

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

August 22, 2023

FROM

JACQUELYN GREENE, Director, Preschool Services Department

SUBJECT

End User Software License Agreement with the California Department of Education and California Department of Social Services for Access and Use of Desired Results Developmental Profile Online©

RECOMMENDATION(S)

Approve End User Software License **Agreement No. 23-865**, including non-standard terms, with the California Department of Education and California Department of Social Services, for access and use of Desired Results Developmental Profile Online©, software containing Desired Results Developmental Profile©, and assessment for Data Sharing, for the period beginning August 22, 2023 and continuing until terminated by either party.
(Presenter: Jacquelyn Greene, Director, 383-2005)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Provide for the Safety, Health and Social Service Needs of County Residents.

FINANCIAL IMPACT

The recommended Software License agreement is non-financial in nature and as such, does not impact Discretionary General Funding (Net County Cost).

BACKGROUND INFORMATION

Preschool Services Department (PSD) operates the Early Head Start, Head Start, Early Head Start – Child Care Partnership (EHS-CCP), California Department of Education (CDE) and California Department of Social Services (CDSS), and State Preschool programs serving approximately 3,095 children through direct and indirect services in locations throughout the county. The programs provide education, health, nutrition, cognitive, social/emotional, physical growth and development, and parent involvement services for children ages 0 to 5 with the overall goal of increasing family engagement and school readiness of young children in economically disadvantaged families.

The license agreement sets forth the terms and conditions for accessing and using CDE and CDSS (Licensor) Desired Results Developmental Profile (DRDP) Online© Software (Software). The Software includes any DRDP manuals or other documentation supplied by the Licensor in conjunction with the Software and any corrections, enhancements, updates, or other modifications created and supplied by the Licensor.

PSD is a certified Licensor contractor with a Funding Agreement from Licensor's Early Learning and Care Division. They have User-Subject-to-Qualification status, granting them access to the

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Software for analyzing assessment data. To maintain access, they must meet all agreement qualifications. PSD uploads children's data to DRDP via the Software three times a year (minimum requirement is twice) after the Fall, Winter, and Spring rating periods. The data is used to build reports for supporting children's individual learning and developmental needs, identifying and analyzing DRDP trends at various levels, meeting contractual obligations, and fulfilling the state annual Program Self Evaluation. The company CCR Analytics also uses this data to generate School Readiness and DRDP data analysis reports, critical for monitoring County Performance Measures and School Readiness goals.

Only PSD consultants and other third-party service providers are permitted to use the current version of the Software; no other third parties are permitted to access or use the Software.

The End User Software License Agreement (Agreement) with the Licensor includes terms that differ from the standard County contract terms. The non-standard terms include the following:

1. The County is required to indemnify the Licensor for County's negligent or wrongful acts or omissions related to the provision of Services.
 - The County standard contract indemnity provision requires the Contractor to indemnify, defend, and hold County harmless from third party claims arising out of the acts, errors or omissions of any person.
 - Potential Impact: The Licensor is not required to defend, indemnify or hold the County harmless from any claims and by agreeing to indemnify the Licensor, the County would be responsible to reimburse the Licensor for costs, expenses, and damages, which could exceed the total Agreement amount.

2. The Agreement does not require the Licensor to meet the County's insurance standards as required pursuant to County Policy 11-07.
 - The County standard contract requires contractors to carry appropriate insurance at limits and under conditions determined by the County's Risk Management Department.
 - Potential Impact: The Agreement does not include County standard insurance requirements. This means that the County has no assurance that the Licensor will be financially responsible for claims that may arise from the County's use of the software, which could result in expenses to the County that exceed the total Agreement amount.

PSD recommends approval of the agreement, including the non-standard terms, as the Licensor requires that PSD use the Software to enter all assessment data for all children enrolled in the Licensor's funded programs.

PROCUREMENT

N/A

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Adam Ebright, Deputy County Counsel, 387-5455) on July 26, 2023; Risk Management (Victor Tordesillas, Director, 386-8623) on August 1, 2023; Finance (Paul Garcia, Administrative Analyst, 386-8392) on August 4 2023; and County Finance and Administration (Cheryl Adams, Deputy Executive Officer, 388-0238) on August, 7, 2023.

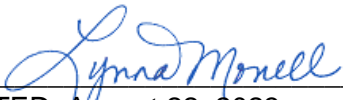
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Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

Moved: Joe Baca, Jr. Seconded: Curt Hagman
Ayes: Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.
Absent: Col. Paul Cook (Ret.)

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: August 22, 2023



cc: PSD - Garcia w/agree
Contractor - w/agree
File - w/agree
CCM 08/23/2023