

**JEFFERSON COUNTY PUBLIC SCHOOLS
CONTRACT FOR THE PROCUREMENT OF PROFESSIONAL SERVICES**

THIS CONTRACT FOR PROCUREMENT OF PROFESSIONAL SERVICES (hereinafter "Contract") is entered into between the JEFFERSON COUNTY BOARD OF EDUCATION (hereinafter "Board"), a political subdivision of the Commonwealth of Kentucky, with its principal place of business at 3332 Newburg Road, Louisville, Kentucky 40218 and Kentucky Orthopedic Rehabilitation, L.L.C. (KORT) (hereinafter "Contractor"), with its principal place of business at 13201 Magisterial Drive, Louisville, KY 40223.

WITNESSETH:

WHEREAS, the Board desires to procure the particular services of Contractor, which are more fully defined below; and

WHEREAS, Contractor has held itself out to be competent and capable of performing the services contracted for herein;

NOW, THEREFORE, in consideration of the mutual promises and agreements hereinafter set forth, the Board and Contractor (hereinafter "Parties") agree as follows:

ARTICLE I

Entire Agreement; Amendments

This Contract is the entire agreement between the Parties and supersedes any and all agreements, representations and negotiations, either oral or written, between the Parties before the effective date of this Contract. This Contract may not be amended or modified except in writing as provided in Article VIII. This Contract is supplemented by the Board's Procurement Regulations currently in effect (hereinafter "Regulations") that are incorporated by reference into and made a part of this Contract. In the event of a conflict between any provision of this Contract and any provisions of the Regulations, the Regulations shall prevail.

ARTICLE II

Services

Contractor agrees to perform the following services (hereinafter "Services") of a quality and in a manner that is within the highest standards of Contractor's profession or business. The Services are as follows:

The Contractor shall provide an athletic trainer duly certified by the National Athletic Trainers Association (the "Trainer") to each of the following schools: Butler High School, Central High School, Eastern High School, Male High School, Moore High School, Seneca High School, Southern High School, Valley High School and Waggener High School. The Contractor shall provide the Board with evidence that the Trainers have successfully completed a criminal records check.

The Trainer shall assist the school in developing and maintaining an athletic training program designed to reduce athletic injuries and to promote the safe and prompt rehabilitation of students after athletic injuries. The Contractor shall designate one of the Trainers to serve as the primary Trainer who shall coordinate coverage and services with the athletic directors of the schools. The Contractor will make a reasonable effort to provide an alternate certified Trainer when the primary Trainer is unavailable. The Trainers shall be employed by or under contract with the Contractor and the Contractor shall be responsible for the payment of all compensation to the Trainers and shall provide all employment support and benefits, including worker's compensation coverage for the Trainers.

The Contractor shall provide a Trainer to attend all home and away varsity football events and all home varsity soccer, field hockey, basketball, baseball, softball and track and field events, and any other sporting events mutually agreed to by the Parties. A Trainer will be at the school an average of thirty (30) hours per week for training and/or game coverage. A weekly schedule for specific days of training/coverage will be determined by the Parties in accordance with the needs of the sports listed above. In addition to attending the events listed above, the Trainer shall provide the following services as needed:

- a) Advise the school in the establishment of an athletic training room at the school;
- b) Advise the school as to the supplies and training equipment needed for the athletic training program.
- c) Assist the school faculty and athletic coaching staff in the development and implementation of a student athletic training program;
- d) Assist the school faculty and athletic coaching staff in the design and implementation of a continuing education program for the school's athletic coaching staff;
- e) Assist with conditioning and flexibility training suggestions to the school coaching staff with the advice and consent of a team physician;
- f) Evaluate the need for a medical records system for athletic injuries and assist with implementation as reasonably necessary;
- g) Monitor athletic injuries and develop injury prevention training and programs with the advice and consent of a team physician;
- h) Coordinate and provide injury follow-up and evaluation to be reported to the treating physician;
- i) Design and implement, with the assistance of the Athletic Director, and emergency medical service protocol for the school.

