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**Contract Number:**

**Contract Year 2011-2012**

**LEA: Oakland Unified School District**

**NONPUBLIC SCHOOL/AGENCY/RELATED SERVICES PROVIDER:**

<b>Orion Academy</b>
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**NONPUBLIC, NONSECTARIAN SCHOOL/AGENCY SERVICES MASTER CONTRACT**

***AUTHORIZATION FOR MASTER CONTRACT AND GENERAL PROVISIONS***

**1. MASTER CONTRACT**

This Master Contract is entered into this 1st day of July, 2011, between the Oakland Unified School District (hereinafter referred to as "LEA") and Orion Academy (hereinafter referred to as "CONTRACTOR") for the purpose of providing special education and/or related services to LEA pupils with exceptional needs under the authorization of California Education Code sections 56157, 56361 and 56365 et seq. and Title 5 of the California Code of Regulations section 3000 et seq., AB490 (Chapter 862, Statutes of 2003) and AB1858 (Chapter 914, Statutes of 2004). It is understood that this Master Contract does not commit LEA to pay for special education and/or related services provided to any LEA pupil, or CONTRACTOR to provide such special education and/or related services, unless and until an authorized LEA representative approves the provision of special education and/or related services by CONTRACTOR pursuant to an Individualized Education Plan (hereinafter referred to as "IEP"), Individual Family Service Plan (hereinafter referred to as IFSP) or Rehabilitation Act Section 504 plan.

SELPA Collaborative. The LEA is a member of the Bay Area SELPA Collaborative. Nonpublic schools and nonpublic agencies that are geographically located in one of the participating SELPAs agree to participate in this collaborative process to establish a uniform contract for identified services and standards. The established system provides NPA/Ss with an opportunity to have input to the development of the process, contract issues, etc., and a simplified, standard process for rate negotiation with the participating SELPAs. Issues listed on the Rate Schedule portion of this Master Contract may be reviewed on an annual basis upon request of the CONTRACTOR using the established Bay Area SELPA Collaborative system. CONTRACTOR agrees that the rates set forth in this Master Contract will remain unchanged from July 1 through June 30 of the term of contract, with no changes in the services provided, unless changed in a duly executed amendment to this Master Contract signed by both parties. Increases in rates will be considered on an annual basis and remain unchanged for the term of the contract from July 1 through June 30, with no changes in level of service provided without written approval by both parties.

NPA/Ss that are not geographically located in a participating SELPA should negotiate rates with their geographically corresponding SELPA(s). The LEA will contact the corresponding SELPA to verify established rates. Increases in rates will be considered on an annual basis and remain unchanged for the following year from July 1 through June 30, with no changes provided without written approval by both parties.

Any CONTRACTOR not participating as a member of the Bay Area SELPA Collaborative shall individually negotiate rates following local SELPA and/or LEA procedures. Those CONTRACTORS shall notify the SELPA with whom they contract of any proposed rate changes effective July 1 by May 1 of the preceding year.

The Bay Area SELPA Collaborative Chair shall maintain, annually update and disseminate to all LEAs, NPS/As who are members of the Collaborative, a master rate schedule reflecting such NPS/A rates.

Upon CONTRACTOR's acceptance of a pupil referred by the LEA, the LEA shall complete an Individual Services Agreement (hereinafter referred to as "ISA") as specified in the LEA Procedures which shall identify the provider of each service required by the pupil's IEP/IFSP). For purposes of enrollment, the LEA must provide approval before any authorization for payment can be made. Such authorization may be provided electronically, by telecommunications, by mail or by fax. Unless otherwise agreed in writing, or in the pupil's ISA, CONTRACTOR acknowledges its obligation to provide all services specified in the pupil's IEP/IFSP. The LEA acknowledges its responsibility to pay for all services rendered to LEA pupils by CONTRACTOR. The ISA shall be executed within ninety (90) days of an LEA pupil's enrollment. (Education Code Section 56366(c)(1)) LEA and CONTRACTOR shall enter into an ISA for each LEA pupil served by CONTRACTOR.

CONTRACTOR shall notify the LEA in writing in advance of providing any service(s) when CONTRACTOR is unable to meet the requirements of this Master Contract or of any Individual Services Agreement.

## **2. CERTIFICATION**

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. 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 pupil enrollment shall be limited to capacity as stated on CDE certification.

Notwithstanding the foregoing, if current (re)certification documents are not available through no fault of the NPS/A, this Master Contract shall remain in effect until such documents are made available to the NPS/A, which shall in turn submit copies of same to the LEA within five (5) business days of receipt by the NPS/A. The NPS/A shall, within five (5) business days of any change in the status of its approved capacity to serve a specific number of pupils notify the LEA of the change.

## **3. COMPLIANCE WITH LAWS, STATUTES, REGULATIONS**

During the term of this Master Contract the CONTRACTOR and the LEA shall comply with all applicable federal and state laws and regulations relating to the provision of special education and related services, and facilities for individuals with exceptional needs. CONTRACTOR shall also comply with all policies pursuant to the Local Plan, unless, taking into consideration all of the surrounding facts and circumstances, a policy or policies or a portion of a policy does not reasonably apply to CONTRACTOR. CONTRACTOR hereby acknowledges and agrees that it accepts all risks and responsibilities for its failure to comply with LEA policies and shall indemnify LEA under the provisions of section 17 of this Master Contract for all liability, loss, damage and expense (including reasonable attorneys' fees) resulting from or arising out of CONTRACTOR's failure to comply with LEA policies. The CONTRACTOR shall comply with those policies, relating to among other things, the provision of



special education and/or related services, facilities for individuals with exceptional needs, LEA pupil enrollment and transfer, LEA pupil inactive status, corporal punishment, pupil discipline, and positive behavior interventions.

#### **4. RIGHT TO REPORT MASTER CONTRACT VIOLATIONS**

CONTRACTOR and LEA acknowledge and understands that either party may report to the CDE any violations of the provisions of this Master Contract; and that this may result in the suspension and/or revocation of CDE nonpublic school/agency certification pursuant to California Education Code section 56366.4(a) or action by the CDE against the LEA.

#### **5. TERM OF MASTER CONTRACT**

The term of this Master Contract shall be from July 1, 2011 to June 30, 2012 (Title 5 California Code of Regulations section 3062(a)). 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 re-negotiated prior to June 30, 2012. (Title 5 California Code of Regulations section 3062(d)).

#### **6. INTEGRATION/CONTINUANCE OF CONTRACT FOLLOWING EXPIRATION OR TERMINATION**

This Master Contract includes the LEA Procedures and each Individual Services Agreement and they are incorporated herein by this reference. Upon written request, LEA agrees to make all of its policies and procedures available to CONTRACTOR, either electronically or by hard copy. This Master Contract supersedes any prior or contemporaneous written or oral understanding or agreement with respect to the terms set forth in this Master Contract. This Master Contract may be amended only by written amendment executed by both parties.

If CONTRACTOR does not return the Master Contract to LEA duly signed by an authorized representative within ninety (90) calendar days of issuance by LEA, the new contract rates will not take effect until the newly executed Master Contract is received by LEA and will not be retroactive to the first day of the new Master Contract's effective date. If CONTRACTOR fails to execute the new Master Contract within such ninety day period, all payments for education and services will continue at the prior contract year rate, and CONTRACTOR shall be bound to all of the terms and conditions of the most recent executed Master Contract between CONTRACTOR and LEA until such time as the new Master Contract is signed and returned to LEA by CONTRACTOR. In the event that this Master Contract expires or terminates, CONTRACTOR shall continue to be bound to all of the terms and conditions of the most recent executed Master Contract between CONTRACTOR and LEA for so long as CONTRACTOR is servicing authorized LEA pupils, or a notice to terminate the contract is served pursuant to Section 15.

#### **7. INDIVIDUAL SERVICES AGREEMENT**

This contract shall include an Individual Services Agreement (ISA) developed for each LEA pupil to whom CONTRACTOR is to provide special education and/or related services. An ISA shall only be issued for LEA pupils enrolled with the approval of the LEA pursuant to Education Code section 56366 (a)(2)(A).

ISAs are void upon termination or expiration of the Master Contract. In the event that this Master Contract expires or terminates, CONTRACTOR and the LEA shall continue to be bound to all of the terms and conditions of the most recent executed ISAs between CONTRACTOR and LEA for so long as CONTRACTOR is servicing authorized LEA pupils.

