South East SELPA
*Making a Difference*

SELPA
Santa Clara County Office of Education
SELPAs I, II, III, IV, VII

# SANTA CLARA COUNTY SELPAs/DISTRICT MASTER CONTRACT GENERAL AGREEMENT FOR NONSECTARIAN, NONPUBLIC SCHOOL/AGENCY SERVICES

## 2015-2016

### Table of Contents


I. **GENERAL PROVISIONS**

1. INDIVIDUAL SERVICES AGREEMENT FOR NONPUBLIC, NONSECTARIAN SCHOOL AGENCY SERVICES 3
2. TERM 4
3. MODIFICATIONS AND AMENDMENTS 4
4. COMPLIANCE WITH LAWS 4
5. DEFINITIONS AND ACRONYMS 4
6. NO DISCRIMINATION 5
7. GOVERNING LAW 5

II. **ADMINISTRATION OF MASTER CONTRACT**

8. NOTICES 5
9. MASTER CONTRACT DISPUTES 5
10. SUBCONTRACT AND ASSIGNMENTS 6
11. INDEPENDENT CONTRACTOR STATUS 6
12. CONFLICTS OF INTEREST 7
13. TERMINATION 7
14. INDEMNIFICATION 7
15. INSURANCE 8
16. CHANGE OF RESIDENCE 9
17. LCI CONTRACTOR 9
18. CERTIFICATION AND WAIVER 10
19. FACILITIES MODIFICATION 10
20. RENEWAL 10
21. ENTIRE AGREEMENT 10
22. SEVERABILITY CLAUSE 10
23. AUTHORIZED REPRESENTATIVE 11

III. **EDUCATIONAL PROGRAMS**

24. FREE AND APPROPRIATE EDUCATION (FAPE) 11
25. COPY OF IEP/IFSP AND PROGRAM OF INSTRUCTION 11
26. SERVICE/PROGRAM MONITORING 12
27. SUSPENSION AND EXPULSION 12
28. GRADUATION REQUIREMENTS 12
29. REASONABLE VISITATION 13

**30.** WITHDRAWAL BY PARENT 13
**31.** MEDICATIONS 14
**32.** ACCIDENT/INCIDENT REPORT 14
**33.** STUDENT RECORDS 14
**34.** ACCESS TO RECORDS 14
**35.** PROGRESS REPORTS 14
**36.** FORWARDING OF RECORDS 15
**37.** IEP/IFSP MEETINGS 15
**38.** STATEWIDE MANDATED ASSESSMENT 15
**39.** SCHOOL ACCOUNTABILITY REPORT CARD 15
**40.** CLASS SIZE-NONPUBLIC SCHOOL 15
**41.** RELATED SERVICES 16
**42.** DUE PROCESS AND COMPLAINTS 16
**43.** STATE MEAL MANDATE 16
**44.** HEALTH AND SAFETY 16
**45.** BEHAVIOR MANAGEMENT 17
**46.** STUDENT RETURN TO DISTRICT 17
**47.** EDUCATIONAL REPRESENTATIVE/SURROGATE PARENT 17
**48.** GRADE LEVEL ASSIGNMENT 17
**49.** MIDDLE SCHOOL/HIGH SCHOOL TRANSITION 17
**50.** OVERSIGHT: PLACEMENTS/EDUCATIONAL PROGRESS 17

**IV. PERSONNEL**

**51.** CREDENTIALS AND LICENSES/ FINGERPRINT CLEARANCE 18
**52.** TEACHER ABSENCE 18
**53.** MANDATED REPORTING 19
**54.** REPORTING OF MISSING CHILDREN 19
**55.** SEXUAL HARRASSMENT 19

**V. FINANCIAL SECTION**

**56.** SCHOOL CALENDAR 19
**57.** ABSENCES-NONPUBLIC SCHOOL 19
**58.** ABSENCES-AGENCY ONLY 20
**59.** ATTENDANCE RECORDS 20
**60.** MAINTENCE OF RECORDS 20
**61.** INSTRUCTIONAL DAY 20
**62.** PAYMENT UNIT-NONPUBLIC SCHOOL ONLY 21
**63.** PAYMENT UNIT-NONPUBLIC AGENCY ONLY 21
**64.** RATE SCHEDULE 21
**65.** PAYMENT DEMAND 22
**66.** RIGHT TO WITHOLD 22
**67.** AUDIT EXCEPTIONS 23
**68.** INSPECTION AND AUDIT 23
**69.** PAYMENT FROM OUTSIDE AGENCIES 24
**70.** DEBARMENT CERTIFICATION 24

# SANTA CLARA COUNTY SELPAs
# MASTER CONTRACT
# FOR NONPUBLIC, NONSECTARIAN SCHOOL/AGENCY SERVICES
# 2015-2016

THIS MASTER CONTRACT (contract) is made and entered into this 1st day of July,2015, between the Santa Clara Unified School District, County of Santa Clara, hereinafter referred to as the "LEA" and Wings Learning Center, hereinafter referred to as "CONTRACTOR" for the purpose of providing special education and/or related services to individuals with disabilities under the authorization of Education Code Sections 56157, and 56365-56366.7. It is understood that this Contract does not commit LEA to payment for special education and related services provided to any individual unless and until an Individual Service Agreement (ISA) for Nonpublic, Nonsectarian School/Agency (NPS/NPA) Services is executed between LEA and CONTRACTOR on behalf of such individual or interim telephone approval is given to the CONTRACTOR by a representative of LEA.

WITNESSETH:

Whereas, LEA has determined that the need for such services exists;

Whereas, CONTRACTOR is a nonpublic nonsectarian school or agency holding all required certificates and licenses; and

Whereas, that CONTRACTOR is capable of and willing to provide such services.

A current copy of California Department of Education NPS/NPA certification is attached. If certification expires during Contract period, CONTRACTOR must provide an updated copy.

In consideration of mutual promises contained herein, it is mutually agreed between the parties as follows:

## I. GENERAL PROVISIONS

### 1. INDIVIDUAL SERVICE AGREEMENT FOR NONPUBLIC, NONSECTARIAN SCHOOL/AGENCY SERVICES

An Individual Services Agreement (ISA) for Nonpublic, Nonsectarian School/Agency (NPS/NPA) Services shall be a part of this Master Contract, which CONTRACTOR will be required to execute with LEA with respect to each pupil for whom CONTRACTOR is to provide special education and/or designated instruction and services. Each pupil's Individual Services Agreement (ISA) shall identify the provider of each service required by the pupil's IEP/IFSP (CCR 3062(e)). Individual Services Agreements shall only be issued for those pupils enrolled with the approval of the LEA. CONTRACTOR is responsible for providing those services, which it has agreed to provide for each individual pupil in that pupil's ISA, unless mutually agreed upon otherwise. Individual Services Agreements are null and void upon termination of the Master Contract.

The Individual Services Agreement may be terminated by the LEA or the CONTRACTOR for cause, as set forth in EC section 56366 (a) (4), with twenty (20) days written notice. The ISA may be terminated without advance notice if both parties agree to do so in writing.

### 2. TERM

The term of this Master Contract shall be from July 1, 2015 to June 30, 2016 (Title 5 California Code of Regulations section 3062(a) unless otherwise stated. Neither the CONTRACTOR nor the LEA is required to renew this Master Contract in subsequent contract years. However, the parties acknowledge that any

subsequent Master Contract is to be renegotiated prior to June 30, 2016. In the event a Master Contract is not renegotiated by June 30th, an interim contract may be made available as mutually agreed upon for up to 90 days from July 1 of the new fiscal year. (Title 5 California Code of Regulations section 3062(d).)

## 3. MODIFICATIONS AND AMENDMENTS

This Contract may be modified or amended by a written document, which complies with legal mandates, executed by CONTRACTOR and LEA. If certification expires during Master Contract period, CONTRACTOR must provide an updated copy or a copy of a waiver of such certification issued by the CDE. This Master Contract will be null and void if such certification or waiver is expired and not renewed or waived, or if such certification is revoked, rescinded, or otherwise nullified during the effective period of this Master Contract. The CONTRACTOR agrees to apply the same rate for the term of the contract unless mutually agreed otherwise in writing by LEA and contractor. Changes in the administrative or financial provisions of the Contract which do not alter the educational services or placement may be made at any time during the term of the Contract, as mutually agreed in writing by CONTRACTOR and LEA.

## 4. COMPLIANCE WITH LAWS

During the term of this Contract, CONTRACTOR shall comply with all applicable federal, state, CDE, LEA and other local statutes, laws, ordinances, and regulations including, but not limited to, those relating to the required special education services, facilities for individuals with disabilities, student enrollment and transfer, corporal punishment, pupil discipline, and positive behavior interventions. The CONTRACTOR shall also fully cooperate with any due process or complaint investigations.

