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Introduction Date	2/23/2022
Enactment Number	22-0355
Enactment Date	2-23-2022 CJH



**OAKLAND UNIFIED
SCHOOL DISTRICT**
Community Schools, Thriving Students

Board Cover Memorandum

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Joshua R. Daniels, Chief Governance Officer

Meeting Date February 23, 2022

Subject Services Agreement 2021-22 with Healthcare IT Leaders, LLC for COVID-19 Testing Support and Sole Source Resolution

Ask of the Board Approval by the Board of Education of a Services Agreement 2021-2022 by and between the District and Healthcare IT Leaders, LLC for the latter to provide COVID-19 testing and reporting for the period of February 24, 2022 through June 30, 2022, in an amount not to exceed \$1,252,400.00 as well as approval by the Board of Education of Resolution No. 2122-0078 - Authorizing Use Of Sole Source Exception To Public Bidding For Services Agreement With Healthcare IT Leaders, LLC.

Services Healthcare IT Leaders, LCC (“HCIT”) will be responsible for performing comprehensive COVID-19 testing services. In addition to providing qualified and trained personnel, HCIT will be responsible for communication, coordination, and scheduling of testing services in partnership with OUSD. OUSD will provide antigen test kits and PCR test kits at no charge to Contractor for the use for OUSD. HCIT will be required to use existing data collection and reporting platform from Primary Health to record test results. The Contractor will provide testing services under CDPH’s provided CLIA license. Testing services will be provided primarily during hours in which OUSD operates. COVID-19 testing services may also be provided during evening and weekend hours to accommodate the needs of OUSD students, staff, and their families.

Term Start Date: 2/24/2021 End Date: 6/30/2022

Not-To-Exceed Amount \$1,252,400.00

Competitively Bid

No

If the Service Agreement was not competitively bid and the not-to-exceed amount is more than \$96,700, list the exception(s) that applies (requires Legal review/approval and may require a resolution): *See Resolution No. 2122-0078 - Authorizing Use Of Sole Source Exception To Public Bidding For Services Agreement With Healthcare IT Leaders, LLC.*

In-Kind Contributions

None

Funding Source(s)*ESSER III, Resource 3213 - \$1,252,400.00***Background**

The District current works with close to 10 different COVID testing providers in order to ensure sufficient testing personnel to meet demand. Nevertheless, the vendors has struggled to consistently provide the promised staffing levels. As a result, the District is continually looking for strong, consistent COVID testing providers. HCIT is a provider, recommended by CDPH, that can operate at part of CDPH's school testing program.

Attachment(s)

- Services Agreement with Healthcare IT Leaders, LLC

**RESOLUTION OF THE
BOARD OF EDUCATION OF THE
OAKLAND UNIFIED SCHOOL DISTRICT**

Resolution No. 2122-0078

Authorizing Use Of Sole Source Exception To Public Bidding For Services Agreement With Healthcare IT Leaders, LLC.

WHEREAS, the Oakland Unified School District (“District”) has a need to contract with Healthcare IT Leaders, LLC (“HCIT”) for the services as described in the Services Agreement (“Agreement”);

WHEREAS, the Agreement contains a not-to-exceed amount of \$1,252,400;

WHEREAS, under Public Contracts Code section 20111, a contract in this amount may have required competitive bidding;

WHEREAS, one exception to this competitive bidding requirement is the “public policy” exception, an example of which is when there is only one supplier of a needed good or service (*Los Angeles Gas & Electric Corporation v. Los Angeles* (1920) 188 Cal. 307; *Hodgeman v. City of San Diego* (1942) 53 Cal.App.2d 610; *County of Riverside v. Whitlock* (1972) 22 Cal.App.3d 863); and

WHEREAS,

- The District needs vendors to provide reliable COVID testing and has struggled to find such vendors,
- The District works with a large number of COVID testing vendors and still has struggled to receive a consistent supply of testing personnel,
- HCIT is recommended by CDPH and is one of a small number of vendors that can operate as part of CDPH’s COVID school testing program,
- The District already contracts with two of the available vendors that can operate as part of CDPH’s COVID school testing program,
- The District is not allowed to work with more than two vendors that can operate as part of CDPH’s COVID school testing program, and
- If HCIT is successful in providing a consistent supply of testing personnel, OUSD may opt to partially or fully switch from those two vendors to HCIT, in which case the cost would be covered by CDPH.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The District seeks a vendor that can provide reliable COVID testing and which can operate as part of CDPH’s COVID school testing program,
2. The Board finds that HCIT might be able to meet these needs and needs to opportunity to determine if it can,
3. The Board approves waiving competitive bidding to allow the District to contract directly with HCIT for the services as described in the Services Agreement, and
4. The Board hereby approves the Services Agreement with the HCIT.

PASSED AND ADOPTED on February 23, 2022, by the Governing Board of the Oakland Unified School District by the following vote:

PREFERENTIAL AYE: None

PREFERENTIAL NOE: None

PREFERENTIAL ABSTENTION: None

PREFERENTIAL RECUSE: None

AYES: Aimee Eng, Shanthi Gonzales, Clifford Thompson, Vice President Benjamin "Sam" Davis, President Gary Yee

NOES: None

ABSTAINED: VanCedric Williams, Mike Hutchinson


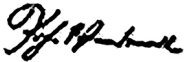
RECUSED: None

ABSENT: Student Director Samantha Pal, Student Director Natalie Gallegos

CERTIFICATION

We hereby certify that the foregoing is a full, true, and correct copy of a Resolution passed at a Regular Meeting of the Board of Education of the Oakland Unified School District held on February 23, 2022.

