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Board Cover Memorandum

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Lisa Grant-Dawson, Chief Business Officer
Kimberly Raney, Executive Director Procurement, Transportation, & Warehouse

Meeting Date March 9, 2022

Subject Ratification by the Board of Education of a Services Agreement 2021-2026 by and between the District and Bay Area Transport Services, Oakland, CA, for the latter to provide School Pupil Activity Bus Transportation Services with Seat Belts (“Services”) for OUSD students for Oakland Athletic League (“OAL”) athletic events and field trips for students for the period of August 9, 2021 through June 30, 2026 in an amount not to exceed \$85,000.00

Ask of the Board Approve Service Agreement
 Ratify Service Agreement

Services *The Vendor will provide School Pupil Activity Bus Transportation Services with Seat Belts (“Services”) for OUSD students for Oakland Athletic League (“OAL”) athletic events and field trips when transportation with seat belts is specifically requested or required by law. VENDOR will provide Field Trip, Athletic, and HTS Transportation services for students*

Term Start Date: Aug. 9, 2021
2026

End Date: June 30,

Not-To-Exceed Amount \$850,000

Competitively Bid Yes

In-Kind Contributions *None*

Funding Source(s)

Background *The District issued an RFP for transportation vendors for field trips and athletics for students. In issuing the RFP, the District's intent was to have an approved list of charter transportation providers for school sites to choose from.*

Attachment(s)

- Service Agreement
- RFP

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”): **Bay Area Transport Services**

The PARTIES hereby agree as follows:

1. **Term.**

- a. This Agreement shall start on the below date (“Start Date”):

Aug 9, 2021

If no Start Date is entered, then the Start Date shall be the latest of the dates on which each of the PARTIES signed this Agreement.

- b. The work shall be completed no later than the below date (“End Date”):

June 30, 2026

If no End Date is entered, then the End Date shall be the first June 30 after the Start Date. If the term set forth above would cause the Agreement to exceed the term limits set forth in Education Code section 17596, the Agreement shall instead automatically terminate upon reaching said term limit.

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 its services would be able to continue.

3. **Alignment and Evaluation.**

- a. 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.

- b. OUSD may evaluate VENDOR in any manner which is permissible under the law. OUSD's evaluation may include, without limitation: (i) requesting that OUSD employee(s) evaluate the performance of VENDOR, each of VENDOR's employees, and each of VENDOR's subcontractors, and (ii) announced and unannounced observance of VENDOR, VENDOR's employee(s), and VENDOR's subcontractor(s).
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 materials (physical or electronic) produced, created, edited, modified, reviewed, or otherwise used in the preparation, performance, or evaluation of the Services. In accordance with Paragraph 8 (Compensation), 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:

\$850,000

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: Bay Area Transport Services
Title: [REDACTED]
Address: 2012 99th Avenue
City, ST Zip: Oakland CA 94603
Phone: 510-812-4247
Email: marlon@bayexecutivetransport.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. If VENDOR is a natural person, VENDOR verifies all of the following:
 - (i) VENDOR is free from the control and direction of OUSD in connection with VENDOR's work;
 - (ii) VENDOR's work is outside the usual course of OUSD's business; and
 - (iii) VENDOR is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed for OUSD.
- c. If VENDOR is a business entity, 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 five million dollars (\$5,000,000) 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. Unless specifically waived by OUSD as noted in **Exhibit A**, 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>) fingerprinting 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. Further reporting requirements are set forth in **Exhibit A**.

- 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. To the extent that VENDOR provides Services in person and consistent with the requirements of Paragraph 10 (Invoicing), VENDOR agrees to include additional information in its invoices as required by OUSD if any Orders are issued by local or state authorities that would prevent VENDOR from providing Services in person.
- c. 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.
- d. 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.

- e. 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.**
 - a. 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.

- b. Notwithstanding subparagraph (a), only the Superintendent, Chiefs, Deputy Chiefs, and the General Counsel have been delegated the authority to sign contracts for OUSD, and only under limited circumstances, which require ratification by the OUSD Governing Board. VENDOR agrees not to accept the signature of another other OUSD employee as having the proper authority and empowered to enter into this Agreement or as legally binding in any way.
 - a. Notwithstanding Paragraph 11, if this Agreement is executed by the signature of the Superintendent, Chiefs, Deputy Chiefs, or General Counsel under their delegated authority, and the Board thereafter declines to ratify the Agreement, the Agreement shall automatically terminate on the date that the Board declines to ratify it. OUSD shall compensate VENDOR for Services satisfactorily provided through the date of termination. 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.
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: Marlon McWilson Signature: Marlon McWilson

Position: CEO Date: 2/5/2022

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: 3/10/2022

Board President

Superintendent

Chief/Deputy Chief/Executive Director

Name: Kyla Johnson-Trammell Signature: Kyla Johnson-Trammell

Position: Secretary, Board of Education Date: 3/10/2022

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.*

VENDOR will provide School Pupil Activity Bus Transportation Services with Seat Belts (“Services”) for OUSD students for Oakland Athletic League (“OAL”) athletic events and field trips when transportation with seat belts is specifically requested or required by law. VENDOR will provide Field Trip, Athletic, and HTS Transportation services for students.

The total amount payable to VENDOR under this Agreement shall not exceed \$150,000 per contract year. The rates payable to VENDOR are as set forth in the Bus Rate Worksheet, attached to this Agreement.

The prices set forth in the Bus Rate Worksheet, which OUSD shall pay the VENDOR, shall be firm through June 30, 2025. In the event the District exercises its option to extend the Agreement beyond that date, VENDOR may request a rate adjustment. Any request for rate adjustment shall be made in writing and presented 30 days prior to the anniversary date of each relevant contract year ending date. In no event shall the amount of increase, if granted by OUSD, exceed two (2) percent annually.

1. Vehicles & VENDOR’s Personnel

Vehicles Upon Request Must Have Seat Belts:

The VENDOR agrees to provide vehicles with seat belts (“Vehicles”) as may be necessary to lawfully perform the Services and which are School Pupil Activity Bus (“SPAB”) certified or exceed SPAB certification requirements. VENDOR agrees to dispatch buses with seat belts to OUSD schools that request seat belts. The Vehicles will be used by OUSD school sites for both local/short trips and longer distance/overnight trips. OUSD will distribute an approved list of SPAB providers that have seat belts in Vehicles. OUSD school sites and school programs that need bus transportation will select from the preapproved list of SPAB providers with Vehicles with seat belts. All such Vehicles shall fully comply with all applicable laws and regulations. VENDOR shall be solely responsible for all Vehicles used in transporting students.

OUSD May Inspect:

VENDOR agrees to permit the District's duly authorized agents to inspect said Vehicles at any reasonable time, during normal business hours, subject to coordination with VENDOR relative to location, and the maintenance schedules of the bus(es). The time and place of such inspection shall be as mutually agreed.

Condition of Vehicles:

Upon arrival for the transportation of OUSD students/staff, Vehicles:

- Shall be clean and in good working order;
- Shall not have excessively ripped or stained seat cushions;
- Shall have, where applicable, restrooms that are clean, stocked and functioning; and
- Shall have clean, vacuumed/mopped floors with no trash present (e.g., in a storage area or seatback magazine holder);
- Vehicle environment and VENDOR staff shall be appropriate for the transport of students;
- Vehicle shall have seat belts for all passengers, if and when requested by a school or OUSD site.
- Should substitute Vehicle equipment be required, VENDOR must ensure equivalency to the required capacity and be able to meet the requirements of the scheduled trip. When and if delays or equipment substitutions are necessary due to mechanical problems of the bus, the VENDOR shall make every immediate effort to remedy the situation and communicate the remedy to the trip contact person, as well as to OUSD's Transportation Department.

The VENDOR or subcontracted drivers must:

- A. Have all applicable state vehicle permits and licensing.
- B. Be licensed in accordance with all applicable federal and state regulations and policies.
- C. Have a good driving record as verified by the state and other applicable regulatory bodies.
- D. VENDOR shall verify each driving record upon initiation of service and then every six (6) months thereafter. Such records shall be placed into the driver's file and must be accessible

upon request.