## 5. DEFINITIONS AND ACRONYMS

The following acronyms are used for the purpose of the Agreement:

- CONTRACT (Master Contract)
- CDE (California Department of Education)
- CDOJ (California Department of Justice)
- OAH (Office of Administrative Hearings)
- BIP (Behavior Intervention Plan)
- DAYS (Calendar days, unless otherwise specified)
- DIS (Designated Instruction Service) also known as "Related Services"
- FAPE (Free Appropriate Public Education)
- FERPA (Family Educational Rights and Privacy Act of 1974)
- IEP/IFSP (Individualized Education Program) / (Individual Family Services Plan)
- ISA (Individual Service Agreement)
- ITP (Individual Transition Plan)
- IMMEDIATE (within 24 Hours)
- LEA (Local Education Agency)
- LICENSE (valid, non-expired document issued by a licensing agency within the Department of Consumer Affairs or other state licensing office and authorizing the bearer of the document to provide certain professional services, including but not limited to mental health and board and care services at a residential placement)
- LRE (Least Restrictive Environment)
- NOTIFICATION (Within fourteen (14) calendar days, unless otherwise specified)
- NPA: Nonpublic agency as defined in EC 56035
- NPS: Nonpublic school as defined in EC 56034
- PARENT (means the natural parent, adoptive parent, surrogate parent, legal guardian, or any other adult granted educational decision-making rights by the natural or adoptive parent, a court of competent jurisdiction, or otherwise provided by law)
- SELPA (Special Education Local Plan Area)

- SELPA AU (Special Education Local Plan Area Administrative Unit)
- SubCONTRACTOR (Any individual contracted to provide direct service to student)
- SPI (Superintendent of Public Instruction)

### 6. NO DISCRIMINATION

CONTRACTOR shall not unlawfully discriminate on the basis of actual or perceived gender, sexual orientation, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability or age, or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics, in employment or operation of its program.

### 7. GOVERNING LAW

The terms and conditions of the Contract shall be governed by the laws of the State of California with venue in Santa Clara County, California.

## II. ADMINISTRATION OF MASTER CONTRACT

### 8. NOTICES

All notices involving 1) revocation of CONTRACTOR's certification, 2) Master Contract disputes, 3) changes of LEA pupil's residence outside of current LEA attendance area, 4) termination of ISA, 5) termination of Master Contract, 6) notification of cancellation or material change in CONTRACTOR's or LEA's insurance coverage, and 7) LEA's reasonable objections to a subCONTRACTORs liability insurance policy, are required to be given to the LEA and/or CONTRACTOR in writing and may be delivered in person or by certified or registered mail, postage prepaid or by other delivery services. Notices to LEA shall be addressed to **Anna Marie Villalobos, Director of Special Education, Santa Clara Unified School District, 1889 Lawrence Road Santa Clara, CA 95152**. Notices to CONTRACTOR shall be addressed to CONTRACTOR's address **Wings Learning Center, 1201 Main Street Redwood City, CA 94063**. If mailed, notice shall be effective as of the date of postmark on receipt by addressee. If delivered by hand, the effective date shall be the date of receipt of addressee.

### 9. MASTER CONTRACT DISPUTES

Any disputes or disagreements between CONTRACTOR and LEA regarding implementation or interpretation of this Master Contract, or otherwise relating to this Master Contract, that are not informally voluntarily resolved shall be addressed and/or resolved as set forth in this section of the Master Contract. This provision in this section of the Master Contract, shall apply to all disputes and disagreements related to events that occur and/or injuries that are incurred and/or commence during the term of this Master Contract, even if the party claiming injury first discovers the events and/or injuries giving rise to the disagreement or dispute or first notifies the other party of the disagreement or dispute, after expiration of this Master Contract. For purposes of this section of the Master Contract, the term "injury" shall include monetary and/or non–monetary injuries.

Step One: The party claiming injury as a result of the facts underlying the dispute or disagreement shall first attempt to resolve the dispute directly between senior level representatives of the parties. If CONTRACTOR is the party claiming injury, CONTRACTOR shall notify the LEA's Special Education Director or other LEA employee known or reasonably believed to be responsible for LEA's special education program, of the existence of a disagreement or dispute and attempt to resolve the matter informally.

Step Two: If the dispute or disagreement is not resolved at Step One, the party claiming injury as a result of the facts underlying the dispute or disagreement shall notify the Director of the SELPA of which the LEA is a member and request that the SELPA Director participate in attempting to resolve the matter informally.

Step Three: If the dispute or disagreement is not resolved at Step Two, the party claiming injury, if it wishes to pursue resolution of the dispute or disagreement, shall notify the other party in writing that it wishes to proceed to Step Three. The notice shall include: (a) written statement of applicable facts supporting it's position; (b) all applicable documents; (c) a proposed remedy to resolve the dispute; (d) the time and date during the regular or extended school year at which a Step Three meeting will be held, which date shall be no less than fifteen and no more than forty-five days after the date of the notice; (e) a location in, Santa Clara County at which the Step Three meeting will be held; (f) a statement that the LEA shall invite a representative from a SELPA different from the SELPA that LEA belongs to and CONTRACTOR shall invite a representative from a different nonpublic school, to attend. The date, time or location of the meeting may be changed by written agreement of the parties, including but not limited to a date earlier than fifteen days or later than forty-five days after the date of the notice.

At the Step Three meeting, LEA and CONTRACTOR shall be given the opportunity to present all applicable facts and documents to the invited representatives, who will be asked to provide a suggested resolution of the dispute or disagreement, that is both equitable and consistent with applicable law and which may include a recommendation for one or more additional meetings, at which the representatives will attempt to mediate a resolution to the dispute or disagreement

Step Four: If the dispute or disagreement is not resolved at Step Three, the party claiming injury may seek legal and/or equitable redress in a court of competent jurisdiction, or if mutually agreed to in writing by the parties, may submit the matter to the binding arbitration by an arbitrator or arbitration service to be agreed to by the parties.

## 10. SUBCONTRACTS AND ASSIGNMENT

A. CONTRACTOR shall have available a list to LEA of subcontracts for any of the related services contemplated, including transportation, under this Contract.

B. SubContracts for the provision of special education and related services may be entered into only with NPS/NPA's certified by the California Department of Education (CDE) except for an individual providing speech and language therapy, or psychological or educational assessment who has a current license issued by the applicable licensing authority for those services provided.

C. CONTRACTOR agrees that any subCONTRACTORs providing educational instruction or services including transportation shall keep in effect an appropriate policy of liability insurance as mutually agreed by CONTRACTOR and LEA. CONTRACTOR agrees that subCONTRACTORs providing transportation shall keep in effect a liability insurance policy providing at least $1,000,000.00 coverage. CONTRACTOR shall ensure that such subCONTRACTOR shall require the subcontractor's insurance provider to send written notice of cancellation to LEA at least twenty (20) days prior to cancellation or material change in coverage. Proof of insurance shall be provided to LEA prior to the beginning of transportation services by a subCONTRACTOR and upon renewal of coverage thereafter. Transportation subCONTRACTORs shall submit copies of insurance policies upon request of LEA; otherwise, certificates of insurance may be acceptable proof, provided that the information thereon is adequate and verifiable.

## 11. INDEPENDENT CONTRACTOR STATUS

This Contract is by and between two independent entities and is not intended to and shall not be constructed to create the relationship of agent, servant, employee, partnership, joint venture or association.

## 12. CONFLICTS OF INTEREST

CONTRACTOR agrees to furnish LEA a copy of its current bylaws and a current list of its Board of Directors (or Trustees), if it is incorporated. CONTRACTOR and any member of its Board of Directors (or Trustees) shall avoid any relationship with LEA that constitutes or gives the appearance of a conflict of interest.

NPA CONTRACTOR acknowledges that no related services provided by NPA CONTRACTOR shall be reimbursed by the State if provided by an individual who was an employee of LEA within the last three hundred sixty-five (365) days prior to performing the service, except if the individual was involuntarily terminated, or laid off as part of necessary staff reductions from the contracting district, SELPA or county office. This provision does not apply to any person who is able to provide related services during the extended school year because he or she is otherwise employed for up to ten months of the school year by LEA. (EC 56366.3 (a) (b))

## 13. TERMINATION

A. This Contract may be terminated for cause by LEA or CONTRACTOR at any time. To terminate this Contract either party shall give 20-calendar days written notice prior to the date of the termination (EC 56366 (a) (4)). Upon termination without default of CONTRACTOR, LEA shall make payment, without duplication, for all services satisfactorily performed and verified expenses incurred to date of termination. Expenses shall be itemized for review and approval by LEA.

