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Contract Number

MOU-21-09-006

SAP Number

Preschool Services Department

Department Contract Representative	<u>Martha Garcia</u>
Telephone Number	<u>909.383.2036</u>
Contractor	<u>Desert/Mountain SELPA</u>
Contractor Representative	<u>Jenae Holtz</u>
Telephone Number	<u>760.955.3555</u>
Contract Term	<u>October 1, 2021 through September 30, 2024</u>
Original Contract Amount	<u>N/A</u>
Amendment Amount	<u>N/A</u>
Total Contract Amount	<u>N/A</u>
Cost Center	<u>N/A</u>

IT IS HEREBY AGREED AS FOLLOWS:

WHEREAS, The County of San Bernardino (County) Preschool Services Department, hereinafter referred to as "PSD," desires to provide special education and related services to eligible children; and

WHEREAS, PSD finds the Desert Mountain SELPA School District, hereinafter referred to as "Contractor," qualified to provide such services; and

WHEREAS, PSD desires that such services be provided by Contractor and Contractor agrees to perform these services as set forth below;

NOW THEREFORE, PSD and Contractor mutually agree to the following terms and conditions:

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ATTACHMENT A – CONTRACTOR SCOPE OF WORK

**ATTACHMENT B - PRESCHOOL SERVICES DEPARTMENT CONTRACT COMPLAINT AND GRIEVANCE
PROCEDURE**

I. DEFINITIONS

- A. Authorized Representative – Individual authorized to act on behalf of the County or individual authorized to act on behalf of the Contractor.
- B. Child Find – A continuous process of public awareness activities, screening and evaluation designed to locate, identify and refer as early as possible all young children with disabilities and their families who are in need of Preschool Special Education services.
- C. Early Childhood Assessment Team (ECAT) – Team responsible for evaluating children age three (3) to five (5) years old to determine if they qualify for special education services.
- D. Eligibility – Children age thirty-six (36) months to non-kindergarten-eligible age five (5) years with suspected or identified suspected disability, or children with a mental condition that have a high probability of leading to a developmental delay in accordance with Part B of the Individuals with Disabilities Education Act (45 CFR §1302.63).
- E. Human Services (HS) – A system of integrated services, where the programs and resources of nine (9) County departments come together to provide a rich, more complete array of services to the citizens of San Bernardino County under one coordinated effort.
- F. Individual Education Plan (IEP) – Head Start and/or State Preschool Service Plan developed with the family when a determination is made that a toddler age three (3) to five (5) needs special education and related services. IEP must be developed within thirty (30) days of special needs determination.
- G. Individuals with Disabilities Education Act (IDEA) – Federal law that governs how states and public agencies provide early intervention, special education, and related services to children with disabilities.
- H. Local Education Agency (LEA) – Entity that operates a local public primary school or provides government services to schools within a local area. Contractor is the LEA for purposes of this MOU.
- I. Memorandum of Understanding (MOU) – For the purpose of this document, a Memorandum of Understanding is a contractual agreement between PSD and Contractor. "MOU" may be used interchangeably with the term "Contract throughout this document.
- J. Multidisciplinary Team (MT) – A group of health care professionals from both the Contractor and PSD who work in a coordinated fashion toward a common goal for the child.
- K. Preschool Services Department (PSD) – PSD provides Head Start, Early Head Start, and State Preschool programs that include comprehensive child development and family services comprised of education, health, nutrition, parent involvement, and psychological services for children ages 0 to 5 and their families. The overall goal of these programs is to increase the health and school readiness of disadvantaged children and increase the self-sufficiency of low-income families. Head Start and State Preschool programs have been operating in San Bernardino County since 1965. Since 1999, PSD has provided these programs through a combination of direct and contracted services.

II. CONTRACTOR SERVICE RESPONSIBILITIES

Contractor shall provide all services outlined in the Scope of Work detailed in Attachment A.

III. CONTRACTOR GENERAL RESPONSIBILITIES

- A. In the performance of this MOU, Contractor, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the County of San Bernardino. Contractor agrees to comply with the applicable federal suspension and debarment regulations, including, but not limited to 7 Code of Federal Regulations (CFR) Part 3017, 45 CFR 76, 40 CFR 32, or 34 CFR 85. By signing this MOU, Contractor certifies that:
1. Neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency;
 2. Have not within a three-year period preceding this MOU been convicted of or had a judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract under a public transaction; or a violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph (A)(2) herein; and
 4. Have not within a three-year period preceding this MOU had one (1) or more public transactions (Federal, State or local) terminated for cause or default.
- B. Contractor shall not be identified as suspended or debarred on the federal System for Award Management's (SAM) excluded list (<https://www.sam.gov>). If at any time during the term of this MOU, the County determines Contractor is identified as either suspended or debarred on the SAM, Contractor shall be considered in material breach of this MOU, and the County may proceed under the Correction of Performance Deficiencies at Section VI of this MOU, including immediate termination of this MOU. If Contractor becomes aware, at any point during the term of this MOU, that it is identified as suspended or debarred on the SAM excluded list, Contractor must immediately inform County. Such inclusion will be considered a material breach of the MOU and be sufficient grounds for immediate termination.
- C. Without the prior written consent of the Assistant Executive Officer for Human Services, this MOU is not assignable by Contractor either in whole or in part.
- D. This is not an exclusive MOU. The County reserves the right to enter into a MOU with other Contractors for the same or similar services. The County does not guarantee or represent that the Contractor will be permitted to perform any minimum amount of work, or receive compensation, under the terms of this MOU.
- E. Contractor agrees to provide or has already provided information on former County of San Bernardino administrative officials (as defined below) who are employed by or represent Contractor. The information provided includes a list of former County administrative officials who terminated County employment within the last five (5) years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of Contractor. For purposes of this provision, "County Administrative Official" is defined as a member of the Board of Supervisors or such member's staff, Chief Executive Officer of the County or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