Legislative File	
File ID Number:	22-0467
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OAKLAND UNIFIED SCHOOL DISTRICT	
	2-24-2022
Gary Yee President, Board of Education	
	2-24-2022
Kyla Johnston-Trammell Superintendent and Secretary, Board of Education	

SERVICES AGREEMENT 2021-2022

This Services Agreement (“Agreement”) is a legally binding contract entered into between the Oakland Unified School District (“OUSD”) and the below named entity or individual (“VENDOR,” together with OUSD, “PARTIES”): **Healthcare IT Leaders, LLC**.

The PARTIES hereby agree as follows:

1. **Term.**
 - a. This Agreement shall start on the below date (“Start Date”): February 24, 2022
 - b. The work shall be completed no later than the below date (“End Date”): June 30, 2022
2. **Services.** VENDOR shall provide the services (“Services”) as described in #1A and #1B of **Exhibit A**, attached hereto and incorporated herein by reference. To the extent that there may be a school closure (e.g., due to poor air quality, planned loss of power, COVID-19) or similar event in which school sites and/or District offices may be closed or otherwise inaccessible, VENDOR shall describe in #1B of **Exhibit A** whether and how the Services would be able to continue.
3. **Alignment.** VENDOR agrees to work and communicate with OUSD staff, both formally and informally, to ensure that the Services are aligned with OUSD’s mission and are meeting the needs of students as determined by OUSD.
4. **Inspection and Approval.** VENDOR agrees that OUSD has the right and agrees to provide OUSD with the opportunity to inspect any and all aspects of the Services performed including, but not limited to, any records or other materials (physical or electronic) produced, created, edited, modified, reviewed, or otherwise used in the preparation, performance, or evaluation of the Services. One example of such records or other materials is proof of VENDOR compliance with Paragraph 17 (Testing and Screening). The Services performed by VENDOR must meet the approval of OUSD, and OUSD reserves the right to direct VENDOR to redo the Services, in whole or in part, if OUSD, in its sole discretion, determines that the Services were not performed in accordance with this Agreement.
5. **Data and Information Requests.** VENDOR shall timely provide OUSD with any data and information OUSD reasonably requests regarding students to whom the Services are provided. VENDOR shall register with and maintain current information within OUSD’s Community Partner database unless OUSD communicates to VENDOR in writing otherwise, based on OUSD’s determination that the Services are not related to community school outcomes. If and when VENDOR’s programs and school site(s) change (either midyear or in subsequent years), VENDOR shall promptly update the information in the database.
6. **Confidentiality and Data Privacy.**
 - a. OUSD may share information with VENDOR pursuant to this Agreement in order to further the purposes thereof. VENDOR and all VENDOR’s agents, personnel,

employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services, provided such information is (i) marked or identified as “confidential” or “privileged,” or (ii) reasonably understood to be confidential or privileged.

- b. VENDOR understands that student data is confidential. If VENDOR will access or receive identifiable student data, other than directory information, in connection with this Agreement, VENDOR agrees to do so only after VENDOR and OUSD execute a separate data sharing agreement.
 - (i) If VENDOR is a software vendor, it agrees to access or receive identifiable student data, other than directory information, only after executing a California Student Data Privacy Agreement (“CSDPA”) or CSDPA Exhibit E (available here).
 - (ii) If VENDOR is not a software vendor, it agrees to access or receive identifiable student data, other than directory information, only after executing the OUSD Data Sharing Agreement (available here).
 - (iii) Notwithstanding Paragraph 28 (Indemnification), should VENDOR access or receive identifiable student data, other than directory information, without first executing a separate data sharing agreement, VENDOR shall be solely liable for any and all claims or losses resulting from its access or receipt of such data.
- c. All confidentiality requirements, including those set forth in the separate data sharing agreement, extend beyond the termination of this Agreement.

7. **Copyright/Trademark/Patent/Ownership.** VENDOR understands and agrees that all matters produced under this Agreement, excluding any intellectual property that existed prior to execution of this Agreement, shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in those works are the property of OUSD. These matters include, without limitation, drawings, plans, specifications, studies, reports, memoranda, computation sheets, the contents of computer diskettes, artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, source codes or any other original works of authorship, or other documents prepared by VENDOR, its employees, or its subcontractors in connection with the Services performed under this Agreement. VENDOR cannot use, reproduce, distribute, publicly display, perform, alter, remix, or build upon matters produced under this Agreement without OUSD’s express written permission. OUSD shall have all right, title and interest in said matters, including the right to register the copyright, trademark, and/or patent of said matter in the name of OUSD. OUSD may, with VENDOR’s prior written consent, use VENDOR’s name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.

8. **Compensation.** OUSD agrees to pay VENDOR for satisfactorily performing Services in accordance with this Paragraph, Paragraph 10 (Invoicing), and #1C in **Exhibit A**.