Any and all changes to a LEA pupil's educational placement/program provided under this Master Contract and/or an ISA shall be made solely on the basis of a revision to the LEA pupil's IEP/IFSP. At any time during the term of this Master Contract, a LEA pupil's parent, CONTRACTOR, or LEA may request a review of a LEA pupil's IEP/IFSP subject to all procedural safeguards required by law, including notice to and participation by the CONTRACTOR in the IEP Team meeting.

Unless otherwise provided in this Master Contract, the CONTRACTOR shall provide all services specified in the IEP/IFSP unless the CONTRACTOR and the LEA agree otherwise in the ISA. (California Education Code sections 56366(a) (5) and 3062(e)).

If a parent or LEA contests the termination of an ISA by initiating a due process proceeding with the California Office of Administrative Hearings (hereinafter referred to as "OAH"), CONTRACTOR shall abide by the "stay-put" requirement of state and federal law unless the parent agrees otherwise or an interim alternative educational placement is deemed lawful and appropriate by LEA or OAH.

Disagreements between LEA and CONTRACTOR concerning the formulation of an ISA or the Master Contract may be appealed to the local SELPA office prior to appeal to the State Superintendent of Public Instruction.

## **8. DEFINITIONS**

The following definitions shall apply for purposes of this contract:

- a. The term "authorized LEA representative" means a LEA administrator designated to be responsible for nonpublic school/agencies.
- b. The term "credential" means a valid credential, life diploma, permit, or document in special education or pupil personnel services issued by, or under the jurisdiction of, the State Board of Education if issued prior to 1970 or the California Commission on Teacher Credentialing, which entitles the holder thereof to perform services for which certification qualifications are required as defined in Title 5 of the California Code of Regulations section 3001(j).
- c. The term "qualified" means that a person holds a certificate, permit or other document equivalent to that which staff in a public school are required to hold to provide special education and designated instruction and services and has met federal and state certification, licensing, registration, or other comparable requirements which apply to the area in which he or she is providing special education or related services, including those requirements set forth in Title 5 of the California Code of Regulations sections 3064 and 3065, or, in the absence of such requirements, the state-education-agency-approved or recognized requirements, and adheres to the standards of professional practice established in federal and state law or regulation, including the standards contained in the California Business and Professions Code.
- d. The term "license" means a valid non-expired document issued by a licensing agency within the Department of Consumer Affairs or other state licensing office authorized to grant licenses and authorizing the bearer of the document to provide certain professional services or refer to themselves using a specified professional title. If a license is not available through an appropriate state licensing agency, a certificate of registration with the appropriate professional organization at the national or state level which has standards established for the certificate that are equivalent to a license shall be deemed to be a license as defined in Title 5 of the California Code of Regulations section 3001(r).
- e. The term "parent" means the natural parent, adoptive parent, parent surrogate, legal guardian, or any other adult granted educational decision-making rights by the natural or adoptive parent or a court of competent jurisdiction.
- f. The term "days" means calendar days unless otherwise specified.
- g. The phrase "billable day of attendance" means a school day in the NPS or LEA calendar in which an LEA pupil is in attendance and in which instructional minutes meet or exceed those in comparable



LEA programs (CCR Section 3053(b)(2), unless otherwise specified in an IEP/IFSP or ISA (California Education Code Section 46307, CR Section 3052(b)(2)(B)).

## **ADMINISTRATION OF CONTRACT**

### **9. NOTICES**

All notices provided for by this contract shall be in writing. Notices shall be mailed or delivered by hand and shall be effective as of the date of receipt by addressee.

All notices mailed to LEA shall be addressed to:

Name: Sharon Casanares, EdD  
District: Oakland Unified School District  
Address: 2850 West St.  
City, State Zip: Oakland, CA 94608  
Phone: (510) 874-3700

Notices to CONTRACTOR shall be addressed as indicated on signature page.

### **10. MAINTENANCE OF RECORDS**

All records shall be maintained by CONTRACTOR as required by state and federal laws and regulations. Notwithstanding the foregoing sentence, CONTRACTOR shall maintain all records for at least five (5) years after the termination of this Master Contract. For purposes of this Master Contract, "records" shall include, but not be limited to: pupil records as defined by California Education Code section 49061(b); cost data records as set forth in Title 5 of the California Code of Regulations section 3061, as well as records pertaining to the provision of services to LEA pupils, attendance records and rosters, billing records, records pertaining to regular business operations of the NPS/A, tax and employment records.

CONTRACTOR shall maintain LEA pupil records in a secure location to ensure confidentiality and prevent unauthorized access. CONTRACTOR shall maintain a current list of the names and positions of CONTRACTOR's employees who have access to confidential records. CONTRACTOR shall maintain an access log for each LEA pupil's record which lists all persons, agencies, or organizations requesting or receiving information from the record and the legitimate interests thereof (California Education Code Section 49064). Such log shall be maintained as required and include the name, title, agency/organization affiliation, and date/time of access for each individual requesting or receiving information from the LEA pupil's record. Such logs need to record access to the LEA pupil's records by: (a) the LEA pupil's parent; (b) an individual to whom written consent has been executed by the LEA pupil's parent; or (c) employees of LEA or CONTRACTOR having a legitimate educational interest in requesting or receiving information from the record (Education Code Section 49064). CONTRACTOR shall grant parents access to pupil records, and comply with parents' requests for copies of pupil records, as required by state and federal laws and regulations. CONTRACTOR agrees, in the event of school or agency closure, to forward LEA pupil records to LEA within five (5) business days. These records shall include, but not be limited to, the LEA pupil's current transcripts, IEP/IFSPs, and reports.

### **11. SEVERABILITY CLAUSE**

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

## **12. SUCCESSORS IN INTEREST**

This Master Contract binds CONTRACTOR's successors and assignees.

## **13. VENUE AND GOVERNING LAW**

The laws of the State of California shall govern the terms and conditions of this contract, with venue in the County of Alameda.

## **14. MODIFICATIONS AND AMENDMENTS**

This Master Contract may be amended only by a written document executed by the CONTRACTOR and the LEA, or by order of the Office of Administrative Hearing (OAH) or by a Court of Competent Jurisdiction.

## **15. TERMINATION OF MASTER CONTRACT AND/OR INDIVIDUAL SERVICES AGREEMENT**

This Master Contract may be terminated with or without cause by either the CONTRACTOR or LEA. To terminate the Master Contract either party shall give twenty (20) days prior written notice (California Education Code Section 56366(a)(4)). At the time of termination, CONTRACTOR shall provide to LEA any and all documents CONTRACTOR is required to maintain under this Master Contract. ISAs are void upon termination of this Master Contract, as provided in Section 5 or 6. CONTRACTOR or LEA may terminate an ISA for cause. To terminate the ISA, either party shall give twenty (20) days prior written notice.

## **16. INSURANCE**

CONTRACTOR shall procure and maintain for the duration of the Master Contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with performance under this Master Contract by CONTRACTOR, its agents, representatives, or employees. CONTRACTOR shall deliver to the LEA a certificate of insurance for each required policy with insurers and additional insured policy endorsements for the comprehensive general liability insurance and comprehensive automobile liability insurance. If at any time said policies of insurance lapse or become canceled, this MASTER CONTRACT shall become void. The acceptance by LEA of the above-required insurance does not serve to limit the liability or responsibility of the insurer or CONTRACTOR.

A. Insurance coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).
3. Workers' Compensation insurance as required by the state in which services are performed and Employer's Liability Insurance with limits of \$1,000,000/\$1,000,000/\$1,000,000.

B. CONTRACTOR shall maintain limits of insurance no less than:

1. Commercial General Liability: \$2,000,000 per occurrence for bodily injury and property damage, personal injury and completed operations.
2. Automobile Liability: \$2,000,000 combined single limit.
3. Professional Liability/Errors and Omissions coverage: \$1,000,000 per occurrence/\$2,000,000 aggregate.

For all insurance coverage procured by CONTRACTOR, the following terms apply:

- C. Any deductibles or self-insured retentions above \$25,000 must be declared to and approved by the LEA. At its option, 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 as respects to the LEA, its officials and employees, or (b) procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The LEA, its subsidiaries, officials and employees are to be covered as additional insured as respects: liability arising out of activities performed by or on behalf of CONTRACTOR; products and completed operations of the CONTRACTOR; premises owned, occupied or used by the CONTRACTOR; or automobiles owned, leased, hired or borrowed by the CONTRACTOR. The coverage shall contain no special limitations on the scope of protection afforded to the LEA, its subsidiaries, officials and employees.

2. 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.

3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the LEA.