- F. If during the course of the administration of this MOU, the County determines that the Contractor has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the County, this MOU may be immediately terminated. If this MOU is terminated according to this provision, the County is entitled to pursue any available legal remedies.
- G. Failure by a party to insist upon the strict performance of any of the provisions of this MOU by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this MOU thereafter.
- H. Contractor agrees not to enter into any subcontracts for work contemplated under this MOU without first obtaining written approval from the Director of the Preschool Services Department through the HS Contracts Unit. The County may withhold such consent in its sole discretion.

At County's request, Contractor shall provide information regarding the subcontractor's qualifications and a listing of a subcontractor's key personnel including, if requested by the County, resumes of proposed subcontractor personnel. Contractor shall remain directly responsible to County for its subcontractors and shall indemnify County for the actions or omissions of its subcontractors under the terms and conditions specified in Paragraph X of this Section III. All approved subcontractors shall be subject to the provision of this MOU applicable to Contractor Personnel, including removal pursuant to Paragraphs S and T of this Section III.

For any subcontractor, Contractor shall:

1. Be responsible for subcontractor compliance with the MOU and the subcontract terms and conditions;
 2. Ensure that the subcontractor follows County's reporting formats and procedures as specified by County; and
 3. Include in the subcontractor's subcontract substantially similar terms as are provided in this MOU.
- H. Contractor shall maintain all records and books pertaining to the delivery of services under this MOU and demonstrate accountability for contract performance. Said records shall be kept and maintained within the County of San Bernardino. County shall have the right upon reasonable notice and at reasonable hours of business to examine and inspect such records and books.

All records relating to the Contractor's personnel, contractors, subcontractors, service/scope of work and expenses pertaining to this MOU shall be kept in generally acceptable accounting format. Records should include, but are not limited to, monthly summary sheets, sign-in sheets, and other primary source documents. Fiscal records shall be kept in accordance with Generally Accepted Accounting Principles and must account for all funds, tangible assets, revenue and expenditures. Fiscal records must also comply with the appropriate Code of Federal Regulations (CFR) that state the administrative requirements, cost principles and other standards for accountancy. Please refer to http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl for further information.

All records shall be complete and current and comply with all contract requirements. Failure to maintain acceptable records per the preceding requirements shall be considered grounds for withholding of payments for billings submitted and for termination of the MOU.

- I. Contractor shall notify County in writing of any change in mailing address and/or physical location within ten (10) days of the change, and shall immediately notify County of changes in telephone or fax numbers.

- J. Contractor shall notify County of any continuing vacancies and any positions that become vacant during the term of this MOU that will result in reduction of services to be provided under this MOU. Upon notice of vacancies, the Contractor shall apprise County of the steps being taken to provide the services and to fill the position as expeditiously as possible. Vacancies and associated problems shall be reported to County on each periodically required report for the duration of said vacancies and/or problems.
- K. Contractor shall designate an individual to serve as the primary point of contact for the MOU. Contractor shall notify the County when the primary contact will be unavailable/out of the office for one (1) or more workdays. Contractor or designee must respond to County inquiries within two (2) County business days. Contractor shall not change the primary contact without written notice to the County. Contractor will also designate a back-up point of contact in the event the primary contact is not available.
- L. Contractor shall provide a system, approved by the County, through which recipients of service shall have the opportunity to express and have considered their views and complaints regarding the delivery of services. The procedure must be in writing and posted in clear view of all recipients.
- M. Contractor will ensure that staff are knowledgeable on the Preschool Services Department Contract Complaint and Grievance Procedure (Attachment B) and ensure that any complaints by recipients are referred to the County in accordance with the procedure.
- N. Contractor shall ensure that all staff, volunteers and/or subcontractors performing services under this MOU comply with the items below prior to providing any services. Additional information concerning these requirements is specified at <http://hss.sbcounty.gov/Privacy>. The information contained thereat is hereby incorporated by this reference.
1. Read, understand and comply with the Privacy and Security Requirements Summary.
 2. Ensure employees, sub-contractors, agents, volunteers and interns who have access to PII complete the Privacy and Security Training and execute the training acknowledgement form and other training materials annually.
 3. Ensure employees, sub-contractors, agents, volunteers and interns who have access to PII sign the Confidentiality Statement annually.
 4. Report actual, suspected or potential breaches of PII immediately to the Human Services Privacy and Security Office via e-mail at: HSPrivacySecurityOfficer@hss.sbcounty.gov.
- O. Contractor shall protect from unauthorized use or disclosure names and other identifying information concerning persons receiving services pursuant to this MOU, except for statistical information not identifying any participant. The Contractor shall not use or disclose any identifying information for any other purpose other than carrying out the Contractor's obligations under this MOU, except as may be otherwise required by law. This provision will remain in force even after the termination of the MOU.
- P. Contractor shall hold as confidential and use reasonable care to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, confidential information that is either: (1) provided by the County to Contractor or an agent of Contractor or otherwise made available to Contractor or Contractor's agent in connection with this MOU; or, (2) acquired, obtained, or learned by Contractor or an agent of Contractor in the performance of this MOU. For purposes of this provision, confidential information means any data, files, software, information or materials in oral, electronic, tangible or intangible form and however stored, compiled or memorialized and includes, but is not limited to: technology infrastructure, architecture, financial

data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data.

