Memorandum of Understanding for the Provision of

School-Based Health Center Services

By and Among:

and

School District

This Memorandum of Understanding (this "MOU") is made effective as of August 2, 2018 (the "Effective Date"), by and among (f/k/a), a Missouri nonprofit corporation (' '), and School District of County, Missouri, which is a seven-director school district pursuant to R.S.Mo. § 162.211 et seq., and a political subdivision of the State of Missouri (' '), and is executed pursuant to the terms and conditions set forth herein.

RECITALS:

WHEREAS, the parties all acknowledge that children from low-income and racial and ethnic minority populations in the United States are less likely to have access to health care, are more likely to experience poor health, and are more likely to miss more days of school because of illness than do children from more economically and socially advantaged populations; and

WHEREAS, the parties also acknowledge that as a place where children spend a significant amount of time, school plays an important role in their health and development and can be a central point for coordinating the effective delivery of health programs; and

WHEREAS, the parties further acknowledge that childhood illnesses, mental health problems, poor school performance and risky behaviors can lead students who are affected by these issues to drop out of school; and

WHEREAS, the majority of students residing and attending schools located within the geographical boundaries served by are subject to one or more of the foregoing issues that compromise their health and educational outcomes; and

WHEREAS, operates one or more federally-qualified health centers ("FQHCs") located in the area, which provide comprehensive and affordable health care services to the medically underserved populations residing in the area; and

WHEREAS, the parties mutually desire that school-based health center ("SBHC") within space such SBHC to operate within its district; and

WHEREAS, the parties would like to memorialize their agreement and respective responsibilities with regard to establishing, funding, managing, and operating the SBHC as described herein.

NOW, THEREFORE, in exchange for the mutual promises contained herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. Term and Termination.

- A. This MOU shall commence on the Effective Date and terminate on the third anniversary of the Effective Date. Unless otherwise terminated, the MOU will renew perpetually each year on the anniversary of the Effective Date after the initial term. Either or may terminate this MOU at any time upon sixty (60) days' advance written notice to the other party hereto. Upon termination of this MOU for any reason, neither nor will have any further obligations under this MOU.
- B. Either party may immediately terminate this MOU upon written notice if the other party breaches or is in default of any obligation hereunder, and if such default has not been cured within ten (10) days after receipt of written notice to the defaulting party from the party seeking to terminate the MOU.
- C. Upon termination or expiration of this MOU, shall immediately cease performing any Services (as that term is defined in Section 2 of this MOU) except as indicated herein to the contrary. Termination of this MOU by a party shall not act as a waiver of any breach of this MOU and shall not act as a release of any party from any liability for breach of such party's obligations under this MOU. No party shall be liable to the other party for damages of any kind solely as a result of terminating this MOU in accordance with its terms, nor shall termination of this MOU by a party be with prejudice to any other right or remedy of such party under this MOU or applicable law.

2. <u>Services to be Provided at SBHC.</u>

As is otherwise described in this MOU, will provide at the SBHC physical, behavioral, and/or preventative health services as described in this Section ("Services") to students enrolled in any school, consistent with the professional staffing as described herein. The Services will be as determined by in its discretion from time to time after taking into account the needs of the relevant student population and scapabilities, which may include:

- immunizations;
- sports physicals;
- behavioral therapies;
- · general wellness examinations; and,
- other preventative care.

3. Responsibilities of

A. Dependent upon the date of completion of sufficient and adequate SBHC space within a school facility (the "Build-Out," as defined in Section 4.A herein), will commence to provide Services at such SBHC location within 30 days of the later of (i) approval