E. The CONTRACTOR shall furnish the LEA with original or photocopies of endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All Certificates of Insurance shall reference the contract number, the name of school or agency submitting the contract number, the name of school or agency submitting the certificate, an indication if the school or agency is an NPS or NPA, and the location of the school or agency submitting the certificate.

## **17. INDEMNIFICATION AND HOLD HARMLESS**

CONTRACTOR shall indemnify and hold LEA and its Board Members, administrators, employees, agents, attorneys, volunteers, ("LEA Indemnities") harmless against all liability, loss, damage and expense (including reasonable attorneys' fees) resulting from or arising out of this Master Contract or its performance, to the extent that such loss, expense, damage or liability was caused by the sole negligence, intentional acts, omissions, or willful misconduct of CONTRACTOR, including, without limitation, its agents, employees, or anyone employed directly or indirectly by it (excluding LEA and LEA Indemnities).

## **18. INDEPENDENT CONTRACTOR**

This Master Contract is by and between two independent entities that have an independent contractual relationship. Nothing contained in this Master Contract shall be deemed to create any association, partnership, joint venture or relationship of principal and agent, master and servant, or employer and employee between the LEA and CONTRACTOR and any of their employees, agents, affiliates or other representatives, or between the LEA and any individual assigned by CONTRACTOR to perform any services for the LEA. CONTRACTOR shall provide all services under this Master Contract as an independent contractor, and neither shall have the authority to bind or make any commitment on behalf of the other.

## **19. SUBCONTRACTING**

CONTRACTOR shall enter into an initial subcontract only with a provider who is certified as a nonpublic school or nonpublic agency to delivery any of the instructional or related services contemplated under this Master Contract. If the CONTRACTOR intends to enter into an initial subcontract with a non-certified provider, the CONTRACTOR shall first obtain written approval from

the LEA. This approval shall not be unreasonably withheld. The LEA and the CONTRACTOR shall maintain a copy of the written approval. CONTRACTOR shall provide all required clearances for its employees, including, but not limited to fingerprint requirements, and tuberculosis.

When subcontracting with a nonpublic agency, CONTRACTOR shall not charge LEA a higher rate than its own approved collaborative rate.

## **20. CONFLICTS OF INTEREST**

CONTRACTOR shall provide to 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 may constitute a conflict of interest pursuant to California Education Code Section 56042 and including, but not limited to, employment with LEA, provision of private party assessments and/or reports, and attendance at IEP/IFSP team meetings acting as a pupil's advocate.

When CONTRACTOR is a Nonpublic Agency, CONTRACTOR acknowledges that its authorized representative has read and understands Education Code section 56366.3 which provides, in relevant part, that no special education and/or related services provided by CONTRACTOR shall be paid for by LEA if provided by an individual who was an employee of LEA within the three hundred and sixty five (365) days prior to executing this Master Contract. This provision does not apply to any person who is able to provide designated instruction and services during the extended school year because he or she is otherwise employed for up to ten months of the school year by LEA.

## **21. NON-DISCRIMINATION**

CONTRACTOR shall not unlawfully discriminate on the basis of actual or perceived race, color, national origin, ancestry, religion, age, marital status, pregnancy, physical or mental disability, medical condition, veteran status, gender, sex or sexual orientation, in employment or operation of its programs.

## ***EDUCATIONAL PROGRAM***

### **22. FREE AND APPROPRIATE PUBLIC EDUCATION (FAPE)**

LEA shall provide CONTRACTOR with a copy of the IEP/IFSP including the Individualized Transition Plan (hereinafter referred to as "ITP") of each LEA pupil served by CONTRACTOR. Unless otherwise agreed to by the CONTRACTOR and the LEA, CONTRACTOR shall provide to each LEA pupil special education and/or related services (including transition services) within the nonpublic school or nonpublic agency consistent with the LEA pupil's IEP/IFSP and as specified in the ISA. If CONTRACTOR is a NPS, CONTRACTOR shall not accept an LEA pupil if it cannot provide or ensure the provision of the services outlined in the pupil's IEP/IFSP (California Education Code Section 56366.10(a)).

Voluntary services and/or activities not necessary for the LEA pupil to receive a free appropriate public education shall not interfere with the LEA pupil's receipt of special education and/or related services as specified in the LEA pupil's IEP/IFSP and ISA.

### **23. GENERAL PROGRAM OF INSTRUCTION**

#### **General Program**

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. No service will be provided by the CONTRACTOR outside of the CONTRACTOR's certification unless otherwise agreed to by the LEA.



When CONTRACTOR is a nonpublic school, CONTRACTOR's general program of instruction shall: (a) include curriculum that addresses mathematics, literacy and the use of educational, assistive technology and transition services; (b) be consistent with CDE's standards regarding the particular course of study and curriculum; (c) provide the services as specified in the LEA pupil's IEP/IFSP and ISA. The State Standards and coursework selected for each pupil shall be aligned with the pupil's IEP/IFSP to meet the individual pupil's needs. LEA pupils shall have access to educational materials, services, and programs that are consistent with each student's individualized educational program and include a standards-based, core curriculum and when similar courses are offered, use instructional materials used by any local educational agency that contracts with the non-public, non-sectarian school. LEA pupils shall have access to transitions programming and services which address transition planning pursuant to state and federal law supplemental assistance, including academic tutoring, psychological counseling, and career and college counseling (California Education Code 56366.10). CONTRACTOR's general program of instruction is described in writing and a copy provided to LEA prior to the effective date of this Master Contract.

CONTRACTOR shall provide to the LEA a specific list of the course requirements to be satisfied by LEA pupils leading toward graduation and completion of diploma requirements for CONTRACTOR. LEA pupils who graduate from CONTRACTOR will receive a diploma from CONTRACTOR and can elect to have the CONTRACTOR diploma be the only diploma they receive.

When CONTRACTOR is a nonpublic agency and/or related services provider, CONTRACTOR's general program of instruction and/or services shall be consistent with LEA and CDE guidelines and provided as specified in the LEA pupil's IEP/IFSP and ISA. The nonpublic agency providing Behavior Intervention services shall develop a written treatment plan that specifies the nature of its' nonpublic agency service for each LEA pupil within thirty (30) days of enrollment which shall be available upon request. CONTRACTOR shall immediately notify LEA in writing if no parent, guardian or adult care giver is present at the IEP meeting held to review and approve the treatment plan. CONTRACTOR shall provide to LEA a written description of the general program of instruction and/or services provided prior to the effective date of this Master Contract. Contractors providing Behavior Intervention services must have a trained Behavior Intervention Case Manager (BICM) or trained equivalent on staff.

Except for emergency situations requiring a change of location in order to continue the education of LEA pupils, school-based services may not be unilaterally converted by CONTRACTOR to a substitute program or provided at a location not specifically authorized by the IEP/IFSP team. CONTRACTOR shall annually obtain the prior written consent or permission of a parent, guardian or adult care giver for field trips and for services not provided at the school site.

### **Transportation Services.**

In the event that transportation services for a pupil served by CONTRACTOR pursuant to an Individual Services Agreement are to be provided by a party other than CONTRACTOR or the LEA or its transportation providers, such services shall be reflected in a separate agreement signed by the parties hereto, and provided to the LEA and SELPA Director by the CONTRACTOR. Except as provided below, CONTRACTOR shall compensate the transportation provider directly for such services, and shall charge the LEA for such services at the actual and reasonable rates billed by the transportation provider, plus a ten percent (.10) administrative fee, unless a "flat rate" is provided in the transportation contract. In the event that the transportation provider notifies the LEA or SELPA Director that CONTRACTOR is more than 90 days behind in payment for transportation services, LEA shall have the right, in its sole and exclusive discretion, but not the obligation, to make payment for such services directly to the transportation provider, and to deduct such payments from any sums owed to CONTRACTOR pursuant to this Master Contract and any Individual Services Agreement between the parties. In the event that the LEA makes direct payment of the transportation provider's charges, it shall be entitled to withhold both

the transportation charges themselves and such additional amount as shall be reasonably necessary to compensate the LEA for the staff and other costs incurred in making direct payment of those charges. The remedies provided to the LEA pursuant to this Paragraph shall not be exclusive. CONTRACTOR shall not include transportation through the use of services or equipment owned, leased or contracted through the LEA unless expressly provided in the Individual Services Agreement for the pupil transported.

When CONTRACTOR is a nonpublic agency, CONTRACTOR shall not provide transportation nor subcontract for transportation services for LEA pupil unless the LEA and the CONTRACTOR agree otherwise in writing.

