

**MEMORANDUM OF AGREEMENT
BETWEEN
SEVEN COUNTIES SERVICES, INC.
AND
JEFFERSON COUNTY PUBLIC SCHOOLS**

THIS MEMORANDUM OF AGREEMENT (“MOA”) is entered into between the JEFFERSON COUNTY BOARD OF EDUCATION, a political subdivision of the Commonwealth of Kentucky doing business as the Jefferson County Public Schools, with its principal place of business at 3332 Newburg Road, Louisville, Kentucky 40218 (“JCPS”) and Seven Counties Services, Inc. (“Seven Counties”), a private, nonprofit 501(c) 3 corporation and the regional authority mandated by the Commonwealth of Kentucky to plan and provide behavioral health and developmental disability services to Bullitt, Henry, Jefferson, Oldham, Shelby, Spencer and Trimble counties (“Seven Counties”). Seven Counties is not part of state or local government.

WITNESSETH:

WHEREAS, JCPS desires to procure certain services of Seven Counties, which are more fully described below; and

WHEREAS, Seven Counties has held itself out to be competent and capable of performing the services desired by JCPS;

NOW, THEREFORE, in consideration of the premises, the mutual promises, covenants and conditions contained in this MOA, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, JCPS and Seven Counties (individually, a “Party” and collectively, the “Parties”) agree as follows:

**ARTICLE I
Entire Agreement; Amendments**

This MOA 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, as defined below, of this MOA. This MOA may not be amended or modified except in writing as provided in Article VII. This MOA is supplemented by the Procurement Regulations of JCPS currently in effect (the “Regulations”), which are incorporated by reference into and made a part of this MOA. In the event of a conflict between any provision of this MOA and any provision of the Regulations, the provision in the Regulations shall prevail.

**ARTICLE II
Services**

During the Term, as defined below, Seven Counties will perform (a) the services set forth in Exhibit A, which is attached to and incorporated by reference into and made a part of this MOA, and (b) such other services that are agreed in writing by Waller-Williams/Riverview and Seven Counties during the Term in an addendum to this MOA as provided in Article VII (collectively, the “Services”).

ARTICLE III
Compensation

JCPS shall have no financial responsibility for payment of compensation to Seven Counties for the performance of the Services. Seven Counties will bill any third party insurance provider upon written consent of the parent or guardian for all Services provided to JCPS students, including Medicaid, private insurance, or other plans. In no event will Seven Counties directly bill JCPS or a JCPS student, parent or guardian for the performance of any Services.

ARTICLE IV
Term of MOA; Renewal

This MOA shall be effective on September 2, 2020 (the “Effective Date.”) Seven Counties shall begin performance of the Services on any date after the Effective Date, and shall complete the Services no later than September 1, 2021 (the “Term”). At the sole option of JCPS, this MOA may be renewed for one or more additional one-year renewal terms, upon written notice from JCPS to Seven Counties at least 30 days prior to the end of the original term or any renewal term.

ARTICLE V
Performance of Services by Seven Counties

A. The Services shall be of a quality and shall be performed in a manner that is within the highest standards of Seven Counties’ profession or business. The Services shall be performed by Seven Counties, and in no event shall Seven Counties subcontract with any other person to aid in the completion of the Services without the prior written approval of the MOA Administrator, as defined below.

B. Seven Counties shall appoint one person who shall be responsible for reporting to JCPS on all Services performed under the terms of this MOA and who shall be available for consultation with the MOA Administrator.

