

Bd
Approved
6/24/19
Date

Form of Contract Agreement

The following contract shall be executed by each successful respondent. Per N.J.S.A 18A:18A-4.5, there shall be no negotiations of any proposal or the contract to be executed.

AGREEMENT

CHAPTER 193 EVALUATION & DETERMINATION for Nonpublic Schools in Lakewood

This Agreement is made the 15 day of ~~July~~^{AUGUST}, 2019 for services by and between the Lakewood Board of Education ("the "Board"), whose address is 200 Ramsey Avenue, Lakewood, New Jersey 08701, and On Track Resources, LTD (the "Contractor"), whose address is 705 Cross Street, Lakewood, NJ 08701.

WITNESSETH:

WHEREAS, the Board desires to contract with the Contractor, to provide **CHAPTER 193 EVALUATION & DETERMINATION for Nonpublic Schools in Lakewood** services described in detail below; and

WHEREAS, the Board advertised for proposals for **CHAPTER 193 EVALUATION & DETERMINATION for Nonpublic Schools in Lakewood for the 2019-2020 school year.**

WHEREAS, the Contractor submitted qualifications for the Services and possesses the necessary skills and qualifications to contract with the Board to provide said Services; and

WHEREAS, on June 24, 2019, the Board passed a resolution awarding such services to the Contractor; and (attachment A)

WHEREAS, it is the intention of both the Board and the Contractor to enter into an Agreement whereby the Contractor will provide the Services to students identified by the Board in accordance with applicable Federal and State law as well as the terms and conditions outlined in this Agreement; and

NOW, THEREFORE, the Contractor and the Board, for the mutual promises and consideration herein specified, do-mutually covenant and agree as follows:

SCOPE OF WORK:

GENERAL ELIGIBILITY REQUIREMENTS

Chapter 193 services are available only to students who meet all of the following criteria:

1. Are enrolled full-time in grades K-12 in a nonpublic elementary or secondary school located in New Jersey.
2. Have parents or a guardian who live in New Jersey;
 - a. Non-resident students who attend a nonpublic school located in New Jersey are eligible to receive Chapter 193 evaluation and classification services only, pursuant to N.J.S.A. 18A:46-19.8(b).
3. Are between the ages of five (5) and twenty-one (21) for Chapter 193 services.
 - b. Kindergarten students must meet the age requirements of the District in order to be eligible to receive services. A student must be five (5) years old by December 31st of the current school year to be eligible.
4. Meet the criteria for eligibility as determined by the NJDOE for the specific service.
5. Have parent or guardian consent by their signature and date on the Application for Chapter 193 Evaluation and Determination Services (407-1 form).

STUDENT APPLICATION FOR SERVICES

During the school year, the parent or guardian of a nonpublic school student may request Chapter 193 services by completing an application (407-1 form). Submission of the 407-1 form does not make the student eligible for Chapter 193 services. The District must verify eligibility according to the specific eligibility requirements for each allowable service and then complete the disposition section of the 407-1 form stating whether the services will be provided.

The Agency shall be responsible for obtaining all 407-1 forms from the nonpublic school(s) and/or parent(s). All 407-1 forms shall be complete, accurate, and contain a signature and date from the parent(s). A photocopy of the student's birth certificate and a current proof of residence must also be submitted with the 407-1 form. Incomplete or inaccurate 407-1 forms will be returned to the Agency.

The Agency shall forward the original 407-1 forms to the District as soon as possible after receipt from the nonpublic school(s) or parent(s) to get District verification of eligibility and the District's signature on the disposition section of the 407-1 form. The District will notify the Agency as soon as possible of those students eligible to receive services.

The Agency must make copies of all 407-1 forms submitted to the District and make them available for any future state aid audits. The District must keep the original 407-1 forms for record-keeping purposes.

REFERRAL, EVALUATION AND DETERMINATION OF ELIGIBILITY

The Agency shall provide services in accordance with all rules and procedures for identification, referral, evaluation, determination of eligibility, and reevaluation, included in the NJDOE Guidelines for Auxiliary and Remedial Services (Chapters 192 and 193) for Nonpublic School Students, N.J.S.A 18A, the federal Individuals with Disabilities Education Act of 2004 (IDEA) and New Jersey Administrative Code for special education, N.J.A.C. 6A:14.

The Agency shall ensure when a student is referred for an initial evaluation to determine eligibility for special education programs and services, the full Child Study Team (CST), parent and regular education teacher who has knowledge of the student's educational performance will meet within twenty (20) calendar days, excluding school holidays, of the receipt of the 407-1 form to determine whether an evaluation is needed.

The Agency shall follow district-mandated timelines and procedures to ensure all 193 E&D services are in compliance.

The Agency shall ensure parents receive a written notice of the meeting and a copy of "Parental Rights in Special Education," which relates to the nonpublic services that are included under IDEA: identification, evaluation, determination of eligibility, and reevaluation. The notice of the meeting must be sent 10 (ten) calendar days prior to meeting.

The Agency shall schedule meetings at a mutually agreed upon time and place. If a mutually agreeable time and place cannot be determined, the parent(s) shall be provided the opportunity to participate in the meeting through alternative means, such as videoconferencing and conference calls.

The Agency shall provide, if an evaluation is warranted, written notice to the parent(s) of the determination that an evaluation is warranted, the nature and scope of the evaluation, identify what additional data, if any, are needed and obtain written consent from the parent to evaluate, within fifteen (15) calendar days of the meeting.

INITIAL EVALUATION

The Agency shall ensure, after consent for initial evaluation has been received, the evaluation, determination of eligibility for services, and, if eligible, the development and implementation of the service plan will be completed within ninety (90) calendar days, in accordance with N.J.A.C 6A:14-3.4(e).