#### **24. INSTRUCTIONAL MINUTES**

When CONTRACTOR is a nonpublic school, the total number of instructional minutes per school day provided by CONTRACTOR shall be at least equivalent to the number of instructional minutes per school day provided to LEA pupils at like grade level, attending LEA schools, unless otherwise specified in the pupil's IEP/IFSP, and shall be specified in the LEA pupil's ISA developed in accordance with the LEA pupil's IEP/IFSP.

For LEA pupils in grades pre-kindergarten through 12, unless otherwise specified in the LEA pupil's IEP/IFSP, the number of instructional minutes, excluding recess, lunch, and passing time, shall be at least the minimum as specified in Education Code Sections 46110-46147, and in no case will be less than the amount as specified in the IEP/IFSP. In addition, the total number of annual instructional minutes shall be at least equivalent to the total number of annual instructional minutes provided to LEA pupils attending LEA schools in like grade level unless otherwise specified in the LEA pupil's IEP/IFSP.

When CONTRACTOR is a nonpublic agency and/or related services provider, the total number of minutes per school day provided by CONTRACTOR shall be specified in the LEA pupil's ISA developed in accordance with the LEA pupil's IEP/IFSP.

#### **25. CLASS SIZE**

When CONTRACTOR is a nonpublic school, CONTRACTOR shall ensure that class size shall not exceed a ratio of one teacher per fourteen (14) pupils. Upon written approval by an authorized LEA representative, class size may be temporarily increased by a ratio of 1 teacher to sixteen (16) pupils when necessary to provide services to pupils with disabilities. For any billing period where the class size has exceeded sixteen (16) pupils for five consecutive school days, the CONTRACTOR shall have a 10% decrease in its approved daily rate for those LEA pupils that exceeded sixteen (16), for those days (over five).

CONTRACTOR providing special education instruction for individuals with exceptional needs between the ages of three and five years, inclusive, shall also comply with the appropriate instructional adult to child ratios pursuant to California Education Code sections 56440 et seq.

#### **26. CALENDARS**

The CONTRACTOR shall submit to LEA a school calendar with the total number of billable days not to exceed 180 days for the regular school year, plus extended school year billable days equivalent to the number of days determined by LEA's extended school year calendar, as determined by the IEP/IFSP team. Billable days shall include only those days that are included in the submitted and approved school calendar, and/or required by the IEP/IFSP for each pupil. CONTRACTOR shall adhere to the requirements for providing Extended School Year as outlined in Title 5, Article 4 of the California Code of Regulations. Unless otherwise specified by the pupils' IEP/IFSP, educational services shall occur at the school site.

## **27. DATA REPORTING**

CONTRACTOR shall provide the LEA with invoices, attendance reports and progress reports for LEA pupils enrolled in CONTRACTOR's nonpublic school or nonpublic agency.

## **28. LEAST RESTRICTIVE ENVIRONMENT/DUAL ENROLLMENT**

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

CONTRACTOR and LEA shall ensure that LRE placement options are addressed at all IEP/IFSP team meetings regarding pupils for whom ISAs have been or may be executed. This shall include IEP/IFSP team consideration of supplementary aids and services, goals and objectives necessary for placement in the LRE and that may be necessary to enable pupils to transition to less restrictive settings.

When an IEP/IFSP team has determined that an LEA pupil should be transitioned into the public school setting, CONTRACTOR shall assist the LEA in implementing the IEP/IFSP team's recommendations to support the transition.

## **29. STATEWIDE ACHIEVEMENT TESTING AND HIGH SCHOOL EXIT EXAMINATION**

CONTRACTOR and LEA shall work together to administer all statewide achievement tests and the High School Exit Examination to LEA pupils pursuant to CDE guidelines.

## **30. ATTENDANCE AT DISTRICT MANDATED MEETINGS**

## **31. POSITIVE BEHAVIOR INTERVENTIONS**

CONTRACTOR shall comply with the requirements of Title 5 of the California Code of Regulations sections 3001(c)-(f) and 3052(l)(1-8) regarding positive behavior interventions including, but not limited to: the completion of functional analysis assessments; the development, implementation, monitoring, supervision, modification, and evaluation of behavior intervention plans; and emergency interventions.

CONTRACTOR shall not authorize, order, consent to, or pay for any of the following prohibited interventions, or any other intervention similar to or like the following: (a) any intervention that is designed to, or likely to, cause physical pain; (b) releasing noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the LEA pupil's face; (c) any intervention which denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities; (d) any intervention which is designed to subject, used to subject, or likely to subject the LEA pupil to verbal abuse, ridicule, or humiliation, or which can be expected to cause excessive emotional trauma; (e) restrictive interventions which employ a device, material, or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment or similar techniques may be used as a short term emergency intervention by CONTRACTOR's trained and qualified personnel as allowable by applicable law and regulations; (f) locked seclusion except as allowable by applicable law and regulations; (g) any intervention that precludes adequate supervision of individual; and (h) any intervention which deprives the LEA pupil of one or more of his or her senses, pursuant to California Code of Regulations 3052(l) (1-8).

## **32. PUPIL DISCIPLINE**

CONTRACTOR shall maintain and abide by a written policy for pupil discipline that is consistent with state and federal law and regulations.



When CONTRACTOR seeks to remove a LEA pupil from his/her current educational placement for disciplinary reasons, CONTRACTOR shall immediately submit a written discipline report to the LEA. Written discipline reports shall include, but not be limited to: the LEA pupil's name; the time, date, and description of the misconduct; the disciplinary action taken by CONTRACTOR; and the rationale for such disciplinary action. A copy of the LEA pupil's behavior plan, if any, shall be submitted with the written discipline report. CONTRACTOR and LEA agree to participate in a manifestation determination at an IEP/IFSP meeting no later than the tenth (10th) day of suspension. LEA shall notify and invite CONTRACTOR representatives to the IEP/IFSP team meeting where the manifestation determination will be made.

### **33. IEP/IFSP TEAM MEETINGS**

Upon referral of an LEA 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, unless ordered by the Office of Administrative Hearing (OAH) or a Court of Competent Jurisdiction. CONTRACTOR shall notify the LEA written notification of its intent to decline enrollment of the LEA pupil.

An IEP/IFSP team meeting shall be convened at least annually to evaluate: (1) the educational progress of each pupil placed with CONTRACTOR, including all state assessment results pursuant to the requirements of Education Code section 52052; (2) whether or not the needs of the LEA pupil continue to be best met at the nonpublic school; and (3) whether changes to the LEA pupil's IEP/IFSP are necessary, including whether the pupil may be transitioned to a public school setting.

Each LEA pupil shall be allowed to provide confidential input to any representative of his or her IEP/IFSP team. Except as otherwise provided in the Master Contract, CONTRACTOR and LEA shall participate in all IEP/IFSP team meetings regarding LEA pupils for whom ISAs have been or may be executed. A CONTRACTOR who is providing NPA services may request payment for services for attending any meeting that occurs after the Annual Review of the IEP/IFSP. At any time during the term of this Master Contract, the parent, the CONTRACTOR or the LEA may request a review of the pupil's IEP/IFSP, subject to all procedural safeguards required by law, including reasonable notice given to, and participation of, the CONTRACTOR in the meeting. Every effort shall be made to schedule IEP/IFSP team meetings at a time and place that is mutually convenient to parents, CONTRACTOR and LEA. CONTRACTOR shall provide to LEA assessments and written assessment reports by service providers upon request and/or pursuant to LEA policy and procedures.

Changes in any LEA pupil's educational program, including instruction, services, or instructional setting, provided under this Master Contract may only be made on the basis of revisions to the pupil's IEP/IFSP. In the event that the CONTRACTOR believes the pupil requires a change of placement, the CONTRACTOR may request a review of the pupil's IEP/IFSP for the purposes of consideration of a change in the pupil's placement. Pupil is entitled to remain in the last agreed upon and implemented placement unless parent agrees otherwise or an interim alternative educational placement is deemed lawful and appropriate by LEA or OAH.

### **34. SURROGATE PARENTS**

CONTRACTOR shall comply with LEA procedures for obtaining surrogate parents from the LEA.

### **35. DUE PROCESS PROCEEDINGS**

CONTRACTOR shall participate, in special education due process proceedings related to LEA pupils enrolled in CONTRACTOR's education program, including mediations and hearings, as requested by OAH. 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.

### **36. COMPLAINT PROCEDURES**

CONTRACTOR shall maintain and adhere to its own written procedures for responding to parent complaints.

### **37. LEA PUPIL PROGRESS REPORTS/REPORT CARDS AND ASSESSMENTS**

CONTRACTOR shall provide IEP progress report to LEA three times per year – at the end of Session II (October), end of Session IV (March) and end of Session VI (June). In addition, official report cards will be sent at the end of each academic term.