C. Seven Counties shall be an independent contractor of JCPS for all purposes of this MOA. Nothing in this MOA is intended to create an employer-employee relationship, joint venture relationship, or partnership between JCPS and Seven Counties or any personnel assigned to this project by Seven Counties, and the Parties shall characterize their relationship as an independent contractor relationship for tax purposes and all other purposes. JCPS shall have the right to exercise control and direction as to the results only and not as to the methods by which Seven Counties performs or otherwise provides the Services, it being recognized that Seven Counties will be exercising Seven Counties’ independent judgment. Seven Counties and any personnel assigned to this project by Seven Counties shall have no claim under this MOA or otherwise against JCPS for workers’ compensation, unemployment compensation, vacation pay, sick leave, retirement benefits, Social Security benefits, disability insurance benefits, unemployment insurance benefits, or any other benefits. JCPS shall not withhold on behalf of Seven Counties, or in any way be responsible for the payment of, any federal, state, or local income taxes, F.I.C.A. taxes, F.U.T.A. taxes, unemployment compensation or workers’ compensation contributions, Social Security, or any other payments or withholdings pursuant to any law or

requirement of any governmental body or agency on behalf of Seven Counties, and all such withholdings, payments, or obligations shall be the sole responsibility of Seven Counties. JCPS shall issue to Seven Counties a Form 1099 statement for Seven Counties' federal and state income tax reporting purposes. Seven Counties warrants that Seven Counties will not take a position that is inconsistent with such independent contractor status, including in any court proceeding. This Article V(C) shall survive the termination of this MOA.

D. Seven Counties shall at all times during the Term (a) comply with all applicable federal, state and local statutes, regulations, ordinances, and (b) obtain and keep in force all licenses, permits and certificates necessary for the performance of the Services.

E. Seven Counties shall (a) hold harmless, indemnify, and defend JCPS and its Board 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 Seven Counties and any personnel assigned to this project by Seven Counties, in connection with the performance of this MOA, and (b) hold harmless, indemnify, and defend JCPS and its Board members, agents, and employees from any and all claims or losses incurred by any supplier, Seven Counties, or subcontractor furnishing work, services, or materials to Seven Counties in connection with the performance of this MOA. This Article V(E) shall survive the termination of this MOA.

F. Seven Counties shall require and verify that all employees/contractors of Seven Counties performing Services under this MOA are covered by professional liability insurance in amounts no less than \$1,000,000 per occurrence/\$3,000,000 in the aggregate and shall provide certificates of insurance evidencing this coverage to the MOA Administrator.

During the Term, Seven Counties shall not discriminate against any employee, applicant or subcontractors of Seven Counties, or any employee or student of JCPS because of race, color, national origin, age, religion, marital or parental status, political affiliations or beliefs, sex, sexual orientation, gender identity, gender expression, veteran status, genetic information, disability, or limitations related to pregnancy, childbirth, or related medical conditions.

ARTICLE VII

Changes

JCPS and Seven Counties may at any time, by mutual agreement set forth in a written addendum to this MOA, make changes in (a) the definition of the Services, (b) the scope of the Services, and (c) the time within which the Services are to be performed.

ARTICLE VIII

Termination for Convenience of JCPS

JCPS may terminate this MOA in whole or in part at any time by giving written notice to Seven Counties of such termination and specifying the effective date thereof, at least thirty (30)

days before the specified effective date. Upon termination, the rights and obligations of the Parties shall be as set forth in Article X.

ARTICLE IX Termination for Default

JCPS may, by written notice of default to Seven Counties, terminate the whole or any part of this MOA, upon (a) the commission by Seven Counties or any personnel assigned to this project by Seven Counties of any act which is a violation of the provisions of Article XI of the Regulations entitled “Ethics and Standards of Conduct,” or assisting or participating in or knowingly benefitting from any act by any employee of JCPS which is a violation of such provisions, (b) an occurrence of dishonest, fraudulent or illegal conduct or misappropriation of JCPS funds by Seven Counties or any personnel assigned to this project by Seven Counties, (c) the indictment or entry of a guilty plea or a plea of no contest to a felony offense by Seven Counties or any personnel assigned to this project by Seven Counties, or (d) a material breach of this MOA by Seven Counties, provided that JCPS has first given written notice to Seven Counties describing the breach with reasonable specificity and demanding that Seven Counties take action to cure the breach, but Seven Counties has failed to cure the breach within the period of 10 days after Seven Counties’ receipt of such notice. Upon termination, JCPS may secure the required services from another Seven Counties. If the cost to JCPS exceeds the cost of obtaining the Services under this MOA, Seven Counties shall pay the additional cost. The rights and remedies of JCPS provided in this Article shall not be exclusive and are in addition to the rights and remedies of JCPS under Article X of this MOA or as provided by law.