B. In consideration of this payment, CONTRACTOR waives all right to any further payment of damage, and shall turn over to LEA everything pertaining to its services hereunder, possessed by CONTRACTOR or under its control at the time of termination.

C. Individual Service Agreements (ISA's) for NPS/NPA services may be terminated without advance notice if both parties agree to do so in writing.

D. LEA shall not terminate this contract or Individual Service Agreements for Nonpublic, Nonsectarian School/Agency Services because of the availability of a public class initiated during the course of the contract unless the parent agrees to the transfer of a pupil to a public school program through the IEP process. (EC 56366 (a) (4))

E. Continued enrollment and provision of a free appropriate public education ("FAPE") to a student currently attending NPS and/or receiving services from a NPA shall not be terminated when stay put is ordered by OAH under California Education Code § 56505.

## 14. INDEMNIFICATION

CONTRACTOR shall defend, hold harmless and indemnify LEA and its governing board, officers, administrators, agents, employees, independent contractors, subCONTRACTORs, consultants, and other representatives, from all liabilities and claims for damage for death, sickness, or injury to any person(s) or damage to any property, including reasonable attorneys fees and costs without limitation all consequential damages, from any cause whatsoever arising from or connected with its service hereunder, whether or not resulting from the negligence of CONTRACTOR, its agents or employees. CONTRACTOR shall save harmless and indemnify and defend LEA and its governing board, officers, agents and employees from all damages of every nature and description proximately caused by negligent or willful acts or omissions by CONTRACTOR, its agents or employees in the course of rendering service(s) under this Agreement.

LEA shall defend, hold harmless and indemnify CONTRACTOR and its governing board, officers, administrators, agents and employees from all liabilities and claims for damage for death, sickness, or injury to any person(s) or damage to any property, including, without limitation all consequential damages, from any cause whatsoever arising from or connected with its service hereunder, whether or not resulting from the negligence of LEA, its agents or employees. LEA shall save harmless and indemnify and defend-

CONTRACTOR and its governing board, officers, administrators, agents and employees from all damages of every nature and description proximately caused by negligent or willful acts of omissions by LEA, its agents or employees in the course of rendering service(s) under Contract.

## 15. INSURANCE

CONTRACTOR shall, at his, her, or its sole cost and expense, maintain in full force and effect, during the term of this Agreement, the following insurance coverage from a California licensed and/or admitted insurer with an A minus (A-), VII, or better rating from A.M. Best, sufficient to cover any claims, damages, liabilities, costs and expenses (including counsel fees) arising out of or in connection with CONTRACTOR'S fulfillment of any of its obligations under this Agreement or either party's use of the Work or any component or part thereof:

A. **Commercial General Liability Insurance**, including both bodily injury and property damage, with limits as follows:

$1,000,000 per occurrence
$ 100,000 fire damage
$ 5,000 medical expenses
$1,000,000 personal & adv. injury
$2,000,000 general aggregate
$2,000,000 products/completed operations aggregate

B. **Business Auto Liability Insurance** for all owned scheduled, non-owned or hired automobiles with a $1 million combined single limit.

If no owned automobiles, then only hired and non-owned is required.

If CONTRACTOR uses a vehicle to travel to/from school sites, between schools and/or to/from students' homes or other locations as an approved service location by the LEA, CONTRACTOR must comply with State of California auto insurance requirements.

C. **Workers' Compensation and Employers Liability Insurance** in a form and amount covering CONTRACTOR'S full liability under the California Workers' Compensation Insurance and Safety Act and in accordance with applicable state and federal laws.

Part A – Statutory Limits
Part B - $1,000,000/$1,000,000/$1,000,000 Employers Liability

D. **Errors & Omissions (E & O)/Malpractice (Professional Liability)** coverage, **including Sexual Molestation and Abuse coverage, unless that coverage is afforded elsewhere in the Commercial General Liability policy by endorsement or separate policy,** with the following limits:

$1,000,000 per occurrence
$1,000,000 general aggregate

E. CONTRACTOR, upon execution of this Master Contract and periodically thereafter upon request, shall furnish the LEA with certificates of insurance evidencing such coverage. The certificate of insurance shall include a ten (10) day non-renewal notice provision. The Commercial General Liability and Automobile Liability policy shall name the LEA and the District's Board of Education as additional insured's premiums on all insurance policies shall be paid by CONTRACTOR and shall be deemed included in CONTRACTOR's obligations under this contract at no additional charge.

F. Any deductibles or self-insured retentions above $100,000 must be declared to and approved by the LEA. At its option, the LEA may require the CONTRACTOR, at the CONTRACTOR's sole cost, to: (a) cause its insurer to reduce to levels specified by the LEA or eliminate such deductibles or self-insured retentions with respect to the LEA, its officials and employees, or (b) procure a bond guaranteeing payment of losses and related investigation.

G. For any claims related to the services, the CONTRACTOR's insurance coverage shall be primary insurance as respects the LEA, its subsidiaries, officials and employees. Any insurance or self-insurance maintained by the LEA, its subsidiaries, officials and employees shall be excess of the CONTRACTOR's insurance and shall not contribute with it.

H. All Certificates of Insurance shall reference the contract number, name of the school or agency submitting the certificate, and the location of the school or agency submitting the certificate on the certificate.

If the LEA or CONTRACTOR determines that changes in insurance coverage obligations under this section is necessary, either party may reopen negotiations to modify the insurance obligations.

## 16. CHANGE OF RESIDENCE

CONTRACTOR shall notify parents in writing of their obligation to notify CONTRACTOR of changes in pupil's residence. CONTRACTOR shall notify LEA in writing of pupil and/or parent's change of residence within three (3) school days after CONTRACTOR becomes aware of said change. -

If the student's new residence is located within an area outside of LEA's service boundaries and CONTRACTOR fails to follow the procedures specified in this provision, LEA shall not be responsible for the costs of services delivered after the student's change of residence if CONTRACTOR had knowledge of the student's change of residence.

CONTRACTOR shall notify LEA immediately (within 24 hours) when the CONTRACTOR becomes aware of an emergency change of placement (e.g. hospitalization, juvenile hall, shelter, etc.)

## 17. LCI CONTRACTOR

If CONTRACTOR is also a licensed childcare institution (LCI), Contractor shall be licensed by the state, or other public agency having delegated authority by contract with the state to license, to provide nonmedical care to children, including, but not limited to, individuals with exceptional needs. The LCI must also comply with all licensing requirements relevant to the protection of the child, and have a special permit, if necessary, to meet the needs of each child so placed. If the Contractor operates a program outside of the state, Contractor must obtain all required licenses from the appropriate licensing agency in both California and in the state where the LCI is located. CONTRACTOR shall adhere to the legal requirement regarding educational placements for LCI pupils as stated in Education Code Section 56366.9. A LCI shall not require that a pupil be placed in its NPS, or receive NPA services from the LCI provider as a condition of being placed in its residential facility. In providing appropriate programs to individuals with exceptional needs residing in LCIs or foster family homes, the LEA shall first consider services in programs operated by public agencies. If those programs are not appropriate, special education and related services shall be provided by contract with an NPS.

The LEA which placed a student living in an LCI or foster family home in an NPS shall conduct an annual evaluation, as part of IEP process, to determine whether the placement is in the least restrictive environment (LRE). The CONTRACTOR shall report to the LEA that made the placement, on a quarterly or trimester basis, as appropriate, the educational progress demonstrated by the pupil toward the attainment of goals and objectives specified in the IEP.

The LEA is not responsible for the costs associated with NPS placements and related services until the date on which an IEP/IFSP meeting is convened pursuant to law during which the IEP/IFSP team determines that a NPS placement and related services are appropriate, and the IEP/IFSP is signed by all necessary parties, including the LEA pupil's parent or another adult with educational decision-making rights.

Any educational funds received from an LEA for the educational costs of pupils placed in an NPS shall be used solely for those purposes and not for the costs of the residential programs.

## 18. CERTIFICATION AND WAIVER

When a CONTRACTOR seeks renewal of certification, the CONTRACTOR shall provide the LEA, in which the applicant is located, written notification of its intent to seek renewal.