The Agency shall ensure initial evaluations provided to students under Chapter 193 consist of a multi-disciplinary assessment in all areas of suspected disability, in accordance with N.J.A.C. 6A:14-3.4. Agency shall perform initial evaluations which include at least two (2) assessments conducted by at least two (2) members of the CST in those areas in which they have appropriate training or are qualified through their professional licensure or educational

certification and other specialists in the area of disability as required or as determined necessary.

The Agency shall ensure students are determined eligible in accordance with N.J.A.C. 6A:14-3.5, as follows:

- When an initial evaluation is completed for a student, a meeting according to N.J.A.C. 6A:14-2.3(k)1 shall be convened to determine whether the student is eligible for special education and related services. A copy of the evaluation report(s) and documentation and information that will be used for a determination of eligibility shall be given to the parent not less than ten (10) calendar days prior to the meeting.
- The Agency shall develop a service plan for each student found eligible in accordance with N.J.A.C. 6A:14-6.1(f)1 and N.J.A.C. 6A:14-6.2(g)1i. All service plans shall include the components described in N.J.A.C. 6A:14-3.7(e)1 through 6, (e)8 and (e)14 through 16. Should the parent(s) refuse any services the student was found eligible for, Agency must identify those services being refused within the student's service plan. Should the parents refuse all services the student was found eligible for and as a result a service plan is not created, Agency must identify those services being refused and attach them with a statement of the parents' refusal of all services to the student's assessment.
- The Agency shall identify a Supervisor of Compliance to review service plans and assure compliance with code and District requirements. If the agency anticipates completing 2000 or more cases during the year, the supervisor will be full time whose sole responsibility will be to review service plans and assure compliance with code and District requirements.

ANNUAL REVIEW

The Agency shall conduct, in accordance with N.J.A.C. 6A:14-3.7(i), annually, or more often by parent request and District approval, a review of service plans in an annual evaluation meeting that includes:

- the parent;
- not less than one (1) CST member who can interpret the instructional implications of the evaluation results;
- at least one (1) general education teacher of the student who is knowledgeable about the student's educational performance;
- not less than one (1) special education teacher or service provider;

- the case manager;
- other appropriate individuals at the discretion of the parent, District or Agency;
- and the student when appropriate.

The Agency may not conduct an annual review within six (6) months of a reevaluation unless parent requests it in writing, submits a 407-1 form and the District determines conditions warrant it. In such cases, the 407-1 form shall be accompanied by a signed letter from the parent(s) documenting the concerns which warrant the annual review (i.e., the student's academic performance, behavior, etc.).

REEVALUATIONS

The Agency shall conduct reevaluations in accordance with N.J.A.C. 6A:14-3.8, as follows:

- Must complete a multidisciplinary reevaluation (must be two (2) or more different tests to qualify for funding) to determine whether the student continues to be a student with a disability.
- Must be conducted within three (3) years of the previous classification.
- May be conducted sooner than three (3) years if conditions warrant or if the student's parent or teacher requests the reevaluation based on concerns over the student's educational performance. In such cases, the 407-1 form shall be accompanied by a signed letter from the parent(s) or teacher documenting the concerns which warrant the reevaluation (i.e., the student's academic performance, behavior, etc.)
- A reevaluation shall not be conducted prior to the expiration of one (1) year from the date the parent is provided written notice of the determination with respect to eligibility in the most recent evaluation or reevaluation, unless the parent and District both agree that a reevaluation prior to the expiration of one (1) year as set forth above is warranted. In such cases, the 407-1 form shall be accompanied by a signed letter from the parent(s) documenting the concerns which warrant the reevaluation (i.e., the student's academic performance, behavior, etc.).
- If a parent provides written consent and the District agrees that a reevaluation is unnecessary, the reevaluation may be waived. If a reevaluation is waived, the date of the parent's written consent will constitute the date upon which the next three (3) year period for conducting a reevaluation will begin.
- As part of any reevaluation, the evaluation team must determine the nature and scope of the reevaluation according to a review of the existing evaluation data on the student and then identify what additional data, if any, are needed.

- If a parent or evaluation team rejects additional testing as part of the reevaluation, that determination may not be overridden by a request for an early evaluation.
- Unless the parent and the District agree to waive a reevaluation, all requirements for performing a reevaluation shall, as applicable, be completed within sixty (60) days of the date the parent provides consent for the assessments to be conducted as part of the reevaluation or by the expiration of the three year timeframe from completion of the prior evaluation or reevaluation, whichever occurs sooner.

SERVICES AT NO CHARGE

The Agency will provide the following services at a no cost/charge to the district: "conversion of any *Preschool* IEPs to Service Plans upon request by the district within thirty (30) school days; conduct any required re-evaluation or annuals of *Preschool* students in accordance with Code requirements; complete exit Service Plans when students are about to enter kindergarten within thirty (30) school days of request by the district or by June 30th whichever is sooner. The agency shall not utilize chapter 193 funds for this purpose.

All annuals and reevaluations conducted by OT and PT at NPSSP shall be reimbursed by the agency up to one hour at the hourly rate for annuals and up to three hours at the hourly rate for reevaluations.

OVERALL REQUIREMENTS

The Agency shall provide the District with written parental consent to excuse any required member of the CST, whose area of the curriculum or related services is or is not being modified or discussed, from participation in a meeting, in whole or in part, provided the parent and Agency agree that the team member need not attend the meeting.

The Agency shall utilize **REALTIME** educational software to maintain accurate and complete records for all students serviced, including, but not limited to, generating case-notes for any and all communications with parent(s), maintain correct meeting times and reasons for changes or delays with meetings, in a timely manner.

Agency shall be responsible for ensuring all service plans they are providing case management for remain in compliance. Should the Agency fail to complete a reevaluation or annual review in a timely manner, causing a service plan to fall out of compliance, the Agency shall perform said reevaluation or annual review at *no cost* to the District. If the failure to complete is the result of an action outside the agency's control, the agency should provide a written rationale why it was not in compliance. The District will review the rationale and make a determination regarding payment on a case by case basis.