- Q. Contractor shall ensure that all known or suspected instances of child abuse or neglect are reported to the appropriate law enforcement agency or to the appropriate Child Protective Services agency. This responsibility shall include:
1. Assurance that all employees, agents, consultants or volunteers who perform services under this MOU and are mandated by Penal Code Sections 11164 et seq. to report child abuse or neglect, sign a statement, upon the commencement of their employment, acknowledging their reporting requirements and their compliance with them.
 2. Development and implementation of procedures for employees, agents, consultants, or volunteers who are not subject to the mandatory reporting laws for child abuse to report any observed or suspected incidents of child abuse to a mandated reporting party, within the program, who will ensure that the incident is reported to the appropriate agency.
 3. Provision for arrangement of training in child abuse reporting laws (Penal Code section 11164 et seq.) for all employees, agents, consultants, and volunteers, or verification that such persons have received training in the law within thirty (30) days of employment/volunteer activity.
- R. Contractor shall obtain from the Department of Justice (DOJ) records of all convictions involving any sex crimes, drug crimes, or crimes of violence of a person who is offered employment or volunteers for all positions in which he or she would have contact with a minor, the aged, the blind, the disabled or a domestic violence client, as provided for in Penal Code section 11105.3 prior to providing any services. This includes licensed personnel who are not able to provide documentation of prior DOJ clearance. A copy of a license from the State of California, which requires a DOJ clearance, is sufficient proof. The County must be immediately notified of any records showing a conviction. The County may instruct Contractor to take action to deny/terminate employment or terminate internship and/or volunteer services where the records show the person is unsuitable for employment, internship, or volunteer services.

In addition to the documentation of DOJ clearance, Contractor shall obtain clearance from the Federal Bureau of Investigation (FBI) and Child Abuse Central Index (CACI), and records of all convictions involving any sex crimes, drug crimes, or crimes of violence of a person who is offered employment or volunteers for all positions in which he or she would have contact with a minor, the aged, the blind, the disabled or a domestic violence client, prior to providing any services. The County must be immediately notified of any records showing a conviction. The County may instruct Contractor to take action to deny/terminate employment or terminate internship and/or volunteer services where the records show the person is unsuitable for employment, internship, or volunteer services.

- S. Contractor shall notify the County of any staff member, paid intern or volunteer who is knowingly or negligently employed who has been convicted of any crime of violence or of any sexual crime. Contractor shall investigate all incidents where an applicant, employee, intern or volunteer has been arrested and/or convicted for any crime listed in Penal Code Section 11105.3 and shall notify the County. In the County's discretion, the County may instruct Contractor to take action to either deny/terminate employment or terminate internship and/or volunteer services where the investigation shows that the underlying conduct renders the person unsuitable for employment, internship, or volunteer services.

Contractor shall immediately notify the County concerning the arrest and/or conviction, for other than minor traffic offenses, of any paid employee, agent, consultant, intern, or volunteer staff, when such information becomes known to Contractor.

T. In recognition of individual rights to work in a safe, healthful and productive workplace, as a material condition of this MOU, Contractor agrees that the Contractor and the Contractor's employees, while performing service for the County, on County property, or while using County equipment:

1. Shall not be in any way impaired because of being under the influence of alcohol or an illegal or controlled substance.
2. Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal or controlled substance.
3. Shall not sell, offer, or provide alcohol or an illegal or controlled substance to another person, except where Contractor or Contractor's employee who, as part of the performance of normal job duties and responsibilities, prescribes or administers medically prescribed drugs.

Contractor shall inform all employees that are performing service for the County on County property, or using County equipment, of the County's objective of a safe, healthful and productive work place and the prohibition of drug or alcohol use or impairment from same while performing such service for the County.

The County may terminate for default or breach of this MOU and any other contract the Contractor has with the County, if the Contractor or Contractor's employees are determined by the County not to be in compliance with above.

U. Contractor shall make every reasonable effort to prevent employees, consultants or members of its governing bodies from using their positions for purposes that are or give the appearance of being motivated by a desire for private gain for themselves or others, such as those with whom they have family, business, or other ties. In the event County determines a conflict of interest exists, any increase in costs associated with the conflict of interest may be disallowed by County and such conflict may constitute grounds for termination of the Contract. This provision shall not be construed to prohibit employment of persons with whom Contractor's officers, agents, or employees have family, business or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicants and such persons have successfully competed for employment with other applicants on a merit basis.

