

MALVERNE UNION FREE SCHOOL DISTRICT

THIS AGREEMENT made the 31st day of July, 2022, between the Brookville Center for Children's Services, Inc. 1983 Marcus Avenue, Suite C118 New Hyde Park, NY 11042 ("ASEP"), and the Malverne Union Free School District ("District").

WITNESSETH

WHEREAS, the Individual with Disabilities Education Act ("IDEA") and the New York State Education Law require local education agencies to sub-allocate federal IDEA flow-through funds in connection with IDEA Part B, Section 611 and Section 619, to eligible approved special education programs; and

WHEREAS, it is necessary for the District and ASEP to enter into this agreement to facilitate the aforesaid sub-allocation of federal IDEA flow-through funds for the 2022/2023 program year; and

WHEREAS, the Brookville Center for Children's Services, Inc. is an approved special education provider ("ASEP") registered with the State Education Department and is authorized to establish, conduct, operate and maintain an educational program for preschool and/or school-aged children placed in such program for the provision of special education services consistent with the IDEA; and

WHEREAS, ASEP is currently providing a program of educational instruction pursuant to the laws of the State of New York and the Regulations of the Commissioner of Education, to resident preschool and/or school-aged children placed therein by the District for the provision of special education services pursuant to an Individual Education Plan consistent with the IDEA.

NOW THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

1. This agreement is entered into and authorized under New York Education Law §4410-b, 20 U.S.C. §1411 and 20 U.S.C. §1419, and pursuant to the directives of the New York State Education Department set forth in a memoranda dated March 17, 2000, August 2000 and October 2000 regarding the disbursement of IDEA funds.
2. ASEP certifies that it has submitted the appropriate SEDCAR form to the District.
3. ASEP certifies that it has provided a program of educational instruction to the students with disabilities included in the count on said form, pursuant to the laws of the State of New York and the Regulations of the Commissioner of Education, and in accordance with each student's Individualized Education Program.

4. At the District's request, ASEP shall provide documentation verifying the number and identity of students indicated on ASEP's SEDCAR form, and any other requested information or records relevant to such students.

5. ASEP agrees that it is solely responsible for the accuracy of the information included in its SEDCAR form and that it shall indemnify and hold harmless the District, its Board of Education, individual Board members, Superintendent of Schools, school administrators, officers, employees and agents, in their official and their individual capacities, from and against any and all liability, claims, demands, actions, suits, settlements, costs, losses, penalties or expenses, including attorneys' fees, court costs and other expenses of litigation or administration proceeding, or incurred by or imposed on the District in connection with the investigation or defense relating to such claim or litigation or administrative proceeding of any nature, resulting directly or indirectly from or pertaining to, arising out of or in connection with this Agreement, however caused, including but not limited to any error or omission on the SEDCAR form.

6. ASEP agrees that in the event there is a discrepancy between the number of students indicated on ASEP's SEDCAR form and the District's count of eligible Section 611 and Section 619 students, it shall be ASEP's obligation to provide documentation verifying the eligibility of said additional student(s) for the allocation of IDEA flow-through funds.

7. **SECTION 619 SUB-ALLOCATION.** The District and ASEP agree that, in accordance with state and federal law, payments of sub-allocated Section 619 funds shall be made by the District to ASEP as follows:

- a. IDEA Section 619 funds for the 2022/2023 program year shall be allocated to the District based upon the October 6, 2021 special education child counts of students 3 to 5 years of age, as determined by the State Education Department.
- b. The District shall sub-allocate such funds to ASEP in the same proportion as funds are paid to the District by the State Education Department, in amounts equivalent to the federal allocation amounts attributable to students enrolled in ASEP, within 30 days after (i) the District receives any portion of its allocation of funds for the current year, or (ii) the due date for receipt of SEDCAR forms by the District, whichever is later.
- c. The 2022/2023 Section 619 per student sub allocation for ASEP shall be \$466.00

8. SECTION 611 SUB-ALLOCATION. The District and ASEP agree that, in accordance with state and federal law, payments of sub-allocated Section 611 funds shall be made by the District to ASEP as follows:

- a. IDEA Section 611 funds for the 2022/2023 program year shall be allocated to the District based upon the October 6, 2021 special education child counts of students 3 to 21 years of age, as determined by the State Education Department.
- b. The District shall sub-allocate such funds to ASEP in the same proportion as funds are paid to the District by the State Education Department, in amounts equivalent to the federal allocation amounts attributable to students enrolled in ASEP, within 30 days after (i) the District receives any portion of its allocation of funds for the current year, or (ii) the due date for receipt of SEDCAR forms by the District, whichever is later.
- c. The 2022/2023 Section 611 per student sub-allocation for ASEP shall be \$1,549.00.

9. The District shall be responsible for the sub-allocation of Section 619 and Section 611 IDEA flow through funds to ASEP only for the number of students counted on ASEP's SEDCAR form, provided that the number of students is consistent with the District's count of eligible Section 611 and Section 619 students, and only provided said form was submitted to the District by the deadline date.

10. Payments of the sub-allocated IDEA federal funds shall be made to ASEP out of a separate account set up by the District for such funds. Upon receipt of payment of any portion of sub-allocated funds, ASEP shall provide a written receipt to the District certifying that said funds have been received and placed in an appropriate account by ASEP.

11. ASEP shall not sell, assign, transfer or encumber this Agreement or any interest or payment hereunder, or suffer or permit any such assignment, transfer or encumbrance to occur by operation of law otherwise, without the prior written consent of the District and/or, where necessary, approval by the State Education Department.

12. Where applicable, ASEP shall comply with all regulations and requirements of the State of New York with respect to the operation of a pre-kindergarten/child care agency, including licensing by the New York Department of Social Services. ASEP shall be solely responsible for compliance with any such applicable regulations or requirements.

13. This Agreement constitutes the entire Agreement between the District and ASEP with respect to the subject matter hereof, and this Agreement supersedes all prior and

contemporaneous Agreements between the District and ASEP in connection with the subject matter of this Agreement. No officer, employee or other servant or agent of the District or ASEP is authorized to make any representation, warranty or other promise not contained in this Agreement. No change, termination or attempted waiver of any of the provisions of this Agreement shall be binding upon the District or ASEP unless in writing and signed by the District and ASEP.

14. If any provision of this Agreement or the application of any provision to any person or to any circumstances shall be determined to be invalid or unenforceable, then such determination shall not affect any other provision, or the application of any provision to any other person or circumstance, all of which other provision shall remain in full force and effect, and it is the intention of the District and ASEP that, if any provision of this Agreement is susceptible of two or more constructions, one of which would render the provision enforceable and the other or others of which would render the provision unenforceable, then the provision shall have the meaning that renders it enforceable.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement the day and year first written.

Brookville Center For Children's Services, Inc

Date: 12/21/22

By: Stephen J. Perry
[Title]
Chief Executive Officer

Malverne Union Free School District

By: _____
President, Board of Education