

**INDEPENDENT CONSULTANT AGREEMENT
2020-2021
(DR. SANDY KEATON)**

This Independent Consultant Agreement for Services ("Agreement") is made as of July 1, 2020, between the Santa Clarita Valley SELPA ("SCV SELPA") and Dr. Sandy Keaton ("Consultant") (together, "Parties").

1. **Services.** Consultant shall furnish to the SCV SELPA the services as described in **Exhibit "A"** attached hereto and incorporated herein by this reference ("Services").
2. **Term.** Consultant shall commence providing Services under this Agreement upon execution of the Agreement by both Parties and will diligently perform such Services as required. The term for Services and schedule to provide Services shall be in accordance with the schedule included in **Exhibit "A."**
3. **Submittal of Documents.** The Consultant shall not commence the Services under this Agreement until the Consultant has submitted and the SCV SELPA has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below:

<u> X </u>	Signed Agreement
<u> X </u>	Insurance Certificates and Endorsements
<u> X </u>	W-9 Form

Compensation. SCV SELPA compensation to Consultant shall be as set forth in **Exhibit "A"** as the proposed fee for Services, but in no event shall total fees, costs, and expenses exceed Two Thousand five hundred Dollars (\$2,500.00), without the express written approval of the SCV SELPA's Governing Board ("Board"). SCV SELPA shall pay Consultant according to the following terms and conditions:

- 3.1. Payment shall be made within thirty (30) days after Consultant submits an invoice to the SCV SELPA for Services actually completed and after the SCV SELPA's written approval of the Services, or the portion of the Services for which payment is to be made.
- 3.2. The Services shall be performed at the hourly billing rates and/or unit prices included in **Exhibit "A."** If hourly billing applies, the itemized invoice shall reflect the hours spent by Consultant in performing its Services pursuant to this Agreement.
- 3.3. If Consultant works at more than one site, Consultant shall invoice for each site separately.
4. **Expenses.** SCV SELPA shall only pay Consultant for those costs and expenses described in Exhibit "A" and for which are actually completed by Consultant.
5. **Independent Contractor.** Consultant, in the performance of this Agreement, shall be and act as an independent contractor with the exclusive right to control the manner and means of the performance of the Services. Consultant understands and agrees that he/she and all of his/her employees shall not be considered officers, employees, agents, partner, or joint venture of the SCV SELPA, and are not entitled to benefits of any kind or nature normally provided employees of the SCV SELPA and/or to which SCV SELPA's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Workers' Compensation. Consultant shall assume full responsibility for

payment of all federal, state, and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Consultant and its employees.

6. **Standard of Care.** Consultant represents that Consultant has the qualifications, experience, and ability to fully perform the Services in a professional manner, without the advice, control, or supervision of the SCV SELPA. Consultant's services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of his/her profession for services to California school districts.
7. **Special Education Requirements.** Pursuant to 5 CCR § 3051, Consultant represents that Consultant meets the qualifications found in 34 C.F.R. sections 300.156(b) and 3001(r) and the applicable portions of section 3051 et seq. and is either: (A) a county office, or (B) employed under contract pursuant to Education Code sections 56365-56366, or (C) an employee, vendor or contractor of the State Departments of Health Care Services or State Hospitals, or any designated local public health or mental health agency.
8. **Originality of Services.** Except as to standard generic details, Consultant agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to the SCV SELPA and/or used in connection with this Agreement, shall be wholly original to Consultant and shall not be copied in whole or in part from any other source, except that submitted to Consultant by SCV SELPA as a basis for such Services.
9. **Audit.** Consultant shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Consultant transacted under this Agreement. Consultant shall retain these books, records, and systems of account during the Term of this Agreement and for five (5) years thereafter. Consultant shall permit the SCV SELPA, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the SCV SELPA shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's normal business hours, unless Consultant otherwise consents.
10. **Termination.**
 - 10.1. **For Convenience by SCV SELPA.** SCV SELPA may, at any time, with or without reason, terminate this Agreement with thirty (30) days written notice, and compensate Consultant only for Services satisfactorily rendered up to the date of termination (i.e., SCV SELPA will compensate Consultant for Services completed to date of termination as a pro-rata amount of the full fees, costs, and expenses). Written notice by the SCV SELPA shall be sufficient to stop further performance of Services by Consultant. Notice shall be deemed given when received by the Consultant or no later than three (3) days after the day of mailing, whichever is sooner.
 - 10.2. **For Cause by SCV SELPA.** SCV SELPA may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:
 - 10.2.1. Material violation of this Agreement by Consultant; or
 - 10.2.2. Any act by Consultant exposing the SCV SELPA to liability, including but not limited to liability to others for personal injury or property damage.