CONTRACTOR shall be certified by the California Department of Education (hereinafter referred to as "CDE") as a nonpublic, nonsectarian school/agency. All nonpublic school and nonpublic agency services shall be provided consistent with the area of certification specified by CDE Certification and as defined in California Education Code, section 56366 et seq and within the professional scope of practice of each provider's license, certification and/or credential. A current copy of CONTRACTOR's nonpublic school/agency certification or a waiver of such certification issued by the CDE pursuant to Education Code section 56366.2 must be provided to LEA on or before the date this contract is executed by CONTRACTOR. This Master Contract shall be null and void if such certification or waiver is expired, revoked, rescinded, or otherwise nullified during the effective period of this Master Contract. Total student enrollment shall be limited to capacity as stated on CDE certification.

In addition to meeting the certification requirements of the State of California, Contractor that operates a program outside of this state shall be certified or licensed by that state to provide, respectively, special education and related services to pupils under the federal Individuals with Disabilities Act (20 U.S.C. Sec. 1400 et seq.).

## 19. FACILITIES MODIFICATION

CONTRACTOR shall provide special education and/or related services to students in facilities that comply with all applicable federal, state, and local laws, regulations, and ordinances related, but not limited to: disability access; fire, health, sanitation, and building standards and safety; fire warning systems; zoning permits; and occupancy capacity. When CONTRACTOR is a nonpublic school, CONTRACTOR shall conduct fire drills as required by Title 5 California Code of Regulations, Section 550. CONTRACTOR shall be responsible for any structural changes and/or modifications to CONTRACTOR's facilities as required complying with applicable federal, state, and local laws, regulations, and ordinances.

## 20. RENEWAL

LEA/CONTRACTOR may, but is not required to, renew this Master Contract in subsequent Contract years.

## 21. ENTIRE AGREEMENT

This Contract and any exhibits or attachments hereto constitute the entire Contract between LEA and CONTRACTOR and supersedes any prior or contemporaneous understanding or contract with respect to the services contemplated. This Contract binds the heirs, successors, assignees, agents, and representatives of CONTRACTOR.

## 22. SEVERABILITY CLAUSE

If any provision of this Contract is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire Contract shall be severable and remain in effect.

### 23. AUTHORIZED REPRESENTATIVE

Authorization to enter into this agreement on behalf of the LEA is strictly limited to the LEA Governing Board/Superintendent/designee as the sole individual who has the capacity to act as a representative on behalf of the school district.

## III. EDUCATIONAL PROGRAMS

### 24. FREE AND APPROPRIATE PUBLIC EDUCATION

Unless otherwise agreed to, in writing, by LEA and CONTRACTOR, CONTRACTOR shall not accept payment from a parent for, or provide any services outside of those identified in a particular pupil's ISA. This clause shall not apply to the ability of a CONTRACTOR to accept payment from parents for additional services funded solely by parents' private insurance, so long as LEA and CONTRACTOR agree in writing to this arrangement, and so long as CONTRACTOR ensures that parents' payments are being made from a private insurance source only. Further, this clause is not intended to affect a CONTRACTOR'S ability to accept private payment for a pupil not being served under an ISA by that CONTRACTOR.

Unless otherwise agreed to by LEA and CONTRACTOR, CONTRACTOR shall be responsible for the provision of all appropriate supplies, equipment, or facilities for a pupil as required by his or her IEP/IFSP. No charge of any kind to parents shall be made by CONTRACTOR for special education and/or related services specified on the student's IEP/IFSP, including screening or interviews which occur prior to or as a condition of the student's enrollment under the terms of this Contract, except as specified in writing signed by all relevant parties and attached to the student's ISA. This provision does not apply to voluntary activities unnecessary to provide the student with a free appropriate public education conducted after written notification to parents as to the cost and the voluntary nature of the activity. Unless the activity takes place during a school vacation or holiday, students not participating in such activities shall continue to receive special education and/or related services as set forth in their IEP/IFSPs. CONTRACTOR shall guarantee that all charges to the LEA are consistent, justified, and based on standards applied to all students enrolled and attending the NPS/NPA.

If an individual's IEP/IFSP requires specialized low incidence equipment based on their qualifying disability, the specialized equipment and/or supplies shall be provided by the LEA unless otherwise specified in the ISA. The LEA shall provide the low incidence equipment and/or supplies identified in the pupil's IEP/IFSP, unless the CONTRACTOR specifically agrees in the ISA to provide them. Supplies and/or equipment purchased and/or provided by the SELPA/LEA remain the property of the SELPA/LEA, and supplies and/or equipment purchased by the CONTRACTOR remain the property of the CONTRACTOR.

In the event that a foster youth may be placed in a NPS, the contractor and LEA will work collaboratively with the LEA Foster Youth Liaison to ensure and facilitate proper school placement enrollment, transfer of credits, records, grades and checkout from school. (EC 48853.5 (e) (1) and AB490) Whenever a change in foster child's residence occurs, the foster child has a right to remain in the school of origin to the end of the highest grade maintained at that school. Decisions regarding placement are IEP decisions which should include participation of LEA Foster Youth Liaison as appropriate.

### 25. COPY OF IEP/IFSP AND PROGRAM OF INSTRUCTION

Upon referral of a pupil to CONTRACTOR the LEA shall provide CONTRACTOR with a copy of that pupil's IEP/IFSP, as well as available assessment information, and facilitate, if requested, an observation of the pupil. CONTRACTOR retains the right to decline enrollment of any pupil. CONTRACTOR shall notify the LEA of its decision to decline enrollment. CONTRACTOR will provide pupil a program of instruction that is consistent with each pupil's IEP/IFSP as specified in the ISA's for NPS/NPA. The general program of instruction provided to pupils under the ISA for NPS/NPA shall be responsive to LEA's required sequence of courses and related curriculum for pupils and be responsive to the IEP goals and objectives assigned by NPS/NPA. The program of instruction shall be described in writing and a copy provided to LEA prior to the effective date of this Contract. Designated instruction and related services will only be provided during the period of the pupil's regular or extended school year program, or both, and shall occur at the school site, unless otherwise specified by the pupil's IEP/IFSP. CONTRACTOR shall ensure that Individual Transition Plans (ITP's) are completed for all pupils at the age of 16 years and older. CONTRACTOR agrees to use SELPA IEP/IFSP/ITP forms and SELPA service logs.

## 26. SERVICE/PROGRAM MONITORING

CONTRACTOR shall allow access by LEA to its facilities for periodic monitoring of each LEA student's instructional program and shall participate in the formal review of each student's progress. LEA shall have access to observe each LEA student at work, observe the instructional setting, interview CONTRACTOR, and review each LEA student's records and progress. Such access shall include unannounced monitoring visits. When making site visits, LEA shall initially report to CONTRACTOR's site administrative office. If CONTRACTOR is also a LCI, LEA shall annually evaluate whether CONTRACTOR is in compliance with Education Code section 56366.9 and Health and Safety Code section 1501.1(b).

CONTRACTOR shall participate in the LEA/CDE On-site and Self Review and if applicable, District Verification Review. This review will address programmatic aspects of the Nonpublic School/Agency, compliance with relevant state and federal regulations, and Master Contract compliance.

## 27. SUSPENSION AND EXPULSION

Suspensions and expulsions of pupils by CONTRACTOR shall be consistent with the provisions of the California Education Code and California Code of Regulations (EC 48900 et seq. and 48915.5 et seq.) CONTRACTOR shall have a written policy regarding suspension and expulsion procedures. CONTRACTOR shall notify within five (5) days and provide written documentation to LEA each time a pupil is suspended, including the reason for said suspension. Written documentation shall include, but not be limited to, pupil's name, date, time, offense, rationale for disciplinary action taken, and an attached copy of all applicable Behavior Plans (i.e. goals, BIP's, etc.). CONTRACTOR agrees to contact LEA to schedule a manifestation determination at an IEP meeting no later than the 10th day of suspension. CONTRACTOR shall collaborate with LEA representatives at an IEP team meeting where the manifestation determination will be made.

## 28. GRADUATION REQUIREMENTS

If the pupil is enrolled in a NPS and is of secondary school age, LEA will list the course requirements to be satisfied by the CONTRACTOR leading toward graduation or completion of diploma requirements and specify levels of proficiency in basic skills as measured by LEA approved proficiency tests. Standardized tests including state mandated assessments shall be administered pursuant to LEA state and federal guidelines. For students in grades nine through twelve, inclusive, LEA will provide a current transcript and a specific list of courses required. At the close of each semester CONTRACTOR shall prepare transcripts and submit them to the pupil's district of residence for evaluation of progress toward completion of diploma requirements.

At the close of each semester, or upon student transfer for students in grades nine (9) through twelve (12), inclusive, CONTRACTOR shall update transcripts and submit them upon request to the student's school of residence. Six months prior to graduation, CONTRACTOR shall notify LEA of the transition to high school for graduation.