- 's application to the U.S. Department of Health and Human Services Health of Resources & Services Administration ("HRSA") for a Change in Scope permitting provide and perform Services in accordance with this Agreement, and (ii) completion of the Build-Out (the date of the later of these two events being the "Services Commencement Date"). The parties acknowledge a mutual intention for such Services to commence prior to the start of will not be obligated to commence providing Services the 2018-2019 school year, but until HRSA approves the Change in Scope and the appropriate SBHC space is available and the Services therein can be appropriately rendered as determined by Beginning on the Services Commencement Date, will provide Services at the SBHC during regular business hours from August 1 of each year until the end of the regular school year, except on schools are closed; provided, however, that the precise hours federal holidays and when all based upon its of operation and scheduling of Services will be determined by s capabilities. assessment of the needs of the relevant student population and will determine and maintain the appropriate staffing for the SBHC based upon its assessment of 's capabilities, provided that specific the needs of the relevant student population and Services will be provided and performed by appropriate personnel. At least one (1) health care provider will be present at the SBHC at all times that it is open as required in this Section, as determined by
- B. will obtain and arrange delivery and installation of computer equipment, technology equipment, medical equipment, medical tools, medical documents, software, and all other items necessary to the provision of Services and any and all administrative functions related thereto in the SBHC, other than the "Furniture" as described in Section 4.A ("Equipment"). All Equipment shall be installed by the Services Commencement Date.
- C. For those health care services which are not provided at the SBHC, will provide appropriate referral information.
- D. will obtain all legally required parental or legal guardian consents necessary to provide Services to students.
- E. As appropriate for each student receiving Services at the SBHC, will bill Medicaid and/or any other third party payor for such Services. To the fullest extent permitted by law, will not directly bill any student, or any student's financially responsible party, or for any Services.
- F. will comply with applicable laws for the scope of this Agreement.
- G. As and to the extent applicable to it, will comply with any and all requirements and guidelines of the U.S. Department of Health and Human Services Health Resources & Services Administration ("HRSA"), the Federally Supported Health Centers Assistance Act, 42 U.S.C. § 233 ("FSHCAA"), the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 1402(b), 2401(b), & 2671, et seq. ("FTCA"), Section 330 of the Public Health Service Act, 42 U.S.C. § 254(b), et seq. ("Section 330"), and any other applicable statutory or regulatory authority related to this MOU and the provision of Services, including but not limited to, the filing and timely renewal of all deeming applications, appropriate contracting, registration, reporting, and approval

of all employees, contractors, officers, and agents of and proper application for and maintenance of the appropriate scope of project to cover all of the Services, including any changes in scope thereto.

- H. will assist with enrolling students in Medicaid and other available government and private third party insurance plans with appropriate written consent from the parent(s) or guardian(s).
- I. will maintain medical records in accordance with all applicable federal and state laws, including, without limitation, HIPAA and FERPA to the extent applicable to
- J. will participate in and share information with the Missouri School-Based Health Alliance and For the Sake of All, as legally permissible, in order to disseminate information and best practices that can be applied in the future to other SBHA-related entities.
- K will provide or arrange for the safe, efficient, and proper clean-up and disposal of all medical waste and biohazardous materials created, produced, or otherwise found on the premises of the SBHC.
- L. will conduct background checks on all employees, contractors, officers, directors, and agents of consistent with its policies and practices.
- M. will maintain all documents pertaining to this MOU or to the Services offered and rendered as required of it in accordance with all local, state, and federal laws.

4. Responsibilities of

- A. has procured the necessary design and construction plans and drawings for the SBHC space, including necessary utilities (the "Build-Out"), which are attached hereto as Exhibit A. shall retain an appropriate contractor to construct the Build-Out and fund construction of the Build-Out. will provide, by way of the Build-Out, the space necessary to manage and operate a functioning SBHC, as agreed by and in compliance with Policies and Procedures, state and local law.
- B. will furnish the lobby of the Build-Out and the hallways and administrative areas of the Build-Out with adequate furnishings as determined by ("Furniture"). will maintain the SBHC space and the Furniture for use as contemplated by this Agreement by including by the payment of all utility amounts pertaining to the Build-Out and the performance of regular custodial services as in other areas of 's buildings. Notwithstanding the foregoing, the parties acknowledge that the final decision with regard to whether to construct the Build-Out shall remain within the sole discretion of
- C. will provide SBHC access to students and their families, with the purpose of obtaining parental consent and enrolling students into medical care through the SBHC.

