

## SCHOOLS FOUNDATION AGREEMENT

THIS AGREEMENT made and entered into this \_\_\_ day of \_\_\_\_\_, 2023, by and between the SCHOOL BOARD OF BREVARD COUNTY, FLORIDA (“SCHOOL BOARD”) and the BREVARD SCHOOLS FOUNDATION ("BSF"), both located at 2700 Judge Fran Jamieson Way, Viera, Florida 32940.

### WITNESSETH:

WHEREAS, under the State Constitution and Fla. Stat. §1001.32(2), SCHOOL BOARD has the power to manage, operate, control, administer, and supervise all free public schools in the Brevard County School District and may exercise any power except as expressly prohibited by the State Constitution or general law;

WHEREAS, SCHOOL BOARD has the general power under Fla. Stat. §1001.41 to determine policies and programs deemed necessary by it for the efficient operation and general improvement of the district school system, as well as the power to perform duties and exercise those responsibilities that it may find to be necessary for the improvement of the district school system in carrying out the purposes and objectives of the education code;

WHEREAS, SCHOOL BOARD, has the power under Fla. Stat. §1001.42 to contract for materials, supplies, and services needed for the district school system;

WHEREAS, in addition to the above-mentioned powers, SCHOOL BOARD has the authority under Fla. Stat. §1001.453 to permit the use of property, facilities, and personal services of the district by a direct-support organization, and to contract with a direct-support organization for personal services or operations;

WHEREAS, BSF is a District School Board Direct Support Organization approved by SCHOOL BOARD under Fla. Stat. §1001.453;

WHEREAS, BSF is a Florida nonprofit corporation established under Fla. Stat. with IRS 501c3 status;

WHEREAS, BSF provides equal employment opportunities to all persons, regardless of race, color, religion, sex, age, or national origin;

WHEREAS, BSF is organized and operated to receive, hold, invest, and administer property and to make expenditures to or for the benefit of public kindergarten through 12th grade education and adult career and community education programs in Brevard County;

WHEREAS, BSF has historically provided valuable services in support of public education in Brevard County and SCHOOL BOARD desires those services to continue;

WHEREAS, SCHOOL BOARD desires to permit BSF to use property, facilities, and personal services of the district;

WHEREAS, SCHOOL BOARD further wishes to contract with BSF for the provision of services or operations to the district school system as described in this Agreement;

THEREFORE, in consideration of the mutual promises and covenants exchanged between the parties herein and \$150,000 to be annually provided by the SCHOOL BOARD to BSF, provided such funds are appropriated and included in the SCHOOL BOARD budget each year, SCHOOL BOARD and BSF agree as follows:

1. **Scope of Services.** BSF has historically provided services to Brevard County Schools in support of education and shall continue to provide the following services:
  - a. Production of ABC Awards - Host and produce annual recognition event of behalf of Brevard County School District for approximately 450 Teachers of the Year, Employees of the Year, Volunteers of the Year, Administrators of the Year, and Rookie/Emerging Teachers of the Year.
  - b. Grants applications/management - Apply for grants/funding on behalf of district schools, departments and programs where 501(c)(3) status is required. Manage school district education foundation matching grant program. Maintain accountability and fiscal agency and provide impact reports for funded projects. Arrange site visits as required by grantor. Acknowledge grantors and provide media support.
  - c. Professional/Administrative Services - Maintain financial records for more than 300 school program/department accounts in accordance with GAAP. Receive and process monetary and in-kind donations requiring official 501(c)(3) status. Provide gift-in-kind support documentation to BPS for capitalization purposes. Provide tax receipts and acknowledgements to donors in compliance with IRS. Process corporate matching gifts. All records are maintained in Raisers Edge NXT/Financial Edge NXT software.
  - d. Administer/manage Bright Ideas Classroom Grant Program for teachers – Maintain specialized software to process applications and accountability reports. Develop additional donor support to allow teachers to enhance academic achievement. Manage and promote support education license plate funds used to award Bright Ideas Classroom Grants.
  - e. Administer/manage Scholarship Program for graduating seniors – Set up and maintain donor-directed scholarship and endowment opportunities in accordance with IRS rules and regulations. Manage application and award process using specialized on-line

software. Verify criteria has been met and process payments to institutions of higher education.