- E. VENDOR shall not use drivers to provide services who have accrued more than three (3) moving violations for any reason in the last two (2) years, and shall not use drivers who have had a DUI, DWI, or controlled substance-related violation.
- F. Drive in a careful and prudent manner, exercising at all times the highest degree of care, and observing and complying with state mandated rules of the road and traffic regulations.
- G. Abstain from using tobacco products while students are present in the vehicle or on school grounds. Drivers as well as their vehicles must not smell of smoke or any other offensive odor.
- H. Be able to effectively communicate and provide route and schedule assurance through proficiency with following driving directions, map reading and route planning tools currently available such as Global Positioning Satellite (GPS) or similar prior to the commencement of the trip and during the trip;
- I. Not be dependent upon customers for trip directions and/or navigation;
- J. Demonstrate exemplary customer service;
- K. Not demonstrate any unprofessional conduct, use of inappropriate language, intimidating behavior, and/or personal or sexual harassment. VENDOR is referred to the OUSD's sexual harassment policy, which is incorporated into any contract by this reference.
- L. VENDOR shall take reasonable steps to prevent its employees from exposing any pupil to impropriety of word or conduct. VENDOR shall not permit its drivers to smoke on the Vehicle at any time students are on the Vehicle. VENDOR shall require that drivers comply with all safety laws and regulations, including but not limited to the prohibition against driving under the influence of drugs or alcohol. Such prohibition shall extend to the use of prescription and non-prescription drugs that impair the safe operation of the Vehicle.
- M. VENDOR shall have standards addressing professional dress and hygiene for its drivers. Professional dress includes clean clothes (pants, skirts, and shirts with sleeves and collars). The drivers must not wear attire that might generally be considered offensive. Contractor shall ensure that all drivers display their current driver's license upon request of a school official or the

District authorized individual.

The VENDOR shall maintain records on all employees, drivers or subcontractors that demonstrate that all requirements of this Agreement have been met. The file shall include but not necessarily be limited to applicable current copies of the following:

- A. Department of Motor Vehicle Record's Check – historical driving record.
- B. Department of Justice (DOJ) background checks that meet or exceed state laws.
- C. Federal Bureau of Investigation (FBI) background check, to include Child Index.
- D. Verification of enrollment in an on-going drug/alcohol testing at random, and “for cause” drug/alcohol testing as deemed appropriate for drivers authorized to perform services for this contract. All drivers must abstain from the use of alcohol and drugs in the performance of their duties under this contract. In addition, drivers will not be under the influence of alcohol or drugs during the performance of their duties under this contract. VENDOR shall be liable for all Drug and Alcohol Testing. No driver may be utilized for this contract that fails a drug and/or alcohol test.
- E. Verification of a negative test result for Tuberculosis (TB testing).
- F. Current driver's license and certifications appropriate for driving the vehicle type that corresponds with the assignment, and include SPAB or higher certification.
- G. Training records.

VENDOR shall be responsible for hiring and discharging personnel employed by VENDOR, provided, however, that the OUSD shall have the right to require VENDOR to remove from service any employee who, in OUSD's sole discretion, is deemed unsuitable for the performance of transportation services for the OUSD. OUSD may make a request in writing and state the reasons therefore. Reasons may include failure of any driver to operate a vehicle in a safe manner, in accordance with the laws of the state of California and the ordinances of any city in which such vehicle operates, or a finding by OUSD that the personal habits and/or conduct of an employee are detrimental to the best interests of

OUSD or to the welfare and best interest of the students being transported.

2. Accident & Operational Reports

All accidents or incidents involving the VENDOR's equipment, personnel, or students being transported while operating for OUSD shall be reported in writing to OUSD within two (2) working days. A preliminary oral report shall be made to the principal of the school which booked the trip within thirty (30) minutes following the accident or incident, and shall include whether any fatalities or injuries occurred and a general description of property damage and any law enforcement response. Contractor shall also notify OUSD's Transportation Director via email at Kimberly.Raney@ousd.org and/or phone at (510) 879-2740 and OUSD's Third Party Adjuster at OUSDIncidents@ccmsi.com of the accident or incident within 24 hours. Follow-up accident written reports shall be made periodically until all the pertinent facts have been reported to the OUSD. A legible copy of both the responding police agency and VENDOR's accident investigator's final report shall be submitted to OUSD within ten (10) working days following the accident or incident or when such report is completed, whichever occurs first. Finally, VENDOR's internal communication problems shall not relieve VENDOR of its obligation regarding an accident/incident as may be required by the California Highway Patrol's Passenger Transportation Safety Handbook.

VENDOR shall provide any and all operational records OUSD deems necessary within ten (10) business days of the OUSD's request.

3. Customer Service

VENDOR will provide a customer service single point of contact 24x7x365 for OUSD users to contact during Vehicle trips should issues of scheduling, service, quality, Vehicle breakdowns or other issues arise and require immediate remedy by VENDOR.

VENDOR shall provide training to its personnel in how to provide exemplary customer service and shall provide reasonable remedies/compensation should customer service levels fall below these standards.

4. Time of the Essence/Assessment of Damages

Time is of the essence under this Agreement.

OUSD reserves the right to assess VENDOR damages (“Assessed Damages”) should VENDOR fail to provide at least 7 business days’ notice of cancellation of equipment and/or trip. The amount of the damages which may be assessed to VENDOR shall be equal to the charges to be paid by OUSD for cancellation, plus any costs incurred by the OUSD in obtaining an alternate carrier (to include the difference in trip fees). In addition, VENDOR must pay added cost to OUSD for booking with another company. All such damages shall be payable to OUSD within ten (10) business days of OUSD’s demand.

Further, should VENDOR fail to either (a) provide adequate notice to OUSD of cancellation as required directly above; (b) fail to provide any notice of cancellation to OUSD; and/or (c) fail to service a confirmed trip with any or all of the necessary personnel/equipment, and should OUSD (including the site/program ordering such service) be unable to timely secure a replacement service from another source, VENDOR shall be liable to OUSD for all losses and damages therefrom; and because from the nature of the services to be provided under this Agreement, it is and will be impracticable and extremely difficult to ascertain and fix OUSD’s actual damages from any such failure of performance, it is agreed that VENDOR will pay as “liquidated damages” to OUSD \$1,250 within ten (10) business days of any of the foregoing events occurring.

If Assessed Damages and/or Liquidated Damages are not paid within the time specified above, OUSD may, in addition to its other remedies, deduct the same from any moneys due or to become due VENDOR under this Agreement. OUSD has the express right to seek and obtain “actual damages” in addition to Assessed Damages or Liquidated Damages.

5. Complaints

VENDOR shall keep complete and accurate records of all written and

oral complaints received regarding the VENDOR's services for OUSD from all sources including, but not limited to: OUSD employees or agents, parents/guardians, students, school-related service providers, private schools, state or federal agencies and other school districts. VENDOR shall provide to OUSD a written monthly report listing said complaints and actions taken by VENDOR, if any, to resolve each complaint.

6. Subcontracting & Assignment of Contractor's Rights

VENDOR shall only be authorized to subcontract its provision of services under this Agreement upon the express written approval of, and subject to the limitations prescribed by, OUSD's Director of Transportation. If and when such approval is granted to VENDOR, VENDOR expressly agrees and certifies that any Subcontractor it retains for any and all services under this Agreement shall be subject to all of the duties and obligations applicable to VENDOR under this Agreement.

Except as it relates to the hiring of independent contractor drivers, VENDOR shall have no right (without the express written agreement of OUSD's Director of Transportation) to assign its rights or obligations under this Agreement, it being understood that this is a personal services agreement. If and when OUSD agrees to such assignment, VENDOR and any Assignee(s) agree that each and every provision of this Agreement shall apply to it/them.

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.
Click or tap here to enter text.

1C. **Rate of Compensation:** *Please describe the basis by which compensation will be paid to VENDOR:*

- Hourly Rate: \$Click or tap here to enter text. per hour
- Daily Rate: \$450-1000 (Variable) per day
- Weekly Rate: \$Click or tap here to enter text. per week
- Monthly Rate: \$Click or tap here to enter text. per month
- Per Student Served Rate: \$Click or tap here to enter text. per student served
- Performance/Deliverable Payments: Describe the performance and/or deliverable(s) as well as the associated rate(s) below:
Click or tap here to enter text.

2. **Specific Outcomes:** *This will allow all OUSD students to have transportation for field trips, athletics, and HTS.*

3. **Alignment with School Plan for Student Achievement – SPSA (required if using State or Federal Funds):**

- Action Item included in Board Approved SPSA (no additional documentation required) – Item Number:
Click or tap here to enter text.
- Action Item added as modification to Board Approved SPSA – School site must submit the following documents to the Strategic Resource Planning for approval through the Escape workflow process:
 - Meeting announcement for meeting in which the SPSA modification was approved.
 - Minutes for meeting in which the SPSA modification was approved indicating approval of the modification.
 - Sign-in sheet for meeting in which the SPSA modification was

approved.

4. **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.)