- D. will develop and implement policies based on best practices to support enrollment and utilization of the SBHC.
- E. will facilitate participation of students, parents, faculty, administration, and staff in the needs assessment and the ongoing feedback and support of the SBHC contemplated in Section 3 of this MOU.
- F. will commit to regular scheduled collaborative meetings as agreed upon by each party with the health care practitioners and providers of at an agreed-upon location by each involved party to facilitate ongoing quality improvement and responsiveness to student and family needs.
- G. will facilitate cooperation between the SBHC's personnel and school personnel, acknowledging the unique and important role each plays in improving student health and wellbeing.
- H. will assist in data collection, as permitted by federal, state and local laws, to support metrics of success and improvement to demonstrate the impact of the SBHC on participating students' health and well-being.
- I. will identify a point person from to serve as the district's contact for the SBHC and for communications with
- J. will make wireless internet access available to the staff at the SBHC, similar to the internet access that is available to faculty and staff.

5. Representations and Warranties.

- A. hereby represents and warrants the following:
 - i. it is, and at all times during the term of this MOU will be, in compliance with all requirements of federal, state, and local statutes and regulations for the performance of its obligations under this MOU;
 - ii. it shall not allow any employee, contractor, officer, or agent to perform any medical, surgical, dental, or related function either outside of the scope of his/her employment, or outside the scope of the services covered by 's Section 330 scope of project authorization as in force and as applicable;
 - iii. is incorporated in and is and shall remain in good standing under the laws of the State of Missouri and any other applicable laws, and is duly authorized to conduct business under this MOU;
 - iv. has full power and authority to enter into this MOU and carry out its obligations hereunder;

- v. this MOU has been duly authorized by all necessary institutional action and represents the legally binding and fully enforceable obligation of the person(s) entering into and executing this MOU on behalf of is/are fully authorized to do so; and,
- vi. it will not employ or contract with any person in connection with the Services who has been excluded, debarred or suspended and who is ineligible to participate in any government program.
- B. hereby represents and warrants the following:
 - it is, and at all times during the term of this MOU will be, in compliance with all requirements of federal, state, and local statutes and regulations for the performance of its obligations under this MOU;
 - ii. is a seven-director school district pursuant to R.S.Mo. § 162.211 et seq., and a political subdivision of the State of Missouri and shall remain in good standing under the laws of the State of Missouri and any other applicable laws, and is duly authorized to conduct business under this MOU;
 - iii. it has full power and authority to enter into this MOU and carry out its obligations hereunder;
 - iv. this MOU has been duly authorized by all necessary institutional action and represents the legally binding and fully enforceable obligation of and the person(s) entering into and executing this MOU on behalf of is/are fully authorized to do so; and,
 - v. it will not employ or contract with any person in connection with the Services who has been excluded, debarred or suspended and who is ineligible to participate in any government program.
- C. Each party agrees that is will timely notify the other party if any of the above warranties or representations becomes untrue.

6. Miscellaneous.

A. <u>LIMITATION OF LIABILITY</u>. EACH PARTY TO THIS MOU SHALL BE SOLELY RESPONSIBLE FOR ANY AND ALL ACTIONS, SUITS, DAMAGES, LIABILITY, OR OTHER PROCEEDINGS BROUGHT AGAINST IT AS A RESULT OF THE ALLEGED NEGLIGENCE, MISCONDUCT, ERROR, OR OMISSION OF ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES. EXCEPT AS PROVIDED IN SECTIONS 6.B AND 7.A, BELOW, NO PARTY IS OBLIGATED TO INDEMNIFY THE OTHER PARTY OR TO HOLD THE OTHER PARTY HARMLESS FROM COSTS OR EXPENSES INCURRED AS A RESULT OF SUCH CLAIMS AND SHALL CONTINUE TO ENJOY ALL RIGHTS, CLAIMS, AND DEFENSES AVAILABLE TO IT