- 10.2.3. Consultant is adjudged a bankrupt, Consultant makes a general assignment for the benefit of creditors or a receiver is appointed on account of Consultant's insolvency.

Written notice by SCV SELPA shall contain the reasons for such intention to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the SCV SELPA may secure the required Services from another consultant. If the expense, fees, and/or costs to the SCV SELPA exceed the cost of providing the Services pursuant to this Agreement, Consultant shall immediately pay the excess expense, fees, and/or costs to the SCV SELPA upon the receipt of the SCV SELPA's notice of these expense, fees, and/or costs.

- 10.3. Upon termination, Consultant shall provide the SCV SELPA with all documents produced, maintained, or collected by Consultant pursuant to this Agreement, whether or not such documents are final or draft documents.

11. **Disputes.** In the event of a dispute between the Parties as to performance of the Services, the interpretation of this Agreement, or payment or nonpayment for work performed or not performed, the Parties shall attempt to resolve the dispute in good faith. Pending resolution of the dispute, Consultant agrees it will neither rescind the Agreement nor stop the performance of the Services, but will allow determination by the court of the State of California, in the county in which the SCV SELPA's administration office is located, having competent jurisdiction of the dispute. Prior to seeking the court's intervention, Disagreements arising under this Agreement shall first be brought to the attention of the other party, in writing pursuant to the Notice requirement provided by paragraph 26 of this Agreement. Within 15 days of receipt of the written notice, the District's designee and Consultant will meet to resolve the dispute to the mutual satisfaction of both Parties. If this meeting fails to resolve the dispute, the parties shall jointly identify a neutral third-party mediator to engage in mediation in an attempt to resolve the dispute. The costs of mediation will be split between the Parties.
12. **Indemnification.** To the furthest extent permitted by California law, Consultant shall, at its sole expense, defend, indemnify, and hold harmless the SCV SELPA and its Board, agents, representatives, officers, consultants, employees, trustees, and volunteers (the "Indemnified Parties") from any and all demands, losses, liabilities, penalties, interest, claims, suits, and actions (the "Claims") of any kind, nature, and description, including but not limited to, personal injury, death, property damage, unfair employment practices, common law or joint employer issues, misclassification issues, and Consultant's fees and/or attorney's fees and costs, directly or indirectly arising out of, connected with, or resulting from the performance of the Agreement or from any activity, work, or thing done, permitted or suffered by the Consultant under or in conjunction with this Agreement, or relating to any Claims imposed by CalSTRS or CalPERS due to Consultant's non-compliance with its obligations set forth in Sections 1 and 4 above, unless the Claims are caused wholly by the sole negligence or willful misconduct of the Indemnified Parties. The SCV SELPA shall have the right to accept or reject any legal representation that Consultant proposes to defend the Indemnified Parties.

13. Insurance.

13.1. Consultant shall always procure and maintain it performs any portion of the Services, insurance.

- 13.1.1. **Commercial General Liability and Automobile Liability Insurance.** Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect Consultant, the SCV SELPA, and the State from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising performing any portion of the Services. (Form CG 0001 and CA 0001, or forms substantially similar, if approved by the SCV SELPA.)
- 13.1.2. **Workers' Compensation and Employers' Liability Insurance.** Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, Consultant shall be required to secure Workers' Compensation coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services.
- 13.1.3. **Professional Liability (Errors and Omissions).** Professional Liability Insurance as appropriate to Consultant's profession, coverage to continue through completion of Agreement plus two (2) years thereafter.
- 13.1.4. **Proof of Insurance.** Consultant shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered in duplicate to the SCV SELPA and approved by the SCV SELPA. Certificates and insurance policies shall include the following:
- 13.1.5. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the SCV SELPA, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."
- The SCV SELPA may, in its discretion, allow Consultant to agree in writing that Consultant, or Consultant's insurance broker or producer, in lieu of Consultant's insurance carrier, shall provide the thirty (30) days' notice required above.
- 13.1.6. Language stating those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.
- 13.1.7. An endorsement stating that the SCV SELPA and its Board, agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insured under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Consultant's