OAKLAND UNIFIED SCHOOL DISTRICT

Community Schools, Thriving Students

Request for Proposal (RFP) 21-109TW

**FIELD TRIP ATHLETICS
FOR DEPARTMENT OF TRANSPORTATION**

* Submit proposals and all questions/inquiries to:

**OAKLAND UNIFIED SCHOOL DISTRICT
Attention: Procurement Department
900 High Street, 2nd Floor
OAKLAND, CA 94601**

email: procurement@ousd.org
phone: (510) 434-4337

**Proposals Due:
09/30/2021 at 2:00 PM**

THE TERMS AND CONDITIONS OF THIS CONTRACT ARE GOVERNED BY
THE CALIFORNIA EDUCATION AND PUBLIC CONTRACT CODES.

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Submission Deadline & Process:

Bids must be received prior to **September 30, 2021 at 2:00pm**

Provider to submit:

- (1) Hardcopy Proposal
- (3) Additional Hard Copy Proposals marked with the RFP number and title
- (1) USB - Electronic RFP version

Proposal shall be clearly marked: **“Response to RFP No. 21-109TW”**
Proposal shall be submitted to:

**OAKLAND UNIFIED SCHOOL DISTRICT
FIELD TRIP ATHLETICS
FOR DEPARTMENT OF TRANSPORTATION
Attention: PROCUREMENT DEPARTMENT
900 High Street
OAKLAND, CA 94601**

Bids received later than the designated time and specified date will be returned to the proposer unopened. ***Facsimile (FAX) copies of the proposal will not be accepted.***

The District reserves the right to accept or reject any or all proposals or any combination thereof and to waive any irregularity in the bidding process.

Copies of the RFP/Bid documents may be obtained from **Oakland Unified School District, Procurement Department’s website** <https://www.ousd.org/procurement>, if you have specific questions or concerns regarding RFP, you may contact us by email to: procurement@ousd.org.

RFP SCHEDULE OF EVENTS

The following schedule will be used by the District for this RFP.

DATE	ACTION
RFP Posting/First Advertisement:	September 10, 2021
Pre-Bid Conference:	September 21, 2021 @ 1:00 p.m. (Zoom link on Procurement Website)
Deadline for Questions:	September 21, 2021 @ 2:00 p.m.
Proposal/Bid Submitted to District:	September 30, 2021 @ 2:00 p.m.
Proposal/Bid Opening:	October 4, 2021 @ 2:00 p.m.
Potential Interviews (If Necessary):	October 5, 2021 - October 6, 2021
Final Award of RFP (BOE):	November 2021
Contract Start Date:	November 2021

OUSD will use every effort to adhere to the schedule. However, OUSD reserves the right to amend the schedule, as it deems necessary, and will post a notice of amendment at www.ousd.org/procurement.

Proposers are advised that the District reserves the right to amend this RFP at any time. Amendments will be done formally by providing written amendments to all potential Proposers known to have received a copy of the RFP. Proposers must acknowledge receipt of any and all RFP amendments. This shall be done by signing the Acknowledgement of Amendment(s) to RFP form. If a Proposer desires an explanation or clarification of any kind regarding this RFP, the Proposer must make a written request for such explanation. Requests should be addressed via email to:

Rosaura M. Altamirano
Senior Manager, Supply Chain & Logistics
rosaura.altamirano@ousd.org

The District will advise all Proposers known to have received a copy of the RFP of the explanation or clarification, by email or by formal RFP amendment via email as the District may in its sole discretion deem appropriate.

Published: Sep 9, 2021

GENERAL INFORMATION AND SUBMITTAL INSTRUCTIONS

1. GENERAL INFORMATION ABOUT THE OAKLAND UNIFIED SCHOOL DISTRICT

The District is located in and is approximately coterminous with the City of Oakland, California, located on the east side of the San Francisco Bay, approximately 10 miles from San Francisco. The District's boundaries also include small portions of the neighboring cities of Emeryville and Alameda.

The District's student enrollment is approximately 36,900. During the 19/20 school year, the District operated 87 schools: 49 elementary schools, 5 elementary schools (K-8), 14 middle schools (6-8), 3 middle/high schools (6-12), 7 high schools (9-12), 8 alternative/continuation schools. In addition, the District operates 30 Early Childhood Education sites, 11 transitional kindergarten programs and there are 35 independently operated District-authorized charters. The District employs approximately 4,881 Staff, including certificated (credentialed teaching), classified (non-teaching) and management. The District's 19/20 Fiscal Year Budget was \$million. We encourage you to visit our website (<http://www.ousd.org>) for more information about the District.

The District reserves the right to issue other contracts to meet its requirements. Contract award does not preclude the District from using any other service providers for the same contracted services as those secured through this RFP. An underlying principle of this RFP is best value. Best value is determined through a process that evaluates strengths, weaknesses, risks and exemplary customer service.

2. OBJECTIVES

The District intends to contract with Transportation - SPAB providers for both local/short trips and longer distance/overnight trips. The District's intent is to have an approved list of SPAB providers and to authorize District school sites and school programs that need bus transportation to select from the pre approved list of SPAB providers.

The District will enter into a three (3) year contract for services, with an option to extend for up to two (2) additional one (1) year terms, based on satisfactory service/performance with the selected SPAB providers.

3. SCOPE OF WORK

1. COMPANY PROFILE

- a. Provide the following information about your company: the full company name, and any former name or dba names used, address, location, and phone

number for your headquarters, branch and area offices that would support the District. List the name(s), telephone number(s), and locations of your representatives who can be contacted regarding this proposal and any future business. Include company web address if available.

- b. Provide a succinct summary of the organization's overall qualifications and capacity to provide the services requested in this RFP. Provide information that documents experience with providing bus services to K-12 public, private and charter schools, if available.
- c. Provide current State of California Highway Patrol (CHP) Safety Compliance Report/Terminal Record Update (form number CHP 343).
- d. Using the format in Section C ("References") provide three (3) references, preferably from school districts, government agencies or similar entities. Include company/ institution name and address, and name, title, telephone number and email address of person to contact along with their approximate annual sales and years of service provided.

2. All Proposers must provide the following information:

- a. A copy of current CHP Motor Carrier terminal Inspection
- b. A Certificate of Insurance (See Exhibit B)
- c. A list of SPAB certified buses, including license plate numbers
- d. A list of all SPAB drivers and their California Driver's License #

3. EQUIPMENT & MAINTENANCE

- a. Contractor is to guarantee that each bus is a non-smoking environment and smoke free;
- b. The bus provided for service on a confirmed date must:
 - be well maintained in safe operating order and good condition (not dented, scratched or damaged);
 - be clean, have clean windows, and a clean interior that smells fresh; and
 - suitable for transporting school district students.
- c. The District is committed to the State's efforts to reduce greenhouse emissions by:
 - implementing initiatives to reduce green gas emissions to 1990 levels by 2020;
 - planning to implement the use of biodiesel fuels;
 - planning to upgrade vehicles with exhaust scrubbers to reduce solid emissions.

Contractor shall describe their plans to support the District's commitment to reduce greenhouse emissions.

4. SERVICE REQUIREMENTS

Please describe the following:

- a. Customer service training provided for employees and plan to provide exemplary customer service to the District and its students;
- b. Describe what remedy/compensation would be provided to the District should customer service levels fall below these standards;
- c. Describe customer complaint mitigation and escalation process for service issues;
- d. Should substitute bus equipment be required, it must be equivalent to the required capacity and be able to meet the requirements of the scheduled trip. When and if delays or equipment substitutions are necessary due to mechanical problems of the bus, the Contractor shall make every immediate effort to remedy the situation and communicate the remedy to the trip contact person, as well as to the District's Transportation Department;
- e. Shall provide drivers who can effectively communicate and will provide route and schedule assurance through proficiency with following driving directions, map reading and route planning tools currently available such as Global Positioning Satellite ("GPS") or similar prior to the commencement of the trip and during the trip;
- f. Shall not be dependent upon customers for trip directions and/or navigation;
- g. Shall demonstrate exemplary customer service and professional conduct;
- h. Shall not demonstrate any unprofessional conduct, use of inappropriate language, intimidating behavior, and/or personal or sexual harassment. Contractor is referred to the District's sexual harassment policy, which is incorporated into any contract by this reference.
- i. Seat belts and surveillance cameras are strongly recommended.

5. DRIVER CREDENTIALS

The Contractor or subcontracted drivers must:

- a. Have all applicable valid state vehicle permits and licensing.