V. Contractor agrees to and shall comply with the following indemnification and insurance requirements:

1. Indemnification – The Contractor agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. The Contractor's indemnification obligation applies to the County's "active" as well as "passive" negligence.
2. Additional Insured – All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability policies, shall contain endorsements naming the County and its officers, employees, agents and volunteers as additional insureds with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability but shall allow coverage for the County to the full extent provided by the policy. Such

additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.1185.

3. Waiver of Subrogation Rights – The Contractor shall require the carriers of required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the Contractor and Contractor's employees or agents from waiving the right of subrogation prior to a loss or claim. The Contractor hereby waives all rights of subrogation against the County.
4. Primary and Non-Contributory – All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.
5. Severability of Interests – The Contractor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between the Contractor and the County or between the County and any other insured or additional insured under the policy.
6. Proof of Coverage – The Contractor shall furnish Certificates of Insurance to the County Department administering the MOU evidencing the insurance coverage, including endorsements, as required, prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Contractor shall maintain such insurance from the time Contractor commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this MOU, the Contractor shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.
7. Acceptability of Insurance Carrier – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A-VII".
8. Deductibles and Self-Insured Retention – Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to Risk Management.
9. Failure to Procure Coverage – In the event that any policy of insurance required under this MOU does not comply with the requirements, is not procured, or is canceled and not replaced, the County has the right but not the obligation or duty to cancel the MOU or obtain insurance if it deems necessary and any premiums paid by the County will be promptly reimbursed by the Contractor or County payments to the Contractor will be reduced to pay for County purchased insurance.
10. Insurance Review – Insurance requirements are subject to periodic review by the County. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this MOU. Contractor agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of the County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the County.

11. The Contractor agrees to provide insurance set forth in accordance with the requirements herein. If the Contractor uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the Contractor agrees to amend, supplement or endorse the existing coverage to do so. The type(s) of insurance required is determined by the scope of the contract services.

Without in anyway affecting the indemnity herein provided and in addition thereto, the Contractor shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

- a. Workers' Compensation/Employers Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of the Contractor and all risks to such persons under this MOU.

If Contractor has no employees, it may certify or warrant to the County that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the County's Director of Risk Management.

With respect to Contractors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.

- b. Commercial/General Liability Insurance – The Contractor shall carry General Liability Insurance covering all operations performed by or on behalf of the Contractor providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:

1. Premises operations and mobile equipment.
2. Products and completed operations.
3. Broad form property damage (including completed operations).
4. Explosion, collapse and underground hazards.
5. Personal injury.
6. Contractual liability.
7. \$2,000,000 general aggregate limit.

- c. Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or

symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If the Contractor is transporting one (1) or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If the Contractor owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

- d. Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a “dropdown” provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.
- e. Directors and Officers Insurance - Coverage with limits of not less than one million (\$1,000,000) shall be required for contracts with charter labor committees or other not-for-profit organizations advising or acting on behalf of the County.

If insurance coverage is provided on a “claims made” policy, the “retroactive date” shall be shown and must be before the date of the start of the contract work. The claims made insurance shall be maintained or “tail” coverage provided for a minimum of five (5) years after contract completion.

- f. Abuse/Molestation Insurance – The Contractor shall have abuse or molestation insurance providing coverage for all employees for the actual or threatened abuse or molestation by anyone of any person in the care, custody, or control of any insured, including negligent employment, investigation and supervision. The policy shall provide coverage for both defense and indemnity with liability limits of not less than one million dollars (\$1,000,000) with a two million dollars (\$2,000,000) aggregate limit.
- g. Cyber (internet) and Electronic Data Processing (EDP) Insurance – Cyber Liability Insurance with limits of no less than \$1,000,000 for each occurrence or event with an annual aggregate of \$2,000,000 covering claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security. The policy shall protect the involved County entities and cover breach response cost as well as regulatory fines and penalties.

- W. Contractor shall comply with all applicable laws, statutes, ordinances, administrative orders, rules or regulations relating to its duties, obligations and performance under the terms of the MOU and shall procure all licenses and pay all fees and other charges required thereby. Contractor shall maintain all required licenses during the term of this MOU. Failure to comply with the provisions of this section may result in immediate termination of this MOU.
- X. Contractor shall comply with all applicable local health and safety clearances, including fire clearances, for each site where services are provided under the terms of this MOU.
- Y. Contractor agrees to and shall comply with the PSD’s Equal Employment Opportunity Program, Employment Discrimination, and Civil Rights Compliance requirements:

1. Equal Employment Opportunity Program – The Contractor agrees to comply with the provisions of the Equal Employment Opportunity Program of the County of San Bernardino and all rules and regulations adopted pursuant thereto: Executive Orders 11246, as amended by Executive Order 11375, 11625, 12138, 12432, 12250; Title VII of the Civil Rights Act of 1964; Division 21 of the California Department of Social Services Manual of Policies and Procedures; California Welfare and Institutions Code section 10000), the California Fair Employment and Housing Act; and other applicable federal, state, and county laws, regulations and policies relating to equal employment or social services to welfare recipients, including laws and regulations hereafter enacted.
2. Employment Discrimination – During the term of the MOU, Contractor shall not discriminate against any employee or applicant for employment or service recipient because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. Contractor shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VII of the Civil Rights Act of 1964, the California Fair Housing and Employment Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.
3. Civil Rights Compliance – The Contractor shall develop and maintain internal policies and procedures to assure compliance with each factor outlined by state regulation. These policies must be developed into a Civil Rights Plan, which is to be on file with the County Human Services Contracts Unit within thirty (30) days of awarding of the MOU. The Plan must address prohibition of discriminatory practices, accessibility, language services, staff development and training, dissemination of information, complaints of discrimination, compliance review, and duties of the Civil Rights Liaison. Upon request, the County shall supply a sample of the Plan format. The Contractor shall be monitored by the County for compliance with provisions of its Civil Rights Plan. Additionally, the Contractor shall submit to County an Assurance of Compliance with the California Department of Social Services Nondiscrimination in State and Federally Assisted Programs Statement annually.

