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Board Cover Memorandum

To	Board of Education	
From	Kyla Johnson-Trammell, Superintendent Sondra Aguilera, Chief Academic Officer Matin Abdel-Qawi, High School Network Superintendent	
Meeting Date	<u>April 13, 2022</u>	
Subject	Services Agreement with Oakland Natives Give Back Fund, Inc.	
Ask of the Board	<input checked="" type="checkbox"/> Approve Service Agreement <input type="checkbox"/> Ratify Service Agreement	
Services	Oakland Natives Give Back Fund, Inc.'s Back and on Track (BOT) Program provides a multi-phased and tiered approach to mitigate "Learning Loss" resulting from the COVID-19 Pandemic and its drastic impact on consistent Student Attendance. The BOT program launched the Back to School Student & Parent Outreach and Engagement Campaign in July 2021 to raise awareness of the early school start on August 9, 2021. Phases I of the campaign ended September 30, 2021.	
Term	Start Date: July 12, 2021	End Date: September 30, 2021
Not-To-Exceed Amount	\$90,000.00	
Competitively Bid	No	
In-Kind Contributions	N/A	
Funding	964/High School Network	

Source(s)	
Background	<p>In 2021 OUSD sought community partnerships to help close the Learning Gap/Loss Learning resulting from the COVID-19 Pandemic. Oakland Natives Gives Back provided a comprehensive, innovative, youth/family and community-centered approach towards addressing “Learning Loss ” with an emphasis on reducing Chronic Absenteeism and increasing daily attendance for marginalized High School students. Services for Phase I of the campaign were provided by Oakland Natives Gives Back between July and September 2021.</p>
Attachment(s)	<ul style="list-style-type: none"> ● Service Agreement with Oakland Natives Give Back Fund, Inc. ● Back and On Track Proposal – Scope of Work and Budget for Phase I

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”):

Oakland Natives Give Back Fund, Inc.

The PARTIES hereby agree as follows:

1. **Term.**

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

July 12, 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”):

September 30, 2021

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.

- a. VENDOR understands and agrees that all matters produced under this Agreement, excluding (i) any intellectual property that existed prior to execution of this Agreement (“Prior Property”), and (ii) VENDOR Property, 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. Other than Prior Property and VENDOR Property, 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.

- b. VENDOR Property. Subject to the limited rights expressly granted hereunder, VENDOR and its licensors or suppliers own all right, title, and interest in and to all intellectual property developed by VENDOR regarding its programs, whether Prior Property or developed during the course of the Agreement, to enable it to render the services under this Agreement, including, without limitation, all intellectual property related to the Every Day Counts Attendance Challenges program and all other programs of VENDOR, including but not limited to those identified in the Scope of Work attached to Exhibit A, along with all related program documentation, materials, content, and specifications, and all modifications, enhancements, improvements, and all derivative works thereto (collectively, "VENDOR Property"). Reports, communications, and similar work product prepared by VENDOR for OUSD in the course of OUSD's administration and oversight of VENDOR's services, including, but not limited to, OUSD's evaluation of the program and status updates regarding the services, shall not be considered VENDOR Property.

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:
\$90,000.00.

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: **Dr. Nyeisha Dewitt**
Title: **Founder & CEO**
Address: **2934 Telegraph Avenue**
City, ST Zip: **Oakland, CA 94609**
Phone: **(510) 917-7751**
Email: nyeisha@oaklandnatives.org

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 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.
 - 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: Dr. Nyeisha Dewitt

Signature: 

Position: Founder & CEO

Date: 2/24/2022

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: Sondra Aguilera

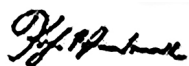
Signature: 

Position: Chief Academic Officer

Date: 3/7/2022

- Superintendent
- Chief/Deputy Chief/Executive Director

Name: Kyla Johnson-Trammell

Signature: 

Position: Secretary, Board of Education

Date: 4/14/2022

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.*
Refer to the attached 'Oakland Natives Give Back, Back on Track Proposal' for the detailed scope of work for Phase I.
- 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: \$Click or tap here to enter text. per day
- Weekly Rate: \$Click or tap here to enter text. per week
- Monthly Rate: \$ 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:
One payment of \$90,000 for the completion of the Annual City-Wide Back to School Campaign, Phase I.n
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..."

ONGB launched the 14th Annual City-Wide Back to School Campaign promoting a return to school on August 9th, 2021. This Tier 1/Universal Intervention provided preventative messaging and outreach to high school students and their families. The primary objectives of Phase I includes:

-To encourage OUSD students and families to return to school on August 9, 2021.

-To increase student awareness of resources and opportunities to support increased attendance and academic achievement.