- b. Be licensed in accordance with all applicable federal and state regulations and policies.
- c. Have a good driving record as verified by the State and other applicable regulatory bodies.
 - (i) The Contractor shall verify each driving record upon initiation of service and then every six (6) months thereafter. Such records shall be placed into the driver's file and must be accessible to the District upon request.
 - (ii) The Contractor shall not use drivers to provide services that have accrued more than three (3) moving violations for any reason in the last two (2) years, and shall not use drivers who at any time have had a DUI, DWI, or controlled substance-related violation.
 - (iii) The Contractor shall verify and be liable for the payment of all driver criminal record checks prior to transporting students. Such verification shall be placed in the driver's file. The Contractor shall ensure that all drivers display their current driver's license upon request of a school official or the District authorized individual.
- d. Drive in a careful and prudent manner, exercising at all times the highest degree of care, and observing and complying with state mandated rules of the road and traffic regulations.
- e. Abstain from using tobacco products while students are present in the vehicle or on school grounds. Drivers as well as their vehicles must not smell of smoke or any other offensive odor.
- f. Not provide service to the District when any background check or findings indicate criminal history convictions, as obtained through state and national searches (DOJ and FBI).

6. COMPLIANCE

The Contractor shall maintain records on all employees, drivers and sub-contractors that demonstrate that all requirements of this Agreement have been met. The file shall contain applicable current copies of the following:

- 1) Department of Motor Vehicle Record's Check – historical driving record.
- 2) Department of Justice (DOJ) background checks that meet or exceed state laws.
- 3) Federal Bureau of Investigation (FBI) background check, to include Child Index.
- 4) Verification of enrollment in an on-going random drug/alcohol testing program, for drivers authorized by the District for this contract and "for cause" drug/alcohol testing, as deemed appropriate. All drivers must abstain from the use of alcohol and drugs in the performance of their duties under this contract. In addition, drivers will not be under the influence of alcohol or drugs during the performance of their duties under this contract. No driver may be utilized for this contract that fails a drug and/or alcohol test.

- 5) Verification of a negative test result for Tuberculosis (TB testing).
- 6) Current driver's license appropriate for driving the vehicle type that corresponds with the assignment.

7. QUALITY GUARANTEE

The Contractor agrees to permit the District's duly authorized agent to inspect said bus(es) at any reasonable time, during normal business hours, subject to coordination with the contracted operating bus carrier relative to location, and the maintenance schedules of the bus(es). The time and place of such inspection shall be as mutually agreed.

Upon arrival for a scheduled bus service:

- Bus(es) shall be clean and in good working order;
- Excessively ripped or stained seat cushions will not be deemed acceptable;
- Rest rooms will be clean, stocked and functioning;
- Floors will be vacuumed and no trash present (e.g., storage area or seatback magazine holders).

8. CANCELLATION BY THE DISTRICT

Contractor shall describe its cancellation policy, including any cancellation penalties when bus trips are canceled by the District.

9. CUSTOMER SERVICE

Contractor will provide a customer service single point of contact 24x7x365 for the District users to contact during bus trips should issues of scheduling, service, quality, bus breakdowns or other issues arise and require immediate remedy by the Contractor.

4. SPECIAL INSTRUCTIONS

- A. The Oakland Unified School District will contract with one or more contractors for transportation services by private owned carriers for both intrastate and interstate travel. Note that interstate travel is limited to adjoining states only. Further, the District expects that all bidders by the act of their bidding shall be certified in accordance with all applicable laws of the State of California as a **SCHOOL PUPIL ACTIVITY BUS (SPAB)** and that all drivers of such vehicles will likewise have a valid SPAB license. The District understands that SPAB requirements are invalid outside of California, but upon-re-entering California, SPAB regulations are in effect and the responsible contractor shall notify his terminal closest to the point of re-entry as soon as is possible after re-entry to California. **Bidders shall provide, with their bid, a listing of all SPAB certified drivers that will be employed under this contract and shall include**

expiration dates (see Destinations Worksheet). Any drivers not listed at the time of bid opening may not be used until approved by the District.

- B. All work performed and all equipment used by bidders shall meet all applicable “Regulations and Laws Relating to Pupil Transportation in California” as published by the California State Department of Education. Your signed bid will be considered a declaration that such equipment does, in fact, meet all safety regulations. If the vendor utilizes another carrier for whatever reason, the transportation department must be advised before said trip.
- C. Trip Award: Publicly funded trips; privately funded trips (Contractor to be advised of funding source)
 - a. Publicly Funded Trips. The District will be prudent in awarding trips. District sites will be given a list of vendors to contact. Bids, both oral and written, when requested will have a closing date and time by which said bid is due in the office of the District’s Director of Transportation. Only carriers from the Approved Charter Bus Contractor List will be considered.
 - b. Privately Funded Trips. All conditions required in Part C.1 above shall apply herein for privately funded trips except that requestors may specify to the Director of Transportation which carrier they wish to use.
 - c. Approved Charter Bus Contractor List. Such a list is informal in that it may or may not physically exist in any form other than the Bid Summary which is sent to all bidders.
 - d. Services from Non-Bidding Contractor. The District may require charter bus transportation services at a time when all bidding contractors are unable to service the request. In such an event the District and/or the bidding contractor shall have the right to contract with any non-bidding contractor on a per trip basis provided the non-bidding contractor meets all requirements of the bid specifications as determined by the Director of Transportation.
- A. The District reserves the right to assess the contractor damages should the Contractors fail to provide equal notice of cancellation of equipment and/or trip. The amount of the damages which may be assessed to the contractors shall be equal to the charges to be paid by Oakland Unified School District for cancellation, plus any costs incurred by District in obtaining an alternate carrier to include the difference in trip fees. In addition, Contractors must pay added cost to the District for booking with another company.
- B. The District may request transportation services verbally or in writing. However, verbal orders must be acknowledged by the contractor within five (5) calendar days from the date of the order on the Contractors standard confirmation form.

- C. The District recognizes its liability toward vandalism of the contractor's property by its passengers. However, the District demands the right to inspect all damage claimed by the Contractor to have been caused by District passengers. Said inspection will be made not later than the next school work day following notification by the Contractor. No compensation will be given to the Contractor for such damage unless authorized by the Director of Transportation. The District will make every effort to be reasonable in its evaluation.
- D. The term of the contract shall be **for three (3) years from date of Board award**, with an option to extend for two (2) additional one (1) year periods.
- E. Rate Adjustments. The prices set forth in the Bid Form, which the District shall pay the Contractor, shall be firm for the initial contract period. In the event the District exercises its option to extend the contract beyond the initial term, the Contractor may request a rate adjustment. Any request for rate adjustment shall be made in writing and presented 30 days prior to the anniversary date of each contract year (Board award date). In no event shall the amount of increase granted by the District, exceed two (2) percent annually.
- F. Equipment Summary. Bidders shall furnish with their bid, a summary of all vehicles that may be provided to the District for use (Equipment Summary Form). In addition, Bidders shall furnish vehicle inspection approval certificates. All buses contracted by the District will be only Charter Coaches. See Bus List – Equipment Summary.
- G. The District shall be allowed to book and cancel athletic teams involved in "playoffs," on short term notice. This privilege will be limited and should not amount to more than 3-4 bookings annually. The definition of "short term notice" shall mean within 18 hours of the event for booking and within 24 hours of event for cancellation.
- H. Charter Buses must arrive at Pick-Up locations at least twenty (20) minutes prior to departure time.
- I. Awarded Carriers must immediately contact the Director of Transportation, Requestor or designee for any of the following while contracted for an event: Bus accident (all types, minor and major); Breakdowns (All incidents in which the bus is not able to precede); Delays (Any delay which will impair the departure/arrival). After hours, contact the School District's Security Office.
- J. All buses provided under the awarded contract must be California Highway Patrol (CHP) SPAB (School Pupil Activity Bus) certified. All buses must be in full operating condition (i.e. air condition, heating).

K. All contract bus drivers will present themselves in a professional manner with both students and staff at all times during the contract event period. Failure to do so will disqualify said driver from further contracts with the district. SCUSD Transportation will review all complaints.

RECEIPT OF PROPOSAL PACKAGES:

Sealed Proposal packages shall be delivered to the **Procurement Department** no later than **September 30, 2020 by 2:00 p.m.**

Proposals submitted by mail in sealed envelope(s) should be submitted sufficiently in advance to ensure delivery to the Procurement Department prior to the specified time. The District assumes no responsibility for delay in delivery of the proposal either by the United States Post Office or overnight package delivery services. If submission time is a factor, the District encourages hand delivery of the proposal **directly to the Procurement Department, 900 High Street 2nd Floor Oakland, CA 94607 between the hours of 9:00am - 2:00pm.** All proposals delivered after scheduled closing time for receipt of proposals will not be considered.

Contractors are required to send **one (1) original, (3) copies and one (1) electronic copy on a USB flash drive,** of their proposals. Incomplete proposals may be deemed non-responsive and therefore not considered.

