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

**ARTICLE 20. MODIFICATIONS**

Modifications to this Agreement may be made only in writing signed by authorized signatories of both Parties.

**ARTICLE 21. COUNTERPARTS**

This Agreement may be executed in counterparts, each of which shall be considered an original, but which together shall constitute but one and the same Agreement.

**ARTICLE 22. GOVERNING LAW**

This Agreement and the rights of the Parties shall be governed and construed in accordance with the laws of the State of Florida and the United States, without regard to its choice of law principles. The Parties agree that jurisdiction and venue for any action arising under this Agreement shall lie exclusively within either the state courts of Florida located in Orange County, Florida or the United States District Court for the Middle District of Florida, Orlando Division. The Parties specifically waive the right to any other jurisdiction and venue, and the defense based on inconvenient forum.

**ARTICLE 23. SEVERABILITY**

If any one or more of the provisions of this Agreement shall be held to be invalid, illegal, or unenforceable, the validity, legality, or enforceability of the remaining provisions of this Agreement shall not be in any way be affected or impaired thereby and shall remain in full force and effect.

**ARTICLE 24. ENTIRE AGREEMENT**

This Agreement consists of the following parts and constitutes the entire Agreement of the Parties with respect to the subject matter hereof. Any other understanding, purchase order, or agreement, written or oral, related to the subject matter is hereby superseded.

Articles 1 - 24

Exhibit "A": Scope of Work

**ARTICLE 25. ENDORSEMENTS**

IN WITNESS WHEREOF, the authorized contractual representatives of Parties hereto have executed this Agreement on the dates set forth below:

**CITY OF ORLANDO, FLORIDA**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**SCHOOL BOARD OF ORANGE COUNTY,  
FLORIDA**

Name: Barbara Jenkins

Title: Superintendent

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

**APPROVED AS TO FORM AND LEGALITY**

Date: 12-8, 20 15  
for the use and reliance of the  
City of Orlando, Florida, only.

Approved as to form and legality by the Office  
of Legal Services to the Orange County School  
Board on: 10-7-15 Signature: Amy D. Envall  
Print Name: AMY D. ENVALL

A. J. L.  
CITY ATTORNEY  
ORLANDO, FLORIDA

## **EXHIBIT "A": SCOPE OF WORK**

### **General Provisions:**

1. During the term of this Agreement, the Parties will communicate on matters of mutual concern regarding the educational and training programs for participating Exceptional Students. OCPS and Community Partner will mutually agree on training provided in the CBVE Program.
2. Any unforeseen questions or problems arising
3. Although the CBVE Program is intended to benefit the Exceptional Students of OCPS, the CBVE Program is not intended to be a legal partnership or joint venture by and between the Parties. This Exhibit "A" is intended to set forth the specific areas of responsibility for each Party.
4. Provide a positive and safe work environment by working collaboratively.

### **Community Partner's Responsibilities:**

1. Furnish appropriate educational facilities ("Facilities") for the implementation of the CBVE Program. OCPS shall have the right to inspect the Facilities at any time.
2. Provide for the maintenance, repair, and custodial care of the Facilities including, without limitation, furnishing all necessary labor, materials, and equipment for said maintenance, repair, and care.
3. Provide weekly assignments for students to complete.
4. Provide staff member(s) to support program while on site.
5. Provide training and support to OCPS staff

### **OCPS' Responsibilities:**

1. Provide for supervision of students by trained staff.
2. Maintain accurate records to include emergency information and procedures.
3. Coordinate with community partner to facilitate meaningful work experiences for students with disabilities.
4. Collaborate with community partner to learn and implement policies and procedures. Follow OCPS student code of conduct.
5. Communicate needs related to equipment, training, and time necessary to facilitate learning for students with disabilities.
6. Train staff of community partner on any needed areas specific to working and accommodating students with disabilities at the workplace.