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OAKLAND UNIFIED  
SCHOOL DISTRICT

Community Schools, Thriving Students

OFFICE OF THE GENERAL COUNSEL

# Memo

**To** Board of Education

**From** Vernon Hal, Deputy Superintendent, Business and Operations

**Board Meeting Date** June 26, 2013

**Subject** **Agreement with Vavrinek, Trine, Day , Co. LLP, Certified Public Accounts and the Oakland Unified School District to Conduct the 2011-12 and 2012-13 Annual Audit**

**Action Requested** Approval of Agreement with Vavrinek, Trine, Day , Co. LLP, Certified Public Accounts and the Oakland Unified School District to Conduct the 2011-12 and 2012-13 Annual Audit

**Background** The Board directed Staff to retain an independent audit firm to conduct Oakland's annual Financial Audits for the 2011-2012 and 2012-2013 fiscal years. Under SB 39, the legislation authorizing the emergency loan to the District, until the loan is repaid, the SCO or its designee must conduct the District's annual audit, and "[A]t the discretion of the Controller, the audit may be conducted by the Controller, his or her designee or an auditor selected by the county superintendent and approved by the Controller." In late May 2013, the District issued a RFP for auditing services for fiscal years 2011-12 and 2012-13. The RFP was sent to only firms that specialize in Audits of California K-12 Local Educational Agencies and are on the State Controller's Office list of approved audit firms. After interviewing the three firms that submitted proposals, the District's selection panel, which included Spencer Mead of ACOE, and the Deputy Superintendent for Business, recommended the contract be awarded to Vavrinek, Trine, Day & Co., LLP. Staff is in the process of obtaining County Superintendent's authorization.

**Discussion** The Agreement with Vavrinek, Trine, Day & Co., LLP is for two years, not to exceed \$451,000 in the event both the financial and compliance audits are conducted.

**Recommendation** Approval of Agreement with Vavrinek, Trine, Day , Co. LLP, Certified Public Accounts and the Oakland Unified School District to Conduct the 2011-12 and 2012-13 Annual Audit



**Fiscal Impact**

General Fund

**Attachments**

- Agreement with Vavrinek, Trine, Day



June 14, 2013

Governing Board  
Oakland Unified School District  
1011 Union Street  
Oakland, CA 94607

We are pleased to confirm our understanding of the services we are to provide Oakland Unified School District (the District) (OUSD) for the years ending June 30, 2012 and June 30, 2013. We will audit the financial statements of the governmental activities, each major fund, and the aggregate remaining fund information, which collectively comprise the basic financial statements of the District as of June 30, 2012 and June 30, 2013, and for the years then ended.

It is understood by the District that our audit of the 2012 fiscal year will require us to test the year-end 2011 ending balance sheet balances sufficient for us to be satisfied with the fiscal 2012 beginning balances for the purposes of expressing opinions on the Statement of Activities (entity-wide financial statements) and the Statements of Revenues, Expenditures and Changes in Fund Balances, including the respective reconciliations of the governmental funds' balances to the entity-wide financial statements, and cash flows, where applicable.

Accounting standards generally accepted in the United States provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement the District's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the District's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

- 1) Management's discussion and analysis.
- 2) Budgetary comparison schedule for General and County School Service Funds
- 3) Other Post Employers: Benefits (OPEB) funding progress

Supplementary information other than RSI also accompanies The District's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America and will provide an opinion on it in relation to the financial statements as a whole:



- 1) Schedule of expenditures of federal awards
- 2) Other schedules required by the *Standards and Procedures for Audits of California K-12 Local Education Agencies 2011-12 and 2012-13*
- 3) Combining Statements – Non-Major Governmental funds

### **Audit Objectives**

The objective of our audits is the expression of opinions as to whether your basic financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. The objective also includes reporting on—

- Internal control related to the financial statements and compliance with laws, regulations, and the provisions of contracts or grant agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Internal control related to major programs and an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*.

The reports on internal control and compliance will each include a statement that the report is intended solely for the information and use of management, the body or individuals charged with governance, others within the entity, specific legislative or regulatory bodies, federal awarding agencies, and if applicable, pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

Our audits will be conducted in accordance with auditing standards generally accepted in the United States of America; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of OMB Circular A-133, and will include tests of accounting records, a determination of major program(s) in accordance with OMB Circular A-133, and other procedures, including *Standards and Procedures for Audits of California K-12 Local Educational Agencies 2011-12 and 2012-13* issued by the California Education Audit Appeals Panel as regulations, we consider necessary to enable us to express such opinions and to render the required reports. If our opinions on the financial statements or the Single Audit compliance opinions are other than unqualified, we will fully discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue a report as a result of this engagement.