Z. Contractor agrees to comply with all applicable provisions of the Americans with Disabilities Act (ADA).

AA. Contractor shall observe the mandatory standards and policies relating to energy efficiency in the State Energy Conservation Plan (California Code of Regulations title 20, section 1401 et seq.).

BB. In accordance with County Policy 11-08, the County prefers to acquire and use products with higher levels of post-consumer recycled content. Environmentally preferable goods and materials must perform satisfactorily and be available at a reasonable price. The County requires Contractor to use recycled paper for any printed or photocopied material created as a result of this MOU. Contractor is also required to use both sides of paper sheets for reports submitted to the County whenever practicable.

To assist the County in meeting the reporting requirements of the California Integrated Waste Management Act of 1989 (AB 939), Contractor must be able to annually report the County's environmentally preferable purchases. Contractors must also be able to report on environmentally preferable goods used in the provision of Services to the County, utilizing a County approved form.

CC. Contractor understands and agrees that any and all legal fees or costs associated with lawsuits concerning this MOU against the County shall be the Contractor's sole expense and shall not be charged as a cost under this MOU. In the event of any MOU dispute hereunder, each Party to this MOU shall bear its own attorney's fees and costs regardless of who prevails in the outcome of the dispute.

DD. Contractor agrees that any news releases, advertisements, public announcements or photographs arising out of the MOU or Vendor's relationship with County shall not be made or used without prior written approval of the Preschool Services Director or their designee.

EE. Contractor shall comply with the Environmental Tobacco Smoke/Pro-Children Act of 1994 (20 U.S.C 6081 et seq.).

IV. PSD SERVICE RESPONSIBILITIES

A. Program Requirements

PSD shall:

1. Participate in the Contractor Child Find Plan under Part B of IDEA, including strategies for the transition of children from infant/toddler programs (birth to age three (3)) into PSD programs.
2. Inform parent/caregiver of the types and purposes of the screenings prior to the screening, and inform parent/caregiver of the results of the screenings, and the purpose and results of any subsequent evaluations.
3. Refer a child to the Contractor for evaluation as soon as the need is evident, starting as early at the child's third (3rd) birthday.
4. Recruit, enroll, and serve eligible children between the ages of three (3) and five (5).
5. Perform or obtain linguistically and age appropriate developmental, sensory and behavioral screenings of motor, language, social, cognitive, perceptual, and emotional skills in collaboration with each child's parent/caregiver within forty-five (45) calendar days of the child's entry into the program.
6. Ensure that children with identified developmental delay receive the services to which they are entitled under Head Start Performance Standards and/or State Preschool requirements for children with disabilities, IDEA, applicable Federal and State regulations.

B. Assessment Request Procedure

PSD shall instruct parent/caregiver of enrolled children with a suspected developmental delay to contact the Contractor Special Education Unit.

C. Screening and Referrals

PSD shall:

1. Provide screening within forty-five (45) days of enrollment of children enrolled in Head Start and State Preschool using a standardized screening tool to identify children suspected of having a suspected disability.
2. Refer Head Start and State Preschool children, upon written parent/caregiver consent, who have been identified as potentially having a suspected disability to Contractor for further evaluation.
3. Include the results of any screening conducted, parent/caregiver consent forms, and relevant enrollment data with the referral.

D. Comprehensive Assessments

PSD shall:

1. Provide space to the Contractor for on-site evaluation, as needed.
2. Provide information about special education, training, consultation, and support of parent/caregiver as needed during the evaluation period.

E. MT Conferences and IEP Meetings

PSD shall:

1. Ensure appropriate Head Start or State Preschool Program personnel attend MT meetings and function as team members.
2. Create a special services folder at the time of the referral, which contains parent/caregiver consent, screening results, and referral documents. The folder shall be maintained at the PSD Administration Office.

F. Placement

PSD shall accommodate children with suspected or identified developmental delay or disability who are referred by the Contractor.

G. Specific Program Service Delivery

PSD shall:

1. Coordinate services schedules with Contractor ECAT.
2. Provide opportunities for children receiving services from Contractor to practice and generalize within inclusive environments the skills developed through classroom activities.
3. Document the individualized activities conducted by Head Start or State Preschool Program teaching staff to ensure classroom activity is aligned with IEP goals, and file the documentation in the child's special services folder. Documentation can be provided by teacher, administration, or support staff who work in direct contact with the child.

H. Transition

PSD shall implement the transition plan in accordance with Head Start Performance Standards and/or State Preschool requirements.

I. Training and Technical Assistance

PSD shall assess staff and parent/caregiver training needs related to Head Start and/or State Preschool children for whom Contractor is providing special education services, collaborate with Contractor to acquire and furnish the identified training needs.