The Agency must be willing to submit to an operational audit by an independent firm at the District's request at no cost to the Agency. An operational audit is an audit of any and all matters other than fiscal in an effort to further and/or obtain compliance and/or address the individual needs of the children served. The Agency must state in its proposal its willingness to do so by checking the box and signing the agreement in the required documents section of proposal.

In addition:

1. The Provider shall fully indemnify the Board for any and all costs and/or charges incurred with regard to the services provided herein should same be due to the wrongdoing, misconduct, want of care, skill and/or difficulty by the Provider herein, its agents, employees, or assigns.

Provider Initials ST

2. ~~Moreover, the Provider will immediately indemnify the District should any adverse audit and/or other findings that would impact on State and/or Federal aid and/or any monies of the District. Moreover, the Provider will, at no cost to the Board's business office, for 50% (fifty percent) of the amount of this Contract, provide documentation to the complete satisfaction of the Board's Business Office that their Errors and Omissions Policy will fully indemnify the School District. This shall be provided prior to the commencement of the services herein. Should same not be provided by September 3, 2019, the Board has the absolute right to cancel this agreement with no further obligation.~~ Please see attached addendum.

Provider Initials _____

3. ~~The Provider shall, at no cost to the District, pay all legal and expert fees shall the need arise with regard to any and all audits and/or legal action (litigation) threatened by the program herein. This payment will be made within 30 days of request.~~ Please see attached addendum.

Provider Initials _____

4. ~~The Board has the right to request the Provider to provide a copy of the Provider's Errors and Omissions Policy to the Board. The Provider will fully comply with this request at no cost to the Board. The Provider shall be responsible for a copy of same with any and all requests for the same. Should the Provider not make payments as requested by the Board, the Board has the right to cancel this agreement with no further obligation.~~ Please see attached addendum.

Provider Initials _____

Agency shall evaluate students only for those services offered by the District, including, but not limited to:

- Chapter 193 Supplementary Instruction;
- Chapter 193 Speech-Language; and
- Any other IDEA services provided by the District for students 5 to 21 years of age.

QUALIFICATIONS OF RESPONDENTS

The Agency shall provide proof with their proposal that:

- they are approved by the New Jersey Department of Education, Offices of Special Education, to provide "CST Initial & Reevaluation" services;
- they have conducted the criminal history check of each professional according to N.J.S.A. 18A:6-7.1;
- they have experience providing similar programs, preferably in the State of New Jersey, for at least three (3) years

The Agency shall provide, with their proposal, the names, resumes and credentials of no less than three (3) learning consultants, three (3) social workers and three (3) psychologists who will be utilized to perform services under this proposal. The Board retains the absolute right of discretion as to who shall perform said services and may reject any and all name(s) provided.

The Agency must be able to provide enough case managers so that no case manager exceeds an open caseload of one hundred fifty (150) students. The contractor must state in its proposal its willingness to do so.

The Agency understands that the services provided under this proposal may not be provided by any employee or subcontractor of an outside contractor if said contractor, subcontractor or employee will be providing such services to the nonpublic student. **The evaluation company shall not use any outside contractor to evaluate a student who is also employed by the instructional service provider of that school.**

If the Agency employs or consults with any employee or consultant of an instructional service provider, the Agency must ensure there is ***no conflict of interest***.

If the Agency is awarded a contract, a complete list of all employees and consultants working within the District must be provided to the Board prior to the commencement of work. Failure to provide any of the required information will result in the proposal being considered non-responsive and the Agency will be removed from consideration of award.

Affirmative Action

The contractor/provider will be required to comply with the requirements of N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27 et seq., and the terms and conditions of the Mandatory Equal Employment Opportunity Language—Exhibit A. (Copy Attached)

Anti-Discrimination Provisions—N.J.S.A. 10:2-1

N.J.S.A. 10:2-1. Antidiscrimination provisions. Every contract for or on behalf of the State or any county or municipality or other political subdivision of the State, or any agency of or authority created by any of the foregoing, for the construction, alteration or repair of any public building or public work or for the acquisition of materials, equipment, supplies or services shall contain provisions by which the contractor agrees that:

- a. In the hiring of persons for the performance of work under this contract or any subcontract hereunder, or for the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under this contract, no contractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex, discriminate against any person who is qualified and available to perform the work to which the employment relates;
- b. No contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee engaged in the performance of work under this contract or any subcontract hereunder, or engaged in the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under such contract, on account of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex;
- c. There may be deducted from the amount payable to the contractor by the contracting public agency, under this contract, a penalty of \$50.00 for each person for each calendar day during which such person is discriminated against or intimidated in violation of the provisions of the contract; and
- d. This contract may be canceled or terminated by the contracting public agency, and all money due or to become due hereunder may be forfeited, for any violation of this section of the contract occurring after notice to the contractor from the contracting public agency of any prior violation of this section of the contract.

No provision in this section shall be construed to prevent a board of education from designating that a contract, subcontract or other means of procurement of goods, services, equipment or construction shall be awarded to a small business enterprise, minority business enterprise or a women's business enterprise pursuant to P.L. 1985, c. 490 (C.18A:18A-51 et seq.).

Assignment of Contract

The contractor/provider shall not assign, transfer, or sublet this agreement, or any rights and responsibility in this agreement without written consent from the board of education.

Availability of Funds

The parties recognize that payments by the District to the Contractor/Provider under this Agreement are expressly dependent upon, and subject to the availability to the District of State and/or Federal funds. The Contractor/Provider is aware that the District's receipt of State and/or Federal funds is expressly conditioned upon allocation, review and approval by the New Jersey State Department of Education. If the District, for any reason, does not receive sufficient funds to make the required payments under this Agreement, it shall not be considered a Breach of the Agreement by the District and the parties, shall immediately begin negotiations to modify this contract taking into account the availability of funds, which may include the termination of the Agreement, if necessary.

Business Registration

N.J.S.A. 54:49-4.1: Violations of Registration Requirements; Penalties.

