

ADDENDUM TO MASTER CONTRACT WITH MT. DIABLO UNIFIED SCHOOL
DISTRICT 2020-2021
FOR PLACEMENT OF STUDENT FROM THE STATE OF CALIFORNIA
AT BAYES ACHIEVEMENT CENTER, INC.

1. ADDENDUM CONTROLS:

Notwithstanding anything to the contrary in the Master Contract, to the maximum extent allowed by law, the terms of this Addendum shall control. All capitalized terms used herein shall have the same meaning as in the form portion of the Contract except where otherwise specifically defined.

2. COMPLIANCE WITH STATE OF TEXAS LAWS, STATUTES, REGULATIONS:

This Master Contract involves the educational placement of an LEA or SELPA student from the State of California in CONTRACTOR'S State of Texas residential educational facility. The Parties acknowledge and agree that applicable federal, State of Texas laws, regulations, and local governmental entities rules, regulations, ordinances, policies and procedures will apply to students educationally placed by out-of-state entities in CONTRACTOR'S facility including the provision of residential services, special education and related services to the student. The Parties further acknowledge and agree that CONTRACTOR has in place standard policies and procedures regarding the hiring, retention, and clearance of its employees; regarding subcontracting with related services personnel; and regarding the provision of and documentation of services provided students in its facility as required by their applicable IEPs; and that it applies these standard policies and procedures with regard to all students, including those educationally placed by out-of-state school districts or educational entities. The Parties acknowledge and recognize the inherent difficulties to CONTRACTOR in having to comply with laws, policies and procedures of multiple state and local jurisdictions involving such matters as facility inspection requirements, use of particular forms for restraint and seclusion, obtaining criminal record compliance clearance of its staff by various state governmental entities, using specifically mandated forms or documents, meeting retention and production of document requirements, using or having to access various data systems for entry of data, and meeting and complying with subcontracting and/or reporting requirements. In this regard, the Parties agree that CONTRACTOR'S compliance with federal and applicable State of Texas laws and local governmental entities, rules, regulations, policies and procedures, shall be deemed compliance with applicable similar State of California statutes, rules, and regulations, and LEA and SELPA rules, regulations, policies and procedures, to the extent that such compliance substantially meets the intended purpose of such statutes, rules, regulations, policies and procedures.

3. TERMINATION:

Upon termination of the Agreement, LEA or SELPA shall pay CONTRACTOR, without duplication, for all services satisfactorily performed, including residential costs and verified expenses, that had been incurred to date of termination, or if actual final discharge/removal of student from CONTRACTOR'S facility occurs after the date of termination, then as to date of actual final discharge/removal. In this regard, LEA or SELPA acknowledge that they are

responsible for ensuring student's removal from CONTRACTOR'S facility by date of termination and should LEA or SELPA fail to do so, they acknowledge and agree to remain responsible for payment of all additional services, including residential services provided by CONTRACTOR to student during any holdover period.

4. VENUE AND GOVERNING LAW:

The laws of the State of California shall govern the terms and conditions of this Master Contract except as provided herein. Venue for any legal action shall be limited to the United States District Courts having jurisdiction in the principal location of the LEA, SELPA or CONTRACTOR.

5. PUPIL RECORDS AND INSPECTION AND AUDIT:

This provision supersedes those provisions in Master Contract relating to definitions of "records" and rights of access of CONTRACTORS records by the LEA or SELPA. CONTRACTOR shall comply with record maintenance requirements of the State of Texas and as required by federal law. Notwithstanding the foregoing sentence, CONTRACTOR shall maintain all required records for at least five (5) years after termination of this Master Contract. For purposes of this Master Contract, "records" means "pupil records" as defined by California Education Code §49061(b). CONTRACTOR shall make available to the LEA or SELPA for inspection and copying at its facility or provide copies to the LEA or SELPA those relevant records associated with the delivery of residential services, educational services and related services to the specific student covered by this Master Contract for audit. These records shall include those management records associated with the delivery of residential services, educational services and related services, any reimbursable expenses incurred by CONTRACTOR in the provision of services to the student and personnel records necessary to ensure that staff qualifications comply with State of Texas laws and/or IDEA. Records do not include CONTRACTOR'S marketing materials, statements of income and expenses, general journals, cash receipts and disbursement books, federal/state payroll records and/or quarterly reports; social security numbers of employees or contractors (unless payments from LEA or SELPA are made directly to said employees or contractors), documents evidencing financial expenditures of CONTRACTOR except as it relates to the individual student services for which the LEA or SELPA would be invoiced; bank statements, cancel checks or facsimile thereof; and operating budgets or other general financial information of CONTRACTOR. Should the SELPA desire to review any budgetary or financial information of CONTRACTOR for any relevant contract period, then the SELPA must request such information from CONTRACTOR in writing and include why the information is sought and for what purpose it will be used. Upon receipt of such a request and if requested for reasonable and appropriate purposes such information will be provided to the SELPA by CONTRACTOR.