- a. The compensation under this Agreement shall not exceed: **\$1,252,400**
This sum shall be for full performance of this Agreement and includes all fees, costs,

and expenses incurred by VENDOR including, but not limited to, labor, materials, taxes, profit, overhead, travel, insurance, permitted subcontractor costs, and other costs.

- b. OUSD shall not pay and shall not be liable to VENDOR for any costs or expenses paid or incurred by VENDOR not described in **Exhibit A**.
 - c. Payment for Services shall be made for all undisputed amounts no more frequently than in monthly installment payments within sixty (60) days after VENDOR submits an invoice to OUSD, in accordance with Paragraph 10 (Invoicing), for Services actually performed and after OUSD's written approval that Services were actually performed. The granting of any payment by OUSD, or the receipt thereof by VENDOR, shall in no way lessen the liability of VENDOR to correct unsatisfactory performance of Services, even if the unsatisfactory character of the performance was not apparent or detected at the time a payment was made. If OUSD determines that VENDOR's performance does not conform to the requirements of this Agreement, VENDOR agrees to correct its performance without delay.
 - d. Compensation for any Services performed prior to the Start Date or after the End Date shall be at OUSD's sole discretion and in an amount solely determined by OUSD. VENDOR agrees that it shall not expect or demand payment for the performance of such services.
 - e. VENDOR acknowledges and agrees not to expect or demand payment for any Services performed prior to the PARTIES, particularly OUSD, validly and properly executing this Agreement until this Agreement is validly and properly executed and shall not rely on verbal or written communication from any individual, other than the President of the OUSD Governing Board, the OUSD Superintendent, or the OUSD General Counsel, stating that OUSD has validly and properly executed this Agreement.
9. **Equipment and Materials.** VENDOR shall provide all equipment, materials, and supplies necessary for the performance of this Agreement.
10. **Invoicing.** Invoices furnished by VENDOR under this Agreement must be in a form acceptable to OUSD.
- a. All amounts paid by OUSD shall be subject to audit by OUSD. Invoices shall include, without limitation: VENDOR name, VENDOR address, invoice date, invoice number, purchase order number, name of school or department to which Services were provided, name(s) of the person(s) performing Services, date(s) Services were performed, brief description of Services provided on each date, the total invoice amount, and the basis for the total invoice amount (e.g., if hour rate, the number of hours on each date and the rate for those hours).
 - b. If OUSD, at its sole discretion, determines an invoice fails to include the required elements, OUSD will not pay the invoice and will inform VENDOR of the missing items; VENDOR shall resubmit an invoice that includes the required elements before OUSD will pay the invoice.
 - c. Invoices must be submitted monthly, and within 30 days of the conclusion of the

applicable billing period, unless otherwise agreed. OUSD reserves the right to refuse to pay untimely invoices.

- d. OUSD reserves the right to add or change invoicing requirements. If OUSD does add or change invoicing requirements, it shall notify VENDOR in writing and the new or modified requirements shall be mandatory upon receipt by VENDOR of such notice.
- e. To the extent that VENDOR has described how the Services may be provided both in-person and not in-person, VENDOR's invoices shall—in addition to any invoice requirement added or changed under subparagraph (c)—indicate whether the Services are provided in-person or not.
- f. All invoices furnished by VENDOR under this Agreement shall be delivered to OUSD via email unless OUSD requests, in writing, a different method of delivery.

11. **Termination.**

- a. For Convenience by OUSD. OUSD may at any time terminate this Agreement upon thirty (30) days prior written notice to VENDOR. OUSD shall compensate VENDOR for Services satisfactorily provided through the date of termination. Upon approval by OUSD legal counsel, the OUSD Superintendent or an OUSD Chief or Deputy may issue the termination notice without approval by the OUSD Governing Board, in which case this Agreement would terminate upon ratification of the termination by the OUSD Governing Board or thirty (30) days after the notice was provided, whichever is later.
- b. Due to COVID-19. Notwithstanding Paragraph 19 (Coronavirus/ COVID-19) or any other language of this Agreement, if a shelter-in-place (or similar) order due to COVID-19 is issued or is in effect during the term of this Agreement that would prohibit or limit, at the sole discretion of OUSD, the ability of VENDOR to perform the Services, OUSD may terminate this Agreement upon seven (7) days prior written notice to VENDOR. Upon approval by OUSD legal counsel, the OUSD Superintendent or an OUSD Chief or Deputy may issue the termination notice without approval by the OUSD Governing Board, in which case this Agreement would terminate upon ratification of the termination by the OUSD Governing Board or seven (7) days after the notice was provided, whichever is later.
- c. For Cause. Either PARTY may terminate this Agreement by giving written notice of its intention to terminate for cause to the other PARTY. Written notice shall contain the reasons for such intention to terminate. Cause shall include (i) material violation of this Agreement or (ii) if either PARTY is adjudged bankrupt, makes a general assignment for the benefit of creditors, or a receiver is appointed on account of its insolvency. Upon approval by OUSD legal counsel, the OUSD Superintendent or an OUSD Chief or Deputy may issue the termination notice without approval by the OUSD Governing Board, in which case this Agreement would terminate upon ratification of the termination by the OUSD Governing Board or three (3) days after the notice was provided, whichever is later, unless the condition or violation ceases or satisfactory arrangements for the correction are made.
- d. Upon termination, VENDOR shall provide OUSD with all materials produced,

maintained, or collected by VENDOR pursuant to this Agreement, whether or not such materials are complete or incomplete or are in final or draft form.