The District reserves the right to reject any or all proposals. The District may negotiate the terms of the contract, including but not limited to pricing, with the selected Contractors prior to entering into a contract. Proposals and any other information submitted by respondents in response to this RFP shall become the property of the District. Notwithstanding any indication by Contractor of confidential contents, and with the exception of bona fide confidential information, contents of proposals are public documents subject to disclosure under the California Public Records Act after award. The District will not provide compensation to Contractors for any expenses incurred by the Contractors for proposal preparation or for any demonstration that may be made. Contractors submit proposals at their own risk and expense.

Local Business Program

In order to provide economic opportunity for Oakland residents and businesses and stimulate economic development in Oakland, the District has implemented a Local, Small Local and Small Local Resident Business Enterprise Program ("Local Business Program"). The District encourages Local, Small and Small Local Resident Businesses to apply.

Contractors claiming preference as a **certified** Oakland Small Business must attach a copy of their certification letter to their bid. This RFP, and subsequent amendments and/or updates will be available at: www.ousd.org/domain/39. **Contractors are responsible for checking this website for information and changes to this RFP.**

5. PROPOSAL EVALUATIONS AND SCORING

This request is designed to select the Proposer that works best for the District. Proposals will be reviewed for content, completeness, experience, qualifications, price, means of providing service and ability to provide the best solution for the District. By responding to this request, proposer acknowledges that selection will be based on a comprehensive submission that meets or exceeds District requirements.

The District reserves the right without limitation to:

- Reject any or all proposers and to waive any minor informalities or irregularities
- Interview one or more proposers
- Enter into negotiations with one or more proposers
- Execute an agreement with one or more proposers
- Enter into an agreement with another proposer in the event that the original selected proposer defaults or fails to execute an agreement with the district

Best Value Scoring

- A. Proposals may earn a maximum of 1,000 best value points, as indicated in the table below.

Best Value Points	
Value Category	Maximum Points
1. <u>Annual cost to the district</u>	300
2. Scope of Services	300
3. Environmental Sustainability/ Local Business	200
4. Ability to deliver proposed solution/ References	200
Total	1000

B. Each best value category shall be scored separately using the scoring guide below.

Scoring Guide					
	QUALITY OF RESPONSE	STRENGTHS	WEAKNESSES	CONFIDENCE IN RESPONSE	POINTS
EXCEPTIONAL RESPONSE	Addresses the requirements completely, exhibits outstanding knowledge, creativity, innovation or other justifying factors	Meets all Requirements - numerous strengths in key areas.	None	VERY HIGH	100%
GOOD RESPONSE	Addresses the requirements completely and some elements in an outstanding manner.	Meets all requirements - some strengths in key areas	Minor; not in key areas	HIGH	75%
ADEQUATE RESPONSE	Addresses most elements of the requirements.	Meets most requirements - some strengths provided	Moderate: does not outweigh strengths	ADEQUATE	50%
MARGINAL RESPONSE	Meets some of the requirements	Meets some requirements with some strengths.	Exist in key areas; outweighs strengths	LOW	25%
INADEQUATE RESPONSE	Meets a few to none of the RFP requirements.	Few or no clear strengths.	Significant and numerous	NONE	0%

Criteria for Best Value Scoring and Submission Instructions

All Four (4) Value Categories

The following criteria will be considered and kept in mind when allocating points in each of the four Value Categories:

RFP responses demonstrate a clear understanding of and alignment with the District's objectives and environmentally forward-thinking goals.

In your response to this RFP, please be sure to label each Value Category and carefully respond to each of the below requirements.

Value Category 1: Annual cost to the district (300 Points)

- Total cost to the district under this bid. Please use Section IV forms/format and instructions to submit these details.

Value Category 2: Scope of Services(300 Points)

- Cost
- Availability
- Method of Delivery
- Delivery Time

Value Category 3: Environmental Sustainability/ Local Business (200 Points)

- Vendor's response shall describe its plans (please use Section IV forms/format and instructions to submit these details) and demonstrated ability to support the District's commitment to reduce greenhouse emissions.

Value Category 4: Ability to deliver proposed solution/ Reference (200 Points)

Company Profile

- Provide the following information about your company:
 - The full company name (and any former name or dba names used), address, location, and phone number for your headquarters, branch and area offices that would support the District.
 - List the name(s), telephone number(s), and locations of your representatives who can be contacted regarding this proposal and any future business.
 - Include company web address, if available.
- Please attach a short history of the company including whether it is local, national, or international, as well as the approximate number of employees, firm offices, and locations

- Please attach evidence that supports the viability of the company for the duration of the contract. This evidence, if it contains financial details can be submitted in a sealed envelope marked CONFIDENTIAL and will only be used for evaluation purposes of this bid. Such info will be excluded from FOIA requests and will not be disclosed to the public.

Professional Qualifications

- Provide a succinct summary of the organization's overall qualifications and capacity to provide the services requested in this RFP.
- Using the format in Section C ("References") provide five (5) references, preferably from school districts, government agencies or similar entities. Include the entity's name and address, and name, title, telephone number and email address of the person to contact, along with your approximate annual sales to each entity

SAMPLE OUSD SERVICE CONTRACT

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”):

The parties hereby agree as follows:

1. Term.

a. This Agreement shall start on the below date (“Start Date”): If no Start Date is entered, then the Start Date shall be the latest of the dates on which each of the Parties signed this Agreement.

b. The work shall be completed no later than the below date (“End Date”): If no End Date is entered, then the End Date shall be the first June 30 after the Start Date. If the term set forth above would cause the Agreement to exceed the term limits set forth in Education Code section 17596, the Agreement shall instead automatically terminate upon reaching said term limit.

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 its services would be able to continue.

3. Alignment and Evaluation.

a. 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.

b. OUSD may evaluate VENDOR in any manner which is permissible under the law. OUSD’s evaluation may include, without limitation: (i) requesting that OUSD employee(s) evaluate the performance of VENDOR, each of VENDOR’s employees, and each of VENDOR’s subcontractors, and (ii) announced and unannounced observance of VENDOR, VENDOR’s employee(s), and VENDOR’s subcontractor(s).

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 materials (physical or electronic) produced, created, edited, modified, reviewed, or otherwise used in the preparation, performance, or evaluation of the Services. In accordance with Paragraph 8 (Compensation), 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:

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:
Title:
Address:
City, ST Zip:
Phone:
Email:

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. If VENDOR is a natural person, VENDOR verifies all of the following:

(i) VENDOR is free from the control and direction of OUSD in connection with VENDOR's work;

(ii) VENDOR's work is outside the usual course of OUSD's business; and

(iii) VENDOR is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed for OUSD.

c. If VENDOR is a business entity, 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;

(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 Contractors 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. Unless specifically waived by OUSD as noted in Exhibit A, 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. To the extent that VENDOR provides Services in person and consistent with the requirements of Paragraph 10 (Invoicing), VENDOR agrees to include additional information in its invoices as required by OUSD if any Orders are issued by local or state authorities that would prevent VENDOR from providing Services in person.

c. 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.

d. 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.

e. 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.

a. 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.

b. Notwithstanding subparagraph (a), only the Superintendent, Chiefs, Deputy Chiefs, and the General Counsel have been delegated the authority to sign contracts for OUSD, and only under limited circumstances, which require ratification by the OUSD Governing Board. VENDOR agrees not to accept the signature of another other OUSD employee as having the proper authority and empowered to enter into this Agreement or as legally binding in any way.

c. Notwithstanding Paragraph 11, if this Agreement is executed by the

signature of the Superintendent, Chiefs, Deputy Chiefs, or General Counsel under their delegated authority, and the Board thereafter declines to ratify the Agreement, the Agreement shall automatically terminate on the date that the Board declines to ratify it. OUSD shall compensate VENDOR for Services satisfactorily provided through the date of termination. 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.

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: _____

Signature: _____

Position: _____

Date: _____

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: _____

Signature: _____

Position: _____ Date: _____

- Board President
- Superintendent
- Chief/Deputy Chief

Name: Kyla Johnson-Trammell

Signature: _____

Position: Secretary, Board of Education

Date: _____

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.*

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.