ARTICLE III
Compensation

The Board shall pay Contractor the total amount stated below (hereinafter "Contract Amount"). The Contract Amount shall be paid in a lump sum upon completion of the Services, unless a schedule of progress payments is stated below. The Contract Amount shall be for total performance of this Contract and includes all fees, costs and expenses incurred by Contractor including but not limited to labor, materials, taxes, profit, overhead, travel, insurance, subcontractor costs and other costs, unless otherwise stated below. To receive payment, Contractor must submit an itemized invoice or invoices. If progress payments are authorized, each invoice must specify the actual work performed. If payment of costs or expenses is authorized, receipts must be attached to the invoice.

Contract Amount:	<u>\$270,000</u>
Progress Payments (if not applicable, insert N/A):	<u>Within 30 days of receipt of invoices in December and May</u>
Costs/Expenses (if not applicable insert N/A):	<u>Each school shall provide the necessary supplies for the training room based on a mutually agreed upon list. Each school shall pay the Trainer's expenses for travel, mileage, lodging, and food for travel outside Jefferson County and the counties bordering Jefferson County required pursuant to this Contract in accordance with the board's travel reimbursement guidelines. These expenses must be determined prior to any additional travel and must be agreed upon by both the school and the Contractor.</u>
Fund Source:	<u>\$15,000 per school paid by a Grant from Norton Healthcare and \$15,000 per school paid from each school's local funds as follows: Butler - Activity Funds; Central - 1/2 Activity Funds and 1/2 General Fund; Eastern - Activity Funds; Male - Activity Funds; Moore - Activity Funds; Seneca - 1/2 Activity Funds and 1/2 General Fund; Southern - Activity Funds; Valley - Activity Funds; Waggener - General Fund</u>

ARTICLE IV
Term of Contract

Contractor shall begin performance of the Services on June 24, 2014 and shall complete the Services no later than May 29, 2015, unless this Contract is modified as provided in Article VIII.

ARTICLE V
Performance of Services by Contractor

The Services shall be performed by Contractor, and in no event shall Contractor subcontract with any other person to aid in the completion of the Services without the prior written approval of the Contract Administrator defined below.

Contractor shall appoint one person who shall be responsible for reporting to the Board on all Services performed under the terms of this Contract and who shall be available for consultation with the Contract Administrator.

Contractor is an independent contractor, not an employee. Contractor is responsible for the payment of all federal, state and local payroll taxes and providing unemployment insurance and workers compensation coverage to Contractor's employees. Contractor shall provide all equipment, materials and supplies necessary for the performance of the Services.

Contractor shall at all times during the term of this Contract comply with all applicable laws, regulations, rules and policies. Contractor shall obtain and keep in force all licenses, permits and certificates necessary for the performance of the Services.

Contractor agrees to hold harmless, indemnify, and defend the Board and its members, agents, and employees from any and all claims or losses accruing or resulting from injury, damage, or death of any person, firm, or corporation, including the Contractor and Trainers, arising from the negligent acts or omissions of Contractor or the Trainers in performing the services under this Contract. Contractor also agrees to hold harmless, indemnify, and defend the Board and its members, agents, and employees from any and all claims or losses incurred by any supplier, contractor, or subcontractor furnishing work, services, or materials to Contractor in connection with the performance of this Contract. This provision survives termination of this Contract.

To the extent permitted by law, the Board agrees to hold harmless, indemnify and defend Contractor from any and all claims or losses accruing or resulting from injury, damage or death of any person, firm or corporation arising from the negligent acts or omissions of the Board or its employees in the performance of this Contract.

Unless waived in writing by the Contract Administrator, Contractor shall maintain during the term of this Contract policies of primary insurance covering the following risks and in at least the following amounts: commercial general liability, including bodily injury, property damage, personal injury, products and completed operations, and contractual, \$1,000,000; and automobile liability, \$1,000,000. Contractor shall furnish to the Contract Administrator certificates of insurance evidencing this coverage and naming the Board as an additional insured. Additionally, Contractor shall maintain workers compensation coverage with limits required by law; and professional errors and omissions coverage with minimum limits of \$1,000,000. Contractor shall furnish certificates of insurance evidencing this coverage to the Contract Administrator.

The Board shall furnish Contractor with a certificate of insurance evidencing general liability and educators' legal liability insurance coverage with minimum limits of \$1,000,000. This insurance may be provided in whole or in part through a system of self-insurance.