12. **Legal Notices.** All legal notices provided for under this Agreement shall be sent via email to the email address set forth below and shall be either (i) personally delivered during normal business hours or (ii) sent by U.S. Mail (certified, return receipt requested) with postage prepaid to the other PARTY at the address set forth below.

OUSD

Name: Joshua R. Daniels
Site/Dept: Office of General Counsel
Address: 1000 Broadway, Suite 300
City, ST Zip: Oakland, CA 94607
Phone: 510-879-8535
Email: ousdlegal@ousd.org

VENDOR

Name: Ted Justiss
Title: Chief Operations Officer
Address: 925 North Point Pkwy, Ste 425
City, ST Zip: Alpharetta, GA 30005
Phone: 404-660-4679
Email: Ted.Justiss@healthcareitleaders.com

Notice shall be effective when received if personally served or emailed or, if mailed, three days after mailing. Either PARTY must give written notice of a change of mailing address or email.

13. **Status.**
- a. This is not an employment contract. VENDOR, in the performance of this Agreement, shall be and act as an independent contractor. VENDOR understands and agrees that it and any and all of its employees shall not be considered employees of OUSD, and are not entitled to benefits of any kind or nature normally provided employees of OUSD and/or to which OUSD's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. VENDOR 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 VENDOR's employees.
 - b. VENDOR verifies all of the following:
 - (i) VENDOR is free from the control and direction of OUSD in connection with the performance of the work;
 - (ii) VENDOR is providing services directly to OUSD rather than to customers of OUSD;
 - (iii) the contract between OUSD and VENDOR is in writing;

- (iv) VENDOR has the required business license or business tax registration, if the work is performed in a jurisdiction that requires VENDOR to have a business license or business tax registration;
- (v) VENDOR maintains a business location that is separate from the business or work location of OUSD;
- (vi) VENDOR is customarily engaged in an independently established business of the same nature as that involved in the work performed;
- (vii) VENDOR actually contracts with other businesses to provide the same or similar services and maintains a clientele without restrictions from OUSD;
- (viii) VENDOR advertises and holds itself out to the public as available to provide the same or similar services;
- (ix) VENDOR provides its own tools, vehicles, and equipment to perform the services;
- (x) VENDOR can negotiate its own rates;
- (xi) VENDOR can set its own hours and location of work; and
- (xii) VENDOR is not performing the type of work for which a license from the Contractor's State License Board is required, pursuant to Chapter 9 (commencing with section 7000) of Division 3 of the Business and Professions Code.

14. **Qualifications and Training.**

- a. VENDOR represents and warrants that VENDOR has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of OUSD. VENDOR will performed the Services in accordance with generally and currently accepted principles and practices of its profession for services to California school districts and in accordance with applicable laws, codes, rules, regulations, and/or ordinances. All VENDOR employees and agents shall have sufficient skill and experience to perform the work assigned to them.
- b. VENDOR represents and warrants that its employees and agents are specially trained, experienced, competent and fully licensed to provide the Services identified in this Agreement in conformity with the laws and regulations of the State of California, the United States of America, and all local laws, ordinances and/or regulations, as they may apply, if VENDOR was selected, at least in part, on such representations and warrants.

15. **Certificates/Permits/Licenses/Registration.** VENDOR'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.

16. **Insurance.**

- a. Commercial General Liability Insurance. Unless specifically waived by OUSD as noted in **Exhibit A**, VENDOR shall maintain Commercial General Liability Insurance, including automobile coverage, with limits of at least one million dollars (\$1,000,000) per occurrence for corporal punishment, sexual misconduct,

harassment, bodily injury and property damage. The coverage shall be primary as to OUSD and shall name OUSD as an additional insured with the additional insured endorsement provided to OUSD within 15 days of effective date of this Agreement (and within 15 days of each new policy year thereafter during the term of this Agreement). Evidence of insurance shall be attached to this Agreement or otherwise provided to OUSD upon request. Endorsement of OUSD as an additional insured shall not affect OUSD's rights to any claim, demand, suit or judgment made, brought or recovered against VENDOR. The policy shall protect VENDOR and OUSD in the same manner as though each were separately issued. Nothing in said policy shall operate to increase the Insurer's liability as set forth in the policy beyond the amount or amounts shown or to which the Insurer would have been liable if only one interest were named as an insured.

- b. Workers' Compensation Insurance. VENDOR shall procure and maintain at all times during the performance of such work, Workers' Compensation Insurance in conformance with the laws of the State of California (including, but not limited to, Labor Code section 3700) and Federal laws when applicable. Employers' Liability Insurance shall not be less than one million dollars (\$1,000,000) per accident or disease.