ARTICLE X Obligations upon Termination

Upon the termination of this MOA under either Article VIII or Article IX, (a) each Party shall be required to carry out any provisions which contemplate performance by or impose obligations on such Party after the effective date of termination, including, without limitation, Articles V(C), V(E), XII, XIII, XV, XVI(D), XVI(F) and XVI(G), (b) termination shall not affect any liability or other obligation which has accrued prior to the effective date of termination, including, with limitation, any liability or loss or damage on account of a breach of this MOA, and (c) JCPS shall have no obligation to pay any compensation to Seven Counties for periods after the effective date of termination, except the obligation to pay any compensation that accrued before the effective date of termination.

ARTICLE XI Disputes

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

ARTICLE XII
Seven Counties' Work Product

Unless waived in writing by the MOA Administrator, JCPS shall retain ownership in and the rights to any reports, research data, creative works, designs, recordings, graphical representations or other works of a similar nature (hereinafter "Works") produced or delivered by Seven Counties under this MOA. Seven Counties agrees that the Works are "works for hire" and Seven Counties assigns all right, title and interest in the Works to JCPS. This Article XII shall survive the termination of this MOA.

ARTICLE XIII
Proprietary Information

At all times during the Term and thereafter, Seven Counties and all personnel assigned by Seven Counties to this project will hold in strictest confidence and will not disclose, use, or publish any Proprietary Information, as defined below, of JCPS except as such disclosure, use or publication may be required in connection with Seven Counties' performance of the Services, or unless JCPS expressly authorizes such disclosure, use or publication in writing. The term "Proprietary Information" shall mean all information, data and records relating to JCPS's business, business plans, trade secrets, financial statements, services, personnel information, student information, and any other proprietary information of JCPS which JCPS treats as confidential with respect to the general public. For purposes of this Article XIII, the term "Proprietary Information" shall not include information that Seven Counties can show by competent proof (a) was known to Seven Counties prior to disclosure by JCPS and not subject to a duty or obligation of confidentiality or nondisclosure on the part of Seven Counties; (b) was generally known to the public at the time JCPS disclosed the information to Seven Counties; (c) became generally known to the public after disclosure by JCPS through no act or omission of Seven Counties; (d) was disclosed to Seven Counties by a third party having a bona fide right both to possess the information and to disclose it to Seven Counties; or (e) is otherwise public information under applicable law. Upon the termination of this MOA for whatever reason, Seven Counties will deliver to JCPS, or if agreed by JCPS in writing will destroy, all data, records, reports, summaries, plans, notes, memoranda and documents, together with all copies thereof (whether in tangible or intangible form), and any other material containing or disclosing any Proprietary Information of JCPS. This Article XIII shall survive the termination of this MOA.

ARTICLE XIV
MOA Administrator

A. Waller-Williams/Riverview shall appoint a MOA Administrator for the purposes of daily administrative decision-making pertaining to this MOA. If Seven Counties and the MOA Administrator disagree on any circumstance or set of facts pertaining to the administration or execution of this MOA, JCPS district personnel shall resolve the matter after notification by either the MOA Administrator or Seven Counties staff in the manner prescribed by the Regulations. For

purposes of the resolution process, the district personnel would be the Lead Psychologist, Assistant Director of ECE, and/or the Chief of ECE.