V. FISCAL PROVISIONS

There shall be no financial remuneration from this MOU.

VI. RIGHT TO MONITOR AND AUDIT

- A. County shall have the absolute right to monitor the performance of Contractor in the delivery of services provided under this MOU.
- B. County or any subdivision or appointee thereof, and the State of California or any subdivision or appointee thereof, including the Auditor General, shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of Contractor in the delivery of services provided under this MOU. Full cooperation shall be given by Contractor in any auditing or monitoring conducted. Contractor shall repay to the County within thirty (30) days of receipt of audit findings any reimbursements made by County to Contractor that are determined by subsequent audit to be unallowable pursuant to the terms of this MOU or by law.
- C. Contractor shall cooperate with County in the implementation, monitoring and evaluation of this MOU and comply with any and all reporting requirements established by this MOU.
- D. All records pertaining to service delivery and all statistical and management books and records shall be available for examination and audit by county, federal and state representatives for a period of three (3) years after final payment under the MOU or until all pending county, state, and federal audits are completed, whichever is later. Records of the Contractor which do not pertain to the services under this MOU may be subject to review or audit unless provided in this or another MOU. Technical program data shall be retained locally and made available upon the County's reasonable advance written notice or turned over to County. If said records are not made available at the scheduled monitoring visit, Contractor may, at County's option, be required to reimburse County for expenses incurred due to required rescheduling of monitoring visit(s). Such reimbursement will not exceed \$50 per hour (including travel time).
- E. Contractor shall provide all reasonable facilities and assistance for the safety and convenience of County's representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work of the Contractor.

VII. CORRECTION OF PERFORMANCE DEFICIENCIES

- A. In the event of a problem or potential problem that could impact the quality or quantity of work, services, or the level of performance under this MOU, Contractor shall notify the County within one (1) working day, in writing and by telephone.
- B. Failure by Contractor to comply with any of the provisions, covenants, requirements or conditions of this MOU shall be a material breach of this MOU.
- C. In the event of a non-cured breach, County may, at its sole discretion and in addition to any other remedies available at law, in equity, or otherwise specified in this MOU.
 - 1. Afford Contractor thereafter a time period within which to cure the breach, which period shall be established at sole discretion of County; and/or
 - 2. Terminate this MOU immediately. In event of such termination, the County may proceed with the work in any manner deemed proper by the County.
- D. Unless a remedy is specifically designated as exclusive, no remedy conferred by any of the specific provision of the MOU is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder, now or hereafter existing at law or in equity or by statute or otherwise. The election of any one (1) or more remedies by either Party shall not constitute a waiver of the right to pursue other available remedies.

VIII. TERM

This MOU is effective as of October 1, 2021 and expires September 30, 2024, but may be terminated earlier in accordance with provisions of Section VII of the MOU. The MOU term may be extended for two (2) additional years by mutual agreement of the parties.

IX. EARLY TERMINATION

- A. The County may terminate the MOU immediately under the provisions of Section VII, Paragraph C, Item 2 of the MOU. In addition, the MOU may be terminated without cause by either party by serving a written notice to the Contractor thirty (30) days in advance of termination. The Assistant Executive Officer for Human Services is authorized to exercise the County's rights with respect to any termination of this MOU.
- B. Upon receipt of termination notice Contractor shall promptly discontinue services unless the notice directs otherwise. Contractor shall deliver promptly to County and transfer title (if necessary) all completed work, and work in progress, including drafts, documents, plans, forms, data, products, graphics, computer programs and reports.

X. GENERAL PROVISIONS

- A. When notices are required to be given pursuant to this MOU, the notices shall be in writing and mailed to the following respective addresses listed below.

Contractor: Desert Mountain SELPA
Attn: Jenae Holtz
17800 Highway 18
Apple Valley, CA 92307-1219

County: County of San Bernardino
Human Services
Attn: Contracts Unit
150 S. Lena Road
San Bernardino, CA 92415-0515

- B. Nothing contained in this MOU shall be construed as creating a joint venture, partnership or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.
- C. Contractor shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding this MOU.

The County, by written notice, may immediately terminate any contract if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the County with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once a contract has been awarded.

Contractor shall immediately report any attempt by a County officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Contractor. The report shall be made to the supervisor or manager charged with supervision of the employee or to the County Administrative Office. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.