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:

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 Natives Give Back (ONGB)
 Back On Track Program
 Phase I - Back to School Campaign
 OUSD RFP (No. 21-111CSSS)

Oakland Natives Give Back

Program Budget: Phase I - Back to School Campaign

The total cost of Phase I of the Back On Track Program was \$90,000.00. During the term of the contract, ONGB launched a city-wide Back to School campaign promoting a return to school on August 9, 2021. The budget details for these efforts are shown below.

Oakland Native Give Back Back On Track Program Phase I - Back to School Campaign Budget (June 2021 to September 2021)		
BUDGET ITEM	Proposed Expenditures	NARRATIVE - Detailed explanation of proposed expenditures
Staff Salaries		
Executive Director	\$30,000.00	The ED established a partnership with OUSD staff for the Back on Track Program (BOTP). This role was responsible for providing direction for strategic planning efforts for marketing and community partner engagement as well as maintaining partnership relations with the district, program design, and contract execution activities.
Director of Programs & Services	\$10,000.00	The Director of Programs & Services will oversee and provide day-to-day administration and operation for the Back on Track Program (BOTP). This role is responsible for creating, organizing, staffing, leading, and controlling program activities. The PD also supported efforts for all programming elements contract execution and budgeting-related areas.
Director of Program Effectiveness Evaluator	\$4000.00	The Program Effectiveness Evaluator evaluated the effectiveness of ONGB awareness campaign by designing the ONGB database, developing school assessments, and establishing initial baselines attendance rates for students returning to school for Fall 2021. The program evaluator trained program staff members on data collection, data management, and attendance monitoring.

Administrative Assistant	\$2,000.00	This role provided general administrative support to the employees. Administrative duties and responsibilities included scheduling meetings and appointments, program compliance, monitoring receipt of attendance reports, and organizing project documents.
Total Salaries	\$16,000.00	
Employee Benefits		
FICO	\$4,4934.25	Social Security @.0765 of total wages
SDI	\$774	California Unemployment Insurance @.05 of first \$7,000 of wages
Workers Compensation	\$1006.20	Workers' Compensation @.009 of total wages
Health	\$4,148.888	Medical, Dental & Vision coverage for 2 staff @ \$800 per month for 3 months
Travel	\$2,300.00	Staff travel reimbursement for 3 staff @ \$250 per person for 3 months
Total Employee Benefits	\$13,161.008	
Books and Supplies		
PR materials	\$13,500.00	Supplies and materials include costs for printing, designed outreach handouts, paper products, translation services and presentation materials.
Student Backpacks	\$5,000.00	Backpack and grade level supplies
Total Supply & Materials	\$18,500.00	
Services and Other Operating Expenditures		
Consultants	\$21,500.00	Consultants provided coordination support to outreach at all community events and awareness drives. This included registering ONGB for tabling at local events, reserving transportation, making phone calls, sending text messages to targeting groups, activating social media campaigns, data review and final report assistance.
PR Consultant	\$9,000.00	Consultant to create marketing plan
Every Day Counts Attendance Challenge Awards		ONGB Funded activity - 10 students won \$500 each month for having 95% attendance in addition to the 7 students who won \$100 on select Bonus Days in September 2021.
Transportation	\$3,000.00	Truck rental, gas, insurance and fees
Food	\$1,300.00	Food and snacks for outreach activities
Total Services and Other Operating Expenditures	\$31,800.00	
TOTAL DIRECT COSTS:	\$78,260580	
Other Indirect Costs at rate of 15%	\$11,739.09	
TOTAL BOTP - PHASE I BUDGET	\$90,000.00	

Scope of Services

1) ONGB Introduction & Statement of Qualification

The Oakland Unified School District (OUSD) seeks community partnerships to help close the Learning Gap/Loss Learning resulting from the COVID-19 Pandemic. This proposal intends to offer Oakland Natives Gives Back's comprehensive, innovative, youth/family and community-centered approach towards addressing "Learning Loss" with an emphasis on reducing Chronic Absenteeism, and increasing daily attendance for marginalized High School students enrolled in OUSD.

Oakland Natives Gives Back (ONGB) is a 21st Century community-based philanthropic hub that invests in audacious, high-impact ideas to empower the next generation of high-achieving residents in the community of Oakland and beyond. A central goal of ONGB is to confront chronic absenteeism in the Oakland Unified School District. For the past twelve years, ONGB has addressed chronic absence by incentivizing daily attendance, building public awareness, and youth development through cash grants. The innovation of ONGB student attendance initiatives is the marriage between evidence-based strategies and socioeconomic mediation.