### **Management Responsibilities**

Management is responsible for the basic financial statements and all accompanying information as well as all representations contained therein. Management is also responsible for identifying government award programs and understanding and complying with the compliance requirements, and for preparation of the schedule of expenditures of federal awards in accordance with the requirements of OMB Circular A-133. As part of the audit, we will assist with preparation of your financial statements, schedule of expenditures of federal awards, and related notes. You are responsible for making all management decisions and performing all management functions relating to the financial statements, schedule of expenditures of federal awards, and related notes and for accepting full responsibility for such decisions. You will be required to acknowledge in the management representation letter our assistance with preparation of the

financial statements and the schedule of expenditures of federal awards and that you have reviewed and approved the financial statements, schedule of expenditures of federal awards, and related notes prior to their issuance and have accepted responsibility for them. Further, you are required to designate an individual with suitable skill, knowledge, or experience to oversee any nonaudit services we provide and for evaluating the adequacy and results of those services and accepting responsibility for them.

Management is responsible for establishing and maintaining effective internal controls, including internal controls over compliance, and for evaluating and monitoring ongoing activities, to help ensure that appropriate goals and objectives are met and that there is reasonable assurance that government programs are administered in compliance with compliance requirements. You are also responsible for the selection and application of accounting principles; for the fair presentation in the financial statements of the respective financial position of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the District and the respective changes in financial position and, where applicable, cash flows in conformity with U.S. generally accepted accounting principles; and for compliance with applicable laws and regulations and the provisions of contracts and grant agreements.

Management is also responsible for making all financial records and related information available to us and for ensuring that management and financial information is reliable and properly recorded. Your responsibilities also include identifying significant vendor relationships in which the vendor has responsibility for program compliance and for the accuracy and completeness of that information. Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud or illegal acts affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud or illegal acts could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the entity complies with applicable laws, regulations, contracts, agreements, and grants. Additionally, as required by OMB Circular A-133, it is management's responsibility to follow up and take corrective action on reported audit findings and to prepare a summary schedule of prior audit findings and a corrective action plan. The summary schedule of prior audit findings should be available for our review during the interim phase of the audit. You are responsible for the preparation of the supplementary information in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains and indicates that we have reported on the supplementary information. You also agree to present the supplementary information with the audited financial statements OR make the audited financial statements readily available to users of the supplementary information no later than the date the supplementary information is issued with our report thereon.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying for us previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.



### **Audit Procedures—General**

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Because an audit is designed to provide reasonable, but not absolute assurance and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by us. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or major programs. However, we will inform you of any material errors and any fraudulent financial reporting or misappropriation of assets that come to our attention. We will also inform you of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. We will include such matters in the reports required for a Single Audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about the financial statements and related matters.

### **Audit Procedures—Internal Controls**

Our audit will include obtaining an understanding of the entity and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by OMB Circular A-133, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to OMB Circular A-133.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, *Government Auditing Standards*, and OMB Circular A-133.

### **Audit Procedures—Compliance**

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the District's compliance with applicable laws and regulations and the provisions of contracts and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

OMB Circular A-133 requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with applicable laws and regulations and the provisions of contracts and grant agreements applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the *OMB Circular A-133 Compliance Supplement* and related addenda for the types of compliance requirements that could have a direct and material effect on each of the District's major programs. The purpose of these procedures will be to express an opinion on the District's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to OMB Circular A-133.

### **Administration, Fees, and Other**

We may from time to time, and depending on the circumstances, use third-party service providers in serving your account. We may share confidential information about you with these service providers, but remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures, and safeguards to protect the confidentiality of your personal information. In addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In the event that we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent prior to the sharing of your confidential information with the third-party service provider. Furthermore, we will remain responsible for the work provided by any such third-party service providers.

At the conclusion of each engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings. It is management's responsibility to submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditor's reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. If applicable, we will provide copies of our report for you to include with the reporting package you will submit to pass-through entities. The Data Collection Form and the reporting package must be submitted within the earlier of 30 days after receipt of the auditor's reports or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audits.