17. **Testing and Screening.**

- a. Tuberculosis Screening. Unless specifically waived by OUSD as noted in **Exhibit A**, VENDOR is required to screen employees who will be working at OUSD sites for more than six hours. VENDOR agents who work with students must submit to a tuberculosis risk assessment as required by Education Code section 49406 within the prior 60 days. If tuberculosis risk factors are identified, VENDOR agents must submit to an intradermal or other approved tuberculosis examination to determine that he/she is free of infectious tuberculosis. If the results of the examination are positive, VENDOR shall obtain an x-ray of the lungs. VENDOR, at its discretion, may choose to submit the agent to the examination instead of the risk assessment.
- b. Fingerprinting/Criminal Background Investigation. Unless specifically waived by OUSD as noted in **Exhibit A**, for all VENDOR employees, subcontractors, volunteers, and agents providing the Services, VENDOR shall ensure completion of fingerprinting and criminal background investigation, and shall request and regularly review subsequent arrest records. VENDOR confirms that no employee, subcontractor, volunteer, or agent providing the Services has been convicted of a felony, as that term is defined in Education Code section 45122.1. VENDOR shall provide the results of the investigations and subsequent arrest notifications to OUSD.
Waivers are not available for VENDORS whose employees, subcontractors, volunteers, and agents will have any contact with OUSD students.
- c. VENDOR shall use either California Department of Justice or Be A Mentor, Inc. (<http://beamentor.org/OUSDPartner>) finger-printing and subsequent arrest notification services.
- d. VENDOR agrees to immediately remove or cause the removal of any employee,

representative, agent, or person under VENDOR's control person from OUSD property upon receiving notice from OUSD of such desire. OUSD is not required to provide VENDOR with a basis or explanation for the removal request.

18. **Incident/Accident/Mandated Reporting.**

- a. VENDOR shall notify OUSD, via email pursuant to Paragraph 12 (Legal Notices), within twelve (12) hours of learning of any significant accident or incident. Examples of a significant accident or incident include, without limitation, an accident or incident that involves law enforcement, possible or alleged criminal activity, or possible or actual exposure to a communicable disease such as COVID-19. VENDOR shall properly submit required accident or incident reports within one business day pursuant to the procedures specified by OUSD. VENDOR shall bear all costs of compliance with this Paragraph.
- b. To the extent that an employee, subcontractor, agent, or representative of VENDOR is included on the list of mandated reporters found in Penal Code section 11165.7, VENDOR agrees to inform the individual, in writing that they are a mandated reporter, and describing the associated obligations to report suspected cases of abuse and neglect pursuant to Penal Code section 11166.5.

19. **Coronavirus/COVID-19.**

- a. Through its execution of this Agreement, VENDOR declares that it is able to meet its obligations and perform the Services required pursuant to this Agreement in accordance with any shelter-in-place (or similar) order or curfew (or similar) order ("Orders") issued by local or state authorities and with any social distancing/hygiene (or similar) requirements.
- b. Consistent with the requirements of Paragraph 18 (Incident/Accident/Mandated Reporting), VENDOR agrees to notify OUSD, via email pursuant to Paragraph 12 (Legal Notices), within twelve (12) hours if VENDOR or any employee, subcontractor, agent, or representative of VENDOR tests positive for COVID-19, shows or reports symptoms consistent with COVID-19, or reports to VENDOR possible COVID-19 exposure.
- c. VENDOR agrees to immediately adhere to and follow any OUSD directives regards health and safety protocols including, but not limited to, providing OUSD with information regarding possible exposure of OUSD employees to VENDOR or any employee, subcontractor, agent, or representative of VENDOR and information necessary to perform contact tracing, as well as complying with any OUSD testing and vaccination requirements.
- d. VENDOR shall bear all costs of compliance with this Paragraph, including but not limited to those imposed by this Agreement.

20. **Assignment.** The obligations of VENDOR under this Agreement shall not be assigned by VENDOR without the express prior written consent of OUSD and any assignment without the express prior written consent of OUSD shall be null and void.

21. **Non-Discrimination.** It is the policy of OUSD that in connection with all work performed under Contracts there be no discrimination because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age; therefore, VENDOR 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 and Labor Code section 1735 and OUSD policy. In addition, VENDOR agrees to require like compliance by all its subcontractor (s). VENDOR shall not engage in unlawful discrimination in employment on the basis of actual or perceived; race, color, national origin, ancestry, religion, age, marital status, pregnancy, physical or mental disability, medical condition, veteran status, gender, sex, sexual orientation, or other legally protected class.
22. **Drug-Free/Smoke Free Policy.** No drugs, alcohol, and/or smoking are allowed at any time in any buildings and/or grounds on OUSD property. No students, staff, visitors, VENDORS, or subcontractors are to use controlled substances, alcohol or tobacco on these sites.
23. **Waiver.** No delay or omission by either PARTY in exercising any right under this Agreement shall operate as a waiver of that or any other right or prevent a subsequent act from constituting a violation of this Agreement.
24. **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.
25. **Conflict of Interest.**
 - a. VENDOR shall abide by and be subject to all applicable, regulations, statutes, or other laws regarding conflict of interest. VENDOR shall not hire any officer or employee of OUSD to perform any service by this Agreement without the prior approval of OUSD Human Resources.
 - b. VENDOR affirms to the best of his/her/its knowledge, there exists no actual or potential conflict of interest between VENDOR's family, business or financial interest and the services provided under this Agreement, and in the event of change in either private interest or services under this Agreement, any question regarding possible conflict of interest which may arise as a result of such change will be brought to OUSD's attention in writing.
 - c. Through its execution of this Agreement, VENDOR acknowledges that it is familiar with the provisions of section 1090 *et seq.* and section 87100 *et seq.* of the Government Code, and certifies that it does not know of any facts which constitute a violation of said provisions. In the event VENDOR receives any information subsequent to execution of this Agreement which might constitute a violation of said provisions, VENDOR agrees it shall notify OUSD in writing.
26. **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion.** Through its execution of this Agreement, VENDOR certifies to the best of its knowledge and belief, that it and its principals are not presently debarred, suspended, proposed for

debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency according to Federal Acquisition Regulation Subpart 9.4, and by signing this contract, certifies that this vendor does not appear on the Excluded Parties List (<https://www.sam.gov/>).