I. Project Approach: Project "Back and On Track"

The Back and on Track (BOT) Program provides a multi-phased and tiered approach to mitigate "Learning Loss" resulting from the COVID-19 Pandemic and its drastic impact on consistent Student Attendance. The goal of the BOT program is to increase **daily attendance for high school students in the Oakland Unified School District (OUSD) by June 2022**. There are two (2) phases involved with the BOT program: *Phase I: Back to School Campaign/Student Outreach and Engagement; Phase II: Student Attendance Programming*. The BOT Program will reach OUSD's 9,036 high school students through Universal interventions; and will engage the approximately 2,765 OUSD high school students with moderate and severe chronic absences (18 or more days missed) through direct engagement and programming.

Phase I: Back to School Campaign (July 12, 2021-August 2021)

ONGB will launch its 14th Annual City-Wide Back to School Campaign promoting a return to school on August 9th, 2021. This Tier 1/Universal Intervention will provide preventative messaging and outreach to **9,036** high school students and their families. The primary objectives of Phase I include:

- To encourage OUSD students and families to return to school on August 9, 2021.
- To increase student awareness of resources and opportunities to support increased attendance and academic achievement.

Also during this phase **2,765** ONGB high school students (with moderate to severe chronic absence) will receive direct engagement to confirm their intentions and interest in direct programming with ONGB in the new school year.

Key Marketing Activities:

Some additional key activities taking place during this phase also included: Community Outreach- Door-to-Door Outreach, Phone/Text Banking, Media Ads (*Endorsed by Collaborative Partners)- Bus Shelters, Billboards, Radio, Posters, Flyers, E-Blasts, Social Media (Instagram, Facebook, Twitter, LinkedIn etc.), Distribution of Customized Backpack and School Supply Giveaway.

Collaborative Partners:

ONBG also plans to leverage it's deep roots and networks in the community of Oakland to increase public awareness and support to students and families from the following Organizational and Community Partners (tentative): Black Women Organized for Political Action; Oakland African American Chamber of Commerce, Unity Council, Spanish Speaking Citizens Foundation, Black Elected Officials and Faith Leaders, Bay Area Chapter of the National Pan-Hellenic Council; 100 Black Women; 100 Black Men; Emerge; Oakland Chamber of Commerce; Holy Names University; Peralta Community College Foundation and beyond.

Staffing:

Staffing for the "Back on Track" program included a team of highly-skilled professionals who are committed to positive youth development and student achievement. During Phase I, ONGB's Program Director provided program oversight and supervision of Back on Track staff. The Executive Director worked collaboratively with school district leadership to define the scope of services and secure the Public Relations strategists to design and launch the City-Wide Back to School Campaign. The Public Relations

Consultant was responsible for securing endorsements and volunteers from key stakeholders and organizational and community partners (above listed).

Direct outreach and engagement to students and families were conducted by 7 Achievement Liaisons Intern who was responsible for reaching out to the 2,765 high school students (with moderate to severe chronic absence) to offer encouragement, resources, and support for daily attendance in the new school year.

The Achievement Liaisons collected key qualitative feedback from students' and families' responses to the questions below.

1. How many high school students (moderate to severe chronic absence*from '20-'21 academic year) are returning to OUSD?
2. How many students are attending other school districts or other learning arrangements?
3. If students are returning, are they willing to enroll in ONGB's "Every Day Counts Attendance Challenge" (for grades 9th-12th all schools)?
4. If students are returning, are they willing to enroll in ONGB's paid-internship/ Work-Based Learning program where students will help plan the 2022 "Higher Learning Jam" (for Seniors Only attending priority school campuses)?

In addition to paid staff, ONGB recruited and mobilized 50-100 volunteers to assist with neighborhood outreach and distribution of school supplies to students and families during the Back to School Campaign.

4) Program Performance

As the result of the services:

181 students and families were engage and reconnected with their OUSD schools.

1. ONGB provided OUSD staff with a final report listing the OUSD of the student and family contact information for all youth engaged during the outreach campaign. A copy of the report can be found on the link below for review.

[OUSD Attendance Report \(September 2021\)](#)

Future CollaborationsNext Phase of the Work

ONGB submitted an RFP proposal to continue working within seven OUSD high schools to continue working with school leaders and our community partners to close the learning loss gap of students with the highest rates of chronic absenteeism. Our ability to monitor progress to building student & family re-engagement strategies for the Fall 2012-2022 school year will be implemented upon execution of Phase II of the Program. Those future activities will be monitored in the following two areas:

- 1) ONGB survey reports with students' return to school plans, resources needed and expected date of return to school.
- 2) ONGB will monitor attendance rates of students registered for the Every Day Counts Attendance Challenge on a monthly basis to report updates with the school sites.