B. The MOA Administrator for Waller-Williams shall be responsible for compliance by JCPS personnel with the following obligations of JCPS under this MOA:

1. Identify students who are in need of Services and make referrals to Seven Counties;
2. Collaborate with Seven Counties to schedule mutually convenient counseling sessions;
3. Ensure students at school involved in services to be in attendance at all regularly scheduled appointments. Students should not miss scheduled therapy appointments;
 - (a) When students are in the calming center and scheduled for therapy the following procedures will be followed: 1) The therapist will come to the calming center to check on their client and the severity of the situation. 2) The therapist will take his/her client to their regularly scheduled appointment if the client is not a harm to self/others. 3) After the scheduled session, the therapist will return the client to his/her classroom for instruction.
 - (b) If there is a crisis situation and the client is in the calming center, the appropriate Seven Counties staff and school staff will be contacted by the center staff if the client has not de-escalated after 30 minutes. After joint consultation between the Seven Counties staff and Waller Williams /Riverview staff a decision about how to process will be determined. This team decision will be based upon past patterns of behaviors, current child/family situational problems, cause of center placement, and any other pertinent information.
 - (i) Course of action may include: 1) Set a time to reassess the situation and continue to monitor the child. 2) Have a member of either staff intervene or 3) Involve others directly related to the child's care through phone contact. If a strong difference of opinion exists, the Waller-Williams principal and Seven Counties manager or respective designees will help the group decide on a course of action. The team will discuss extenuating circumstances and develop an effective plan to address future reactions to student behavior.
4. Office space suitable in function and for confidentiality will be provided with furnishings to include comprehensive phone service with the understanding that the availability of office space will be contingent upon the needs of the basic educational program.
5. To the extent it is reasonably practicable and with prior notification and arrangement with the building

principal, Waller-Williams school may be accessible during scheduled non-school periods in order to maximize the opportunity for continuity of services.

6. At least one area will be provided with security, accessible by Seven Counties staff only, for medical records. An access list will be maintained with separate keys.
7. Waller Williams will be responsible for dispensing and securing medications according to JCPS policy.

ARTICLE XV Right to Audit

Seven Counties shall retain all records relating to the performance of the Services for five (5) years after the end of the Term. During such period, JCPS 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 Seven Counties' place of business. This Article XV shall survive the termination of this MOA.

ARTICLE XVI 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 MOA shall be made in writing, to the address shown in the first paragraph of this MOA, 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 MOA is held to be void, against public policy or illegal, the balance of this MOA shall continue to be valid and binding.

D. This MOA shall be governed and construed in accordance with the laws of the Commonwealth of Kentucky. Any action or claim arising from, under or pursuant to this MOA shall be brought in the Jefferson County, Kentucky, Circuit Court, and the Parties expressly waive the right to bring any legal action or claims in any other courts.

E. No delay or omission by either Party in exercising any right under this MOA shall operate as a waiver of that or any other right or prevent a similar subsequent act from constituting a violation of this MOA.

F. Neither Party to this MOA shall assign the rights or delegate the duties or obligations of this MOA, or any portion hereof, without the prior written consent of the other Party and, to the extent required, any applicable payor.

G. If Seven Counties has access to student records, Seven Counties shall at all times (a) comply with the Family Educational Rights and Privacy Act of 1974 (“FERPA”), and (b) limit the access to those records by Seven Counties’ employees and other personnel assigned to this project to those persons for whom access is essential to perform this MOA. Without limitation of the preceding sentence, Seven Counties agrees to:

- In all respects comply with the provisions of FERPA. For purposes of this MOA, “FERPA” includes the requirements of Chapter 99 of Title 34 of the Code of Federal Regulations.
- Use any such data for no purpose other than to fulfill the purposes of this MOA, and not share any such data with any person or entity other than Seven Counties and its employees, Seven Counties and agents, without the approval of JCPS.
- Require all employees, Seven Counties and agents of Seven Counties to comply with all applicable provisions of FERPA with respect to any such data.
- Maintain any such data in a secure computer environment, and not copy, reproduce or transmit any such data except as necessary to fulfill the purposes of this MOA.
- Conduct the Services in a manner that does not permit the identification of an individual student by anyone other than employees, Seven Counties or agents of Seven Counties having a legitimate interest in knowing such personal identification, and not disclose any such data in a manner that would permit the identification of an individual student in any published results of studies.
- Destroy or return to JCPS any such data obtained under this MOA within thirty days after the date when it is no longer needed by Seven Counties for the purposes of this MOA.