A business organization that fails to provide a copy of a business registration as required pursuant to section 1 of P.L.2001, c.134 (C.52:32-44 et al.) or subsection e. or f. of section 92 of P.L.1977, c.110 (C.5:12-92), or that provides false information of business registration under the requirements of either of those sections, shall be liable for a penalty of \$25 for each day of violation, not to exceed \$50,000 for each business registration copy not properly provided under a contract with a contracting agency or under a casino service industry enterprise contract.

A contractor or a contractor with a subcontractor that has entered into a contract with a contracting agency, and each of their affiliates, shall collect and remit to the Director of the Division of Taxation in the Department of the Treasury the use tax due pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) on all their taxable sales of tangible personal property delivered into this State.

Compensation

- A. The Board shall pay the Contractor for the actual Services provided at the per pupil payment rates established for the 2019-2020 school year by the State of New Jersey Department of Education for each case, less an amount equal to one and one-half percent (1.5%) representing an administrative fee which shall be retained by the District. Contractor shall only be entitled to be paid for Services actually rendered consistent with the Federal and State rules, regulations and authorized regulatory guidance applicable to the provision of the Services.

2019-2020 Per Pupil Rates for Chapter 193 Evaluations

i. Initial Assessments	\$TBD (less 1.5% Administrative Fee = \$TBD)
ii. Re-evaluations	\$TBD (less 1.5% Administrative Fee = \$TBD)
iii. Annual Reviews	\$TBD (less 1.5% Administrative Fee = \$TBD)

PER PUPIL COST WILL BE SUPPLIED WHEN RECEIVED FROM THE STATE OF NJ.

B. The Contractor shall only be paid for actual services rendered in accordance with this Agreement. Contractor shall not be entitled to compensation unless the Contractor actually provides the Services, e.g., the Contractor shall not be entitled to compensation if the Contractor is scheduled to provide the Services and the Services are not provided as a result of the action or inaction of the Contractor, its officers, agents, employees and subcontractors. Also the Contractor shall not charge the District for "no shows".

Compliance with Laws

The Contractor/Provider shall comply with, and require that anyone providing the Services on behalf of the Contractor/Provider comply with, all applicable requirements of Local, County, State and Federal authorities, all applicable Local, County, State and Federal-laws, rules, ordinances, regulations and codes and all Board policies, now or hereafter in force and effect to the extent that they directly or indirectly bear upon the subject matters of the Agreement. The Contractor/Provider and anyone providing the Services on behalf of the Contractor/Provider shall, without limitation of the aforementioned, comply with the (a) the privacy provisions of the Health Insurance Portability and Accountability Act (HIPAA), (b) the confidentiality requirements of N.J.A.C. 6A:32-7.1, *et seq.*, and the Family Education Rights Privacy Act, 29 U.S.C. 1232g, and (c) the anti-discrimination provisions of N.J.S.A. 10:2-1 *et seq.*, the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 *et seq.*, N.J.S.A. 10:5-31, et seq., N.J.A.C. 17:27-1.1 et seq., N.J.A.C. 6:4-1.6, as re-codified in N.J.A.C. 6A:7-1, et seq., Title VII of the Civil Rights Act of 1964, Title 11 of the American With Disabilities Act of 1990, the Individuals with Disabilities Education Improvement Act, Part B ("IDEA"), 20 U.S.C. 1400 et seq., Education Department General Administration Regulations (EDGAR) 34 CFR Parts 74-82 and 97-99, and N.J.S.A. 18A:46-19.1, *et seq.* (Chapter 193 Laws of 1977), N.J.A.C. 6A:14-4.9 and any and all rules, waivers, regulatory guidance and regulations promulgated thereunder by the State Board of Education and/or the Commissioner of Education.

The failure to comply with any and all Local, County, State or Federal Law, rule, ordinance, regulation, code or Board policy shall be grounds for immediate termination of this Agreement at the Board's discretion, upon 30 days' notice to the Contractor/Provider. In addition, all Services provided under this Agreement must supplement, rather than supplant, student instructional services and programs. Should any Services provided under this Agreement be deemed by any State or Federal agency or authority to be non-compliant with State or Federal laws and/or regulations, Contractor/Provider agrees to refund to the Board any amounts paid to the Contractor/Provider for such non-compliant Services.

Confidentiality

To the extent the services require the Contractor/Provider to receive any confidential student information during the provision of the services, the Contractor/Provider agrees to comply with the requirements of the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. 1232g, *et seq.* and the regulations promulgated there under at 34 C.F.R. Part 99. Regardless of format or medium (e.g., electronic, paper, audio, video), such information is considered confidential and protected by FERPA. Such information shall not be disclosed or shared with any third party by the Contractor/Provider except as permitted by the terms of this Contract to subcontractor/Providers whose services are necessary for the Contractor/Provider to carry out its services and only then to subcontractor/Providers who have agreed to maintain the confidentiality of the data to the same extent required of the Contractor/Provider under the terms of this Agreement.

The Contractor/Provider shall implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of all District data received from, or on behalf of the District. These measures shall be extended by contract between the Contractor/Provider to all subcontractor/Providers used by the Contractor/Provider who may encounter District data.

Conflicts of Interest.

The Contractor/Provider certifies that no officer or employee of the Board of Education or his/her immediate family members are directly or indirectly interested in this Contract or have any interest in any portions of profits thereof. Any or all potential conflicts shall be immediately reported to the School Business Administrator.

Contracted Service Provide—Pre-Employment Requirements—Child Abuse/Sexual Misconduct

All contracted service providers, whose employees have regular contact with students, shall comply with the Pre-Employment Requirements in accordance with New Jersey P.L. 2018 c.5, N.J.S.A. 18A:6-7.6 *et seq.* Contracted service providers are to review the following New Jersey Department of Education—Pre-Employment Resource P.L. 2018 c.5 link below for guidance.