CONTRACTOR shall complete academic or other assessment of the LEA pupil one month prior to the LEA pupil's annual or triennial review IEP/IFSP team meeting for the purpose of reporting the LEA pupil's present levels of performance at the IEP/IFSP team meeting as required by state and federal laws and regulations and CONTRACTOR shall not charge the LEA pupil's parent(s) or LEA for the provision of progress reports, report cards, and/or any assessments, interviews, or meetings.

### **38. TRANSCRIPTS**

When CONTRACTOR is a nonpublic school, CONTRACTOR, at the close of each semester or upon LEA student transfer, shall prepare transcripts for LEA pupils in grades nine through twelve inclusive, and submit them to the LEA for evaluation of progress toward completion of diploma requirements, or if appropriate, a Certificate of Completion.

### **39. LEA PUPIL CHANGE OF RESIDENCE**

Within three (3) school days after CONTRACTOR or LEA becomes aware of a LEA pupil's change of residence, CONTRACTOR shall notify LEA and/or the LEA shall notify CONTRACTOR of the LEA pupil's change of residence. Upon enrollment, CONTRACTOR shall notify parents in writing of the parent's obligation to notify CONTRACTOR of the LEA pupil's change of residence. CONTRACTOR shall maintain, and provide upon request by LEA, documentation of such notice to parents.

If the LEA pupil's change of residence is to a residence outside of LEA's service boundaries or CONTRACTOR fails to follow the procedures specified in this provision, LEA shall not be responsible for the costs of services delivered after the LEA pupil's change of residence, if CONTRACTOR had knowledge of the LEA pupil's change of residence.

### **40. WITHDRAWAL OF LEA PUPIL FROM PROGRAM**

CONTRACTOR shall immediately report, by telephone, to the LEA when a LEA pupil is withdrawn from school and/or services. CONTRACTOR shall confirm such telephone call on LEA approved forms and submit within three (3) days.

### **41. PARENT ACCESS**

CONTRACTOR shall 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 comply with any known court orders regarding parental visits and access to LEA pupils.

CONTRACTORS operating programs with residential components shall cooperate with a parent's reasonable request for LEA pupil visits in their home during, but not limited to, holidays and weekends.

### **42. SERVICES AND SUPERVISION ON PUBLIC SCHOOL CAMPUSES**

If CONTRACTOR provides services on LEA public school campuses, CONTRACTOR shall comply with Penal Code Section 627.1 et. seq., and LEA procedures regarding visitors to school campuses specified by LEA policy and in the LEA Procedures, and shall follow the procedures of the campus being visited. CONTRACTOR shall be responsible for purchase and provision of the supplies and assessment tools necessary to implement the provision of services on LEA public school campuses.

#### **43. LICENSED CHILDREN'S INSTITUTION CONTRACTORS**

If CONTRACTOR is a licensed children's institution (hereinafter referred to as "LCI"), CONTRACTOR shall adhere to all legal requirements regarding educational placements for LCI pupils as stated in Education Code 56366 (a) (2) (C), 56366.9, Health and Safety Code section 1501.1(b), AB 1858, AB490 (Chapter 862, Statutes of 2003) and the procedures set forth in the LEA Procedures. A LCI shall not require that a pupil be placed in its nonpublic school as a condition of being placed in its residential facility.

If CONTRACTOR is a nonpublic, nonsectarian school that is owned, operated by, or associated with a LCI, CONTRACTOR shall provide to LEA, on a quarterly basis, a list of all LEA pupils, including those identified as eligible for special education. For those identified special education pupils, the list shall include: 1) special education eligibility at the time of enrollment, and 2) the educational placement and services specified in each pupil's IEP/IFSP at the time of enrollment.

#### **44. STATE MEAL MANDATE**

#### **45. MONITORING**

CONTRACTOR shall allow access by LEA to its facilities for periodic monitoring of each LEA pupil's instructional program and shall be invited to participate in the review of each pupil's progress. LEA shall have access to observe each LEA pupil at work, observe the instructional setting, interview CONTRACTOR, and review each LEA pupil'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 Coordinated Compliance Review ("CCR") and Self Review in accordance with requirements of CDE.

CONTRACTOR understands that LEA reserves the right to institute a program audit with or without cause. The program audit may include, but is not limited to, a review of core compliance areas of health and safety; curriculum/instruction; related services; and contractual, legal, and procedural compliance.

When CONTRACTOR is a nonpublic school, CONTRACTOR shall prepare a School Accountability Report Card in accordance with California Education Code Section 56366(a)(9) and 33126 and state guidelines.

### ***PERSONNEL***

#### **46. FINGERPRINT CLEARANCE REQUIREMENTS**

CONTRACTOR shall comply with the requirements of California Education Code section 44237, 35021.1 and 35021.2 including, but not limited to: obtaining clearance from both the California Department of Justice (hereinafter referred to as "CDOJ") and clearance from the Federal Bureau of Investigation (hereinafter referred to as "FBI") for CONTRACTOR's employees and volunteers, unless CONTRACTOR determines that the volunteers will have no direct contact with LEA pupils, prior to



service with any LEA pupil. CONTRACTOR hereby agrees that CONTRACTOR's employees and volunteers, unless CONTRACTOR determines that the volunteers will have no direct contact with LEA pupils, shall not come in contact with LEA pupils until CDOJ and FBI clearance are ascertained. CONTRACTOR shall certify in writing to LEA that none of its employees, and volunteers, unless CONTRACTOR determines that the volunteers will have no direct contact with LEA pupils, or contractors who may come into contact with LEA pupils have been convicted of a violent or serious felony as those terms are defined in California Education Code section 44237(h), unless despite the employee's conviction of a violent or serious felony, he or she has met the criteria to be eligible for employment pursuant to California Education Code section 44237 (i) or (j). In addition, CONTRACTOR shall make a request for subsequent arrest service from the CDOJ as required by California Penal Code section 11105.2.

#### **47. STAFF QUALIFICATIONS**

CONTRACTOR shall ensure that all individuals employed, contracted, and/or otherwise hired by CONTRACTOR to provide classroom and/or individualized instruction or related services hold a license, certificate, permit, or other document equivalent to that which staff in a public school are required to hold in the service rendered consistent with Education Code section 56366.1(n)(1) and are qualified pursuant to Title 5 of the California Code of Regulations sections 3001(y), 3064 and 3065.

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.

CONTRACTOR shall comply with personnel standards and qualifications regarding instructional aides and teacher assistants respectively pursuant to Federal requirements and California Education Code sections 45340 et seq. and 45350 et seq. CONTRACTOR shall comply with all laws and regulations governing the licensed professions, including but not limited to, the provisions with respect to supervision.

Notwithstanding the foregoing, if current license or credential documents are not available through no fault of the NPS/A, timely application having theretofore been made, this Master Contract shall remain in effect until such documents are made available to the NPS/A from the Consumer Affairs Department or the Commission on Teacher Credentialing. The NPS/A shall in turn submit copies of same to the LEA within five (5) business days of receipt by the NPS/A.

#### **48. VERIFICATION OF LICENSES, CREDENTIALS AND OTHER DOCUMENTS**

CONTRACTOR shall submit to LEA a staff list, all current licenses, credentials, permits and/or other documents, which entitle the holder to provide special education and/or related services by individuals employed, contracted, and/or otherwise hired by CONTRACTOR. CONTRACTOR shall notify the CDE and the 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 pupils. Notwithstanding the foregoing, if current license or credential documents are not available through no fault of the NPS/A, timely application having theretofore been made, this Master Contract shall remain in effect until such documents are made available to the NPS/A from the Consumer Affairs Department or the Commission on Teacher Credentialing. The NPS/A shall in turn submit copies of same to the LEA within five (5) business days of receipt by the NPS/A.

CONTRACTOR shall monitor the status of licenses, credentials, permits and/or other documents for all individuals employed, contracted, and/or otherwise hired by CONTRACTOR to provide special education services to LEA students. CONTRACTOR shall provide to LEA updated information regarding the status of licenses, credentials, permits and/or other documents. CONTRACTOR will be

considered to be in breach of this contract for any service provided by an unqualified provider or one who has an expired credential. In such an event, the provider shall be paid at 70% of the agreed upon rate.

#### **49. STAFF ABSENCE**

When CONTRACTOR is a nonpublic school and CONTRACTOR's classroom teacher is absent, CONTRACTOR shall provide an appropriately credentialed substitute teacher in the absent teacher's classroom in accordance with California Education Code section 56061.