H. If this Contract requires Seven Counties and/or any employees of Seven Counties access to school grounds on a regularly scheduled and continuing basis for the purpose of providing services directly to a student or students, all individuals performing such services under this Contract are required to submit per KRS 160.380 to a national and state criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation and have a letter, provided by the individual, from the Cabinet for Health and Family Services stating no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.

I. If this MOA is procured by JCPS under KRS Chapter 45A, Seven Counties shall at all times during the Term (a) be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that apply to the Seven Counties or subcontractor, and (b) reveal any final determination of a violation by the Contractor or subcontractor of the preceding KRS Chapters.

IN WITNESS WHEREOF, the parties have caused this Memorandum of Agreement to be executed as of the date first written above.

Eric Post

Eric Post,
Chief Financial Officer
Seven Counties Services, Inc.
Date: 8/12/2020

Martin A. Pollio, Ed.D.
Superintendent
Jefferson County Public Schools
Date: _____

EXHIBIT A

DESCRIPTION OF SERVICES FOR SEVEN COUNTIES MOA WITH WALLER-WILLIAMS ENVIRONMENTAL SCHOOL:

1. The following resource staff will be made available: Unit manager, clinical personnel, service coordinators, adjunctive personnel, and a staff psychiatrist.
2. Clinical services, based on individual student need, will be provided and may include: individual, group, and/or family therapy; crisis management; psychiatrist evaluation for consultation and medication evaluation.
3. Clinical personnel assigned to Waller-Williams/Riverview will hold appropriate licensure to serve all students.
4. Seven Counties agrees to comply with all school-based procedures as set forth by the school principal regarding on-site visitors, safety protocols, and access to students due to changing circumstances.
5. Other services, based on individual student need, will be provided and may include: Service coordination, group consultation, psycho-educational instruction, support groups for parents, adjunctive services, staff in- service and training.
6. Staff will participate in student support meetings, monthly staff meetings, and other planning meetings as needed.
7. Liaison services will be provided to facilitate accessing services from other Seven Counties staff and from other care providers within the Seven Counties catchment area.
8. Seven Counties staff will collaborate with Waller-Williams staff in determining the proper protocol for students who may need a higher level of care such as psychiatric evaluation and/or hospitalization. All JCPS guidelines for parental consent and documentation will be followed by staff of both organizations.
9. In the event Seven Counties utilizes telehealth platforms in the provision of their services, Seven Counties shall ensure that any telehealth platform utilized is compliant with the Health Insurance Portability and Accountability Act and all associated laws and regulations, Seven Counties shall be responsible for maintaining equipment and secure connections required and obtaining the necessary parent or guardian consent prior to utilizing telehealth platforms with any student.
10. The Waller Williams Mental Health Practitioners and Seven Counties Therapeutic and Administration Team will meet on a monthly basis. The functions of this committee will be developed jointly by both parties, but shall include:
 - a. Common protocols for infection control, critical incidents, confidentiality, hospitalization, safe physical management, treatment planning for programmatic concerns etc., to be developed and enforced according to JCPS policy and procedures.
 - b. A confidentiality protocol outlining the scope and limits of confidentiality as it applies to both parties is to be outlined jointly, followed by mandatory training.

c. Upon students' transition from Waller-Williams/Riverview, Seven Counties and Waller-Williams/Riverview will share information regarding subsequent programming through a systematic method of communication to include the progress and status of students in transition from Waller-Williams/Riverview.