<http://ni.gov/education/educators/crimhist/preemployment/>

Criminal History Background Check

Contractor/Provider shall ensure that a Criminal History Background Check conducted by the New-Jersey Department of Education has been completed for anyone providing the Services hereunder as required by N.J.S.A. 18A:6-7.1 *et seq.*, prior to the commencement of Services for the Agreement. Contractor/Provider shall provide proof to the Board that no disqualifying record information exists as a condition precedent to the provision of services by anyone providing services pursuant to this Agreement. In the event Contractor/Provider fails to comply with the Criminal History requirement, Board may, in its sole and absolute discretion, immediately terminate the Agreement, notwithstanding any other notice, default and termination provisions herein. The cost of any such background check shall be borne by the Contractor/Provider and/or its employees.

Default

In the event the Contractor/Provider fails to provide any of the Services or fulfill any of its responsibilities required under this Agreement, the Contractor/Provider shall be deemed to be in default of this Agreement and the Board shall be entitled to maintain any and all actions and effect any and all remedies available to it in equity and in law. The parties may not maintain any action or effect any remedies for default against the defaulting party unless and until the defaulting party has failed to cure the breach within thirty (30) days of written notice of such breach, or if the nature of the cure is such that it reasonably requires more than thirty (30) days, if the Board commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion.

Dispute Resolution

Any and all claims, disputes or other matters in question between the Board and Contractor/Provider arising out of or relating to the Agreement, or alleged breach thereof, shall be subject to and determined by a court of competent jurisdiction venue in Ocean County, New Jersey. The Contractor/Provider hereby knowingly irrevocably waives its right to trial by jury in any action arising out of or relating to the Agreement. This waiver does not apply to personal injury actions or to any action in which another party, not bound by such a waiver, demands trial- by jury. This waiver is knowingly, intentionally and voluntarily made by the Contractor/Provider. If a dispute arises between the Board and any entity or individual as to which the Board is bound to the arbitration of such disputes and the dispute directly or indirectly relates to the Agreement, then" the Contractor/Provider agrees that the Contractor/Provider can be joined as a party to such an arbitration with respect to matters related to such arbitration. Any and all disputes which exist only between the Board and Contractor/Provider, or among the Board, Contractor/Provider and others as to which the Board is not bound to the arbitration of disputes, shall be subject to the provisions of this Section

Entire Agreement

This Agreement incorporates the parties' entire agreement and complete understanding concerning the terms and conditions of the Contractor/Provider's retention by the Board. This Agreement may not be modified or amended in whole or in part except by agreement of both parties and by Board ratification.

Force Majeure

Neither party shall bear any responsibility or liability for any losses arising out of any delay or interruption of their performance of obligations under this Agreement due to any act of God, act of governmental authority, act of the public enemy, or due to war, riot, flood, civil commotion, insurrection, severe or adverse weather conditions, lack or shortage of electrical power not due to the fault of the non-performing party, malfunctions of equipment or software programs or any other cause beyond the reasonable control of the party delayed.

Full Force and Effect

The Contractor/Provider agrees that the consideration set forth in the agreement shall

remain full force an effect for the entire term, regardless of any and all increases in costs to the Contractor/Provider, regardless of whether such increased costs occur as a result of any rule, regulation, statute or requirement of any government agency.

Harassment, Intimidation and Bullying

Pursuant to N.J.S.A. 8A:37-16, all contracted service providers, defined as any organization that is a party to a contract or agreement for services with the District, and all employees of contracted service providers are required to comply with the provisions of the District's anti-bullying policy. Contracted service providers and their employees shall verbally report any act of harassment, intimidation or bullying of a student on the same day on which the act was witnessed, or on the same day on which reliable information that a student has been subject to harassment, intimidation or bullying was received, and shall report the same in writing within two (2) school days. All verbal and written reports of harassment, intimidation or bullying of a student shall be made to the school principal or to any school administrator or safe schools resource officer.

Independent Contractor/Provider/Assignment

A. The parties agree that the Contractor/Provider and anyone providing the Services on behalf of the Contractor/Provider is an independent Contractor/Provider and nothing in the Agreement shall be construed to establish an employer/employee, agency, joint venture or partnership arrangement between the parties. In discharging all duties and obligations hereunder, the Contractor/Provider and anyone providing the Services on behalf of the Contractor/Provider shall at all times remain in an independent Contractor/Provider relationship with the Board. The Board assumes no responsibility for the payment of compensation except as set forth herein and shall not be responsible for the payment or provision of wages, benefits or taxes or pension contributions of Contractor/Provider or any employees of the Contractor/Provider. Contractor/Provider represents that he/she/it is not an employee of the Board according to the rules and regulations of the New Jersey State Department of Treasury, Division of Pensions and Benefits. Should a court or agency of competent jurisdiction determine that Contractor/Provider's services, or the services of its employees, do not qualify it or its employees as independent Contractor/Providers, Contractor/Provider shall indemnify and hold the board, its employees and agents, collectively and individually, harmless for any back taxes, pension contributions, benefit payments, etc., for which the Board may be held responsible

B. The rights and responsibilities under this Agreement party may not be assigned, transferred, hypothecated or otherwise delegated its duties or monies to come due hereunder, whether voluntarily, involuntarily or by operation of law, without the prior written consent of the Board.