6. INDEMNIFICATION AND HOLD HARMLESS:

Notwithstanding anything to the contrary in the Master Contract, the indemnify provisions of the parties are hereby modified to so that the broadest and same type and level of liability covered by CONTRACTOR'S indemnity of the LEA and/or SELPA shall also be applicable to CONTRACTOR. For example, if CONTRACTOR is required to indemnify the LEA and/or

SELPA for its sole negligence, then LEA or SELPA shall also indemnify CONTRACTOR for their sole negligence.

7. SUBCONTRACTING:

CONTRACTOR hereby gives notice to the LEA and/or SELPA that subcontracts with multiple types of related services personnel and health care professionals. Notwithstanding anything to the contrary in the Master Contract, subcontractors shall be properly certified and qualified to provide the services contracted for under Texas law, and no subcontractor shall be required to comply with insurance provisions in the Master Contract nor shall CONTRACTOR be required to obtain prior approval or consent for use of subcontractors from the LEA and/or SELPA. All subcontractors shall meet the background check requirements of the State of Texas.

8. GENERAL PROGRAM OF INSTRUCTION:

Notwithstanding anything to the contrary in the Master Contract, the general program of instruction shall be implemented with a curriculum and pursuant to procedures that meet the essential knowledge and skills (educational) standards of the State of Texas.

9. CLASS SIZE:

Notwithstanding anything to the contrary in the Master Contract, class size and requirements for paraprofessionals to be assigned to a class shall be governed by the standards of the State of Texas and/or as otherwise required by a student's IEP.

10. CALENDARS:

Notwithstanding anything to the contrary in the Master Contract, CONTRACTOR shall use its calendar which meets the State of Texas requirements for total instructional days per the regular school year. Extended school year days and instructional minutes per day will be provided pursuant to the student's IEP.

11. DATA REPORTING:

Notwithstanding anything to the contrary in the Master Contract, CONTRACTOR shall only be required to provide to LEA or SELPA data in the format and on the forms CONTRACTOR typically uses. The LEA or SELPA will be responsible for transferring any such data into its database or onto its forms.

12. ATTENDANCE AT IEP MEETINGS OR DUE PROCESS HEARINGS

Notwithstanding anything to the contrary in the Master Contract, any necessary CONTRACTOR personnel shall participate in any mandated meeting at request of LEA or SELPA including IEP meetings and due process hearings via telephone or other form of electronic communication. Should any CONTRACTOR personnel be requested or required to attend any mandated meeting, including IEP meeting or due process hearing in person, then the LEA or

SELPA shall be responsible for paying all transportation, hotel, meals, and other costs incurred by said personnel at then current State of California rates for attending such a meeting, plus lost billable service hours to CONTRACTOR for said personnel travel time.

13. POSITIVE BEHAVIORAL INTERVENTIONS:

Notwithstanding anything to the contrary in the Master Contract, positive behavioral intervention, emergency interventions, other interventions shall be governed by the IDEA, other applicable federal law and laws of the State of Texas and as provided pursuant to the student's IEP and/or behavior intervention plan. Any documentation or reports of emergency or other types of interventions or restraints shall be on forms utilized by CONTRACTOR.

14. TRANSCRIPTS AND DIPLOMAS

Notwithstanding anything to the contrary in the Master Contract, the LEA and/or SELPA shall be responsible for creating and maintaining transcripts of the students and issuing diplomas. CONTRACTOR will timely provide the LEA and/or SELPA with the information and grades needed to complete and maintain the Transcript of the student.