27. **Limitation of OUSD Liability.** Other than as provided in this Agreement, OUSD's financial obligations under this Agreement shall be limited to the payment of the compensation described in Paragraph 8 (Compensation). Notwithstanding any other provision of this Agreement, in no event shall OUSD 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.
28. **Indemnification.**
 - a. To the furthest extent permitted by California law, VENDOR shall indemnify, defend and hold harmless OUSD, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers ("OUSD Indemnified Parties") from any and all claims or losses accruing or resulting from injury, damage, or death of any person or entity arising out of VENDOR's performance of this Agreement. VENDOR also agrees to hold harmless, indemnify, and defend OUSD Indemnified Parties from any and all claims or losses incurred by any supplier, VENDOR, or subcontractor furnishing work, services, or materials to VENDOR arising out of the performance of this Agreement. VENDOR shall, to the fullest extent permitted by California law, defend OUSD Indemnified Parties at VENDOR's own expense, including attorneys' fees and costs, and OUSD shall have the right to accept or reject any legal representation that VENDOR proposes to defend OUSD Indemnified Parties.
 - b. To the furthest extent permitted by California law, OUSD shall indemnify, defend, and hold harmless VENDOR, its Board, agents, representatives, officers, consultants, employees, trustees, and volunteers ("VENDOR Indemnified Parties") from any and all claims or losses accruing or resulting from injury, damage, or death of any person or entity arising out of OUSD's performance of this Agreement. OUSD shall, to the fullest extent permitted by California law, defend VENDOR Indemnified Parties at OUSD's own expense, including attorneys' fees and costs.
29. **Audit.** VENDOR shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of VENDOR transacted under this Agreement. VENDOR shall retain these books, records, and systems of account during the term of this Agreement and for three (3) years after the End Date. VENDOR shall permit OUSD, 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 Services covered by this Agreement. Audit(s) may be performed at any time, provided that OUSD shall give reasonable prior notice to VENDOR and shall

conduct audit(s) during VENDOR'S normal business hours, unless VENDOR otherwise consents.

30. **Litigation.** This Agreement shall be deemed to be performed in Oakland, California and is governed by the laws of the State of California, but without resort to California's principles and laws regarding conflict of laws. The Alameda County Superior Court shall have jurisdiction over any litigation initiated to enforce or interpret this Agreement.
31. **Incorporation of Recitals and Exhibits.** Any recitals and exhibits attached to this Agreement are incorporated herein by reference. VENDOR agrees that to the extent any recital or document incorporated herein conflicts with any term or provision of this Agreement, the terms and provisions of this Agreement shall govern.
32. **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.
33. **Severability.** If any term, condition or provision of this Agreement is held by a court 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.
34. **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.
35. **Captions and Interpretations.** Section and 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.
36. **Calculation of Time.** For the purposes of this Agreement, "days" refers to calendar days unless otherwise specified and "hours" refers to hours regardless of whether it is a work day, weekend, or holiday.
37. **Counterparts and Electronic Signature.** This Agreement, and all amendments, addenda, and supplements to this Agreement, may be executed in one or more counterparts, all of which shall constitute one and the same amendment. Any counterpart may be executed and delivered by facsimile or other electronic signature (including portable document format) by either PARTY and, notwithstanding any statute or regulations to the contrary (including, but not limited to, Government Code section 16.5 and the regulations promulgated therefrom), the counterpart shall legally bind the signing PARTY and the receiving PARTY

may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received. Through its execution of this Agreement, each PARTY waives the requirements and constraints on electronic signatures found in statute and regulations including, but not limited to, Government Code section 16.5 and the regulations promulgated therefrom.

38. **W-9 Form.** If VENDOR is doing business with OUSD for the first time, VENDOR acknowledges that it must complete and return a signed W-9 form to OUSD.
39. **Agreement Publicly Posted.** This Agreement, its contents, and all incorporated documents are public documents and will be made available by OUSD to the public online via the Internet.
40. **Signature Authority.** Each PARTY has the full power and authority to enter into and perform this Agreement, and the person(s) signing this Agreement on behalf of each PARTY has been given the proper authority and empowered to enter into this Agreement.
41. **Contract Contingent on Governing Board Approval.** OUSD shall not be bound by the terms of this Agreement unless and until it has been (i) formally approved by OUSD's Governing Board or (ii) validly and properly executed by the OUSD Superintendent, the General Counsel, or a Chief or Deputy Chief authorized by the Education Code or Board Policy, and no payment shall be owed or made to VENDOR absent such formal approval or valid and proper execution.