UNDER LAW, TO SPECIFICALLY INCLUDE SECTION 537.600, ET SEQ. OF THE MISSOURI REVISED STATUTES. SHALL CONTINUE TO ENJOY ALL RIGHTS, CLAIMS, AND DEFENSES AVAILABLE TO IT UNDER LAW, TO SPECIFICALLY INCLUDE THE FEDERAL TORT CLAIMS ACT. NOTHING IN THE MOU SHALL BE CONSTRUED AS AN INDEMNIFICATION BY ONE PARTY OR THE OTHER FOR LIABILITIES OF A PARTY OR THIRD PERSONS FOR PROPERTY OR ANY OTHER LOSS, DAMAGE, DEATH, OR PERSONAL INJURY ARISING OUT OF THE PERFORMANCE OF THIS MOU. ANY LIABILITIES OR CLAIMS FOR PROPERTY OR OTHER LOSS, DAMAGE, DEATH, OR PERSONAL INJURY BY A PARTY OR ITS AGENTS, EMPLOYEES, CONTRACTORS, OR ASSIGNS OR BY THIRD PERSONS ARISING OUT OF AND DURING THIS MOU SHALL BE DETERMINED ACCORDING TO APPLICABLE LAW. DOES NOT RELINQUISH OR WAIVE ANY OF ITS RIGHTS UNDER APPLICABLE STATE GOVERNMENTAL IMMUNITIES LAW. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THE PARTIES ACKNOWLEDGE AND AGREE THAT SHALL BE SOLELY RESPONSIBLE FOR THE PROVISION OF ALL SERVICES AS PROVIDED IN SECTION 2 HEREUNDER AND THAT IS NOT A PROVIDER OF ANY SUCH SERVICES AND HAS NO ROLE OR RESPONSIBILITY REGARDING ANY CARE TO, TREATMENT OF, OR SERVICES FOR SPECIFIC PATIENTS BY VIRTUE OF THIS AGREEMENT. DOES NOT RELINQUISH ANY OF ITS RIGHTS UNDER APPLICABLE IMMUNITIES LAW, INCLUDING THE FEDERAL TORT CLAIMS ACT. NOTHING IN THIS MOU SHALL CONSTITUTE OR BE CONSIDERED A WAIVER OF 'S, OR SOVEREIGN OR OTHER IMMUNITY.

B. <u>Insurance</u>. Except as is otherwise stated herein, shall purchase and maintain general liability insurance coverages in the minimum amounts of \$2,000,000 per occurrence, \$2,000,000 annual aggregate, through a company or companies lawfully authorized to do business in the State of Missouri for claims arising out of or resulting from its performance under this MOU and for which it may be legally liable, whether such services be by directly or by a subcontractor or by anyone directly or indirectly employed or retained by it, or by anyone for whose acts may legally and reasonably be liable. shall in no event be required to obtain medical malpractice insurance, as it is not a provider of Services under this MOU.

acknowledges that is protected through the FTCA, which provides the extent of 's coverage for medical malpractice liability, and, therefore that , so long as it maintains continuous coverage and annually renews with the U.S. Dept. of Health and Human Services in accordance with required procedures and its obligations under this MOU, has no further obligation to procure any other medical malpractice insurance coverage as described in this paragraph or otherwise.

In addition to FTCA coverage, shall maintain general liability insurance coverage in the minimum amounts of \$1,000,000 per occurrence, \$2,000,000 annual aggregate, through a company or companies lawfully authorized to do business in the State of Missouri for claims arising out of or resulting from its performance under this MOU, its presence on and actions in 's building and campus, and any gaps in FTCA coverage. shall also be solely

responsible for all workers' compensation coverage related to its employees. Such insurance shall be on an occurrence basis, or if on a claims-made basis and such claims-made insurance is canceled or terminated for any reason, an extended reporting endorsement shall be purchased applicable to all claims arising out of or resulting from their respective performance during the term of this MOU. All such commercial insurance will be provided by insurance with an AM Best Rating of A VII or better through a company or companies lawfully authorized to do business in the State of Missouri unless waived in writing by the other party. Each party may maintain its required insurance coverages through one or more commercial policies, a self-funded insurance program, or any combination thereof.