FOSTER YOUTH - AB 167 – Assembly Bill 167 refers to California legislation that amended Ed Code to exempt pupils in foster care from school district graduation requirements that exceed state graduation requirements if the pupil transfers to the district, or transfers from one high school to another within a district in the 11th or 12th grade if the pupil would not be reasonably able to complete the additional district requirements. AB 167 requires school districts to provide notice to foster youth exempted from additional district requirements if failure to satisfy such local requirements will affect the pupil's ability to gain admission to a postsecondary educational institution.

When a student exits from special education, as a result of earning a diploma, aging out or returning back to LEA, the CONTRACTOR shall provide to the LEA a summary of student's academic achievement and functional performance along with recommendations how to assist the student in meeting their post-secondary goals.

For purposes of this provision if the needs of the students are such that the IEP/IFSP team determines that a functional skills curriculum is most appropriate, the educational program shall be designed to be in alignment with the essential state standards and will result in the awarding of a certificate of completion either by the LEA or the NPS as determined by mutual agreement.

When CONTRACTOR is a nonpublic school, CONTRACTOR's general program of instruction shall: (a) be consistent with LEA's and CDE's standards regarding the particular course of study and curriculum; (b) include curriculum that addresses mathematics, literacy and the use of educational, assistive technology and transition services; and (c) provide the services as specified in the LEA student's IEP and ISA. LEA students shall have access to: (a) State Board of Education (SBE) - adopted standards-based, core curriculum and the same instructional materials for kindergarten and grades 1 to 8, inclusive; and provide standards –aligned core curriculum and instructional materials for grades 9 to 12, inclusive, used by a local education agency (LEA), that contracts with the nonpublic school; (b) college preparation courses; (c) extracurricular activities, such as art, sports, music and academic clubs; (d) career preparation and vocational training, consistent with transition plans that are in compliance with state and federal law and; (e) supplemental assistance, including individual academic tutoring, psychological counseling, and career and college counseling. CONTRACTOR's general program of instruction shall be described in writing and available to the SELPA prior to the effective date of this Master Contract.

## 29. REASONABLE VISITATION

CONTRACTOR will provide for reasonable parental access to LEA pupils and all facilities including, but not limited to: the instructional setting, recreational activity areas, meeting rooms and LEA pupil living quarters, for those parents whose children reside in the living quarters. CONTRACTOR shall ensure that parental visits are in agreement with court order, if any.

CONTRACTORs operating programs with residential components shall cooperate with parents reasonable requests for student visits in their home during, but not limited to, holidays and weekends. If the CONTRACTOR has knowledge that permission is required for parental visits, CONTRACTOR shall require the parents to provide written authorization from the designated individual or agency authorized to grant permission for the parental visit.

## 30. WITHDRAWAL BY PARENT

CONTRACTOR shall immediately report by telephone to LEA if a pupil is withdrawn from school by the parent. CONTRACTOR shall confirm such telephone call in writing immediately or no later than 3 business days.

## 31. MEDICATIONS

Unless otherwise set forth in the student's ISP, CONTRACTOR shall comply with the requirements of California Education Code section 49423 when CONTRACTOR serves a LEA student that is required to take prescription and/or over-the-counter medication during the school day. CONTRACTOR may designate personnel to assist the LEA student with the administration of such medication after the LEA student's parent(s) provides to CONTRACTOR: (a) a written statement from a physician detailing the type, administration method, amount, and time schedules by which such medication shall be taken; and (b) a written statement from the LEA student's parent(s) granting CONTRACTOR permission to administer medication(s) as specified in the physician's statement. CONTRACTOR shall maintain, and provide to LEA upon request, copies of such written statements. CONTRACTOR shall maintain a written log for each LEA student to whom medication is administered. Such written log shall specify the student's name; the type of medication; the date, time, and amount of each administration; and the name of CONTRACTOR's employee who administered the medication. CONTRACTOR maintains full responsibility for assuring appropriate staff training in the administration of such medication consistent with physician's written orders. Any change in medication type, administration method, amount or schedule must be authorized by both a licensed physician and parent.

## 32. ACCIDENT/INCIDENT REPORT

Contractor agrees to submit a written accident report to LEA and SELPA Director within 24 hours of incident when a pupil has suffered an injury requiring medical attention provided by a medical practitioner resulting from physical restraint, injured another individual, is named as a suspected perpetrator or victim in an official sexual harassment complaint, or has been involved in an activity requiring notification of law enforcement or emergency personnel.

## 33. STUDENT RECORDS

CONTRACTOR agrees to keep a current listing of names and positions of employees who have access to confidential records. All student records shall be kept in a secure location preventing access by unauthorized individuals. CONTRACTOR will maintain access log delineating date, time, agency, and identity of individual for any authorized person accessing student records whom is not in the direct employ of the CONTRACTOR. SubCONTRACTORs shall not be considered in the direct employ of the CONTRACTOR for the purposes of accessing student records. Nevertheless, pursuant to EC 49076(b)(6), CONTRACTOR may provide subCONTRACTORs access to pupil records when the subCONTRACTOR provides services within CONTRACTOR's educational institution and has a legitimate interest in the information contained in the pupil records. CONTRACTOR also agrees to comply with the parental right to request records and the parental right to inspect a student's file as defined in the federal law under Family Educational Rights and Privacy Act of 1974 ("FERPA") and the California Educational Code § 49000 et seq. and § 56000 et seq.

## 34. ACCESS TO RECORDS

CONTRACTOR shall insure that records of access are maintained for individual files. These records shall include the name of the party, date, and purpose of access.

## 35. PROGRESS REPORTS

Progress reports relating to goals and objectives in a pupil's IEP/IFSP and other data required for review shall be sent by CONTRACTOR to LEA and parent on a quarterly basis or trimester as appropriate. Additional reporting periods may be identified by the IEP/IFSP team. Upon request, an updated report shall be provided if there is no current progress report, whenever a pupil is scheduled for an IEP/IFSP review by LEA's Individualized Education Program team or when a pupil's enrollment is terminated. CONTRACTOR shall establish grading policies to be followed unless otherwise specified in student's IEP/IFSP.

## 36. FORWARDING OF RECORDS

CONTRACTOR agrees, in the event of school or agency closure, to forward pupil records immediately but no later than seven (7) days to LEA. These shall include, but are not limited to, current transcripts, IEP/IFSP reports and results of proficiency testing and State Assessments.

## 37. IEP/IFSP MEETINGS

The CONTRACTOR is responsible for providing the student's special education teacher and the related services or personnel appropriate to represent the related services at required IEP/IFSP/ITP meetings. These meetings will be held at the NPS unless otherwise approved by the LEA and CONTRACTOR. Except as otherwise provided in the Master Contract, CONTRACTOR and LEA shall participate in all IEP team meetings regarding LEA students for whom ISAs have been or may be executed. The LEA is responsible for scheduling and issuing the Notice of Meeting for all IEP team meetings. Parents or guardians shall be notified of the IEP meeting early enough to ensure an opportunity to attend. Proper notice of meeting shall include the purpose, time and location and who shall be in attendance. Every effort shall be made to schedule the IEP/IFSP meetings at a time that is mutually convenient to parents, LEA, and CONTRACTOR's staff. Parents or guardians shall be informed in the notice of the right to bring other people to the meeting who has knowledge or special expertise of the pupil. The CONTRACTOR shall ensure private and confidential communication between the pupil and members of the IEP team, at the pupil's discretion. Transition services (designed with a results oriented process focused on improving the academic functional achievement of the child) must be addressed in the IEP for the student no later than in the year in which they turn 16 years of age. Extended school year shall be discussed as part of the IEP meeting with an emphasis on student need.

## 38. STATEWIDE MANDATED ASSESSMENT

CONTRACTOR shall administer all statewide achievement tests and any other state assessment as mandated by LEA pursuant to LEA and/or CDE guidelines.

Each student, subject to the alternative accountability system pursuant to EC section 52052, placed in an NPS by an LEA, shall be tested by qualified staff of the NPS in accordance with that accountability program.

The CONTRACTOR agrees to conform to the approved testing calendar window. The LEA shall provide opportunities for training as necessary and requested by the contractor. The LEA shall provide all appropriate test materials to the NPS for administration of the tests.

NOTE: CONTRACTOR shall determine its state-mandated testing period subject to EC section 60640. CONTRACTOR shall notify the LEA of a pupil enrolled in the school of its testing period. CONTRACTOR's staff, who shall administer the assessments, shall attend the regular testing training sessions provided by the LEA. If CONTRACTOR's staff have received training from one LEA or similar agency, that training will be sufficient for all LEAs that send pupils to the CONTRACTOR.