ARTICLE VI
Equal Opportunity

During the performance of this Contract, Contractor agrees that Contractor shall not discriminate against any employee, applicant or subcontractor because of age, color, creed, disability, marital or parental status, national origin, race, sex, veteran status, religion, or political opinion or affiliation. If the Contract Amount is paid from federal funds, this Contract is subject to Executive Order 11246 of September 24, 1965 and in such event the Equal Opportunity Clause set forth in 41 Code of Federal Regulations 60-1.4 is hereby incorporated by reference into this Contract as if set forth in full herein.

ARTICLE VII
Prohibition of Conflicts of Interest

It shall be a breach of this Contract for Contractor to commit any act which is a violation of the provisions of Article XI of the Regulations entitled "Ethics and Standards of Conduct," or to assist or participate in or knowingly benefit from any act by any employee of the Board which is a violation of such provisions.

ARTICLE VIII
Changes

The Board and Contractor may at any time, by mutual agreement set forth in a written addendum, make changes in the definition of the Services; the scope of the Services; and the Contract Amount. The Contract Administrator and Contractor may, at any time, by mutual agreement set forth in a written addendum, make changes in the time within which the Services are to be performed; the schedule of Progress Payments; and mutual Termination of the Contract.

ARTICLE IX
Termination for Convenience of the Board

The Board or Contractor may terminate this Contract in whole or in part at any time by giving written notice to the other party of such termination and specifying the effective date thereof, at least thirty (30) days before the specified effective date. The Board shall compensate Contractor for Services satisfactorily performed through the effective date of termination.

ARTICLE X
Termination for Default

The Board or Contractor may, by written notice of default to the other Party, terminate the whole or any part of this Contract, if either Party breaches any provision of this Contract, or so fails to make progress as to endanger performance of this Contract, and in either of these circumstances, does not cure the breach or failure within a period of five (5) days after receipt of notice specifying the breach or failure. In the event of termination for Contractor's default, the Board may secure the required services from another contractor. If the cost to the Board exceeds the cost of obtaining the Services under this Contract, Contractor shall pay the additional cost. The rights and remedies of the Board provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

ARTICLE XI
Disputes

Any differences or disagreements arising between the Parties concerning the rights or liabilities under this Contract, or any modifying instrument entered into under Article VIII of this Contract, shall be resolved through the procedures set out in the Regulations.

ARTICLE XII
Contractor's Work Product

If Contractor produces or delivers to the Board a Sports Medicine Handbook or any other documents of a similar nature for which the Contractor holds a copyright (hereinafter "Works") in the performance of this Contract, Contractor shall retain all rights, title and interest in the Works. Contractor grants the Board a perpetual, non-exclusive right to use the Works for its internal purposes. This provision shall survive the termination of this Contract.

ARTICLE XIII
Contract Administrator

The Board shall appoint a Contract Administrator for the purposes of daily administrative decision-making pertaining to the Contract. If Contractor and the Contract Administrator disagree on any circumstance or set of facts pertaining to the administration or execution of this Contract, the Board shall resolve the matter after notification by either the Contract Administrator or the Contractor in the manner prescribed by the Regulations. If the Board fails to give notice to Contractor of the appointment of a Contract Administrator, the Contract Administrator shall be the Board's Chief Financial Officer.

ARTICLE XIV
Right to Audit

The Board shall have the right to inspect and audit all accounting reports, books or records which concern the performance of the Services. Inspection shall take place during normal business hours at Contractor's place of business. Contractor shall retain all records relating to the performance of this Contract for five (5) years after the end of the term of this Contract.

ARTICLE XV
Miscellaneous

- A. All Articles shall be construed as read, and no limitation shall be placed on any Article by virtue of its descriptive heading.
- B. Any notices or reports by one Party to the other Party under this Contract shall be made in writing, to the address shown in the first paragraph of this Contract, or to such other address as may be designated in writing by one Party to the other. Notices shall be effective when received if personally delivered, or three days after mailing if mailed.
- C. If any part of this Contract is held to be void, against public policy or illegal, the balance of this Contract shall continue to be valid and binding.
- D. This Contract shall be governed and construed in accordance with the laws of the Commonwealth of Kentucky.