REST OF PAGE IS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the PARTIES hereto agree and execute this Agreement and to be bound by its terms and conditions:

VENDOR

Name: Robert Bailey Signature: Bob Bailey

Position: CEO Date: February 11, 2022

One of the terms and conditions to which VENDOR agrees by its signature is subparagraph (e) of Paragraph 8 (Compensation), which states that VENDOR acknowledges and agrees not to expect or demand payment for any Services performed prior to the PARTIES, particularly OUSD, validly and properly executing this Agreement until this Agreement is validly and properly executed and shall not rely on verbal or written communication from any individual, other than the President of the OUSD Governing Board, the OUSD Superintendent, or the OUSD General Counsel, stating that OUSD has validly and properly executed this Agreement. VENDOR specifically acknowledges and agrees to this term/condition on the above date.

OUSD

Name: Gary Yee Signature: G. Yee

Position: President, Board of Education Date: 2-24-2022

- Board President
- Superintendent
- Chief/Deputy Chief/Executive Director

Name: Kyla Johnson-Trammell Signature: K. Johnson-Trammell

Position: Secretary, Board of Education Date: 2-24-2022

Template approved as to form by OUSD Office of the General Counsel.

EXHIBIT A

- 1A. **General Description of Services to be Provided:** *Provide a description of the service(s) VENDOR will provide.*
Please see attached scope of work.
- 1B. **Description of Services to be Provided During School Closure or Similar Event:** *If there is a school closure (e.g., due to poor air quality, planned loss of power, COVID-19) or similar event in which school sites and/or District offices may be closed or otherwise inaccessible, would services be able to continue?*
- No, services would not be able to continue.
 - Yes, services would be able to continue as described in 1A.
 - Yes, but services would be different than described in 1A. Please briefly describe how the services would be different.
2. **Waivers:** *OUSD has waived the following. Confirmation of the waiver is attached herewith:*
- Commercial General Liability Insurance. (Waiver only available, at OUSD's sole discretion, if VENDOR's employees, subcontractors, volunteers, and agents will have no contact (in-person **or virtual**) with OUSD students, and the compensation not-to-exceed amount is \$25,000 or less.)
 - Workers' Compensation Insurance (Waiver only available, at OUSD's sole discretion, if VENDOR has no employees.)
 - Tuberculosis Screening (Waiver only available, at OUSD's sole discretion, if VENDOR's employees, subcontractors, volunteers, and agents will have no in-person contact with OUSD students.)
 - Fingerprinting/Criminal Background Investigation (Waiver only available, at OUSD's sole discretion, if VENDOR's employees, subcontractors, volunteers, and agents will have no contact (in-person **or virtual**) with OUSD students.)

**Exhibit A
Scope of Work**

1. Service Overview

Healthcare IT Leaders, LLC (hereby referred to as Contractor) will provide the services described herein to Oakland Unified School District (“OUSD”). The Contractor will fulfill the testing personnel allocations to OUSD. Contractor personnel will be responsible for performing comprehensive COVID-19 testing services. In addition to providing qualified and trained personnel, the Contractor will be responsible for communication, coordination, and scheduling of testing services in partnership with OUSD.

OUSD will provide antigen test kits and PCR test kits at no charge to Contractor for the use for OUSD. The Contractor will be required to use existing data collection and reporting platform from Primary Health to record test results. The Contractor will provide testing services under CDPH’s provided CLIA license.

2. Service Location

Services will be performed primarily at OUSD school locations.

3. Service Hours

Testing services will be provided primarily during hours in which OUSD operates. COVID-19 testing services may also be provided during evening and weekend hours to accommodate the needs of OUSD students, staff, and their families.

4. Project Representatives

A. The project representatives during the term of this agreement will be:

Oakland Unified School District Mara Larsen-Flemming Director, Health & Wellness, Community Schools & Student Services mara.larsen-fleming@ousd.org 510-684-6549	Healthcare IT Leaders, LLC Jeff Mason / Program Manager 925 North Point Pkwy, Ste 425 Alpharetta, GA 30005 jeff.mason@healthcareitleaders.com (256) 503-0837
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B. Direct all inquiries to:

Oakland Unified School District Joshua R. Daniels Chief Governance Officer Josh.daniels@ousd.org 510-879-5060	Healthcare IT Leaders, LLC Jeff Mason / Program Manager 925 North Point Pkwy, Ste 425 Alpharetta, GA 30005 jeff.mason@healthcareitleaders.com (256) 503-0837
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C. All payments from OUSD to the Contractor shall be sent to the following address:

Remittance Address

**Exhibit A
Scope of Work**

Contractor: Healthcare IT Leaders, LLC

Attention "Cashier":

925 North Point Pkwy, Ste 425

Alpharetta, GA 30005

tyler.justiss@healthcareitleaders.com

- D. Either party may make changes to the information above by giving written notice to the other party. Said changes shall not require an amendment to this agreement.