## 39. SCHOOL ACCOUNTABILITY REPORT CARD

The NPS shall prepare a school accountability report card in accordance with EC section 33126.

## 40. CLASS SIZE-NONPUBLIC SCHOOL

When Contractor is a nonpublic school, CONTRACTOR shall ensure that class size shall not exceed a ratio of one teacher per twelve (12) students. Upon written approval by an authorized LEA representative, class size may be temporarily increased by a ratio of one (1) teacher to fourteen (14) students when necessary during the regular or extended school year to provide services to students with disabilities.

In the event a nonpublic school is unable to fill a vacant teaching position responsible for direct instruction to students, and the vacancy has direct impact on the California Department of Education Certification of that school, the nonpublic school shall develop a plan to assure appropriate coverage of students by first utilizing existing certificated staff. The nonpublic school and the LEA may agree to one thirty (30) school day period per contract year where class size may be increased to assure coverage by an appropriately credentialed teacher. Such an agreement shall be in writing and signed by both parties. This provision does not apply to a nonpublic agency.

CONTRACTOR providing special education instruction for individuals with severe disabilities between the ages of three (3) and five (5) years, inclusive, shall comply with the appropriate instructional adult to child ratios pursuant to California Education Code sections 56440 et. Seq. and 56441.5.

## 41. RELATED SERVICES

Unless otherwise specified in the LEA student's IEP/IFSP and/or ISA, CONTRACTOR shall provide related services to LEA students on only those days that the LEA student's school of attendance is in session and the LEA student is scheduled to attend school. If pupil misses a related service session due to staff absence, that session shall be provided within thirty (30) school days.

## 42. DUE PROCESS AND COMPLAINTS

CONTRACTOR shall fully participate in due process proceedings before OAH, including mediations and hearings, as requested by LEA. CONTRACTOR shall also fully participate in the investigation and provision of documentation related to any complaint filed with the State of California, the Office of Civil Rights, or any other state and/or federal governmental body or agency.

LEA shall inform parent(s) of their due process rights upon 1) each notification of an IEP/IFSP meeting; 2) reevaluation of their child; 3) registration of a complaint or a request for a due process hearing; and (4) the commencement of an expulsion proceeding. Upon request by LEA, CONTRACTOR shall assist the LEA in meeting its due process notification obligations.

## 43. STATE MEAL MANDATE

CONTRACTOR shall assist LEA to meet the LEA's responsibilities to satisfy the State Meal Mandate under EC 49530, 49530.5 and 49550.

## 44. HEALTH AND SAFETY

CONTRACTOR shall require all regular and substitute employees, volunteers, and any other individual who may come into contact with a student on school grounds to provide verification of having been tested for tuberculosis and cleared to work with minors as evidenced by a state licensed medical doctor's signature. CONTRACTOR shall keep a copy of said information in the employee file or volunteer file.

CONTRACTOR agrees all employees, subCONTRACTORs, volunteers, and any other individual who may come into contact with a student on school grounds to follow universal health care precautions when providing medical treatment or assistance to a student.

CONTRACTOR further agrees to provide annual training to all employees, volunteers, and any other individual who may come into contact with a student on school grounds regarding universal health care precautions and to post required notices in areas designated by the California Health & Safety Code.

## 45. BEHAVIOR MANAGEMENT

CONTRACTOR shall provide to LEA a written description of the NPS/NPA's behavior management system and incident reporting procedures upon request. As the term is defined in Title 5 of California Code of Regulations Section 3003 (e), CONTRACTOR shall ensure that all staff is trained annually in crisis intervention and emergency procedures as related to appropriate behavior management strategies. The CONTRACTOR is responsible for adhering to the general positive behavioral interventions set forth in California Education Code §§ 56520-56525 and California Code of Regulations Title 5, §§ 3001 and 3052. This includes data collection for behavioral issues, formulation of positive BIP, conducting Functional Behavior Assessment, and Behavior Intervention Plans. Records of employee trainings will be kept on site.

## 46. STUDENT RETURN TO DISTRICT

CONTRACTOR and LEA shall assist all SELPA and LEA policies and procedures that support Least Restrictive Environment ("LRE") options and/or Dual Enrollment options for students to have access to the general curriculum and to be educated with their nondisabled peers to the maximum extent appropriate.

When an IEP team has determined that a student should be transitioned into the public school setting, CONTRACTOR shall assist the LEA in implementing the IEP team's recommendations activities to support the transition. This may include, but not be limited to, facilitation of dual enrollment, scheduling, transportation arrangements and other student supports. These provisions shall also apply to mediated agreements and OAH decisions.

## 47. EDUCATIONAL REPRESENTATIVE/SURROGATE PARENT

CONTRACTOR agrees to notify the SELPA office within seven (7) days when the CONTRACTOR becomes aware of the need for the appointment of a surrogate parent. LEA agrees to notify the CONTRACTOR within seven (7) days if an Educational Representative has been appointed for the student by court order. A surrogate parent is necessary only when an Educational Representative has not been found/ appointed by the Court. CONTRACTOR agrees that the LEA will select and appoint said surrogate. CONTRACTOR agrees that the SELPA will train the surrogate. A surrogate parent must have no interests that conflict with the interests of the child, have knowledge and skills that ensure adequate representation of the child, and may not be an employee of a public or private agency involved in the education and/or care of the child. The surrogate parent will sign an affidavit stating that no such conflict of interest exists and this affidavit will be kept on file by the SELPA.

## 48. GRADE LEVEL ASSIGNMENT

All students enrolled in NPS shall be assigned a grade level commensurate with their chronological age if it is not designated on the IEP prior to admission. If student is participating in a functional skill development program, the grade assigned shall be determined by the following formula (age – 5 = grade level).

## 49. MIDDLE SCHOOL/ HIGH SCHOOL TRANSITION

When student is to transition to a high school district, the LEA/CONTRACTOR shall follow the SELPA policy as outlined in the Local Plan as it relates to fiscal responsibility. All services provided in ESY are the fiscal responsibility of the elementary district.

### 50. OVERSIGHT/ PLACEMENTS/ EDUCATIONAL PROGRESS

The LEA shall evaluate NPS placements through the IEP/IFSP process. Included in this evaluation, is a review of IEP stated goals and state assessment results in order to determine if student is making appropriate educational progress. The LEA shall consider whether or not the needs of the pupil require an NPS and whether changes to the IEP are necessary, including whether the pupil may be transitioned to a public school setting.

## IV. PERSONNEL

### 51. CREDENTIALS AND LICENSES/FINGERPRINT CLEARANCE

A. The CONTRACTOR providing special education and designated instruction and services must utilize staff that holds a certificate, permit, or other document equivalent to that which staff in a public school are required to hold.

EC Section 56366.1(n) requires all teachers in nonpublic schools to meet the same credentialing requirements as those for public school teachers.

Only those nonpublic, nonsectarian schools or agencies located outside of California that employ staff that hold a current valid credential or license to render special education and related services as required by that state shall be eligible to be certified.

B. CONTRACTOR shall be responsible for verification of security clearance, credentials, and licenses held by its employees, agents and subCONTRACTORs. Education credentials shall be on file at the NPS office. A copy of the CDE Certification will be submitted with the contract to the LEA.

C. CONTRACTOR shall provide to LEA on annual basis copies of appropriate credentials and/or license(s) if change of staff occurs, which directly affects the pupils. CONTRACTOR shall notify LEA in writing within forty-five (45) days when personnel changes occur which may affect the provision of special education and/or related services to LEA students.

D. CONTRACTOR shall require all employees and all subCONTRACTORs to submit fingerprints consistent with California Education Code Section 44237. CONTRACTOR shall comply with the requirements of Education Code Section 45125.1 including, but not limited to: obtaining California Department of Justice (CDOJ) clearance for CONTRACTOR'S employees; prohibiting its employees from coming in contact with students until CDOJ clearance is ascertained: and certifying in writing and providing such certification to the LEA that none of its employees who may come in contact with students have been, convicted of a violent or serious felony. Nor will any person be employed who has been convicted of or entered a plea of nolo contender to charges of any sex offense as defined in Education Code § 44010 or to a felony that would disqualify that person from employment pursuant to EC 44237. The requirements of this section apply to all of contractors, subcontractors, in addition to employees.

E. This provision shall apply in all circumstances except those in which a written waiver has been granted by the State of California Board of Education with respect to state laws and regulations or by LEA with respect to its requirements.