The audit documentation for this engagement is the property of Vavrinek, Trine, Day & Co., LLP (VTD) and constitutes confidential information. However, pursuant to authority given by law or regulation, we may be requested to make certain audit documentation available to the State of California, State Controller's Office, or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings,

or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Vavrinck, Trinc, Day & Co., LLP personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of seven years after the report release or for any additional period requested. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

Leonard Danna is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them. Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit.

At your request, we have provided two separate fee quotes for each year, one assuming we perform the entire audit, including federal and State compliance procedures, and the other assuming we only perform the financial statement audit, presumably meaning that SCO would continue to perform the federal and State compliance procedures. Such fees are listed below:

	Schedule of Proposed Fees	
	Including Compliance	Excluding Compliance
Audit of 2012 Beginning Balances	\$ 25,000	\$ 25,000
2011-2012 Annual Audit	249,000	167,000
2012-2013 Annual Audit	177,000	113,000
Totals	<u>\$ 451,000</u>	<u>\$ 305,000</u>

Our fees are quoted on a not to exceed basis for the services identified and include all out of pocket expenses expected to be incurred by us on your behalf. We have discounted our rates by approximately 10% as shown on the following page. The 2012 and 2013 audit fees assume VTD will prepare the draft financial statements. If the District prepares the drafts, VTD will reduce its fee by \$12,000 for each fiscal year

It is our expectation that our workpapers will be subjected to a Quality Control Review (QCR) by the SCO. We have had substantial experience with QCR's and they can be extremely time-consuming. We are not able to estimate the time that it may take in the event of a QCR because of the inherent unpredictability of the possible comments that may arise. The fees listed above do not include any time and resources that we may have to expend in the QCR process. Time spent in the QCR process will be billed to you separately at our standard hourly rates, discounted by 10%, plus out of pocket expenses incurred by us on your behalf.

Should the scope of the engagement change, we will of course modify our estimated hours and revise our cost estimates appropriately. If the actual hours and dollars turn out to be less than estimated, we will bill you only for the actual time, again discounted at 10%.



Additional audit fees may be assessed if additional auditing services are provided for additional audit procedures required due to the lack of preparation for the audit on the part of the District. These fees shall be in addition to the above maximum fee for audit services. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 90 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report(s). You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

If a dispute arise amount the parties hereto, the parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Rules before resorting to litigation. The costs of any mediation proceedings shall be shared equally by all parties. The District and Auditors both agree that any dispute over fees charged by the accountant to the client will be submitted for resolution by arbitration in accordance with the rules of the American Arbitration Association. Such arbitration will be binding and final. IN AGREEING TO ARBITRATION, WE BOTH ACKNOWLEDGE THAT, IN THE EVENT OF DISPUTE OVER FEES, EACH OF US IS GIVING UP THE RIGHT TO HAVE THE DISPUTE DICIDED IN A COURT OF LAW BEFORE A JUDGE OR JURY AND INSTEAD WE ARE ACCEPTING THE USE OF ARBITRATION FOR RESOLUTION.

Vavrinek, Trine, Day & Co., LLP has owners that are not licensed as certified public accountants as permitted under Section 5079 of the California Business and Professions Code. It is not anticipated that any of the non-licensee owners will be performing audit services for the agency.

*Government Auditing Standards* require that we provide you with a copy of our most recent external peer review report and any letter of comment, and any subsequent peer review reports and letters of comment received during the period of the contract.

We appreciate the opportunity to be of service to Oakland School District and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Yours very truly,



Leonard Danna  
of Vavrinek, Trine, Day & Co., LLP

### **Additional Contract Requirements**

1. **Licenses and Permits:** VTD shall obtain and keep in force all licenses, permits, and certificates necessary for the performance of this Agreement.
2. **Assignment:** The obligations of VTD under this Agreement shall not be assigned by VTD without the express prior written consent of OUSD.
3. **Anti-Discrimination.** It is the policy of OUSD that in connection with all work performed under Contracts there be no discrimination against any employee engaged in the work because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age and therefore the VTD 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, the VTD agrees to require like compliance by all its subcontractor(s). Contractor 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.
4. **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.
5. **Commercial General Liability Insurance:** Unless specifically waived by OUSD, the following insurance is required:
  - i. If VTD employs any person to perform work in connection with this Agreement, VTD 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. VTD shall maintain Commercial General Liability insurance, including automobile coverage with limits of One Million Dollars (\$1,000,000) 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 VTD. The policy shall protect VTD 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.

