# SUWANNEE COUNTY SCHOOL BOARD

## PROFESSIONAL/TECHNICAL SERVICES AGREEMENT

This AGREEMENT is made as of the date of execution by and between the School Board of Suwannee County, Florida ("SCSB"), and **Resolutions in Special Education, Inc.** ("Contractor").

W I T N E S S E D:

WHEREAS, SCSB operates schools and educational institutions and is in need of a qualified, experienced Educational Consultant to provide consulting services for SCSB; and

WHEREAS, Contractor may employ and/or contract with qualified and duly licensed and/or certified instructors with expertise and experience in providing educational services; and

WHEREAS, SCSB desires to engage Contractor to provide such services for SCSB and Contractor is willing to provide such services for SCSB.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein set forth, the parties agree as follows:

1. ENGAGEMENT; RESPONSIBILITIES OF CONTRACTOR

A. SERVICES: SCSB hereby engages Contractor to provide educational consulting services for SCSB as requested by SCSB, and Contractor hereby accepts such engagement and agrees to provide said services in accordance with the terms of this Agreement. Said services are described in Exhibit A attached hereto, which exhibit is hereby incorporated by reference into, and made a part of, this Agreement. Contractor shall provide said services through employees and/or independent subcontractors who are qualified and appropriately licensed and/or certified to perform all functions assigned to them by Contractor in connection with the provision of services by Contractor hereunder.

B. MANNER OF PERFORMANCE OF CONTRACTOR'S SERVICES

(i) Contractor and staff shall perform all services under this Agreement in the manner and means it or he/she chooses, in its or his/her sole and absolute discretion and judgment. Contractor and staff shall not be required to comply with SCSB's directions or instructions concerning when, where and how to perform services under this Agreement, but shall have full and absolute discretion in such matters.

(ii) Contractor and staff shall not be required to perform services in any order or sequence specified by SCSB.

(iii) Contractor and staff shall not be required to attend meetings or participate in training conducted by SCSB as to specific methods or procedures.

(iv) Contractor and staff shall not be required to work specified hours, but shall have full and absolute discretion with respect thereto.

(v) Contractor and staff shall not be required to submit any written or oral reports to SCSB except such reports as shall be required by law, regulation, or any governmental authority, including reasons for federal, state, or local compliance purposes.

(vi) The Contractor and staff shall be responsible for payment of Contractor and staff expenses relating to the performance of duties hereunder, including expenses or travel and similar items.

C. DOCUMENTATION: Contractor shall submit to SCSB, on a monthly basis, appropriate documentation of services provided hereunder. Such documentation shall be in the form and shall contain the information requested by SCSB.

2. REPRESENTATIVES AND WARRANTIES

Contractor represents and warrants to SCSB, upon execution and throughout the term of this Agreement, as follows:

A. Contractor is not bound by any agreement or arrangement which would preclude it from entering into, or from fully performing the services required under, this Agreement;

B. None of the Contractor staff has ever had his or her professional license or certification in the State of Florida or in any other jurisdiction denied, suspended, revoked, terminated, voluntarily relinquished under threat of disciplinary action, or restricted in any way.

C. Contractor shall perform the services required hereunder in accordance with:

(i) all applicable federal, state, and local laws, rules, and regulations;

(ii) all applicable policies of: SCSB;

(iii) all applicable Bylaws, Rules, and Regulations of SUWANNEE COUNTY SCHOOLS;

D. Contractor has, and shall maintain throughout the term of this Agreement, all appropriate federal and state licenses and certifications which are required in order for Contractor to perform the services required of Contractor under this Agreement; and

E. Each of the Contractor staff has, and shall maintain throughout the term of this Agreement, all appropriate federal and state licenses and certifications which are required in order for said staff to perform the functions, assigned to him or her by Contractor in connection with the provision of services under this Agreement; and