Insurance Requirements

A. Contractor/Provider shall maintain or cause to be maintained, in full force and effect, insurance in such amounts and against such risks as follows:

Broad form, comprehensive, or commercial General Liability Insurance coverage, including contractual liability, against claims for personal injury, death or property damage in an amount of not less than One Million Dollars (\$1,000,000.00) with respect to injury or death of a single person and Two Million Dollars (\$2,000,000.00) in the aggregate, and One Million Dollars (\$1,000,000.00) with respect to property damage, together with Excess/Umbrella Liability Insurance in an amount of not less than One Million Dollars (\$1,000,000.00), Fire Damage Insurance in an amount of not less than Fifty Thousand Dollars (\$50,000.00) and Medical Expense Insurance in an amount of not less than Five Thousand Dollars (\$5,000.00); and

ii. Workers Compensation Insurance coverage in the minimum amount required by the specifications for the Services as follows: Employer's Liability Insurance coverage in an amount not less than One Million Thousand Dollars (\$1,000,000.00) for bodily injury caused by accident or disease and One Million Dollars (\$1,000,000.00) per occurrence for automobile liability or in the statutory amount, whichever is greater; and

iii. Professional Liability Insurance coverage in an amount of not less than One Million Dollars (\$1,000,000.00) with respect to a single claim and Three Million Dollars (\$3,000,000.00) in the aggregate, which the Contractor/Provider shall maintain for no less than six (6) years following completion of Services.

B. No later than the execution of this Agreement, and upon the Board's reasonable request from time to time, the Agency shall provide to the Board a certificate of insurance evidencing the coverage set forth above from an insurance company authorized to do business in New Jersey and having an A.M. Best Rating of at least an "A-". The Agency shall also provide, upon the Board's request, full and complete copies of the insurance policies required above.

C. The coverage set forth above shall name the Board of Education as an additional insured under any policies required to be provided pursuant to this section.

The Contractor/Provider shall defend, indemnify, and hold harmless the Board, collectively and individually, and its agents, officials, representatives and employees from and against any and all damages, losses, or claims, including, but not limited to, reasonable attorney's fees, that arise as a result, in whole or in part, from: (a) any intentional or negligent act, error, or omission or failure of the Contractor/Provider arising out of or relating to the terms of this Agreement by the Contractor/Provider or anyone performing the Services on behalf of the Contractor/Provider; (b) any breach of this Agreement or a breach of the implied covenant of good faith and fair dealing, by the Contractor/Provider or anyone performing the Services on behalf of the Contractor/Provider; and (c) the Contractor/Provider's violation of, or failure to comply with any law, statute, regulation and/or code applicable to Contractor/Provider's Services.

In carrying out provisions of this contract or in exercising any power or authority granted them by their position, there shall be no liability upon the Board and his authorized

representatives or assistants, either personally or as officials of the Board, it being understood that in such matters they act as agents and representatives of the Board.

Iran Certification of Non-Involvement in Prohibited Activities

Pursuant to *N.J.S.A. 52:32-58*, the Contractor/Provider certifies that neither the Contractor/Provider, nor one of its parents, subsidiaries, and/or affiliates (as defined in *N.J.S.A. 52:32-56(e)(3)*), is listed on the Department of the Treasury's List of Persons or Entities Engaging in Prohibited Investment Activities in Iran and that neither is involved in any of the investment activities set forth in *N.J.S.A. 52:32-56(f)*.

Licensure

The Services shall be provided only by individuals holding the appropriate licensure to undertake the Services. The Contractor/Provider shall provide the Board, if requested, with copies of documentation confirming that Contractor/Provider and anyone providing the Services on behalf of the Contractor/Provider has the certifications, licenses, skills and experience necessary to provide the Services. The documents shall be current, valid and issued by the State of New Jersey and any other authority with jurisdiction over the Services.

Payment Process

The Contractor/Provider will bill the District by monthly duly verified invoices. The invoices shall seek payment only for actual services rendered. The District will pay all invoices from the within 30 days of receipt and verification of a properly completed invoice and supportive documentation submitted ten (10) days prior to the current month's School Board meeting. In no event shall the contractor/provider be entitled to interest on any overdue payment. The bill must be submitted no later than thirty (30) days after delivery of the services.

Payment is conditioned upon proper execution by the Contractor/Provider of District vouchers and other documents which may be required for the proper fiscal management of the public school District. Please note: the Board of Education shall approve of all payments prior to any checks being issued to the Contractor/Provider.

Program Performance

A. Contractor/Provider shall perform all of the services consistent the specifications of the district's request for proposal.

B. Contractor/Provider shall inform the Board, in writing of all conditions that may negatively affect the performance of Services as soon as they are known. The disclosure shall be accompanied by a statement of the action taken or contemplated by the Contractor/Provider to correct the problems and when corrective action was, or will be, taken. Board representatives may make site visits to inspect the Services and to review the Contractor/Provider's books and records relating to the provisions of the Services, review program effectiveness and may interview any officials and/or employees whose work involves the performance of this Agreement or compliance with its terms.

All services to be provided under this Agreement shall be in accordance with the specifications contained within the request for proposals for such services, as issued by the Board of Education, and in the Contractor/Provider's response to same.

Political Contributions—Pay to Play

Annual Disclosure

A business entity as defined by law is advised of its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-20.13 (P.L. 2005 Chapter 271 section 3) if the business entity receives contracts in excess of \$50,000 from public entities in a calendar year. It is the business entity's responsibility to determine if filing is necessary. Additional information on this requirement is available from the New Jersey Election Law Enforcement commission at 1-888-313-3532 or at www.elec.nj.us.

Contributions During Term of Contract – Prohibited – N.J.A.C. 6A:23A-6.3 (a) (2-3)

Contributions reportable by the recipient under P.L. 1973, c83 (codified at N.J.S.A. 19:44A-1 et seq.) to any member of the school board from any business entity doing business with the school district are prohibited during the term of the contract.

When a business entity referred in 4.1(e) is a natural person, contribution by that person's spouse or child that resides therewith, shall be deemed to be a contribution by the business entity. When a business entity is other than a natural person, a contribution by any person or other business entity having an interest therein shall be deemed to be a contribution by the business entity.

Record Keeping—Access and Maintenance

The Contractor/Provider is to comply with all laws and regulation as it pertains to record keeping—access to records and maintenance of records.