- f. Manage/operate Take Stock in Children drop-out prevention program – Take Stock in Children provides an educational pathway for deserving, low-income students. The program helps children stay in school, graduate from high school, complete college, and become productive citizens. This success is achieved through an innovative multi-year program model of mentorship, a college success coach, accountability, college readiness skills training, and scholarships. Provide college success coach services, mentor recruitment and coordination, fundraising, and scholarship purchasing for approximately 200 at-risk students.
  - g. Manage/operate Supply Zone for Teachers – Secure monetary and in-kind donations to provide teachers and students with free school supplies. Support the Brevard District Schools in complying with the McKinney Vento act by providing hygiene products to students in transition. Manage inventory, volunteers, and community school supply drives. Host annual Back to School event.
  - h. Support annual Destination Space Program – Secure funding to allow all sixth graders to participate in study trip to Kennedy Space Center. Work with district resource teachers and partners to ensure program elements are met. Assist with funding support for Destination Mars, an extension of Destination Space.
  - i. Provide development assistance and support for teachers and school programs – Manage donor relationships and community engagement activities. Support Teacher Leadership Council with operating funds and professional development initiatives such as the Teacher of the Year Summit. Match donor interests with specific school programs and needs.
2. **Compensation.** No later than September 30th of each calendar year that monies are appropriated and budgeted by SCHOOL BOARD for that purpose, SCHOOL BOARD shall provide BSF \$150,000 to support BSF services in support of public education in Brevard County. BSF allocates 100% of salaries for 4.5 FTE's to direct BPS program support and partial allocation for an additional 5.5 FTE salaries according to percentage of time spent.
  3. **Use of Facilities and Support Services.** In addition to the aforementioned sum, SCHOOL BOARD shall also provide BSF with the use of office space and support services as necessary for BSF's operations at the SCHOOL BOARD's administration building in Viera, Florida consisting of approximately 2,133 s.f. The SCHOOL BOARD shall also provide space as necessary at the Clearlake Education center in Cocoa, Florida consisting of approximately 4,744 s.f. to house and support the Supply Zone for Teachers, which is operated by BSF. BSF shall be responsible for the costs associated with BSF's materials and supplies. See source documents in Appendix 1.

4. **Term.** The term of this Agreement shall be for one (1) year from the effective date hereof, and may be renewed upon the express written consent of the parties unless terminated by either party as provided herein.
5. **Termination.** This Agreement may be terminated by written notice provided by either party hereto a minimum of sixty (60) days' prior to its then current term.
6. **Notice.** Any notice required hereunder shall be provided by U.S. Mail to the following addresses:

As to BSF:

Janice Kershaw (or then current President & CEO)  
2700 Judge Fran Jamieson Way  
Viera, FL 32940

As to SCHOOL BOARD:

To the current SCHOOL BOARD Chairperson  
With a copy to the current Superintendent of Schools  
2700 Judge Fran Jamieson Way  
Viera, FL 32940

7. **Effective Date.** The Effective Date of this Agreement shall be the date last executed by the parties hereto.
8. **Audit.** In accordance with Fla. Stat. 1001.453(4), BSF shall provide for an annual financial audit of its accounts and records, to be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the Commissioner of Education. The annual financial audit report shall be submitted within nine (9) months after the fiscal year's end to the SCHOOL BOARD and the Auditor General.
9. **FERPA.** To the extent the Services provided by BSF involve the access to confidential student information, BSF 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.

10. **Public Records.**

- a. **IF BSF HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE SCHOOL BOARD'S CUSTODIAN OF PUBLIC RECORDS, MATT REED 321-633-1000 ext. 11453. [recordsrequest@brevardschools.org](mailto:recordsrequest@brevardschools.org), THE SCHOOL BOARD OF BREVARD COUNTY, FLORIDA, 2700 JUDGE FRAN JAMIESON WAY, VIERA, FL 32940.**
- b. 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. BSF acknowledges its legal obligation to comply with Section 119.0701, Florida Statutes. BSF 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 SCHOOL BOARD in order to perform the scope of services. BSF shall provide public access to the public records on the same conditions that SCHOOL BOARD would provide the records and at a cost that does not exceed the cost allowed by law. BSF shall not disclose public records that are exempt or confidential and exempt from public records disclosure unless specifically authorized by law. BSF shall comply with all requirements for retaining public records and shall transfer, at no cost to SCHOOL BOARD, all public records in the possession of BSF upon termination or expiration of this Agreement. BSF 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 SCHOOL BOARD in a format that is compatible with the information technology systems of SCHOOL BOARD.