#### ***HEALTH AND SAFETY MANDATES***

#### **50. HEALTH AND SAFETY**

CONTRACTOR shall comply with all applicable federal, state, local, and LEA laws, regulations, ordinances, policies, and procedures regarding pupil and employee health and safety. CONTRACTOR shall comply with the requirements of California Education Code sections 35021 et. seq. regarding the examination of CONTRACTOR's employees and volunteers for tuberculosis. CONTRACTOR shall provide to LEA documentation for each individual volunteering, employed, contracted, and/or otherwise hired by CONTRACTOR of such compliance before an individual comes in contact with an LEA pupil. CONTRACTOR will comply with the requirements of California Education Code section 35021 et seq., regarding preventing registered sex offenders from volunteering and to request fingerprinting clearance of volunteers.

CONTRACTOR further agrees to post required notices in areas designated in the California Health and Safety Code.

#### **51. FACILITIES, FACILITIES MODIFICATIONS AND FIRE DRILLS**

##### **a. Facilities**

CONTRACTOR shall provide special education and/or related services to LEA pupils in facilities that comply with all applicable federal, state, and local laws, regulations, and ordinances related to, but not limited to: disability access; fire, health, sanitation, and building standards and safety; fire warning systems; zoning permits; and occupancy capacity. 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.

##### **b. Fire Drills**

When CONTRACTOR is a nonpublic school, CONTRACTOR shall conduct fire drills monthly for elementary and intermediate students and twice per school year for secondary students, as required by Title 5 California Code of Regulations, Section 550.

#### **52. ADMINISTRATION OF MEDICATION**

CONTRACTOR shall comply with the requirements of California Education Code section 49423 when CONTRACTOR serves an LEA pupil that is required to take prescription and/or over-the-counter medication during the school day. CONTRACTOR may designate personnel to assist the LEA pupil with the administration of such medication after the LEA pupil'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 pupil'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 pupil to whom medication is administered. Such written log shall specify the LEA pupil'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. Any change in medication type, administration method, amount or schedule must be authorized by both a licensed physician and parent.

### **53. INCIDENT/ACCIDENT REPORTING**

CONTRACTOR shall submit within 24 hours by mail, any accident or incident report to the LEA. CONTRACTOR shall properly submit required accident or incident reports pursuant to the procedures specified in LEA Procedures.

### **54. MANDATED REPORTING REQUIREMENTS**

CONTRACTOR agrees to immediately inform the LEA in writing when it becomes aware of circumstances that may require notification be made to other agencies. Such circumstances include, but are not limited to, allegations or suspicion of physical, sexual or emotional abuse, neglect or exploitation, injuries resulting from physical restraint, and Behavioral Emergency Reports. CONTRACTOR represents and warrants that all of CONTRACTOR'S staff, including volunteers, are familiar with child and dependent adult abuse reporting obligations and procedures as specified in the California Penal Code.

CONTRACTOR agrees to provide annual training to all employee and volunteer staff regarding mandated child abuse reporting laws, and shall maintain documentation, signed by each staff member receiving such training. CONTRACTOR agrees that its obligations to report incidents of abuse or neglect to the LEA are in addition to, and not in lieu of, CONTRACTOR's obligation to immediately report suspected abuse or neglect to the appropriate public authorities. CONTRACTOR shall maintain confidential records of any report of suspected child abuse and shall inform the LEA by facsimile or mail within 24 hours of becoming aware of circumstances including, but not limited to allegations of abuse involving a staff member or school volunteer.

CONTRACTOR shall notify the LEA of general concerns regarding the health and safety of a pupil that may impact the pupil's educational program, including the need for mental health services, injuries requiring medical attention or injuries resulting from physical restraint.

### **55. SEXUAL HARASSMENT**

CONTRACTOR shall have a Sexual and Gender Identity harassment policy that clearly describes the kinds of conduct that constitutes sexual harassment and that is prohibited by the CONTRACTOR's policy, as well as federal and state law. The policy should include procedures to make complaints without fear of retaliation, and for prompt and objective investigations of all sexual harassment complaints. CONTRACTOR further agrees to provide annual training to all employees regarding the laws concerning sexual harassment and related procedures.

### **56. REPORTING OF MISSING CHILDREN**

CONTRACTOR assures LEA that all staff members, including volunteers, are familiar with and agree 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.

## ***FINANCIAL***



## **57. ENROLLMENT, CONTRACTING, SERVICE TRACKING, ATTENDANCE REPORTING, AND BILLING PROCEDURES**

CONTRACTOR shall assure that the school or agency has the necessary financial resources to provide an appropriate education for the children enrolled and will distribute those resources in such a manner to implement the IEP/IFSP for each and every child.

CONTRACTOR shall be paid for the provision of special education and/or related services specified in the LEA pupil's IEP/IFSP and ISA. All payments by LEA shall be made in accordance with the terms and conditions of this Master Contract.

CONTRACTOR shall maintain registers for the basic education program and each related service. Original attendance forms shall be completed by the actual service provider whose signature shall 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 after the date of origination. CONTRACTOR shall verify the accuracy of minutes of reported attendance that is the basis of services being billed for payment.

CONTRACTOR shall submit accurate and timely invoices and related documents to LEA for payment, for each calendar month when education or related services were provided to an LEA student. Invoices shall be submitted no later than thirty (30) days after the end of the attendance accounting period in which the services were rendered. LEA shall make payment to CONTRACTOR based on the number of billable days of attendance and hours of service at rates specified in this contract within forty-five (45) days of LEA's receipt of properly submitted hard copy of invoices prepared and submitted as specified in California Education Code Section 56366.5. CONTRACTOR shall correct deficiencies and submit rebilling invoices no later than thirty (30) calendar days after the invoice is returned by LEA. LEA shall pay properly submitted re-billing invoices no later than forty-five (45) days from the date a completely corrected re-billing invoice is received by LEA.

If the LEA fails to comply with the provision of payment within 45 days of receipt of the request for payment of services, the CONTRACTOR may require the LEA to pay an additional amount of 1-1/2 percent of the unpaid balance per month until full payment is made (California Education Code 56366.6 (b)). Upon written notification of dispute, CONTRACTOR shall not apply additional charges to the disputed bill until the matter is resolved.

## **58. RIGHT TO WITHHOLD PAYMENT**

LEA may withhold payment to CONTRACTOR when: (a) CONTRACTOR has failed to perform, in whole or in part, under the terms of this contract; (b) CONTRACTOR was overpaid by LEA as determined by inspection, review, and/or audit of its program, work, and/or records; (c) CONTRACTOR has failed to provide supporting documentation with an invoice, as required by Section 57; (d) education and/or related services are provided to LEA pupils by personnel who are not appropriately credentialed, licensed, or otherwise qualified; (e) LEA has not received prior to school closure or contract termination, all documents concerning one or more LEA pupils enrolled in CONTRACTOR's educational program; (f) CONTRACTOR fails to confirm a pupil's change of residence to another district or confirms the change or residence to another district, but fails to notify LEA with five (5) days of such confirmation; or (g) CONTRACTOR receives payment from Medi-Cal or from any other agency or funding source for a service provided to a LEA pupil.

The amount which may be withheld by LEA with respect to each of the subparagraphs of the preceding paragraph are as follows: (a): the value of the service CONTRACTOR failed to perform; (b): the amount of overpayment; (c): the entire portion of the invoice for which satisfactory documentation has not been provided by CONTRACTOR (d): the amount invoiced for services provided by the individual not

appropriately credentialed, licensed, or otherwise qualified; (e): the proportionate amount of the invoice related to the applicable pupil for the time period from the date of the violation occurred and until the violation is cured; or (f): the amount paid to CONTRACTOR by Medi-Cal or another agency or funding source for the service provided to the LEA pupil.

If LEA determines that cause exists to withhold payment to CONTRACTOR, LEA shall, within ten (10) business days of receipt of such invoice, provide to CONTRACTOR written notice that LEA is withholding payment. Such notice shall specify the basis or bases for LEA's withholding payment and the amount to be withheld. Within thirty (30) days from the date of receipt of such notice, CONTRACTOR shall take all necessary and appropriate action to correct the deficiencies that form the basis for LEA's withholding payment or submit a written request for extension of time to correct the deficiencies. Upon receipt of CONTRACTOR's written request showing good cause, LEA shall extend CONTRACTOR's time to correct deficiencies (usually an additional thirty (30) days), otherwise payment will be denied.