Access to Relevant Documents and Information—N.J.S.A. 52:15C-14 (d)

Private vendors or other persons contracting with or receiving funds from a unit in the Executive branch of State government, including an entity exercising executive branch authority, independent State authority, public institution of higher education, or unit of local government or board of education shall upon request by the State Comptroller provide the State Comptroller with prompt access to all relevant documents and information as a condition of the contract and receipt of public monies. The State Comptroller shall not disclose any document or information to which access is provided that is confidential or proprietary. If the State Comptroller finds that any person receiving funds from a unit in the Executive branch of State government, including an entity exercising executive branch authority, independent State authority, public institution of higher education, or unit of local government or board of education refuses to provide information upon the request of the State Comptroller, or otherwise impedes or fails to cooperate with any audit or performance review, the State Comptroller may recommend to the contracting unit that the person be subject to termination

of their contract, or temporarily or permanently debarred from contracting with the contracting unit.

Maintenance of Contract Records—N.J.A.C. 17:44-2.2

Relevant records of private vendors or other persons entering into contracts with covered entities are subject to audit or review by OSC pursuant to N.J.S.A. 52:15C-14(d). The contractor/vendor to whom a contract has been awarded, shall maintain all documentation related to products, transactions or services under this contract for a period of five years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller upon request.

Renewal of Contract (If Applicable)

Hereafter, this Agreement is subject to two (2) one-year extensions or one (1) two year extension, at the District's option subject to the conditions set forth herein. Any price change included as part of an extension shall be based on the rate supplied by the State of New Jersey for these services, and approval by, the Board of Education and shall be based upon the price of the original contract as cumulatively adjusted pursuant to any previous adjustment or extension, and shall not exceed the change in the index rate for the 12 months preceding the most recent quarterly calculation available at the time the contract is renewed; and the terms and conditions of the contract remain substantially the same, in accordance with the provisions of N.J.S.A. 18A:18A-42(o). Any renewal of contract and/or multi-year contract is subject to the availability of funds. If funds are not available the board may cancel the contract.

School Ethics Act—Compliance

Contractor/Provider represents that, to the best of its knowledge, information and belief, none of its employees nor anyone providing Services on its behalf are engaged in conduct that constitutes a conflict of interest under, or a violation of, the School Ethics Act, N.J.S.A. 18A:12-21, et seq., and N.J.A.C. 6A:28-1.1, et seq.

Specifications; Proposal

The contract requirements and Contractor/Provider's response thereto, as more fully set forth in the response and the Proposal Specifications and General and Technical Conditions, and related attachments, as advertised for the Services herein, shall be considered attached to this Agreement as an exhibit as if fully set forth herein and shall have the same effect as if contained within a contractual provision in this Agreement.

Taxes

As a New Jersey governmental entity, the Board of Education is exempt from the requirements under New Jersey state sales and use tax (N.J.S.A. 54:32B-1 et. seq.), and does not pay any sales or use taxes. Respondents should note that they are expected to comply with the provisions of said statute and the rules and regulations promulgated thereto to qualify them for examinations and reference to any and all labor, services, materials and supplies furnished to the Board of Education. Contractors may not use the Board's tax exempt status to purchase supplies, materials, service or equipment.

A contractor may qualify for a New Jersey Sales Tax Exemption on the purchase of materials, supplies and services when these purchases are used exclusively to fulfill the terms and conditions of the contract with the Board of Education. All contractors are referred to New Jersey Division of Taxation—Tax Bulletin S&U-3 for guidance. Again, contractors are not permitted to use the Board's tax identification number to purchase supplies, materials, services of equipment. The board does not issue an ST-5 Tax Form.

Term

The Board engages the services of the Contractor and the Contractor agrees to provide all services as noted above for the period commencing July 1, 2019 and ending June 30, 2020, unless otherwise terminated. Thereafter, the Agreement is subject to up to Two (2) one-year extensions or One (1) two year extension, at the District's option subject to the conditions set forth herein.

Termination.

Termination for Cause. If either party fails to comply with any of the obligations required of it in this contract, written notice specifying the failure must be provided to the breaching party. If the party fails to remedy and cure such failure within fifteen (15) days, then the non-breaching party will have the right to terminate the contract immediately upon giving an additional thirty (30) days prior written notice of that intention.

Termination for Convenience. The District may terminate this Agreement at any time upon giving ten (10) days' prior written notice to the CONTRACTOR.

Notwithstanding the above, the Contractor will not be relieved of liability to the District for damages sustained by the District by virtue of any breach of this Agreement by the Contractor in addition to the District's other remedies, and the District may withhold any payments to the Contractor for the purpose of compensation until such time as the exact amount of damages due the District from the Contractor is determined.

If the Board determines that the contractor has failed to comply with the terms and conditions of the proposal upon which the issuance of the contract is based or that the contractor has failed to perform said service, duties and or responsibilities in a timely, proper, professional and/or efficient manner, then the Board shall have the authority to terminate the contract upon written notice setting forth the reason for termination and effective date of termination.

Termination by the Board of the contract does not absolve the contractor from potential liability for damages caused the District by the contractor's breach of this agreement. The Board may withhold payment due the contractor and apply same towards damages once established. The Board will act diligently in accordance with governing statutes to mitigate damages. Damages may include the additional cost of procuring said services or goods from other sources.

The contractor further agrees to indemnify and hold the District harmless from any liability to subcontractors or suppliers concerning work performed or goods provided arising out of the lawful termination of this agreement.

Subject to Approval by the Board

This Agreement is subject to the approval of the Lakewood Board of Education. Upon such approval, the Board President, or his designee, is authorized to sign the Agreement on behalf of the Board, and must also be signed by the Superintendent of Schools, Mrs. Laura Winters, the Interim Business Administrator, Mr. Robert Finger, the State Monitor, Mr. David Shafter, and witnessed by General Counsel, Mr. Michael Inzelbuch.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their authorized representatives.