- C. Relationship of the Parties. In the performance of the duties undertaken by each party hereunder, it is mutually understood and agreed that each party and the employees or agents of such party providing services hereunder are independent contractors with respect to the other party, and nothing in this MOU is intended, nor shall it be construed to create between and among them, and/or their employees or agents, an employer/employee relationship, a joint venture relationship, a principal/agent relationship, a partnership, or any relationship other than that of independent entities contracting with each other, solely for the purpose of carrying out the terms and conditions of this MOU.
- Compliance with Federal and State Laws. The parties agree that the benefits to any party D. hereunder do not require, are not payment for, and are in no way contingent upon the admission, referral or any other arrangement for the provision of any item or service offered by any party in any facility or laboratory controlled, managed or operated by any party. The parties expressly acknowledge and agree that they shall fully comply with all applicable federal, state and local laws, rules and regulations applicable to the provision of the Services contained herein. It is not a purpose, nor is it a requirement, of this MOU, or of any other agreement between the parties, to offer or receive any remuneration or benefit of any nature or to solicit, require, induce or encourage the referral of any patient the payment for which may be made in whole or in part by Medicare, Medicaid or any other government health care program. In the event of any legislative or regulatory change or determination, or any interpretation of law or regulation by a court or regulatory authority of competent jurisdiction after the execution of this MOU, whether federal or state, that has or would have a significant adverse impact on any party hereto in connection with the performance of the Services hereunder, or should a party reasonably believe that its performance of its obligations hereunder may possibly be in violation of any applicable federal or state statute or regulation, then this MOU shall be renegotiated to comply with the then current law. No party shall make or receive any payment that would be prohibited under state or federal law
- E. <u>Compliance with Policies and Procedures.</u> agrees to adhere to the reasonable policies and procedures at all times and to implement appropriate safeguards to ensure compliance, including, but not limited to, any requirements that may be applicable regarding parental consent and confidentiality requirements concerning the sharing and release of personally identifiable information regarding students and families.

- F. Exclusive Use. The SBHC shall be used exclusively by and its employees and contractors for purposes of performing the Services covered by this MOU. The SBHC shall not be utilized by at any time, except with the permission of
- G. <u>HIPAA Compliance</u>. The parties acknowledge and agree that during the course of their performance of certain obligations under this MOU and under other agreements as referenced and incorporated herein, they may have access to or be provided with "Protected Health Information" ("PHI") as that term is defined in Section 164.501 of the Privacy Regulations, as well as the Security Regulations, issued by the Department of Health and Human Services under HIPAA. Each party agrees to maintain such PHI in strictest confidence. If any relationship between or among the parties herein creates a business associate relationship, as such term is defined by HIPAA, such parties will execute a mutually agreeable business associate agreement.

H. Confidentiality.

- By virtue of this MOU, the parties may have access to information which belongs 1. to the other party and is confidential ("Confidential Information"). For purposes of this MOU, Confidential Information of a party means information, ideas, materials or other subject matter of such party, whether disclosed orally, in writing or otherwise, that is provided under circumstances reasonably indicating that it is confidential or proprietary. Confidential Information includes, without limitation: the terms and conditions of this MOU; all business plans, technical information or data, product ideas, methodologies, calculation algorithms and analytical routines; and all personnel and financial information or materials disclosed or otherwise provided by such party ("Disclosing Party") to the other party ("Receiving Party"). Confidential Information does not include that which (i) is already in the Receiving Party's possession at the time of disclosure, (ii) is or becomes public knowledge other than as a result of any action or inaction of the Receiving Party, (iii) is obtained by the Receiving Party from an unrelated third party without a duty of confidentiality, (iv) is independently developed by one of the parties, or (v) is a matter of public record.
- 2. The Receiving Party shall not use Confidential Information of the Disclosing Party for any purpose other than in furtherance of this MOU and the activities described herein. The Receiving Party shall not disclose Confidential Information of the Disclosing Party to any third parties except as otherwise permitted hereunder, or with the written consent of the Disclosing Party. The Receiving Party may disclose Confidential Information of the Disclosing Party only to those employees or contractors who have a need to know such Confidential Information and who are bound to retain the confidentiality thereof under provisions (including, without limitation, provisions relating to nonuse and nondisclosure) no less restrictive than those required by the Receiving Party for its own Confidential Information. The Receiving Party shall maintain Confidential Information of the Disclosing Party with at least the same degree of care it uses to protect its own proprietary information of a similar nature or sensitivity, but no less than reasonable care under the circumstances. Each party shall advise the other party in writing of any misappropriation or misuse of Confidential Information of the