15. LEA STUDENT CHANGE IN PLACEMENT OR RESIDENCE:

Notwithstanding anything to the contrary in the Master Contract, within five (5) school days after CONTRACTOR becomes aware of a student's change in residence or withdrawal from school and/or services, CONTRACTOR agrees to notify LEA and/or SELPA of said change via email or through any other form of written communication.

16. MONITORING:

Notwithstanding anything to the contrary in the Master Contract, with regard to monitoring of CONTRACTOR's facility, programming, provision of educational services, health and safety, curriculum/instruction, related services, and contractual, legal, or procedural compliance, such monitoring shall be based on compliance with applicable federal and State of Texas laws and regulations.

17. CLEARANCE REQUIREMENTS; STAFF QUALIFICATION; VERIFICATION OF LICENSES, CREDENTIALS, AND OTHER DOCUMENTS; STAFF PROFESSIONAL BEHAVIOR; HEALTH AND SAFETY; FACILITIES AND EMERGENCY PRECAUTIONS; ADMINISTRATION OF MEDICATION; INCIDENT/ACCIDENT REPORTING; CHILD ABUSE REPORTING; SEXUAL HARRASSMENT; REPORT OF MISSING CHILDREN; SUBSTITUTE TEACHERS:

Notwithstanding anything to the contrary in the Master Contract, Clearance Requirements of CONTRACTOR'S staff and others; Staff Qualifications and Verification of Licenses, Credentials, etc.; Staff Professional Behavior; Health and Safety; Facilities and Emergency Precautions; Administration of Medication; Incident/Accident Reporting; Child Abuse Reporting; Sexual Harassment; Report of Missing Children; and use of Substitute Teachers shall be governed

by the applicable federal and State of Texas laws and regulations and, as applicable, regulations and ordinances of local governmental entities where CONTRACTOR is located.

18. ENROLLMENT AND BILLING PROCEDURES:

Notwithstanding anything to the contrary in the Master Contract, CONTRACTOR shall utilize its standard billing procedures and forms when invoicing the LEA/SELPA for the services provided. The billing information shall be sufficient for the LEA/SELPA to confirm the services provided and the rates charged.

19. CONTRACTING:

Notwithstanding anything to the contrary in the Master Contract, for contracted related services, supervision provided by a qualified individual as specified in either 5 CCR Section 3065 or under applicable federal or State of Texas laws and regulations shall be deemed sufficient and appropriate.

20. RIGHT TO WITHHOLD PAYMENT:

Notwithstanding anything to the contrary in the Master Contract, the LEA or SELPA may withhold payment only as it relates to a specific contested service or charge when:

(a) CONTRACTOR has materially failed to perform the service for which payment is sought pursuant to the terms of the contract;

(b) CONTRACTOR has billed for services not provided;

(c) CONTRACTOR was overpaid as determined by an inspection, review, and/or audit of its program, work, and/or records;

(d) CONTRACTOR has failed to provide supporting documentation with its invoice as contractually required;

(e) For educational and/or related services provided to the student by personnel who are not appropriately credentialed, licensed, or otherwise qualified;

(f) For services provided after CONTRACTOR failed to provide notice to the LEA or SELPA of a student's change in residence to another district within five (5) days of CONTRACTOR obtaining knowledge of such change in residence.

(g) CONTRACTOR receives payment from Medi-Cal or from any other agency or funding source for a service provide to an LEA student.

21. RESIDENTIAL TREATMENT CENTER:

Notwithstanding anything to the contrary in the Master Contract, CONTRACTOR residential program, being located in the State of Texas shall not be governed by the State of California laws, regulations, rules, policies or procedures, but shall comply with the laws, regulations, policies and procedures of the State of Texas.

22. PROGRESS REPORTS AND ELECTRONIC WEB-BASED IEP SYSTEMS

Notwithstanding anything to the contrary in the Master Contract, CONTRACTOR may submit all progress reports, IEP updates, and other required information on its forms to the LEA and/or SELPA. CONTRACTOR shall not be required to utilize any LEA or SELPA adopted web-based system for IEP planning and progress reporting. The LEA and/or SELPA shall be responsible for inputting the information provided by CONTRACTOR into their web-based systems.

SIGNATURES:

BAYES ACHIEVEMENT CENTER, INC.

SELPA:

Authorized Representative

Authorized Representative

LEA:

Superintendent