### 52. TEACHER ABSENCE

When a classroom teacher/instructor is absent, CONTRACTOR shall employ a substitute teacher/instructor or provide coverage by an appropriately qualified and credentialed staff person. Coverage shall be provided in the classroom in place of the absent teacher for the entirety of the school day to provide instruction and fulfill other duties of the absent teacher. Upon written or oral request, CONTRACTOR shall provide to LEA documentation of substitute coverage. Substitute teachers shall remain with their assigned class during all instructional time. In regard to NPA, when a related service provider is absent, CONTRACTOR shall employ a substitute service provider who is an appropriately credentialed staff person to provide service and fulfill other duties of the absent provider. The CONTRACTOR shall elect to reschedule the related service session consistent with Section 40 and 56 related services of this contract.

### 53. MANDATED REPORTING

CONTRACTOR hereby agrees to annually train all staff members, including volunteers, so that they are familiar with and agree to adhere to its own child and dependent adult abuse reporting obligations and procedures as specified in California Penal Code section 11164, et seq., and maintain documentation of such trainings. To protect the privacy rights of all parties involved (i.e. reporter, child and alleged abuser), reports will remain confidential as required by law and professional ethical mandates. A written statement acknowledging the legal requirements of such reporting and verification of staff training and adherence to such reporting shall be submitted to the SELPA and the LEA. CONTRACTOR shall further ensure that its SUBCONTRACTORS are similarly trained.

### 54. REPORTING OF MISSING CHILDREN

CONTRACTOR assures the LEA that all staff members, including volunteers, is familiar with and agrees to adhere to requirements for reporting missing children as specified in California Education Code section 49370. A written statement acknowledging the legal requirements of such reporting and verification of staff adherence to such reporting shall be properly submitted to the LEA. The written statement shall be submitted as specified by the LEA.

### 55. SEXUAL HARRASSMENT

CONTRACTOR shall have policy procedures in place to immediately (within 24 hours) report any allegations of conduct that may constitute sexual harassment as per federal and state law. This reporting must include appropriate governmental, social service, and law enforcement agencies as well as the LEA. CONTRACTOR shall ensure that an immediate and comprehensive investigation is commenced and shall keep the LEA fully informed of the progress and result of such investigation. CONTRACTOR further agrees to provide annual training to all employees regarding regulations concerning sexual harassment and related procedures.

## V. FINANCIAL SECTION

### 56. SCHOOL CALENDAR

A. The CONTRACTOR shall submit to LEA a school calendar with the total number of billable days not less than the number of school days prescribed by the State of California for the regular school year (RSY) days, plus extended school year (ESY) as determined by the IEP team. Unless otherwise stated in a particular Student's IEP, billable days shall include only those days that are included in the submitted and approved school calendar, or required by the IEP for each LEA student.

B. Services are not provided during winter break, spring break, intersessions, or the period between extended year and the fall semester.

C. LEA observes legal holidays including, but not limited to, the following: Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Christmas Day, New Year's Day, Dr. Martin Luther King, Jr.

Day, Lincoln's Birthday, Washington's Birthday, and Memorial Day, as specified in the LEA's official calendar.

## 57. ABSENCES-NONPUBLIC SCHOOL

No later than the fifth (5th) consecutive day of a pupil's absence, CONTRACTOR shall notify LEA of such absence in writing; unless a written time extension is granted by a LEA authorized representative. CONTRACTOR will maintain written records regarding all LEA pupils' absences. These records shall indicate school and/or residential absences, as appropriate. In the event of an NPS school closure due to an emergency consistent with guidelines followed by LEAs under Education Code Section 41422, the NPS would be permitted to schedule a makeup day of service. The NPS would work collaboratively with LEAs and inform them of a date(s) during the current school calendar year on which the makeup day of service would occur.

## 58. ABSENCES-AGENCY ONLY

If the pupil is enrolled in a NPA, the LEA shall not be responsible for the payment of educational services when the pupil is absent. CONTRACTOR shall notify LEA in writing when the pupil absences exceed three (3) sessions. Make-up sessions may be scheduled but shall be limited to a seven (7) day period in which the original services were scheduled. Unless otherwise agreed, all related services shall be provided by CONTRACTOR during the LEA's regular school and extended school calendar days unless otherwise specified on the IEP/IFSP. A unit of service for payment purposes is one day of attendance. LEA shall not be responsible for payment of services for days on which a pupil's attendance does not qualify for reimbursement under state law.

## 59. ATTENDANCE RECORDS

A. CONTRACTOR shall keep daily attendance of each pupil and shall report attendance monthly to LEA. Such attendance shall be filed with monthly invoices to LEA within thirty (30) days of the close of the school month. Separate attendance register forms must be submitted for all related services as specified on the IEP/IFSP.

B. Original attendance registers submitted to the LEA with invoices for payment must be completed by the service provider whose signature must appear on said register. CONTRACTOR is responsible for verifying accuracy of said registers and for informing service providers of their personal responsibility for the completion and accuracy of said attendance registers.

C. CONTRACTOR shall permit LEA representatives, upon reasonable notice, to meet with staff of CONTRACTOR for the purpose of auditing attendance reporting.

D. The LEA is required to maintain school records in order to ensure the appropriate high school graduation credit is received by the pupil. The contract may allow for partial or full-time attendance at the NPS.

## 60. MAINTENANCE OF RECORDS

The following records shall be maintained by CONTRACTOR for at least five years from the date of origin, or as long as otherwise required by law (CCR 3061(b): daily service logs and notes or other documents used to record the provision of related services; absence verification records (parent/doctor notes, telephone logs, and related documents); staff lists specifying credentials held, business licenses held, documents evidencing other qualifications, social security numbers, dates of hire, and dates of termination; staff time sheets; non-paid staff and volunteer sign-in sheets; transportation and other related services; subCONTRACTS; school calendars; class schedules; liability and workers compensation insurance policies; state nonpublic school and/or agency certifications; marketing materials; by-laws; lists of current board of directors/trustees, if incorporated; statements of income and expenses; general journals; cash

receipts and disbursement books; general ledgers and supporting documents; federal/state payroll quarterly reports; and bank statements and cancelled checks.

CONTRACTOR agrees, in the event of school or agency closure, to forward LEA student records within ten (10) business days to LEA. These shall include, but not limited to, current transcripts, IEP/IFSPs, and reports.

## 61. INSTRUCTIONAL DAY

The total number of instructional minutes per school year provided by CONTRACTOR shall be equivalent to the number of instructional minutes established for LEA schools unless otherwise specified within the student's IEP/IFSP or ISA, provided the ISA meets the minimum standards for instructional minutes as specified in Education Code. The number of instructional minutes shall be exclusive of recess, lunch, and passing time. For Pre-K through grade twelve (12), unless otherwise specified on the student's IEP/IFSP or ISA, the number of minimum instructional minutes shall be as follows: one hundred eighty (180) instructional minutes shall be provided to pre & kindergarten students: two hundred thirty (230) instructional minutes shall be provided to students in grades one (1) through three (3): two hundred forty (240) instructional minutes shall be provided to students in grades four (4) through twelve (12).

## 62. PAYMENT UNIT-NONPUBLIC SCHOOL ONLY

A unit of service for payment purposes is one day of attendance or apportionment absence as defined in California Education Code 46010. LEA shall not be responsible for payment of services for days on which a pupil's attendance or absence does not qualify for Average Daily Attendance (ADA) reimbursement under state law. Per Diem rates for pupils whose IEP/IFSP's authorize less than full instructional day may be adjusted on a pro rata basis in accordance with the actual proportion of the school day serviced.

CONTRACTOR shall notify LEA when Medi-Cal is billed for educationally related expenses.

## 63. PAYMENT UNIT-NONPUBLIC AGENCY ONLY

A unit of service for payment purposes is one hour of related service. LEA shall not be responsible for payment of services for days on which a pupil's attendance does not qualify for Average Daily Attendance (ADA) reimbursement under state law.