1C. Rate of Compensation: *Please describe the basis by which compensation will be paid to VENDOR:*

- Hourly Rate:
- Daily Rate:
- Weekly Rate:
- Monthly Rate:
- Per Student Served Rate:
- Performance/Deliverable Payments: Describe the performance and/or deliverable(s) as well as the associated rate(s) below:

2. Specific Outcomes: *(A) What are the expected outcomes from the services of this Agreement? Please be specific. For example, as a result of the service(s): How many more OUSD students will graduate from high school? How many more OUSD students will attend school 95% or more? How many more OUSD students will have meaningful internships and/or paying jobs? How many more OUSD students will have access to, and use, the health services they need? (B) Please describe the measurable outcomes specific to the services. Please complete the sentence prompt: "Participants will be able to..." C. If applicable, please provide details of program participation. Please complete the sentence prompt: "Students will..."*

3. Alignment with School Plan for Student Achievement – SPSA (required if using State or Federal Funds): *Please select the appropriate option below:*

Action Item included in Board Approved SPSA (no additional documentation required) – Item Number:

Action Item added as modification to Board Approved SPSA – School site must submit the following documents to the Strategic Resource Planning for approval through the Escape workflow process:

- Meeting announcement for meeting in which the SPSA modification was approved.

- Minutes for meeting in which the SPSA modification was approved indicating approval of the modification.

- Sign-in sheet for meeting in which the SPSA modification was approved.

4. 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.)

Proposer/ Vendor Forms Checklist to Complete

Exhibit A	Standard Form Response
Exhibit B	Reference Worksheet (3 minimum)
Exhibit C	Proposal Price Form
Exhibit D	Terms and Conditions
Exhibit E	Certification regarding Debarment, suspension, ineligibility
Exhibit F	Insurance
Exhibit G	Worker's Compensation Certificate
Exhibit H	Fingerprinting Certificate
Exhibit I	Non- Collusion Declaration
Exhibit J	Piggyback Clause
Exhibit K	Authorized Vendor Signature
Exhibit L	Data Request- OUSD Data Privacy

Exhibit A

STANDARD RESPONSE FORM

Proposer shall furnish all the following information accurately and completely. Failure to comply with this requirement may cause a proposal rejection. Additional sheets may be attached, if necessary. See Sections A, B and C below.

A. GENERAL INFORMATION

1. Company name, address and point of contact for this proposal (including prior business or operating names and dba names):

2. Tel: _____ Website: _____ Email: _____

3. Is the Company a Certified Oakland Small Business? Yes No

4. Type of Company: (check one)

Individual Partnership Corporation

5. Names and titles of all principals/officers/partners of the company:

Name, Title	Location	Phone Number
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. Point of Contact if Contract is Awarded:

Name, Title	Location	Phone Number
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

B. LEGAL INFORMATION

1. Has your company ever been in litigation or arbitration involving service for any public, private or charter K-12 schools during the prior five (5) years?

Yes No

If yes, provide the name of the school district or school and briefly detail the dispute.

2. Has your company ever had a contract terminated for convenience or default in the prior five years?

Yes No

If yes, provide details including the name of the other party:

3. Is/are your company, owners, and/or principal, partner or manager involved in or is your company aware of any pending litigation regarding professional misconduct, bad faith, discrimination, or sexual harassment?

Yes No

If yes, provide details:

4. Is/are your company, owners, and/or principals or partners involved in or aware of any pending disciplinary action and/or investigation conducted by any local, state, or federal agency?

Yes No

If yes, provide details:

Exhibit B

REFERENCES:

To be submitted for each of the three to five (5) references required.

Reference 1:

Customer Name: _____

Contact Name: _____

Title: _____

Address: _____

Phone Number: _____

Email: _____

Services Provided: _____

How satisfied were you with the services provided?

Excellent Good Average Unsatisfactory

Was the project completed on time and within budget?

Reference 2:

Customer Name: _____

Contact Name: _____

Title: _____

Address: _____

Phone Number: _____

Email: _____

Services Provided: _____

How satisfied were you with the services provided?
Excellent Good Average Unsatisfactory

Was the project completed on time and within budget?

Reference 3:

Customer Name: _____

Contact Name: _____

Title: _____

Address: _____

Phone Number: _____

Email: _____

Services Provided: _____

How satisfied were you with the services provided?
Excellent Good Average Unsatisfactory

Was the project completed on time and within budget?

Reference 4:

Customer Name: _____

Contact Name: _____

Title: _____

Address: _____

Phone Number: _____

Email: _____

Services Provided: _____

How satisfied were you with the services provided?

Excellent Good Average Unsatisfactory

Was the project completed on time and within budget?

Reference 5:

Customer Name: _____

Contact Name: _____

Title: _____

Address: _____

Phone Number: _____

Email: _____

Services Provided: _____

How satisfied were you with the services provided?

Excellent Good Average Unsatisfactory

Was the project completed on time and within budget?

Exhibit C
PROPOSAL PRICE FORM

Service Description:

Annual Pricing:

Total Annual Amount of Proposal:

Additional Fees or Special Request Costs:

Signature _____

Print Name: _____

Title: _____

Company Name: _____

Print Name: _____

Date: _____

Exhibit D

TERMS AND CONDITIONS

By virtue of submitting a proposal, each Bidder confirms that (a) it is agreeable to each and every provision of Attachment 1 – Contract Template and (b) that the District has the absolute right to delete existing and/or to include additional provisions in any resulting contract with a Bidder prior to execution of said contract(s) by the parties. In addition, consistent with Attachment 1 – Contract Template, by virtue of submitting a proposal each Bidder confirms the following:

1. Equal Opportunity – The Bidder must be an Equal Opportunity Employer, and shall be in compliance with the Civil Rights Act of 1964, the State Fair Employment Practice Act, and all other applicable Federal and State laws and regulations relating to equal opportunity employment. It is the policy of OUSD that in connection with all work performed under Contracts there be no discrimination against anyone because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age; therefore, Bidder 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, Bidder agrees to require like compliance by all its subcontractors. Bidder 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 or sexual orientation.
2. Errors and Omissions – If a bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFP, the bidder shall immediately notify the District of such error in writing and request clarification or modification of the document. Modifications will be made by addenda. Such clarification shall be given by written notice to all parties who have been furnished an RFP for bidding purposes, without divulging the source of the request for the same. Insofar as practicable, the District will give such notices to other interested parties, but the District shall not be responsible therefor. If a bidder fails to notify the District, prior to the date fixed for submission of bids, of an error in the RFP known to them, or an error that reasonably should have been known to them, they shall bid at their own risk; and if awarded the contract, the bidder shall not be entitled to additional compensation or time by reason of the error or its later correction. The bidder should carefully examine the entire RFP and addenda thereto, and all related materials and data referenced in the RFP or otherwise available to them, and should become fully aware of the nature and location of the work, the quantities of the work, and the conditions to be encountered in performing the work.
3. Bidder Agreement – In compliance with this RFP, the bidder will propose and agree to furnish all labor, materials, transportation, and services for the work

described and specifications and for the items listed herein. A bid is subject to acceptance at any time within sixty (60) days after opening of same, unless otherwise stipulated. Bids cannot be corrected or altered after opening by the District.

4. Bid Signee – If the bidder is an individual or an individual doing business under a company name, the bid must, in addition to the company name, be signed by the individual. If the bidder is a partnership, the bid should be signed with the partnership name by one of the partners. If a corporation, with the name of the corporation by an officer authorized to execute a bid on behalf of the corporation.

5. Bidders' Understanding – It is understood and agreed that the bidder has been, by careful examination, satisfied as to the nature and location of the work; the character, quality and quantity of the materials to be provided; the character of equipment and facilities needed preliminary to and during the prosecution of the work; and general and local conditions, and all other matters which can in any way affect the work under the contract. No verbal agreement or conversation with any officer, agent or employee of the District, either before or after the execution of the contract, shall affect or modify any of the contractual terms or obligations.

6. Intent of Specifications – All work that may be called for in the specifications shall be executed and furnished by the successful bidder(s), and should any work or materials be required which is not denoted in the specifications, either directly or indirectly but which is nevertheless necessary for the execution of the contract, the bidder is to understand the same to be implied and required, and shall perform all such work and furnish any such material as fully as if it were particularly delineated or described.

7. Extra Work – No bill or claim for extra work or materials shall be allowed or paid unless the doing of such extra work or the furnishing of such extra materials shall have been authorized in writing by the District's Director of Transportation.

8. Defense, Indemnity & Hold Harmless – Contractor shall indemnify, hold harmless and defend OUSD and each of its officers, officials, employees, volunteers and agents from any loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by OUSD, Contractor or any other person and from any claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of performance of this Agreement. Contractor's obligations under the preceding sentence shall apply jointly and severally regardless of whether OUSD or any of its officers, officials, employees, volunteers or agents are actively or passively negligent, but shall not apply to any loss or liability, fines, penalties, forfeitures, costs or damages caused solely by the active negligence or by the willful misconduct of OUSD. If Contractor should subcontract all or any portion of the work or activities to be performed under this MOU, Contractor shall require each subcontractor to indemnify, hold harmless and defend OUSD, its officers, officials, employees, volunteers or agents in accordance with the terms of the preceding paragraph. Contractor also agrees to

hold harmless, indemnify, and defend the District and its elective board, officers, agents, and employees from any and all claims or losses incurred by any supplier, Contractor, or subcontractor furnishing work, services, or materials to Contractor in connection with the performance of this Agreement. This provision survives termination of this Agreement.