5. Services to be Performed

A. Onsite Testing Personnel

1. The Contractor shall provide full-time technicians with the skills of a medical assistant, emergency medical technician, equivalent or higher to provide the staffing necessary to meet district/school testing needs. Staff will be deployed within 10 business days of being requested.
2. All deployed personnel will pass all background checks completed by the Contractor, in accordance with State and/or federal law, and inclusive of a sex offender registry check.
3. Where possible, the Contractor will coordinate deployments between geographically proximate locations. Personnel shall be deployed to the testing locations through the duration of the 2021-22 school year unless otherwise noted by OUSD.
4. Contractor personnel must abide by all State, local and district policies regarding COVID-19 vaccination for any onsite staff, and/or staff must submit to regular COVID-19 testing if unvaccinated or as directed by State, local and district policy.
5. Contract personnel shall wear appropriate PPE as recommended by CDPH/CDC for test personnel at all times.
6. Contractor personnel will complete CDPH's interactive rapid antigen training course and assessment (1 hour in duration, administered remotely).
7. Contractor personnel shall operate under CDPH's CLIA certificate.
8. Duties for on-site testing personnel will primarily include the following:
 - a. Assist in registration of individuals into the Primary.Health platform.
 - b. Observe self-swabbing and/or collect antigen and/or PCR swabbing of students and staff at K-12 school sites.
 - c. Process point-of-care tests on site and record results in Primary.Health.
 - i. Contractor personnel are required to enter results of all tests (positive, negative, and invalid) into the Primary.Health software. Personnel will notify onsite district/school supervisors immediately if there are any positive or questionable test results.
 - d. Prepare PCR tests for transportation to CDPH-Valencia Branch Lab.
 - e. Transport samples to COVID-19 Courier Network (CCN) drop box.
 - f. Employees may need the capacity to drive/be transported between school

Exhibit A Scope of Work

sites in a district.

9. Team leads should be established at each testing site who are responsible for communicating directly with Contractor supervisors; supervisors assigned to the district/school must be available to provide support in real time when issues arise.
10. Contractor should maintain a set minimum (e.g., three staff) at each testing site to ensure testing services are administered efficiently, especially at large schools and districts sites. Testing personnel minimums should increase depending on the anticipated volume of students and be coordinated with the OUSD site lead.

B. Project Management and Support

1. Contractor shall provide dedicated project management employees for purposes of supporting the testing services contemplated herein.
2. Project managers will be responsible for maintaining regular (e.g., weekly) communication with OUSD regarding all pertinent details of the end-to-end antigen testing program at participating schools.
3. Project Managers shall maintain regular communication with each assigned school partner and have a communication line established to handle urgent issues, including after hours.
4. Project managers will also perform the following duties:
 - a. Coordinate with schools to align the testing plan and schedule for each site within the district; schedule coordination should occur during normal business hours at least 7 days prior to testing, or in a time frame agreed upon by both OUSD/school and the Contractor. The Contractor shall make a good faith attempt to accommodate reasonable changes in the testing schedule within 48–72-hour notice or as agreed upon with the OUSD/school partner.
 - b. Develop a contingency plan that identifies how the vendor will maintain staffing levels for OUSD/schools to prevent disruptions in testing should previously assigned vendor staff become unavailable.
 - c. Resolve issues/complaints directly with the OUSD/school
 - d. Have a plan for staff termination if personnel issues cannot be resolved in a time deemed acceptable to the school and OUSD.

C. Equipment and Supplies

1. Contractor shall provide all required PPE, sanitization supplies, tablets/computers, and related supplies, and shall utilize CDPH-provided testing kits and registration systems (Primary Health).
2. Contractor shall handle any positive antigen or PCR test waste in accordance with the Medical Waste Management Act of 2017 and will properly remove/discard such materials from the assigned working location.
3. Contractor shall provide all required administrative supplies (e.g., scissors, tape, tape measure, box cutters, pens, sharpie, etc.) for duration of testing event.
4. CDPH-provided testing kits will be ordered by OUSD/school site and delivered directly to the school.

**Exhibit A
 Scope of Work**

6. Professional Service Fees

A. Professional Services Rate Card

Resource	Rate	Overtime Rate
Clinical Test Administrator (LPN / EMT / Phlebotomist / Lab Tech)	\$ 71.50 / Hr	\$ 92.95 / Hr
Operational Clinical Lead / Site Supervisor (RN)	\$ 96.50 / Hr	\$ 125.45 / Hr
Senior Delivery Manager	\$ 150.00 / Hr	\$ 195.00 / Hr

- CDPH will provide the required physician order and California certified lab director for test procurement and state results reporting.
- The hourly rates above are inclusive of travel related expenses, laptops, administrative supplies, and PPE. The rates are determined based on the assumptions listed below in Section B.
- Contract will provide 3 laptops for each testing team and that the testing teams will travel from school to school within a district.
- OUSD will provide Medical Waste Management services..

B. Projected Cost Schedule

The Projected Cost Schedule below shows the weekly cost if OUSD utilized Healthcare IT Leaders COVID-19 clinical support team across OUSD, with OUSD requiring fifteen (15) Clinical Test Administrators and two (2) Operational Clinical Lead to support their student test population. All two (2) teams would be overseen by a dedicated Sr. Delivery Manager for advisory, quality assurance, and governance support.

Resource	# of Resources	Units / Week	Price / Unit	Total Cost
Clinical Test Admin.	15	40 Hours	\$ 71.50 / Hr	\$ 42,900
Clinical Lead	2	40 Hours	\$ 96.50 / Hr	\$ 7,720
Sr. Delivery Mgr.	2	40 Hours	\$ 150.00 / Hr	\$ 12,000
Engagement Weekly Total				\$ 62,620