- D. Time is of the essence in performance of this MOU and each of its provisions. Except as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this MOU, that party shall, within twenty-four (24) hours, give notice thereof, including all relevant information with respect thereto, to the other party.
- E. All documents, data, products, graphics, computer programs and reports prepared by Contractor pursuant to the MOU shall be considered property of the County upon payment for services (and product, if applicable). All such items shall be delivered to County at the completion of work under the MOU, subject to the requirements of Section VIII, Term. Unless otherwise directed by County, Contractor may retain copies of such items.
- F. No waiver of any of the provisions of the MOU shall be effective unless it is made in a writing which refers to provisions so waived and which is executed by the Parties. No course of dealing and no delay or failure of a Party in exercising any right under the MOU shall affect any other or future exercise of that right or any exercise of any other right. A Party shall not be precluded from exercising a right by its having partially exercised that right or its having previously abandoned or discontinued steps to enforce that right.
- G. Any alterations, variations, modifications, or waivers of provisions of the MOU, unless specifically allowed in the MOU, shall be valid only when they have been reduced to writing, duly signed and approved by the Authorized Representatives of both parties as an amendment to this MOU. No oral understanding or agreement not incorporated herein shall be binding on any of the Parties hereto.
- H. If any provision of the MOU is held by a court of competent jurisdiction to be unenforceable or contrary to law, it shall be modified where practicable to the extent necessary so as to be enforceable (giving effect to the intention of the Parties) and the remaining provisions of the MOU shall not be affected.
- I. This MOU shall be governed by and construed in all aspects in accordance with the laws of the State of California without regard to principles of conflicts of laws. The Parties agree to the exclusive jurisdiction of the federal court located in the County of Riverside and the state court located in the County of San Bernardino, for any and all disputes arising under this MOU, to the exclusion of all other federal and state courts.
- J. In the event the County determines that service is unsatisfactory, or in the event of any other dispute, claim, question or disagreement arising from or relating to this MOU or breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.
- K. The parties actions under the MOU shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. The provisions of this MOU are specifically made severable. If a provision of the MOU is terminated or held to be invalid, illegal or unenforceable, the validity and enforceability of the remaining provisions shall remain in full effect.
- L. In the event that a subpoena or other legal process commenced by a third party in any way concerning the services provided under this MOU is served upon Contractor or County, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Contractor and County further agree to cooperate with the other party in any lawful effort by such other party to contest the legal validity of such subpoena or other legal process commenced by a third party as may be reasonably required and at the expense of the party to whom the legal process is directed, except as otherwise proceed herein in connection with defense obligations by Contractor for County.

M. This MOU supersedes and replaces all previous contracts, agreements and understandings, oral written and implied, between the County and Contractor hereto with respect to the subject matter hereof. All such prior contracts, agreements and understandings are hereby terminated and deemed of no further force or effect.


X. CONCLUSION

- A. This MOU, consisting of eighteen (18) pages and Attachements A and B, is the full and complete document describing services to be rendered by Contractor to PSD including all covenants, conditions and benefits.
- B. The signatures of the Parties affixed to this MOU affirm that they are duly authorized to commit and bind their respective agencies to the terms and conditions set forth in this document.
- C. This MOU may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same MOU. The parties shall be entitled to sign and transmit an electronic signature of this MOU (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed MOU upon request.
- D. **IN WITNESS WHEREOF**, the signatures of the Parties affixed to this MOU affirm that they are duly authorized to commit and bind their respective institutions to the terms and conditions set forth in this document.

COUNTY OF SAN BERNARDINO
PRESCHOOL SERVICES DEPARTMENT


Name: Jacquelyn Greene
Title: Interim Director
Address: 662 S Tippecanoe Ave.
San Bernardino, CA
Date: 9-21-21

DESERT/MOUNTAIN SELPA


Name: Jenae Holtz
Title: Administrator
Address: 17800 Highway 18
Apple Valley, CA 92307-1219
Date: 9/21/2021

SCOPE OF WORK

I. CONTRACTOR SERVICE RESPONSIBILITIES

A. Statutes that pertain to scope of work

1. California Education Code §56302 – State statute that requires local education agencies to provide for the identification and assessment of the exceptional needs of an individual and the planning of an instructional program to meet the assessed needs.
2. 20 USC §1414 (a)(1) and California Education Code §56302.1(a) – Federal and state statutes that require a local educational agency to determine if a referred child is an individual with exceptional needs, and if so, conduct an individualized education program meeting with the child and parents/caregivers within sixty (60) days of the referral.
3. 20 USC §1415 (d)(1)(A), 34 CFR §300.504(a) and California Education Code §56301(d)(2) – Federal and state statutes and regulation that requires local education agencies to provide parents/caregivers with a copy of parental/caregiver rights and procedural safeguards upon initial referral or upon parental/caregiver request for assessment.

B. Program Requirements

Contractor shall:

1. Provide special education services to children age thirty-six (36) months to non-kindergarten eligible age five (5) years with eligible disabilities who are enrolled in Head Start or State Preschool Programs located within the Contractor service area in an inclusive environment according to the child's IEP.
2. Provide for the identification and assessment of the exceptional needs of an eligible child and the planning of an instructional program to meet the assessed needs, as mandated in California Education Code 56302.
3. Obtain informed parent/caregiver consent to assess child.
4. Obtain a the parent/caregiver sign a joint release form that will allow the DISTRICT and PSD staff to have access to the applicable information concerning the screening process and any results.
5. Provide parent/caregiver with a copy of their rights and procedural safeguards upon initial referral or parent/caregiver request for assessment, per Section 1415 (d)(1)(A) of Title 20 of the United State Code and 34 Code of Federal Regulations §300.504(a).
6. Determine whether a child referred by PSD is an individual with exceptional needs as defined in California Education Code 56026 and determine the educational needs of the child. Determinations shall be made and an individualized education program meeting with the parents/caregivers shall occur within sixty (60) calendar days of receiving parent/caregiver consent for assessment, per California Education Code 56302.1(a).