If after subsequent request for payment has been denied and CONTRACTOR believes that payment should not be withheld, CONTRACTOR shall send written notice to LEA specifying the reason it believes payment should not be withheld. LEA shall respond to CONTRACTOR's notice within thirty (30) business days by indicating that a warrant for the amount of payment will be made or stating the reason LEA believes payment should not be made. If LEA fails to respond within thirty (30) business days or a dispute regarding the withholding of payment continues after the LEA's response to CONTRACTOR's notice, CONTRACTOR shall invoke the following escalation policy.

- a. Persons involved after forty-one (41) business days: If CONTRACTOR notifies LEA that the dispute has not been resolved by the LEA Specialist, LEA's Administrator will become involved and shall attempt to resolve the dispute. The LEA Coordinator shall respond to the CONTRACTOR in writing within ten (10) business days.
- b. Persons involved after fifty-one (51) business days: If CONTRACTOR notifies LEA that the dispute has not been resolved by the LEA Administrator, the SELPA Director shall become involved. The SELPA Director shall respond to the CONTRACTOR in writing within ten (10) business days. This shall be the final LEA determination regarding the withholding of payment.
- c. Persons involved after sixty-one (61) business days: Dispute Resolution, as defined in the SELPA's Local Plan, shall be followed.

If the dispute has not been resolved through the SELPA's Dispute Resolution process, the party claiming injury may seek legal or CDE redress, or may submit, if mutually agreed to in writing by the parties, the matter to binding arbitration by an arbitrator or arbitration service agreed upon by the parties. Each party shall be responsible for their own fees for arbitration, if applicable. The parties agree that this Master Contract provision dealing with Master Contract disputes does not alter the parties' right to bring action in accordance with the applicable statute of limitations under state or federal law.

## **59. PAYMENT FROM OUTSIDE AGENCIES**

CONTRACTOR shall notify LEA when Medi-Cal or any other agency is billed for the costs associated with the provision of special education and/or related services covered by this Master Contract or the ISA to LEA pupils. Upon request, CONTRACTOR shall provide to 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 covered by this Master Contract or ISA to LEA pupils.

## **60. PAYMENT FOR ABSENCES**

Two accounting/billing options are offered at the discretion of the LEA: "Excused Absence" or "Positive Attendance." In neither case will CONTRACTOR bill for any absences during Extended School Year (ESY).

**Excused Absence:**

No later than the 8th consecutive day of a pupil's absence, CONTRACTOR shall notify LEA of such absence. If CONTRACTOR fails to provide such notice by the 8th day of consecutive absence, CONTRACTOR shall not be compensated for services delivered during continuing absence after the 8th consecutive day of absence.

LEA shall not be responsible for payment for days of unexcused absences.

All excused absences must be verified. All documentation must be kept for at least five (5) years from the date of origination.

Only the individuals listed below may verify the reason for absence:

1. School or public health nurse
2. Physician
3. Principal
4. Teacher
5. School employee assigned to make such verification
6. Student eighteen years of age or over
7. Parent

Any reasonable method which established the reason for the absence may be used:

Written note from parent, guardian, representative or adult pupil (over 18 or emancipated)

Telephone conversation with parent, guardian, representative, or adult pupil (over 18 or emancipated)

Standards for excused absences are defined in the education code. Contractor is responsible for verification of excused absence in accordance with current requirements.

**Positive Attendance:**

A factor of 1.055 shall be applied to all approved rates when a Positive Attendance method is used. Actual days of attendance without exception shall be counted as a unit of service.

**NONPUBLIC AGENCY PUPIL ABSENCE**

If CONTRACTOR is a nonpublic agency, it shall notify LEA of the absence of an LEA pupil no later than the fifth consecutive service day of the pupil's absence, as specified in the LEA Procedures. A unit of service for payment purposes shall not be credited for an excused absence when CONTRACTOR is provided 24 hours advance verbal notification of the pupil's absence. A unit of service for payment purposes shall not be credited to CONTRACTOR for CONTRACTOR'S staff development days.

**61. INSPECTION AND AUDIT**

The CONTRACTOR shall maintain and the LEA shall have the right to examine and audit all of the books, records, documents, accounting procedures and practices and other evidence that reflect all costs claimed to have been incurred or fees claimed to have been earned under this Master Contract.

CONTRACTOR shall provide access to LEA to all records including, but not limited to: pupil records as defined by California Education Code section 49061(b). CONTRACTOR shall make available to LEA



all budgetary information including operating budgets submitted by CONTRACTOR to LEA for the relevant contract period being audited.

CONTRACTOR shall provide access to LEA to all records including, but not limited to: student records as defined by California Education Code section 49061(b); registers and roll books of teachers; daily service logs and notes or other documents used to record the provision of related services; Medi-Cal/daily service logs and notes and other documents used to record provision of services provided by instructional assistants, behavior intervention aides, bus aides, and supervisors; absence verification records (parent/doctor notes, telephone logs, and related documents); bus rosters; 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 service subcontracts; school calendars; bell/class schedules; liability and worker's 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 canceled checks or facsimile thereof. Such access shall include inspections by LEA. CONTRACTOR shall make available to LEA all budgetary information including operating budgets submitted by CONTRACTOR to LEA for the relevant contract period being audited.

CONTRACTOR shall make all records, or copies of records, available at the CONTRACTOR's offices at all times and without charge. All records shall be provided to LEA within ten (10) working days of a written request from LEA. CONTRACTOR shall provide assistance for such examination or audit. LEA's rights under this section shall also include access to CONTRACTOR's offices for purposes of interviewing CONTRACTOR's employees. If any document or evidence is stored in an electronic form, a hard copy shall be made available to the LEA, unless the LEA agrees to the use of the electronic format. CONTRACTOR may request from the LEA an extension of time to comply with any records request, which shall not be unreasonably withheld.

If an inspection, review, or audit by the LEA, a state agency, a federal agency, and/or an independent agency/firm determines that the CONTRACTOR or the LEA owes the other monies as a result of over billing, underpayment, or failure to perform, in whole or in part, any of its obligations under this Master Contract, the party owed money shall provide to the other party written notice demanding payment and specifying the basis or bases for such demand. Unless otherwise agreed in writing, the party that owes money shall make such payment within thirty (30) days of receipt of the written notice demanding payment. In the event that a party from whom payment is demanded disputes that any payment is owed, the matter shall be resolved in accordance with the dispute resolution section of this Master Contract and any money determined to be due and payable to either party as of the result of resolution of the dispute shall be paid within thirty (30) days of the conclusion of the dispute resolution as provided in this Agreement.

The attached rate schedule limits the number of LEA students that may be enrolled and maximum dollar amount of the contract. It may also limit the maximum number of students that can be provided specific services. Per diem rates for LEA students whose IEPs authorize less than a full instructional day shall be adjusted proportionally. Special education and/or related services offered by CONTRACTOR, shall be provided by qualified personnel as per State and Federal law, and the codes and charges for such educational and/or related services during the term of this contract, shall be as stated in Section 62.



**RATE SCHEDULE**

**62. CONTRACTOR**

**Per CDE Certification, total enrollment may not exceed: 64**

RATE SCHEDULE. Special education and/or related services offered by CONTRACTOR and the charges for such educational and/or related services during the term of this contract shall be as follows:

	Rate	Period
A. <u>Basic Education Program/Special Education Instruction</u>	<u>166.64</u>	<u>day</u>
Basic Education Program/Dual Enrollment*		

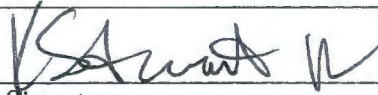
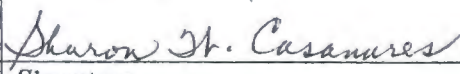
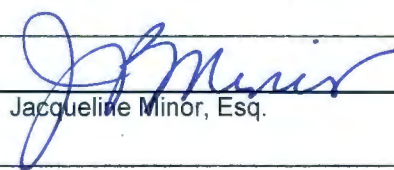
\*Per Diem rates for LEA pupils whose IEP/IFSPs authorize less than a full instructional day shall be adjusted proportionally. In such cases only, the adjustments in basic rate shall be based on the percentage of a 240-minute instructional day.