For the Contractor/Provider:


For the Board:



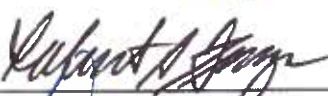
President/Officer/Official Date 8/15/19



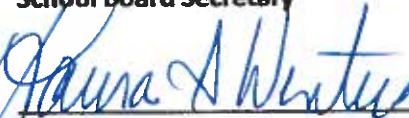
Secretary/Witness Date 8/15/19



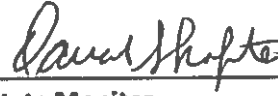
Board President Date



School Board Secretary Date 8/16/19



Superintendent Date 8/30/19



State Monitor Date 9/3/19

General Counsel/Witness Date

ADDENDUM TO CONTRACT – REVISIONS TO PAGE 7

Paragraph 2:

Moreover, the Provider will immediately indemnify the District should any adverse audit and/or other findings occur that would impact on State and/or Federal aid and/or any monies of the District. The Provider will supply documentation to the complete satisfaction of the Board's Business Office that their Professional Liability Policy will fully indemnify the school district. This shall be provided prior to the commencement of the services herein. Should same not be provided by September 1, 2019, the Board has the absolute right to cancel this Agreement with no further obligations to the Provider.

Paragraph 3:

The Provider will fully indemnify the Board and pay for any and all legal and expert fees shall the need arise with regard to any and all audits and/or legal action (filed or threatened) of the program herein, but only if such adverse audit findings are caused by the negligence or intentional misconduct of the provider or a sub-contractor of the provider. In no event shall the amount paid by the Provider exceed \$125,000.00. The selection of any attorneys or experts shall be at the sole discretion by the Board. Any payment under this paragraph shall be made within 30 days of the request.

Paragraph 4:

The Board has the right to utilize an independent third-party agency/company to conduct on-going monitoring with regard to contract compliance and the effectiveness of the program described herein. The provider shall be responsible for a proportionate cost of same, at an amount not to exceed \$25,000.00, with any and all costs being paid within thirty (30) days of request by the Board. Should the Provider not make payments as requested by the Board, this Agreement will be cancelled.

For the Contractor/Provider:




President/Officer/Official Date 8/15/19



Secretary/Witness Date 8/15/19

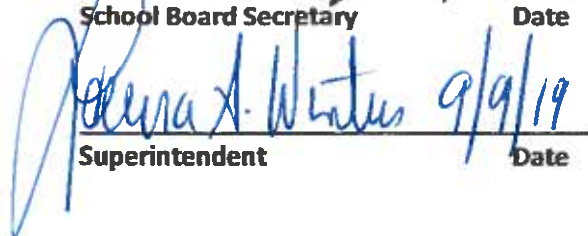
For the Board:



Board President Date 9/9/19



School Board Secretary Date 8/16/19



Superintendent Date 9/9/19

Paul Shapiro 9/3/19
State Monitor Date

*see below 9/4/19
General Counsel/Witness Date

* Should and if any conflict
between this document and BOE approval -
BOE approval supercedes

* No payment shall be made without
signature of Superintendent or her designee.

* If Vendor does not accept -
NO Payment. M.V.



Lakewood Board of Education

200 Ramsey Avenue, Lakewood, NJ 08701

Main Office: (732) 364-2400 Fax: (732) 905-3687

Laura A. Winters, Superintendent of Schools

Robert S. Finger, Interim Business Administrator

RESOLUTION

- BB. Move to record and award CC 05-1920 for Chapter 193 Evaluation & Determination services for the 2019/2020 school year, received on June 18, 2019 @ 10:00 a.m. Thirteen (13) firms were solicited and One (1) response was received and scored by the evaluation committee as follows:**

**On Track Resources, LTD
105 Reagan Ct
Lakewood, NJ 08701**

		Technical Max points 55	Management Max points 45	Total Points Max 100
Scorer #1		55	45	
Scorer #2		55	45	
Scorer #3		55	45	
	Average Score	55	45	
	Total Score			100

On Track Resources, LTD received perfect scores in both Technical and Management categories. The costs for these services are set by the State of New Jersey. The Evaluation Committee recommends award of CC 05-1920 for Chapter 193 Evaluation & Determination services to On Track Resources, LTD as their response was responsive and responsible.

The Lakewood School District will maintain 1.5% of the Administrative fee.

(Services at No Charge as stated in the RFP):

All annuals and reevaluations conducted by OT and PT at NPSSP shall be reimbursed by the agency up to one hour at the hourly rate for annuals and up to three hours at the hourly rate for reevaluations.

MOTION TO APPROVE THE MINUTES, TO ACCEPT THE ADDITIONS & CORRECTIONS TO THE AGENDA, BUSINESS AGENDA (Excluding letter II, JJ & SS) AND SUPERINTENDENT AGENDA (PASSED)

Motion: Mr. Rodriguez **Second:** Mr. Bender

8 Ayes: Mr. Zlatkin, Mrs. Gonzalez, Mr. Nakdimen, Mr. Rodriguez, Mr. Stern,
Mr. Treisser, Mrs. Jackson-Byers, Mr. Bender



Lakewood Board of Education

200 Ramsey Avenue, Lakewood, NJ 08701

Main Office: (732) 364-2400 Fax: (732) 905-3687

Laura A. Winters, Superintendent of Schools

Robert S. Finger, Interim Business Administrator

0 Nays:

0 Abstained:

1 Absent: Mr. Newhouse

Note: Mr. Nakdimen's vote should reflect his abstention from any item pertaining to or involving SCHI, specifically Business Agenda: Letter H #2, I, Y, KK, NN, OO and Superintendent Agenda Items #39 & 42

CERTIFICATION

I, Robert Finger, Interim Business Administrator/ Assistant Board Secretary to the Board of Education of the Township of Lakewood, hereby certify the foregoing is a true copy of the Resolution adopted by the Board of Education of the Township of Lakewood, County of Ocean, at the public meeting held on the 24th of June, 2019

Robert Finger, Interim Business Administrator/ Board Secretary