F. All Contractor staff shall comply with all applicable terms of this Agreement.

3. INDEPENDENT CONTRACTOR

In performing the services herein specified, Contractor is acting as an independent contractor, and neither Contractor nor any staff shall be or be considered employees of SCSB. Neither Contractor nor any Contractor staff shall be under the control of SCSB as to the manner by which results are accomplished, but only as to the results of Contractor's work. It is agreed and acknowledged by the parties that, as an independent contractor, Contractor staff retains the right to contract with and provide educational consulting services to entities and individuals other than SCSB and its students, and nothing in this Agreement shall be interpreted as limiting or restricting in any way Contractor's right to do so. In no event shall this Agreement be construed as establishing a partnership or joint venture or similar relationship between the parties hereto, and nothing herein contained shall be construed to authorize either party to act as agent for the other. Contractor shall be liable for its own debts, obligations, acts and omissions, including the payment of all required withholding, social security and other taxes and benefits with respect to all Contractor staff. Contractor hereby expressly agrees to provide SCSB with proof of payment of such taxes in the event such is requested by SCSB by federal or State tax authorities. Any such proof will be provided directly to SCSB's counsel for delivery to tax authorities in order to preserve the confidentiality of such records. Neither Contractor nor any Contractor staff shall be subject to any SCSB policies solely applicable to SCSB's employees, not to exclude policy directly related to vendors and contractors.

4. TERM

The initial term of this Agreement shall be for a period not to exceed twelve (12) months, commencing on July 1, 2019 and ending June 30, 2020, unless sooner terminated as provided herein. At the end of the Initial Term and each Renewal Term (as hereinafter defined), if any, this Agreement may be renewed for an additional term, ("Renewal Term"), but only upon mutual written agreement of the parties.

5. COMPENSATION

For the services rendered pursuant to this Agreement, Contractor shall be paid by SCSB, as and for its sole compensation hereunder, the amounts listed in Exhibit A attached hereto, which Exhibit is hereby incorporated by reference into, and made a part of, this Agreement. Notwithstanding the foregoing, no compensation shall be payable to Contractor for any services for which Contractor has not submitted the documentation required under Paragraph 1 (C) of this Agreement.

6. BILLING

Contractor shall bill SCSB for services provided hereunder on a monthly basis in the month following the month in which services are rendered. Each invoice shall be in the form, and contain the information, reasonably requested by SCSB, and SCSB shall pay each invoice within **thirty (30) days** after receipt thereof by SCSB. SCSB shall not be required to pay for any services for which Contractor

does not provide a proper invoice; provided, however, that SCSB shall give notice to Contractor that such invoice is deemed improper, and Contractor shall be given:
(a) details as to why it is considered improper,
(b) instruction as to how Contractor can correct such invoice to make it proper, and
(c) the opportunity to submit a corrected invoice to be paid for services performed.

7. CONFIDENTIALITY

Contractor recognizes and acknowledges that, by virtue of entering into this Agreement and providing services hereunder, Contractor and staff may have access to certain confidential information, including confidential student information and personal health information ("PHI"). Contractor agrees that neither it nor any Contractor staff will at any time, either during or subsequent to the term of this Agreement, disclose to any third party, except where permitted or required by law or where such disclosure is expressly approved by SCSB in writing, any confidential student information, PHI or other confidential information, and Contractor and all Contractor staff shall comply with all Federal and State laws and regulations, and all SCSB rules, regulations, and policies regarding the confidentiality of such information. Without limiting the generality of the foregoing, Contractor shall comply with the Health Insurance Portability and Accountability Act to the extent applicable to Contractor. Contractor may not use or further disclose Personal Health Information ("PHI") other than as permitted or required by law or this Agreement. In addition, Contractor shall:

- Report to SCSB any impermissible use or disclosure of PHI.
- Ensure that any agents, including subcontractors to whom it provides PHI created or received from SCSB agrees to the same restrictions or conditions that apply to Contractor.
- Make PHI available in accordance with HIPAA Privacy Rules.
- Make PHI available for amendment and incorporate amendments into PHI in accordance with HIPAA rules.
- Make available the information required to make an accounting of disclosures under the applicable HIPAA law and regulations.
- Make its internal practices, and any information related to the use and disclosure of PHI received from, or created or received by Contractor, available to applicable governmental entities.
- Upon termination of the contract, if feasible, return or destroy any and all PHI received from or created or received by the Contractor in performance of this Agreement.

8. CRIMINAL BACKGROUND CHECKS

The Legislature amended the Jessica Lunsford Act effective July 1, 2007. This law requires any employee, contractor, vendor who will: (1) be at a school when students are present; or (2) have direct contact with students; or (3) have access to or control of school funds; meet Level II Background screening requirements. There are some exceptions. Level 2 screening includes fingerprinting, statewide criminal and juvenile justice records checks through the Florida Department of Law Enforcement and federal criminal records checks through the Federal Bureau of Investigation. Level 2 screening may also include local criminal records checks through the local law enforcement agencies.
**Level II Background Check** – Any vendor providing services under this contract who will (1) be at a school when students are present; or (2) have direct contact with students; or (3) have access to or

control of school funds, that person shall have a **Level II background check** submitted through the Suwannee County School Board. Documentation of clearance will be on file in the Department of Human Resources in the Suwannee County School Board office. **The contractor shall be required to pay for all costs of the background reports.** If it is discovered during the period of the contract that the successful contractor substituted an unapproved worker for an approved worker, the vendor's contract may be cancelled immediately at the instructions of the Suwannee County School Board.