insurance policies shall be primary to any insurance or self-insurance maintained by SCV SELPA. An endorsement shall also state that there shall be a waiver of any subrogation.

- 13.1.8. All policies except the Professional Liability, Workers' Compensation Insurance, and Employers' Liability Insurance Policies shall be written on an occurrence form.

13.2. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the SCV SELPA.

14. **Assignment.** The obligations of the Consultant pursuant to this Agreement shall not be assigned by the Consultant.
15. **Compliance with Laws.** Consultant shall observe and comply with all rules and regulations of the Board of the SCV SELPA and all federal, state, and local laws, ordinances and regulations. Consultant shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Services as indicated or specified. If Consultant observes that any of the Services required by this Agreement are at variance with any such laws, ordinance, rules or regulations, Consultant shall notify the SCV SELPA, in writing, and, at the sole option of the SCV SELPA, any necessary changes to the scope of the Services shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Consultant's receipt of a written termination notice from the SCV SELPA. If Consultant performs any Services that are in violation of any laws, ordinances, rules or regulations, without first notifying the SCV SELPA of the violation, Consultant shall bear all costs arising therefrom.
16. **Certificates/Permits/Licenses/Registration.** Consultant and all Consultant's employees or agents shall secure and maintain in force such certificates, permits, licenses, and registration as are required by law in connection with the furnishing of Services pursuant to this Agreement.
17. **Safety and Security.** Consultant is responsible for maintaining safety in the performance of this Agreement. Consultant shall be responsible to ascertain from the SCV SELPA the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.
18. **Employment with Public Agency.** Consultant, if an employee of another public agency, agrees that Consultant will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which Services are actually being performed pursuant to this Agreement.
19. **Retiree of CalSTRS or CalPERS.** If any Consultant personnel assigned to perform Services is a retiree of CalSTRS or CalPERS, Consultant agrees to provide the SCV SELPA with proper notice prior to such personnel's performance of any Services, as set forth in Section 1, "Services," and agrees to provide the proper documentation to the SCV SELPA for any Services performed by such personnel, as set forth in Section 4, "Compensation."
20. **Antidiscrimination.** It is the policy of the SCV SELPA that in connection with all work performed under its contracts there be no discrimination against any employee engaged in the work because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age and therefore the Consultant agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning

with Government Code Section 12900, Labor Code Section 1735, and SCV SELPA policy. In addition, the Consultant agrees to require like compliance by all its subcontractor(s).

21. **Fingerprinting of Employees.** It is contemplated at the time of execution of this Agreement that Consultant or its employees will have contact with students during the provision of Services under this Agreement. Accordingly, Consultant shall comply with the provisions of Education Code section 45125.1 regarding the submission of employee fingerprints to the California Department of Justice and the completion of criminal background investigations of its employees. The Consultant shall not permit any employee to have any contact with SCV SELPA pupils until such time as the Consultant has verified in writing to the Board of the SCV SELPA that the employee has not been convicted of a felony, as defined in Education Code section 45122.1. The Consultant's responsibility shall extend to all employees, subcontractors, agents, and employees or agents of subcontractors regardless of whether those individuals are paid or unpaid, concurrently employed by the SCV SELPA, or acting as independent contractors of the Consultant. Verification of compliance with this section and the Fingerprinting/Criminal Background Investigation Certification that may be required with this Agreement, shall be provided in writing to the SCV SELPA prior to each individual's commencement of employment or performing any portion of the Services and prior to permitting contact with any student.
22. **SCV SELPA's Evaluation of Consultant and Consultant's Employees and/or Subcontractors.** The SCV SELPA may evaluate the Consultant in any manner which is permissible under the law.
23. **Limitation of SCV SELPA Liability.** Other than as provided in this Agreement, SCV SELPA's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall SCV SELPA be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the Services performed in connection with this Agreement.
24. **Confidentiality.** The Consultant and all Consultant's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. Consultant understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records including but not limited to confidentiality provisions in the California Education Code and the Family Educational Rights and Privacy Act ("FERPA"). This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.

25. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, facsimile transmission, or electronic mail, addressed as follows:

SCV SELPA:

Santa Clarita Valley SELPA
ATTN: Tracy Peyton-Perry
26320 Spirit Court
Santa Clarita, California 91350
Fax: 661-294-7842
Phone: 661-259-0033
Email: tpeyton@hartdistrict.org

Consultant:

Dr. Sandy Keaton, Audiologist
16211 Oak Bluff Road
Canyon Country, CA 91387
Fax:
Email: offkea@gmail.com

Any notice personally given or sent by facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the next business day following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) calendar days after deposit in the United States mail.

26. **Attorney's Fees/Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.
27. **No Rights in Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
28. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties. This Agreement is not valid until approved/ratified by the SCV SELPA's Board. Services shall not be rendered until Agreement is approved or ratified.
29. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the county in which the SCV SELPA's administrative offices are located.
30. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
31. **Severability.** If any term, condition or provision of this Agreement is held by a court or arbitrator of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
32. **Provisions Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.

33. **Authority to Bind Parties.** Neither party in the performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has any authority to bind the other to any agreements or undertakings.
34. **Captions and Interpretations.** Paragraph headings in this Agreement are used solely for convenience and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.
35. **Calculation of Time.** For the purposes of this Agreement, "days" refer to calendar days unless otherwise specified.
36. **Counterparts.** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.
37. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

Dated: 6/3/, 2020

Santa Clarita Valley SELPA

By:

Print Name: Tracy Peyton-Perry

Print Title: SCV SELPA Director

Dated: _____, 2020

By:

Print Name: Sandy Keaton

Print Title: _____

Dated: 5/29/2020, 2020

Dated: 6/3/2020, 2020

By: _____

Print Name: _____

Print Title: _____

By: _____

Print Name: _____

Print Title: _____

Information regarding Consultant:

License No.: AV1998

Registration No.: N/A

Address: 16211 Oak Bluff Road
Canyon County, CA 91387

Telephone: 661-252-6418

Facsimile: _____

E-Mail: offkea@gmail.com

Type of Business Entity:

- ☒ Individual
☐ Sole Proprietorship
☐ Partnership
☐ Limited Partnership
☐ Corporation, State: _____
☐ Limited Liability Company
☐ Other: _____

Employer Identification and/or
Social Security Number

NOTE: Section 6041 of the Internal Revenue Code (26 U.S.C. 6041) and Section 1.6041-1 of Title 26 of the Code of Federal Regulations (26 C.F.R. 1.6041-1) requires the recipients of \$600.00 or more to furnish their taxpayer information to the payer. In order to comply with these requirements, the SCV SELPA requires Consultant to furnish the information requested in this section.

EXHIBIT "A"

Scope of Services

Schedule

Compensation/Expenses

SERVICES:

Dr. Keaton will conduct assessments and submit a written report on students referred with suspected Central Auditory Processing Disorder. Upon completion of the evaluation, Dr. Keaton will be compensated at the rate of \$750.00.

Dr. Keaton will attend IEP meetings to discuss the assessment results at \$55.00 per hour.

Dr. Keaton will review the students records to determine the appropriateness of conducting a CAPD assessment at the rate of \$55.00 per hour.

Prior to delivering any Services, Dr. Keaton will provide a copy of her valid Audiologist license and proof of adequate liability insurance.

Dr. Keaton will submit a monthly invoice and activity report and will be paid the amount due for the work performed in accordance with this Agreement. Within 30 days of receipt.

RATES:

\$55.00 per hour, not to exceed \$2,5000.00

\$750.00 per assessment

Consultant will submit written invoices to the SCV SELPA office detailing the time, date, and type of services. SCV SELPA office will pay these invoices within 30 days after they are received.