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.

12. **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 Brevard 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.

13. **Construction of Agreement.** Each Party has participated in negotiating and drafting this Agreement, so if an ambiguity or a question of intent or interpretation arises, this Agreement is to be construed as if the Parties had drafted it jointly, as opposed to being construed against a Party because it was responsible for drafting one or more provisions of this Agreement.

## ADDITIONAL TERMS & CONDITIONS

### 14. PERSONNEL.

- 14.1. All of the Services herein shall be performed by Contractor or under its supervision, and all personnel engaged in performing the Services shall be fully qualified and, if required, authorized or permitted under applicable state and local law to perform such Services.
- 14.2. **Jessica Lunsford Act (Background Check).**
  - 14.2.1. Contractor shall comply with the Jessica Lunsford Act, effective September 1, 2005, as same may be amended from time to time and with all requirements of Sections 1012.32 and 1012.465, F.S.
  - 14.2.2. Except as provided in Sections 1012.467 or 1012.468, F.S., and consistent with BPS policy, all of Contractor's personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, shall successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes and BPS. This background screening will be conducted by BPS in advance of the Contractor or its personnel providing any Services under the conditions described in the previous sentence.
  - 14.2.3. Contractor shall bear the cost of acquiring the background screening required by Section 1012.32, F.S., and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to Contractor and its personnel.
  - 14.2.4. The Parties agree that the failure of Contractor to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling BPS to terminate immediately with no further responsibilities or duties to perform under this Agreement. Contractor agrees to indemnify and hold harmless the School Board, its officers and employees from any liability in the form of physical or mental injury, death, or property damage resulting from Contractor's failure to comply with requirements of this section or with Sections 1012.32 and 1012.465, F.S.
- 14.3. **Key Personnel.** Contractor shall notify BPS as soon as possible, but no later than five (5) working days, after any changes in address or key personnel positions of Contractor. Changes in key personnel may include resignations, approved leaves of absence of six (6) weeks or more, or terminations. Such notification shall be in writing and shall include information related to replacement staff assigned. Contractor agrees to work closely with BPS to ensure that the work and cooperation between the Parties is efficient and mutually productive to both Parties.
- 14.4. **Background Screening.** To the extent applicable to the Services hereunder, Contractor and all Contractor staff under this Agreement shall meet and comply with all federal, state, county, and city laws, ordinances, rules, and regulations that relate to the background screening process of those applying for work with children, seniors, or the disabled, including those contained in Chapter 408 (Health Care Administration) and Chapter 435 (Employment Screening).
- 14.5. **Conduct while on BPS Property.** Contractor acknowledges that its employees and agents will behave in an appropriate manner while on the premises of any BPS facility and shall, at all times, conduct themselves in a manner consistent with BPS policies and within the discretion of the premises administrator or designee. It is a breach of this Agreement for any agent or

employee of Contractor to behave in a manner which is inconsistent with good conduct or decorum or to behave in any manner that will disrupt the educational program or constitute any level of threat to the safety, health, and well-being of any student or employee of BPS. Contractor agrees to immediately remove any agent or employee if directed to do so by the premises administrator or designee.

15. **E-VERIFY.** Under Fla. Stat., effective July 1, 2020, Contractor shall use the U.S. Agency of Homeland Security's E-Verify system, <https://e-verify.uscis.gov/emp>, to verify the employment eligibility of all employees hired during the term of this Agreement. Contractor shall also require all subcontractors performing work under this Agreement to use the E-Verify system for any employees they may hire during the term of this Agreement. Contractor must provide evidence of compliance with 448.095, Fla. Stat by January 1, 2021. Evidence may consist of, but is not limited to, providing notice of Contractor's E-Verify number. Failure to comply with this provision is a material breach of the Agreement, and BPS may choose to terminate the Agreement at its sole discretion. Contractor may be liable for all costs associated with BPS securing the same services, inclusive, but not limited to, higher costs for the same services and rebidding costs (if necessary).

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals.

BREVARD SCHOOLS FOUNDATION

\_\_\_\_\_

By its: \_\_\_\_\_

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

SCHOOL BOARD OF BREVARD COUNTY, FLORIDA

\_\_\_\_\_

By its: \_\_\_\_\_

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

Attest: \_\_\_\_\_

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