6. If VTD shall maintain Errors and Omissions insurance or Professional Liability insurance with coverage limits of One Million Dollars (\$1,000,000) per claim.
7. **Indemnification:** VTD agrees to hold harmless, indemnify, and defend OUSD and its officers, agents, and employees from any and all claims or losses accruing or resulting from injury, damage, or death of any person, firm, or corporation in connection with the performance of this Agreement. VTD also agrees to hold harmless, indemnify, and defend OUSD 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 VTD in connection with the performance of this Agreement. Notwithstanding the foregoing, VTD shall have no obligation under this Indemnification Clause with respect to any claims or losses noted above that are caused by the active negligence or willful misconduct of the District and which is not contributed to by any act or omission by VTD or any of its agents or employees. This provision survives termination of this Agreement.
8. **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 similar subsequent act from constituting a violation of the Agreement.
9. **Termination:** OUSD may at any time terminate this Agreement upon written notice to VTD. OUSD shall compensate VTD for services satisfactorily provided through the date of termination. In addition, OUSD may terminate this Agreement for cause should VTD fail to perform any part of this Agreement. In the event of termination for cause, OUSD may secure the required services from another contractor. If the cost to OUSD exceeds the cost of providing the services pursuant to this Agreement, VTD shall pay the additional cost.
10. **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.
11. **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 provided in this Agreement. 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.
12. **Confidentiality.** The VTD and all VTD's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. VTD understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement. Contractors will be permitted access to student data only where permissible under state and federal law and only after executing OUSD's Confidentiality Agreement Regarding Student Data.
13. **Conflict of Interest.** VTD shall abide by and be subject to all applicable OUSD policies, regulations, statutes or other laws regarding conflict of interest. VTD shall not hire any officer or employee of OUSD to perform any service by this Agreement.

VTD affirms to the best of his/her/its knowledge, there exists no actual or potential conflict of interest between VTD'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

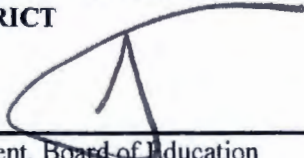


and certifies that it does not know of any facts which constitute a violation of said provisions. In the event Vtd receives any information subsequent to execution of this Agreement, which might constitute a violation of said provisions, Vtd agrees it shall notify OUSD in writing.

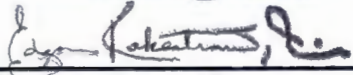
14. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
15. **Litigation:** This Agreement shall be performed in Oakland, California and is governed by the laws of the State of California. The Alameda County Superior Court shall have jurisdiction over any state court litigation initiated to enforce or interpret this Agreement.
16. **Contract Contingent on Governing Board Approval:** The District shall not be bound by the terms of this Agreement until it has been formally approved by the District's Governing Board, and no payment shall be owed or made to Vtd absent formal approval. This Agreement shall be deemed to be approved when it has been signed by the Board of Education, and/or the Superintendent as its designee.
17. **Signature Authority:** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been given the proper authority and empowered to enter into this Agreement.
18. **Counterparts:** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.
19. **Incorporation of Recitals and Exhibits:** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.
20. **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion:** The prospective primary participant 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/portal/public/SAM>

**OAKLAND UNIFIED SCHOOL DISTRICT**

**Vavrinek, Trine, Day & Co., LLP**

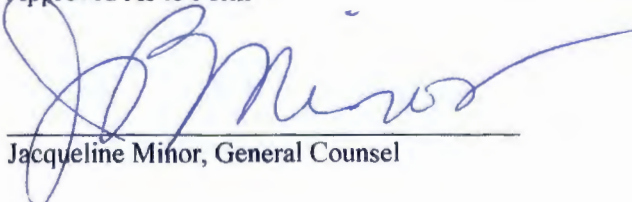
  
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President, Board of Education 6/27/13

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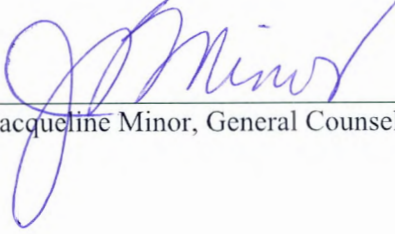
  
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Secretary, Board of Education 6/27/13

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Title

Approved As to Form

  
\_\_\_\_\_  
Jacqueline Minor, General Counsel

Approved As to Form



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Jacqueline Minor, General Counsel