- other party of which the notifying party becomes aware, immediately upon learning of the misappropriation or misuse.
- 3. Notwithstanding the foregoing, this MOU shall not prevent the Receiving Party from disclosing Confidential Information of the Disclosing Party to the extent required by a subpoena, judicial order, or other legal obligation, provided that, in such event, the Receiving Party shall promptly notify the Disclosing Party to allow intervention (and shall cooperate with the Disclosing Party) to contest or minimize the scope of the disclosure (including application for a protective order).
- 4. The Receiving Party acknowledges that the Disclosing Party considers its Confidential Information to contain trade secrets of the Disclosing Party and that any unauthorized use or disclosure of such information would cause the Disclosing Party irreparable harm for which its remedies at law would be inadequate. Accordingly, each party (as the Receiving Party) acknowledges and agrees that the Disclosing Party will be entitled, in addition to any other remedies available to it at law or in equity, to the issuance of injunctive relief, without bond, enjoining any breach or threatened breach of the Receiving Party's obligations hereunder with respect to the Confidential Information of the Disclosing Party, and such further relief as any court of competent jurisdiction may deem just and proper.
- 5. Upon termination of this MOU, the Receiving Party will immediately return to the Disclosing Party all Confidential Information of the Disclosing Party embodied in tangible (including electronic) form or destroy all such Confidential Information and certify in writing to the Disclosing Party that all such Confidential Information has been destroyed.

7. General Provisions.

- A. shall not discriminate on the basis of race, religion, sex, national origin, color, disability, age, or veteran's status in its operation, management, and employment practices, and with respect to availability and accessibility of Services. agrees to comply with all applicable laws of the State of Missouri and of the United States of America, regarding such non-discrimination and equality of opportunity.
- B. No party shall be liable for any delays or failures in performance due to circumstances beyond its control, including acts of God, war, terrorist acts, government regulations, disaster, strikes, civil disaster, or curtailment of transportation facilities, provided the party experiencing the force majeure condition provides immediate written notification to the other applicable parties.
- C. The delay or failure of a party to exercise or enforce any of its rights under this MOU shall not constitute or be deemed a waiver of such party's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

- D. <u>Severability</u>. If any term or provision of this MOU is held to be invalid, illegal, or unenforceable, the remaining terms and provisions of this MOU shall remain in full force and effect to the extent allowed by law, and such invalid, illegal, or unenforceable term or provision shall be deemed not to be a part of this MOU.
- E. <u>No Assignment</u>. This MOU may not be assigned by any party without the prior written consent of the other party.
- F. <u>Publicity.</u> Neither party shall use the name(s), trademark(s), or trade name(s), whether registered or not, of the other party in publicity releases or advertising or in any other manner without the prior written consent of the other party.
- G. <u>Notice</u>. Any written notice or written communication as required or permitted under this MOU or by law shall be delivered to the parties at the following addresses, or at such other address as a party has delivered in writing to the other party:

If to If to

Attn: Superintendent Attn: CEO

Notice shall be deemed given: (a) immediately when given by email, (b) on the fourth business day following deposit in the United States first class mail, (c) on the first business day following transmission by fax, or (d) upon delivery if hand delivered.

- H. shall provide the Services at no cost to except as otherwise provided herein. Each party shall bear its own costs in connection with the Services except as otherwise provided herein.
- I. <u>Entire Agreement</u>. This MOU contains the entire agreement between the parties with respect to the subject matter of this MOU and supersedes all prior or contemporaneous communications, negotiations, and agreements, written or oral, regarding the subject matter hereto. This MOU may be amended or modified only by a writing signed by all parties hereto. The parties further agree that the recitals set forth in this MOU are expressly incorporated into the terms and conditions of this MOU as if fully set forth herein.
- J. <u>Governing Law.</u> MOU shall be governed by and construed, interpreted, and enforced according to the laws of the State of Missouri and is made in , Missouri, without regard to its conflicts or choice of law principles. Venue for all actions hereunder shall be brought in the courts of County, Missouri.

IN WITNESS WHEREOF, the parties have duly executed this MOU as of the Effective Date.

By:		Ву:
Title:	0 (180	Title: <u>SUPERINTENDENT</u>
Date:	8/20/18	Date: <u>AUGUST</u> 2, 2018