9. AUDITS, RECORDS, AND RECORDS RETENTION

The District or its representative reserves the right to inspect and/or audit all the Contractor's documents and records as they pertain to the products and services delivered under this agreement. Such rights will be exercised with notice to the Contractor to determine compliance with and performance of the terms, conditions and specifications on all matters, rights and duties, and obligations established by this agreement. Contractor shall make such documents and records available to SCSB upon reasonable notice from SCSB and such audit and all costs pertaining thereto including, but not limited to, photocopies, travel, shipping, shall be at SCSB's cost.

A. To establish and maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting procedures and practices, which sufficiently and properly reflect all revenues and expenditures of funds provided by the District under this contract.

B. To retain all contractor records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to this contract for a period of five (5) years after termination of the contract, or if an audit has been initiated and audit findings have not been resolved at the end of five (5) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of this contract.

C. That completion or termination of the contract and at the request of the District, the Contractor will cooperate with the District to facilitate the duplication and transfer of any said records or documents during the required retention period as specified in paragraph A above.

D. To assure that these records shall be subject at all reasonable times to inspection, review, or audit by Federal, state, or other personnel duly authorized by the District.

E. That persons duly authorized by the District and Federal auditors, pursuant to 45 CFR, Part 92.36 (I) (10), shall have full access to and the right to examine any of provider's contract and related records and documents, regardless of the form in which kept, at all reasonable times for as long as records are retained.

F. To include these aforementioned audit and record keeping requirements in all approved subcontracts and assignments.

10. INDEMNIFICATION

Contractor shall indemnify and hold harmless SCSB from and against any and all claims, liabilities, damages, and expenses including, without limitation, reasonable attorneys' fees, incurred by SCSB in defending actions brought against it arising out of or relating to bodily injury to or death of any person or loss of or damage to real or tangible personal property or the environment to the extent that such third party claim, suit, damage, or expense was proximately caused by any negligent act or omission on the part of Contractor, its agents or employees.

11. DEBARMENT & SUSPENSION

Suwannee County School Board certifies that, by submission of this document, that neither it nor its agents are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

12. TERMINATION

A. TERMINATION WITHOUT CAUSE. Either party may terminate this Agreement without cause by giving the other party at least thirty (30) days prior written notice.

B. TERMINATION FOR BREACH. Either party may terminate this Agreement upon breach by the other party of any material provision of this Agreement, provided such breach continues for fifteen (15) days after receipt by the breaching party of written notice of such breach from the non-breaching party.

C. IMMEDIATE TERMINATION BY SCSB. SCSB may terminate this Agreement immediately by written notice to Contractor (such termination to be effective upon Contractor's receipt of such notice) upon the occurrence of any of the following events:

(i) the denial, suspension, revocation, termination, restricting, relinquishment, or lapse of any license or certification required to be held by Contractor, or of any Contractor staff's professional license or certification, in the State of Florida, or

(ii) conduct by Contractor or any of Contractor's staff which affects the quality of services provided to SCSB or the performance of duties required hereunder and which would, in SCSB's sole judgment, be prejudicial to the best interests and welfare of SCSB or its students;

(iii) breach by Contractor or any Contractor staff of the confidentiality provisions of Section 7 hereof.

D. EFFECT OF TERMINATION. As of the effective date of termination of this Agreement, neither party shall have any further rights or obligations hereunder except for rights and obligations accruing prior to such effective date of termination, or arising as a result of any breach of this Agreement. Notwithstanding the foregoing, the following provisions shall survive the expiration or other termination of this Agreement, regardless of the cause of such termination: Paragraphs 1 (B), 2, 5, 10, 13, and 15.