9. Disposition of Proposals – All materials submitted in response to this RFP will become the property of the District, and will be returned only at the District's option and at the bidder's expense. The original copy shall be retained for official files and will become a public record after the date and time for final bid submission as specified.

10. Terms of the Offer – The District's acceptance of Bidder's offer shall be limited to the terms herein unless expressly agreed in writing by the District. Proposals offering terms other than those shown herein will be declared non-responsive and will not be considered.

11. Awards – The District reserves the right of determination that items bid meet or do not meet bid specifications. Further, the Board of Education reserves the right to accept or reject any or all bids and to waive any informality in the bidding.

12. District's Alternative Providers – The District reserves the right to solicit, purchase and obtain from providers other than the successful Bidder(s) certain products and services, of a nature similar or equivalent to those products and services solicited in this RFP.

13. Bidder Agreement to Terms and Conditions – Submission of a signed proposal will be interpreted to mean Bidder has agreed to all the terms and conditions set forth in the pages of this solicitation, including the terms of the exemplar contract included herewith.

14. Laws Governing Contract – This contract shall be in accordance with the laws of the State of California. The parties further stipulate that the County of Alameda, California, is the only appropriate forum for any litigation arising here from.

15. Notices – Any notices relevant to this Agreement may be served effectually upon either the District or the Successful Bidder, one to the other, by delivering such notice in writing, or sending such notice by certified mail, traceable overnight letter or email.

16. Changes to the Agreement – The Agreement may be changed or amended by written, mutual consent of the District and each successful Bidder. No alteration or variation of the terms of the Agreement shall be valid unless made in writing and signed by the parties thereto, and no oral understanding or agreement not incorporated therein shall be binding on the parties thereto.

17. Nomenclatures – The terms Successful Bidders, Suppliers, Vendors, Providers, Service Providers, Awarded Contractors and Contractors may be used

interchangeably in this solicitation and shall refer exclusively to the person, company, or corporation with whom the District enters into a contract as a result of this solicitation. The terms District, OUSD, Oakland Unified School District, Board and Board of Education may be used interchangeably in this solicitation and shall refer exclusively to the Oakland Unified School District. The terms Proposals, Bids and Offers may be used interchangeably in this solicitation and shall refer exclusively to the response made to this solicitation by any bidder. The terms RFP and Request For Proposals may be used interchangeably in this solicitation and shall refer exclusively to this solicitation. The terms Contract and Agreement may be used interchangeably in this solicitation.

18. Time – Time is of the essence.

19. Severability – If any provisions, or portions of any provisions, of the contract are held invalid, illegal, or unenforceable, they shall be severed from the contract and the remaining provisions shall be valid and enforceable.

20. Assignment – The Agreement entered into with the District shall not be assigned without the prior written consent of the District.

21. No Rights in Third Parties – The Agreement entered into with the District does not create any rights in or inure to the benefit of any third party.

22. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Bidder must complete and return with its proposal the Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion form, which is attached hereto as Exhibit E

Signature: _____

Date: _____

EXHIBIT E

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

I am aware of and hereby certify that neither _____ nor [Name of Bidder] its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. I further agree that I will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts and subcontracts. Where the bidder/offer or/contractor or any lower participant is unable to certify to this statement, it shall attach an explanation to this solicitation proposal.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal of the above named bidder on the _____ day of _____ [PLACEHOLDER FOR DATE] for the purposes of submission of this bid.

By

(Signature)

Typed or Printed Name

Title

As the awardee under this Bid, I hereby certify that the above certification remains valid as of the date of contract award, specifically, as of the _____ day of _____ [PLACEHOLDER FOR DATE] for the purposes of award of this contract.

By

(Signature)

Typed or Printed Name

Title

EXHIBIT F
INSURANCE

All Bidders must submit with its proposal evidence that the Bidder can meet the following insurance requirements:

Unless specifically waived by OUSD, the following insurance is required:

- i. If CONTRACTOR employs any person to perform work in connection with this Agreement, CONTRACTOR 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 and Federal laws when applicable. Employers' Liability Insurance shall not be less than One Million Dollars (\$1,000,000) per accident or disease.
- ii. CONTRACTOR shall maintain Commercial General Liability insurance, including automobile coverage with limits of no less than Five Million Dollars (\$5,000,000) per occurrence for bodily injury and property damage. The coverage shall be primary as to OUSD and shall name OUSD as an additional insured. Evidence of insurance must be attached. 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 CONTRACTOR. The policy shall protect CONTRACTOR 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.

EXHIBIT G

WORKERS COMPENSATION CERTIFICATE

Labor Code § 3700

"Every employer except the state shall secure the payment of compensation in one or more of the following ways:

(a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this state.

(b) By securing from the Director of Industrial Relations a certificate of consent to self-insure either as an individual employer, or as one employer in a group of employers, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employee.

(c) For any county, city, city and county, municipal corporation, public district, public agency, or any political subdivision of the state, including each member of a pooling arrangement under a joint exercise of powers agreement (but not the state itself), by securing from the Director of Industrial Relations a certificate of consent to self-insure against workers' compensation claims, which certificate may be given upon furnishing proof satisfactory to the Director of ability to administer workers' compensation claims properly, and to pay workers' compensation claims that may become due to its employees. On or before March 31, 1979, a political subdivision of the state which, on December 31, 1978, was uninsured for its liability to pay compensation, shall file a properly completed and executed application for a certificate of consent to self-insure against workers' compensation claims. The certificate shall be issued and be subject to the provisions of Section 3702."

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the code, and I will comply with such provisions before commencing the performance of the work of this contract.

Contractor Name: _____

By _____

Signature of Authorized Signer _____

Title of Signor _____

By _____

Signature of Authorized Signor

Title of Signor

(In accordance with Article 5 (commencing at Section 1860), Chapter 1, Part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the District prior to performing any work under this contract.)

NOTE: If contractor is a corporation, the legal name of the corporation shall be set forth above together with the signature(s) of the authorized officers or agents as more particularly described in section 20 of this Solid Waste and Recycling Services Agreement; and if contractor is a partnership or joint venture, the true name of the firm shall be set forth above together with the signature of the individual or individuals authorized to sign contracts on behalf of and bind the partnership or joint venture.

EXHIBIT H

FINGERPRINTING CERTIFICATION

To the Governing Board of Oakland Unified School District

I _____, acknowledge and certify as follows: (Name of Contractor)

1. I have carefully read and understand the Notice to Contractors Regarding Criminal Record Checks ("Notice") (Education Code section 45125.1) required by the passage of AB 1610, 1612, and 2102.
2. Due to the nature of the work to be performed, my employees and volunteers may have contact with students of the District.
3. My employees and volunteers who may have contact with District students must complete background checks with the California Department of Justice (DOJ).
4. None of the employees or volunteers who will be performing the work has been convicted of a violent or serious felony as defined in the Notice and in Penal Code sections 667.5 and 1192.7. This determination was made by a background check through the DOJ.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at _____, California, on ___/___/___

Typed or Printed Name

Address

Title

Telephone Number

Signature

NOTICE TO CONTRACTORS REGARDING CRIMINAL RECORDS

CHECK (EDUCATION CODE SECTION 45125.1)

Education Code Section 45125.1 provides if the employees of any entity that has a contract with a school district may have any contact with pupils, those employees shall submit or have submitted their fingerprints in a manner authorized by the Department of Justice together with a fee determined by the Department of Justice to be sufficient to reimburse the Department for its costs incurred in processing the application.

The Department of Justice shall ascertain whether the individual whose fingerprints were submitted to it has been arrested or convicted of any crime insofar as that fact can be ascertained from information available to the Department. When the Department of Justice ascertains that an individual whose fingerprints were submitted to it has a pending criminal proceeding for a violent felony listed in Penal Code Section 1192.7(c), or has been convicted of such a felony, the Department shall notify the employer designated by the individual of the criminal information pertaining to the individual. The notification shall be delivered by telephone and shall be confirmed in writing and delivered to the employer by first-class mail.

The contractor shall not permit an employee to come in contact with pupils until the Department of Justice has ascertained that the employee has not been convicted of a violent or serious felony. The contractor shall certify in writing to the governing board of the school district that none of its employees who may come in contact with pupils have been convicted of a violent or serious felony.