**B. Related Services**

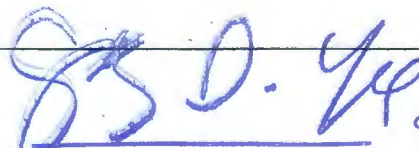
(1)	a. Transportation – Round Trip		
	b. Transportation – One Way		
	c. Transportation-Dual Enrollment		
	d. Parent*		
(2)	a. Educational Counseling – Individual		
	b. Educational Counseling – Group of _____		
	c. Counseling – Parent		
(3)	a. Adapted Physical Education – Individual		
	b. Adapted Physical Education – Group of _____		
	c. Adapted Physical Education – Group of _____		
(4)	a. Language and Speech Therapy – Individual		
	b. Language and Speech Therapy – Group of 2		
	c. Language and Speech Therapy – Group of 3		
	d. Language and Speech Therapy – Per diem		
	e. Language and Speech - Consultation Rate		
(5)	a. Additional Adult Assistance - Individual (must be authorized on IEP/IFSP)		
	b. Additional Adult Assistance – Group of 2		
	c. Additional Adult Assistance – Group of 3		
(6)	Intensive Special Education Instruction, by credentialed special education teacher		
(7)	a. Occupational Therapy – Individual		
	b. Occupational Therapy – Group of 2		
	c. Occupational Therapy – Group of 3		
	d. Occupational Therapy – Group of 4 - 7		
	e. Occupational Therapy - Consultation Rate		
(8)	Physical Therapy		
(9)	a. Behavior Intervention – BII		
	b. Behavior Intervention – BID		
	Provided by: _____		
(10)	Nursing Services		
(11)	Other: Psychological Services other than Assessment and IEP		

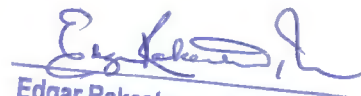
(12)	Home or Hospital Instruction		
(13)	Other		

The parties hereto have executed this Contract by and through their duly authorized agents or representatives. This contract is effective on the 1st day of July 2011, and terminates at 5:00 P.M. on June 30, 2012, unless sooner terminated as provided herein.

CONTRACTOR	SCHOOL DISTRICT/SELPA
Orion Academy	Oakland Unified School District
 <u>11/24/11</u> Signature Date	 <u>11/14/11</u> Signature Date
Name and Title of Authorized Representative Kathryn Stewart, Ph.D., Executive Director	Name and Title of Authorized Representative Sharon Casanares, EdD, Executive Director
Notices to CONTRACTOR shall be addressed to: Name Dr. Kathryn Stewart	 <u>11/14/11</u> Jacqueline Minor, Esq. Date
Address 350 Rheem Blvd.	Notice to LEA should be addressed to: Oakland Unified School District 2850 West St.
City State Zip Moraga, CA 94556	City State Zip Oakland, CA 94608
Phone: (925) 377-0789 Fax: (925) 377-2028 E-mail: director@orionacademy.org Website:	Phone: (510) 874-3700 Fax: (510) 879-8529 E-mail: Sharon.casanares@ousd.k12.ca.us Website:

File ID Number: 11-1394  
Introduction Date: 9-6-11  
Enactment Number: 11-1693  
Enactment Date: 9-17-11  
By:

 9/15/11  
Gary D. Yee, Ed.D.  
President, Board of Education

 9/15/11  
Edgar Rakestraw, Jr., Secretary  
Board of Education



CALIFORNIA  
DEPARTMENT OF  
EDUCATION

**TOM TORLAKSON**  
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

**NOTICE OF  
NONPUBLIC SCHOOL CERTIFICATION**

**DATE:** March 25, 2011  
**SITE ADMINISTRATOR:** Dr. Kathryn Stewart  
**SCHOOL:** Orion Academy  
**CDS CODE:** 07-61830-7104953  
**SITE:** 350 Rheem Boulevard  
Moraga, CA 94556  
**GRADE LEVEL(s):** 9 - 12 **CLASSROOMS:** 2

**CERTIFICATION STATUS:**

**APPROVED**

**EFFECTIVE DATES:**

January 1, 2011 – December 31, 2011

**SERVICES AUTHORIZED:** Special Education Instruction to be provided as stated in the Individualized Education Program.

A handwritten signature in black ink that reads "Jenna Canez".

Jenna Canez, Analyst  
Interagency-Nonpublic Schools/Agencies Unit  
Special Education Division

**NOTE:** Certification is not an endorsement of the services offered by the Nonpublic School (NPS) but states only that the NPS meets minimum standards. Certification is subject to timely submission of an annual application and accompanying fee.

*Certification that is "Approved" or "Conditional" authorizes the nonpublic school or agency to contract with local educational agencies under Section 56366 et seq. of the Education Code.*



**Special Education**

**2011 – 2012 NPS Master Contract Resolution 1112-0028 – Attachment A**

<b>Non-Public Schools</b>	<b>School Code</b>
<i>A Better Chance School</i>	<i>S001</i>
<i>Anova</i>	<i>S002</i>
<i>Avalon Academy</i>	<i>S003</i>
<i>BayHill High School</i>	<i>S004</i>
<i>Center for Early Intervention on Deafness</i>	<i>S006</i>
<i>Children's Learning Center</i>	<i>S007</i>
<i>Cinnamon Hills</i>	<i>S008</i>
<i>Edgewood Center for Children &amp; Families</i>	<i>S010</i>
<i>Excelsior Youth Center</i>	<i>S011</i>
<i>Families First, Inc.</i>	<i>S012</i>
<i>Family Life Center</i>	<i>S013</i>
<i>Fred Finch Youth Center</i>	<i>S014</i>
<i>Heritage Schools, Inc.</i>	<i>S015</i>
<i>Jean Weingarten Peninsula Oral School for the Deaf</i>	<i>S016</i>
<i>Journey High School</i>	<i>S017</i>
<i>LaCheim School, Inc.</i>	<i>S018</i>
<i>Lincoln Child Center</i>	<i>S019</i>
<i>Marin Academic Center</i>	<i>S020</i>
<i>Milhous School</i>	<i>S021</i>
<i>Mingus Mountain Academy</i>	<i>S022</i>
<i>North Valley School, Lodi</i>	<i>S023</i>
<i>North Valley School, Redding</i>	<i>S024</i>
<i>North Valley School, Santa Rosa</i>	<i>S025</i>
<i>Oak Hill School</i>	<i>S026</i>
<i>Orion Academy</i>	<i>S027</i>
<i>Raskob Day School and Learning Institute</i>	<i>S029</i>
<i>RISE Institute</i>	<i>S031</i>
<i>Seneca Center</i>	<i>S032</i>
<i>Spectrum Center</i>	<i>S033</i>
<i>Springstone School</i>	<i>S034</i>
<i>Star Academy</i>	<i>S035</i>
<i>Stars High School</i>	<i>S036</i>
<i>Via Center</i>	<i>S037</i>
<i>Bridge School</i>	<i>S038</i>





PROGRAMS FOR EXCEPTIONAL CHILDREN
MASTER CONTRACT ROUTING FORM FOR NPS/NPA'S 2011-2012

Basic Directions

Payment for any services cannot be provided until the contract has been approved by the Board of Education and the Purchase Order amount has been established by Procurement.

- 1. OUSD contract originator sends SELPA approved contract to the Contractor.
2. Contractor and OUSD contract originator reach agreement on any modifications to original SELPA approved contract.
3. Contract is approved by the Programs for Exceptional Children Director.
4. If the Contract has NOT been altered from the original SELPA approved contract, forward to Cabinet for approval.
5. If the contract has been altered from the original SELPA approved contract, forward to Legal for review.
6. Following Cabinet approval, forward to The Board for certification, and finally to Procurement to create Purchase Order.

Attachment Checklist

- Master Contract
Current copy of nonpublic school/agency certification verified through CA Dept. of Ed.

Contractor Information

Table with contractor details: Contractor Name (Orion Academy), Agency's Contact (Kathryn Stewart), OUSD Vendor ID # (1024079), Title (Director), Street Address (350 Rheem Blvd.), City (Moraga), State (CA), Zip (94556), Telephone ((510) 639-2929), Email (director@orionacademy.org)

Compensation and Terms - Must be within the OUSD Billing Guidelines

Table with contract terms: Anticipated Start Date (07/01/2011), Contract End Date (06/30/2012), Requisition Number, Total Contract Amount (\$0.00)

Budget Information

Table with budget details: Resource # (6500), Resource Name (Special Ed.), Org Key (975 5312 102), Object Code (5827), Amount (\$)

Approval and Routing (in order of approval steps)

Table with approval steps: 1. Site Administrator or Manager (Katy Babcock), 2. Programs for Exceptional Children Director (Sharon St. Casanova), 3. Legal (Required if alterations are made to the original SELPA contract), 4. Deputy Superintendent, 5. Superintendent, President, Board of Education (Signature on the legal contract)

Table for final routing: Approved, Denied - Reason, Date, Procurement, Date Received, PO Number