13. ARBITRATION

Any dispute or controversy arising under, out of or in conjunction with, or in relation to, this Agreement, or any amendment hereof, or the breach hereof, shall be determined and settled by arbitration in Suwannee County, Florida, in accordance with the rules of the American Arbitration Association and applying the laws of the State of Florida. Any award rendered by the arbitrator shall be final and binding upon each of the parties, and judgment thereon may be entered in any court having jurisdiction thereof. Should any litigation be commenced between the parties to this Agreement concerning this Agreement or the rights and duties in relation thereto, the prevailing party shall be entitled to its attorneys' fees, costs, expenses, out-of-pocket disbursements incurred in such litigation, irrespective of whether such costs, fees, expenses and disbursements are taxable under the law, which shall be determined by the court in such litigation by the court alone on a post-trial motion. In the event that a court shall direct the parties to this Agreement to mediation with respect to any issue, each party shall split equally the fees, costs and expenses of the mediator.

14. ENTIRE AGREEMENT; MODIFICATION

This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior agreements, oral or written, and all other communications between the parties relating to such subject matter. This Agreement may not be amended or modified except by mutual written agreement.

15. GOVERNING LAW

This Agreement shall be construed in accordance with the laws of the State of Florida. Nothing in this Agreement shall be interpreted or construed to mean that the Board waives its common law sovereign immunity or the limits on liability set forth in Florida Statutes.

16. COUNTERPARTS

This Agreement may be executed in one or more counterparts, all of which together shall constitute only one Agreement.

17. NOTICES

All notices hereunder by either party to the other shall be in writing, delivered personally, by certified or registered mail, return receipt requested, or by Federal Express or Express Mail, and shall be deemed to have been duly given when delivered personally or when actually received in the United States mail, postage prepaid, addressed as follows:

If to SCSB: The School Board of Suwannee County Florida
c/o Ted L. Roush, Superintendent
1729 Walker Avenue, SW, Suite 200
Live Oak, FL 32064

Copy to: Mr. Leonard J. Dietzen, III
Rumberger, Kirk & Caldwell
Attorney for Suwannee County School Board
101 North Monroe Street, Suite 120
Tallahassee, FL 32301

Contractor: Resolutions in Special Education, Inc.
Julie J. Weatherly
6420 Tokeneak Trail
Mobile, Alabama 36695

18. WAIVER

A waiver by either party of a breach or failure to perform hereunder shall not constitute a waiver of any subsequent breach or failure.

19. CAPTIONS

The captions contained herein are used solely for convenience and shall not be deemed to define or limit the provisions of this Agreement.

20. ASSIGNMENT; BINDING EFFECT

Contractor shall not assign or transfer, in whole or in part, this Agreement or any of Contractor's rights, duties or obligations under this Agreement without the prior written consent of SCSB, and any assignment or transfer by Contractor without such consent shall be null and void. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, representatives, successors and permitted assigns.

21. RELEASE OF STUDENT RECORDS

By signature, Contractor assures that the released student data will be handled with confidentiality as required by Florida Statute 1002.22.

22. PUBLIC RECORDS

For all contractors as set forth in Section 119.0701, Florida Statutes (2018) see EXHIBIT B which is incorporated by reference herein.

**IN WITNESS WHEREOF**, the parties hereto have set their hands and seals to this Agreement on this 25 day of JUNE, 2019.

**SUWANNEE COUNTY SCHOOL BOARD**

Ed daSilva, Chairman

JUN 25 2019
Date

Ted L. Roush, Superintendent

JUN 25 2019
Date

"Approved as to Form and Sufficiency
BY
Leonard J. Dietzen, III
Rumberger, Kirk & Caldwell, P.A.
Suwannee School Board Attorney"

**CONTRACTOR**

Witness Signature

Julie J. Weatherly, Owner
Resolutions in Special Education, Inc.

Malcolm Yunkor
Type or Print Name of Witness

Date 7/9/19

Date 7/9/2019

# EXHIBIT A

**SERVICES PROVIDED:**

See attached proposal for the 2019-2020 school year regarding the specifics related to contract services and fees for ESE Program Consultations with RISE.

**CONTRACTOR FEDERAL IDENTIFICATION NUMBER:** 38-3736429

IRS Form W-9 on file

**FUNDING SOURCE FOR PAYMENT TO CONTRACTOR:**

IDEA Part B Grant

***PROPOSAL TO THE SCHOOL BOARD OF SUWANNEE COUNTY FROM RESOLUTIONS IN SPECIAL EDUCATION, INC. FOR PROFESSIONAL AND TECHNICAL SERVICES FOR ESE PROGRAM CONSULTATIONS 2019-2020 SCHOOL YEAR***

## *I. BACKGROUND INFORMATION*

The Director of Student Services has identified the need to receive consultative services in the areas of:

> Procedures, policies and forms to comply with IDEA law, implementing regulations found at 34 CFR Part 300 and State Board of Education Rules, as they are revised, re-interpreted and promulgated.
>
> Compliance and parent literature, in order for the ESE Department to continue to be perceived as a family friendly structure providing excellent and timely support and information to families of students with disabilities (SWD).