Penal Code Section 667.5(c) lists the following “violent” felonies: murder; voluntary manslaughter; mayhem; rape; sodomy by force; oral copulation by force; lewd acts on a child under the age of 14 years; any felony punishable by death or imprisonment in the state prison for life; any felony in which the defendant inflicts great bodily injury on another; any robbery perpetrated in an inhabited dwelling; arson; penetration of a person’s genital or anal openings by foreign or unknown objects against the victim’s will; attempted murder; explosion or attempt to explode or ignite a destructive device or explosive with the intent to commit murder; kidnapping; continuous sexual abuse of a child; and carjacking.

Penal Code Section 1192.7 lists the following “serious” felonies: murder; voluntary manslaughter; mayhem; rape; sodomy by force; oral copulation by force; a lewd or lascivious act on a child under the age of 14 years; any felony punishable by death or imprisonment in the state prison for life; any felony in which the defendant personally inflicts great bodily injury on another, or in which the defendant personally uses a firearm; attempted murder; assault with intent to commit rape or robbery; assault with a deadly weapon on a peace officer; assault by a life prisoner on a non-inmate; assault with a deadly weapon by an inmate; arson; exploding a

destructive device with intent to injure or to murder, or explosion causing great bodily injury or mayhem; burglary of an inhabited dwelling; robbery or bank robbery; kidnapping; holding of a hostage by a person confined in a state prison; attempt to commit a felony punishable by death or imprisonment in the state prison for life; any felony in which the defendant personally uses a dangerous or deadly weapon; selling or furnishing specified controlled substances to a minor; penetration of genital or anal openings by foreign objects against the victim's will; grand theft involving a firearm; carjacking; and a conspiracy to commit specified controlled substances offenses.

EXHIBIT I

NON-COLLUSION DECLARATION

I, _____, declare that I am the party making the foregoing proposal, that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the proponent has not directly or indirectly induced or solicited any other proponent to put in a false or sham proposal and has not directly or indirectly colluded, conspired, connived, or agreed with any proponent or anyone else to put in a sham proposal, or that anyone shall refrain from responding; that the proponent has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix any overhead, profit, or cost element of the proposal price, or of that of any other proponent, or to secure any advantage against the public body awarding the Contract of anyone interested in proposed Contract; that all statements contained in the proposal are true, and, further, that the proponent has not, directly or indirectly, submitted his or her proposal price of any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date

Name of Vendor

Printed Name of Authorized Company Representative

Signature of Authorized Company Representative

EXHIBIT J

PIGGYBACK CLAUSE

The Oakland Unified School (District) hereby declares its intent and authorization to make this contract awarded under this Invitation for Proposal "piggybackable" by other education agencies in the state pursuant to Public Contract Code Sections § 20118 and § 20652.

School Districts participating in this bid shall be responsible for obtaining approval from their Boards of Education or other approving body of authority when necessary, and shall hold the Oakland Unified School District harmless from any disputes, disagreements or actions which may arise as a result of using this bid.

The District waives any right to receive payment from other California agencies making purchases off the awarded Contract, and those agencies will make payment directly to the Awarded Vendor.

Acceptance or rejection of this clause will not affect the outcome of this bid.

By signing below, Vendor agrees to allow other agencies (including public, private and charter schools districts) to purchase equipment and services using the same terms and conditions.

Option Granted YES

Option Granted NO

EXHIBIT K

AUTHORIZED VENDOR SIGNATURE

Prime Point of Contact

Proposal Submitted by:

The undersigned declares under penalty of perjury under the laws of the State of California that the presentations made in this bid are true and correct.

Date	Signature/Title	Type or Print Name
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Name of Company	Address	City and State
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Area Code	Telephone #	Fax #
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Federal Tax ID Number

EXHIBIT L

DATA REQUEST - OUSD DATA PRIVACY AND MANAGEMENT AGREEMENT

To submit a qualified proposal for RFP Bid No. _____, _____ (“Bidder”) requests the specific OUSD records or data listed in Attachment A.

TRANSFER OF DATA: OUSD and Bidder shall use a secure means - OUSD FTP site for transferring confidential information. At no time will data be sent by any other means to or from the parties, such as through cloud sharing services or remotely hosted non-OUSD FTP sites.

PERIOD OF AGREEMENT: This Agreement shall be effective when signed by both parties, and will terminate on [02/12/2020] unless terminated earlier by OUSD.

Bidder agrees to the following confidentiality statements:

- A. Bidder acknowledges that these data are confidential data and proprietary to OUSD, and agree to protect such information from unauthorized disclosures and to comply with all applicable District, Local, State and Federal confidentiality laws and regulations including but not limited to the California Education Code and the Family Education Rights and Privacy Act (FERPA).
- B. Bidder designates _____ (name of bidder’s officer), _____ (title of bidder’s designated officer), as the person responsible for the security and confidentiality of the data and will notify OUSD immediately in writing of any change in designee.
- C. Bidder will use appropriate safeguards to prevent the use or disclosure of the information other than as provided by this data use Agreement.
- D. Bidder shall instruct all staff with access to confidential information about the requirements for handling confidential information, and require each person who will have access to confidential information to sign an agreement to comply with the confidentiality provisions of this Agreement, and any other confidentiality requirements of the Bidder. Bidder will also maintain a log of any such access.
- E. Bidder shall not assign this Agreement or any portion thereof to a subcontractor or other third party without the prior written consent of OUSD, and any attempted assignment without such prior written consent in violation of this Section shall automatically terminate this Agreement.
- F. Bidder shall not upload or handover data provided under this agreement or any portion thereof to a subcontractor or other third party software or manual service without the prior written consent of OUSD, and any attempted assignment without such prior written consent in violation of this Section shall automatically terminate this Agreement.

G. Bidder agrees that the handling and evaluation of the data shall be conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the Bidder that have legitimate interests or permission for accessing such information.

H. Bidder will report only aggregate data and will not report any individual data, nor will data be reported in a manner that permits indirect identification of any individual.

I. Bidder will not contact the individuals included in the data sets without obtaining advance written authorization from OUSD.

J. Bidder shall not re-disclose any individual-level data with or without identifying information to any other requesting individuals, agencies, or organizations without prior written authorization by OUSD.

K. Bidder shall use the data only for the purpose described in Section A above. These data shall not be used for personal gain or profit.

L. Bidder shall keep all information furnished by OUSD in a space physically and electronically secure from unauthorized access. Information and data shall be stored and processed in a way using current industry standard under encryption, so that unauthorized persons cannot retrieve nor alter the information by means of a computer, remote terminal, or other means. No data will be stored on laptop computers or other portable computing devices or media, e.g., flash drives, etc.

M. Bidder shall permit examination and on-site inspections by OUSD upon reasonable advance notice for the purpose of ascertaining whether the terms of this Agreement are being met.

N. Bidder agrees that the confidential data will be destroyed within 30 days after no longer needed for the purposes for which the request was conducted, and will provide written notification to OUSD confirming when the data have been securely destroyed.

LIABILITY

Bidder agrees to be responsible for, and assumes all liability for, any claims, costs, damages or expenses (including reasonable attorneys' fees) that may arise from or relate to the Bidder's intentional or negligent release of personally identifiable student, parent or staff data ("Claims"). Bidder agrees to hold harmless OUSD and pay any costs incurred by OUSD in connection with any Claim. The provisions of this Section shall survive the termination or expiration of this Agreement.

TERMINATION

A. This Agreement may be terminated as follows, after notification via the United States Postal Service (certified mail or registered mail) or recognized

overnight delivery service (e.g., UPS, DHL or FedEx): 1. By OUSD immediately in the event of a material breach of this Agreement by Bidder. 2. By OUSD after 14days advance written notice to the Bidder, for any reason or no reason.

B. The confidentiality provisions of this Agreement shall survive the termination of the Agreement.

C. If this Agreement is terminated by either party for material breach or for any other reason with 14 days written notice, the confidential information shall be returned or destroyed within 7 days of the termination.

D. If the Agreement terminates at the end of the term (period of Agreement), Bidder shall return or destroy all confidential information when it is no longer needed for preparation of the Bidder's proposal. Such return or destruction shall occur within 7 days after it is no longer needed for preparation of Bidder's proposal.

E. Destruction of the confidential information shall be accomplished by utilizing an approved method of confidential destruction, including shredding, burning or certified/witnessed destruction for physical materials and verified erasure of magnetic media using approved methods of electronic file destruction.

GENERAL UNDERSTANDING

A. This Agreement contains the entire understanding of the parties and may only be amended in writing signed by the parties.

B. This Agreement shall be governed by and construed under the laws of the State of California.

C. Any waiver by any party of the violation of any provision of this Agreement shall not bar any action for subsequent violations of the Agreement.

Proposer :

Name of Proposer's Signee

Date: _____

Title of Proposer's Signee