## 64. RATE SCHEDULE

The CONTRACTOR agrees to apply the same rate for the entire fiscal year. Education service(s) and/or related services offered by CONTRACTOR in accordance with the IEP/IFSP and the charges for such service(s) during the term of this Agreement shall be as follows:

| A. Nonpublic School only | Rate | | Period (specify) |
|---|---|---|---|
| **Basic Education Program** | $245 | per | Day |

B. Designated Instruction and Service and/or Other Related Services

| | | | | |
|---|---|---|---|---|
| (1) | Adapted Physical Education | $ | per | |
| (2) | Behavior Intervention Services | $123.00 | per | Hour |
| | Implementation | $63-$103 | | |
| (3) | Day Treatment Services | | per | |
| (4) | Language/Speech | $88 | per | Hour |
| | Therapy/Group/Consult | $123 | | |
| (5) | Language/Speech Therapy/Indiv. | $160 | per | Hour |

| | | | | |
|---|---|---|---|---|
| (6) | Mental Health | | per | |
| | a) Counseling/Group | | per | |
| | b) Counseling/Individual | | per | |
| | c) Counseling and Guidance | | per | |
| (7) | OccupationalTherapy-Ind/Grp/Consult | $160/$88/$123 | per | Hour |
| (8) | One-on-One Aide | $28.50 | per | Hour |
| (9) | Parent Counseling | | per | |
| (10) | Physical Therapy | | per | |
| (11) | Psychological Services | | per | |
| (12) | Residential Treatment Services *Educationally Related Mental Health Board and Care* | | per | |
| (13) | Social Work Services | | per | |
| (14) | Transportation (if required) | | per | |
| (15) | Other: AT/AAC Services- I/G/C | $160/$88/$123 | per | Hour |

## 65. PAYMENT DEMAND

If a pupil is enrolled in an NPS/NPA, with the approval of the LEA, prior to agreement to a contract or ISA, the LEA shall issue a warrant for services for up to 90 days during which time the contract shall be consummated. If after 60 days the Master Contract has not been finalized, either party may appeal to the SPI. Within 30 days of receipt of appeal, the SPI, or designee, shall mediate the formulation of a contract which shall be binding upon both parties.

CONTRACTOR shall submit written demand monthly for payment on forms supplied by LEA. Said demand shall be made in the manner prescribed by the California Department of Education (CDE). CONTRACTOR shall submit said demands for payment for services rendered no later than thirty (30) days after the end of the attendance accounting period in which said services are actually rendered. CONTRACTOR shall maintain separate registers for the basic education program and each related service. Original attendance forms (i.e., roll books for the basic education program and service logs and notes for each related service) shall be completed by the service provider whose signature must appear on such forms and shall be available for review, inspection, or audit by LEA during the effective period of this Contract and for a period of five (5) years thereafter. CONTRACTOR shall verify the accuracy of reported attendance which is the basis of services being billed for payment and shall inform service providers of their personal responsibility for the services being reported as rendered.

Upon approval of said payment demand, LEA shall make payment in an amount equal to the number of creditable days of attendance multiplied by the agreed upon unit amount. Payment shall be made within forty-five (45) days of receipt by LEA of invoices properly submitted and approved by LEA.

If an LEA fails to send a warrant for the amount requested within forty five (45) days or failed to notify the contractor within 10 working days of any reason why the requested payment shall not be paid, the NPS may require the LEA to pay an additional amount of 1.5 % of the unpaid balance per month until full payment is made, such interest being calculated beginning forty-six (46) days from receipt of the invoice. The CONTRACTOR shall bill the LEA for the interest due.

## 66. RIGHT TO WITHHOLD

LEA has the right to withhold payment to CONTRACTOR when: (A) CONTRACTORS performance, in whole or in part, either has not been carried out or is insufficiently documented; including but not limited to, failure to implement the individualized education program and all attachments incorporated therein of the student(s) for whom this Contract is written; (B) CONTRACTOR has neglected, failed or refused to furnish information or to cooperate with the inspection, review or audit of its program, work or records; (C)

education and/or related services is provided by LEA students by personnel who are not appropriately credentialed/licensed or otherwise qualified; (D) Contractor was overpaid by LEA as determined by inspection, review, and/or audit of its program, work, and /or records; (E) CONTRACTOR has failed to provide to LEA all documents prior to school closure; (F) CONTRACTOR has failed to provide to LEA properly prepared invoices within thirty (30) days from the end of the attendance accounting period: or (G) CONTRACTOR has failed to provide to LEA proper rebilling invoices within (30) calendar days from the date that the original invoice was returned to CONTRACTOR. If LEA determines that cause exists to withhold payment to CONTRACTOR, within ten (10) working days written notice shall be sent that LEA is withholding payment to CONTRACTOR. Such notice shall specify the basis for LEA's withholding payment. Within fourteen (14) days from the date of receipt of such notice, CONTRACTOR shall take all necessary and appropriate action to correct the deficiencies which form the basis for LEA's withholding payment. Upon receipt of CONTRACTOR's written request showing good cause, LEA shall extend CONTRACTOR'S time to respond by an additional fourteen (14) days.

## 67. AUDIT EXCEPTIONS

CONTRACTOR agrees to accept responsibility for receiving, replying to, and/or complying with any audit exceptions by LEA or by appropriate state or federal audit agencies occurring as a result of CONTRACTOR's performance of this Contract. CONTRACTOR also agrees to pay to LEA within thirty (30) days of written demand by LEA the full amount of LEA'S liability to the state, if any, resulting from any audit exceptions, to the extent such are attributable to CONTRACTOR's failure to perform properly any of its obligations under this Contract.

Upon request of LEA and except as otherwise provided by law, CONTRACTOR shall provide LEA, a state agency, a federal agency, and/or an independent agency/firm contracted by LEA, access to the following records: registers and roll books of teachers; daily service logs and notes or other documents used to record the provision of related services: absence verification records (parent doctor notes, telephone logs, and related documents); staff lists specifying credentials held, business licenses held, documents evidencing other qualifications, social security numbers, dates of hire, and dates of termination; staff time sheets: non-paid staff and volunteer sign-in sheets; transportation and other related services subAgreements; school calendars; bell/class schedules; liability and workers compensation insurance policies; state nonpublic school and/or agency certifications; marketing materials; by-laws; lists of current board of directors/trustees, if incorporated; statements of income and expenses; general journals; cash receipts and disbursement books; general ledgers and supporting documents; federal/state payroll quarterly reports; and bank statements and cancelled checks. Such access may include inspections by LEA with prior notice.

All budgetary information and projections submitted by CONTRACTOR to LEA for purpose of contract negotiations shall be made available for the relevant Contract period being audited in order to assess the extent to which funds were expended consistent with such budgetary information.

CONTRACTOR shall comply with any requests resulting from an inspection, review, or audit by LEA, a state agency, a federal agency, and/or an independent agency/firm in a reasonable and timely manner. If an inspection, review, or audit by LEA, a state agency, a federal agency, and/or an independent agency/firm determines that CONTRACTOR owes LEA monies as a result of CONTRACTOR's over billing or failure to perform, in whole or in part, any of its obligations under this Contract, LEA shall provide to CONTRACTOR written notice demanding payment from CONTRACTOR and specifying the basis for such demand. Unless CONTRACTOR and LEA otherwise agree in writing, CONTRACTOR shall pay to LEA the full amount owed as result of CONTRACTOR's failure to perform, in whole or in part any of its obligations under this Contract as determined by an inspection, review, or audit by LEA, a state agency, a federal agency, and/or an independent agency/firm CONTRACTOR shall make such payment to LEA within thirty (30) days of receipt of LEA's written notice demanding payment.

## 68. INSPECTION AND AUDIT

CONTRACTOR shall provide access to or forward copies of any books, documents, papers, reports, records, or other matter relating to the Contract upon request by LEA except as otherwise provided by state and federal law. All budgetary information and projections submitted by CONTRACTOR to LEA for purpose of contract negotiations shall be made available for the relevant Contract period being audited to assess the extent to which funds were expended consistent with said budgetary information. Fiscal records shall be maintained by CONTRACTOR for five (5) years and shall be available for audit. To the extent, the CONTRACTOR disagrees with the findings of the audit; the dispute process as authorized in section 9 shall be utilized for the resolution of the dispute.

## 69. PAYMENT FROM OUTSIDE AGENCIES

CONTRACTOR shall notify the LEA when Medi-Cal or any other agency is billed for the costs associated with the provision of special education and/or related services to LEA students. Upon request, CONTRACTOR shall provide to the LEA any and all documentation regarding reports, billing, and/or payment by Medi-Cal or any other agency for the costs associated with the provision of special education and/or related services to LEA students.

## 70. DEBARMENT CERTIFICATION

By signing this agreement, CONTRACTOR certifies that:

(a) CONTRACTOR and any of its shareholders, partners, or executive officers are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency, and

(b) Has/have not, within a three-year period preceding this contract, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses.

The parties hereto have executed this Master Contract by and through their duly authorized agents or representatives.

| **CONTRACTOR** | **LEA** |
|---|---|
| Wing Learning Center<br>Name of Nonpublic, Nonsectarian School/Agency | Anna Marie Villalobos<br>Authorized Representative/School District |
| _____<br>Contracting Officer's Signature | _____<br>Signature |
| Karen Kaplan,<br>(Type) Name and Title | Anna Marie, Director of Special Education<br>(Type) Name and Title |
| _____<br>Date | _____<br>Date |