## *II. PRODUCTS AND SERVICES*

The Consultant, RISE, Inc., shall provide the following products and/or services according to the timelines specified herein:

1. Provide sample policies, procedures and forms to implement IDEA law, regulations, and State rules affecting programs for SWDs in Suwannee County. Timelines are ongoing and as they happen, based on effective dates of regulations and rules. Provide sample forms and procedures of a compliance nature that are warranted and/or requested based on IDEA, self-assessment, or State rules and Special Programs and Procedures (SP&P) Document. Be onsite on designated days as needed and requested for staff development and/or to meet with the Director of Student Services and staff to facilitate any revisions to the Admissions and Placement Manual for Suwannee County.

2. Provide sample parent newsletters, if needed, containing information about compliance issues and programs affecting SWDs on a quarterly basis, with Fall 2019, Winter 2019, Spring 2020 and Summer 2020 editions.

3. Throughout the term of this agreement, be available for ongoing telephone and email consultation with the Director of Student Services.

Services provided by RISE under this Contract are not considered legal services and will not include the provision of legal services. Rather, these services are considered consultative in nature only and the district must consult with its local school board attorney for legal advice. Should RISE be needed to provide actual legal services, such as representation in a legal proceeding (such as a due process hearing, mediation or resolution session), legal research related to a specific matter, etc., such services will be provided in conjunction with the local school board attorney and pursuant to a separate Agreement or Contract and in accordance with applicable rules and provisions of the Florida Bar and relevant laws.

### *III. DISTRICT RESPONSIBILITIES*

1. Make all arrangements pertaining to technical review of products and coordinate in-house formative reviews of documents.

2. Designate Mrs. Debbie Land, Director of Student Services, to provide direction to the Consultant and approve all drafts and invoices for payment.

3. To provide onsite duplication, supplies, word processing and facilities as needed by the Consultant.

4. To provide the Consultant with requested documents and data and to conduct other such tasks as to facilitate product development.

### *IV. BUDGET*

The term of this agreement commences upon proposal approval/issuance of a purchase order, and terminates June 30, 2020.

I. Consultation Fees Total-$8,500

Payments to be requested according to a mutually agreeable schedule.

***Respectfully Submitted:***

Julia J. Weatherly, President, Resolutions in Special Education, Inc. (RISE); FEIN 38-3736429

7/9/19
Date

Approved, Debbie Land, Director
Student Services

July 1, 2019
Date

# EXHIBIT B

## Public Records Law Requirements under Chapter 119.0701, Florida Statutes (2018)

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, HE OR SHE MUST CONTACT THE DISTRICT'S CUSTODIAN OF PUBLIC RECORDS, VICKIE MUSIC DePRATTER, CPA, CHIEF FINANCIAL OFFICER, AT 386-647-4609, VICKIE.DEPRATTER@SUWANNEE.K12.FL.US, OR 1729 WALKER AVENUE, SW, SUITE 200, LIVE OAK, FL 32064.**

If you are a contractor as defined by Section 119.0701(1)(a), Florida Statutes (2018), you must comply with Florida's public records law.

You must keep and maintain public records required by the School District to perform the contracted services.

Upon request from the School District's Custodian of public records, you must provide the District with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or otherwise provided by law.

You must ensure that public records which are *exempt* or *confidential and exempt* from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract, if the contractor does not transfer the records to the District.

Upon completion of the contract, you must transfer, at no cost, to the District all public records in possession of the contractor or continue to keep and maintain public records required by the District to perform the contracted services. *See* Section 119.0701(2)(b)4, Florida Statutes (2018), for additional record keeping requirements.

**REQUEST FOR RECORDS RELATING TO DISTRICT'S CONTRACT FOR SERVICES**

A request to inspect or copy public records relating to a District's contract for services must be made directly to the District's records custodian. If the District does not possess the requested records, the District shall immediately notify the contractor of the request, and the contractor must provide the records to the District or allow the records to be inspected or copied within a reasonable time.

If contractor does not timely comply with the District's request for records, the District shall be able to sue for breach of contract and the prevailing party shall be entitled to attorney's fees.

A contractor who fails to provide the requested public records to the District within a reasonable time may be subject to penalties under Section 119.10, Florida Statutes (2018).