C. Assessment Request Procedure

Contractor shall:

1. Assist parent/caregiver who wish to have their preschool child age three (3) to five (5) assessed for special education eligibility by providing Special Education staff at a location designated by the Contractor.
2. Instruct parent/caregiver to bring a birth certificate, immunization records, proof of residency that is current within the past sixty (60) days, and parent/caregiver identification to the

3. Special Education Preschool Clerk. Upon verification, a referral will be given to the parent/caregiver.
4. Contact parent/caregiver after children have been enrolled with the DISTRICT for an assessment appointment and an IEP date.
5. Notify PSD staff of the initial IEP meeting, and provide copies of the IEP to the PSD staff for children who are found eligible for special education services with proper permission from parent/caregiver and a signed joint release.

D. Screening and Referrals

Contractor shall:

1. Have the ECATS refer children with identified disabilities to PSD when a Head Start or State Preschool program is considered a placement option.
2. Provide information and training to PSD's Disability Services Team regarding the Contractor referral procedures for children enrolled in PSD's Head Start and State Preschool programs within sixty (60) days prior to the start of each program year (program year begins July 1).
3. ECATS will review the referral package and develop an Assessment Plan within fifteen (15) calendar days with parent/caregiver consent.
4. ECATS will conduct a comprehensive evaluation within sixty (60) days of receiving the signed Assessment Plan of each child referred by Head Start and/or State Preschool for whom enrollment and screening information indicates a potential disability and notify the parent/caregiver of the date and time of the IEP meeting. If the child is eligible, the IEP will be developed and implemented upon parent/caregiver consent.
5. Provide timely access to any data and information pertaining to the referred child that it receives from the State or other resources including but not limited to test scores, school improvement status, and special education as it pertains to special education and related services for referred children.

E. Comprehensive Assessments

Contractor shall:

1. Initiate and complete an evaluation of a referred child in sufficient time to determine eligibility and implement special education services for qualified children within 60 days of referral.
2. Conduct comprehensive assessments, when determined appropriate by the Contractor, for enrolled children referred with suspected disability.
3. Invite the Disability Services Team to the IEP meeting as soon as a meeting is scheduled.
4. If the Disability Services Team is unable to attend the IEP meeting, notify the PSD Disabilities Team of the eligibility determination within ten (10) business days following determination.

F. MT Conferences and IEP Meetings

Contractor shall:

1. Schedule a meeting of the MT, including parent/caregiver of the eligible children, to implement an IEP.
2. Notify PSD staff in advance of the scheduled meeting to provide adequate time for arranging the attendance of appropriate PSD staff.
3. Provide the Head Start and/or State Preschool Disabilities Coordinator at the meeting with a copy of the IEP, assessment results, and any service-related documents to include in the child's Head Start and/or State Preschool special services folder.

G. Placement

Contractor shall:

1. Utilize Head Start or State Preschool Program as a placement option when appropriate for children identified through Child Find as requiring special education services (Part B under Section 619).
2. Maintain placement of children currently enrolled in Head Start and/or State Preschool when Head Start and/or State Preschool is the referring agent, when deemed appropriate by the MT.
3. Special Education programs and services shall be available to each student as part of the regular school day in accordance with the least restrictive environment mandate of federal and state law.

H. Specific Program Delivery

Contractor shall implement the required appropriate services per the IEP.

I. Transition

Contractor shall address transition planning into kindergarten, not later than ninety (90) days prior to the enrolled child's transition into kindergarten.

J. Training and Technical Assistance

Contractor shall:

1. Invite PSD staff to any in-service training that the DISTRICT has scheduled on topics specifically related to children age three (3) to five (5) with a disability or disabilities, including, but not limited to, goals and objectives.
2. Participate in specialized or individualized staff and parent/caregiver training, as needed for specific Head Start and/or State Preschool enrolled children and their families for whom Contractor is providing special education services; the topics will be determined in collaboration with PSD staff.

**PRESCHOOL SERVICES DEPARTMENT
CONTRACT COMPLAINT AND GRIEVANCE PROCEDURE**

(Instructions: The participant is to receive the top portion of this form. The bottom portion of the form is to be signed by the service recipient and placed in the Contractor's records.)

If you believe that there has been a violation of any laws or regulations, or if you have a problem regarding services received, you have the right to file a grievance.

The following procedures are to be followed when filing a grievance:

1. Identify the complaint/grievance in writing and discuss it with the Contractor/Service Provider.

Time frame: Within 1 week of discrimination/violation/problem.

If resolved at this level, no further action is required. If no resolution is apparent within 10 calendar days, proceed with Step 2.

2. Forward the written complaint/grievance to:

Preschool Services Department of San Bernardino County
662 S. Tippecanoe Avenue
San Bernardino, CA 92415-0630
ATT: Human Resources – Confidential

Time frame: Within 1 week of Step 1.

If resolved at this level, no further action is required. If no resolution is apparent within 20 calendar days, proceed with Step 3.

3. Forward the written complaint/grievance to the following address:

Human Services
150 South Lena Road
San Bernardino, CA 92415-0515
ATTN: Contracts Unit

Time frame: Within 1 week of Step 2.

You will be contacted within 10 calendar days of any actions taken. Each of these steps must be completed in the sequence shown.

GRIEVANCE PROCEDURE CERTIFICATION

This is to certify that I have read, understood, and received a copy of the San Bernardino County Preschool Services Department Contract Complaint and Grievance Procedure.

Signature of Service Recipient

Date