- E. No delay or omission by either Party in exercising any right under this Contract shall operate as a waiver of that or any other right or prevent a similar subsequent act from constituting a violation of this Contract.
- F. At all times during the term of this Contract, Contractor shall comply with the Family Educational Rights and Privacy Act of 1974. If Contractor has access to student records, Contractor shall limit its employees' access to those records to persons for whom access is essential to perform this Contract.
- G. Contractor shall be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that apply to the Contractor or subcontractor for the duration of this Contract and shall reveal any final determination of a violation by the Contractor or subcontractor of the preceding KRS Chapters.
- H. During the initial term and any renewal terms of this Contract, and for a period of eighteen (18) months after the expiration or termination of this Contract, the Board agrees that it will not solicit, contract, engage, hire or employ any Trainer employed or retained by Contractor who provides services to the Board under this Contract.
- I. The Board may communicate to Contractor and Contractor may have access to certain information that is confidential under federal and/or state law including without limitation personally identifiable student information. Contractor agrees to treat all such information as confidential, whether or not so identified, and shall not disclose any part of that information without prior written consent of the Board. Contractor shall limit the use and circulation of such information to only those persons or entities necessary to perform the Services under this Contract. This confidentiality obligation shall not apply to any part of the information that (1) has been disclosed in publicly available sources of information; (2) is not in the possession of Contractor without any specific obligation of confidentiality; (3) has been or is hereafter rightfully disclosed to Contractor by a third party, but only to the extent that the use or disclosure thereof has been or is rightfully authorized by that third party; or (4) is presented in a format that does not personally identify a student. This provision shall survive the termination of this Contract.

IN WITNESS WHEREOF, the Parties hereto have executed this Contract to be effective as of June 24, 2014.

Contractor's Social Security Number or Federal Tax ID Number: 23-2980115

JEFFERSON COUNTY BOARD OF
EDUCATION


Kentucky Orthopedic Rehabilitation, LLC
CONTRACTOR

By: _____

By: 

Title: Donna M. Hargens, Ed.D.
Superintendent

Title: Jason Chambers
PT-OCS-MBA President

Cabinet Member: 	<u>DH</u> (Initials)
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Jefferson County Public Schools
**NONCOMPETITIVE NEGOTIATION
DETERMINATION AND FINDING**

1. An emergency exists which will cause public harm as a result of the delay in competitive procedures (Only the Superintendent shall declare an emergency.) —

State the date the emergency was declared by the superintendent: _____

2. There is a single source for the items within a reasonable geographic area —

Explain why the vendor is a single source: _____

3. The contract is for the services of a licensed professional, education specialist, technician, or an artist —

State the type of service: Orthopedic and Rehabilitation Specialist

4. The contract is for the purchase of perishable items purchased on a weekly or more frequent basis —

State the item(s): _____

5. The contract is for proprietary item(s) for resale: This can include the buying or selling of item(s) by students when it is part of the educational experience —

State the type(s) of item(s): _____

6. The contract is for replacement parts when the need cannot be reasonably anticipated and stockpiling is not feasible —

State the item(s): _____

7. The contract or purchase is for expenditures made on authorized trips outside the boundaries of Jefferson County Public Schools —

State the location: _____

8. The contract is for a sale of supplies at reduced prices that will afford Jefferson County Public Schools a savings (Purchase must be approved by Director of Purchasing) —

Explain the logic: _____

9. The contract is for the purchase of supplies which are sold at public auction or by receiving sealed bids —

State the items: _____

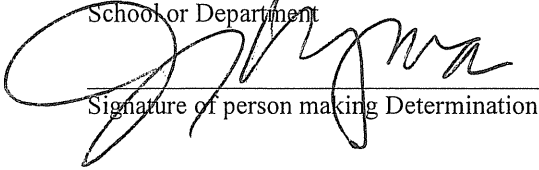
I have determined that, pursuant to K.R.S. 45A. 380, the above item(s) should be obtained by the Noncompetitive Negotiation Methods since competition is not feasible.

JERRY WYMAN

Print name of person making Determination

JCPS Athletic DEPT

School or Department



Signature of person making Determination

6-1-2014

Date

Name of Contractor (**Contractor Signature Not Required**)

Requisition Number

Explanation of Noncompetitive Negotiation Methods can be found under K.R.S. 45A.380 and on page 15 in the Procurement Regulations