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Enactment Date	8/22/18 os

Memo

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Marcus Battle, Chief Business Officer *MB*
Susan Beltz, Chief Technology Officer *SB*

Board Meeting Date August 22, 2018

Subject Approval of One-Year Term Extension and 2018 Amendment to the Agreement for Acquisition of License for Aeries Software between Oakland Unified School District and Aeries Software, Inc.

Action Requested Approval of One-Year Term Extension and 2018 Amendment to the Agreement for Acquisition of License for Aeries Software between Oakland Unified School District and Aeries Software, Inc. beginning July 1, 2018 through June 30, 2019 in the amount of \$90,083.88.

Background The Oakland Unified School District has successfully used Aeries as its student information system (SIS) for 2017-18 and is using this firm going forward for the same services as previously provided.

Discussion The Aeries SIS is used by Oakland Unified School District (OUSD) staff to manage student data, including attendance, master scheduling, grade reporting, discipline records, state-mandated reporting, and many other



OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

student data requirements. Aeries has been successfully used by OUSD for this purpose for 2017-18 and for over 10 prior school years. In addition, Aeries previously provided one-time professional services during 2017-18 to develop additional Application Programming Interface (API) functionality to support integration with the SchoolMint system used for Enrollment.

The Technology Services department hosts the Aeries database and application in our OUSD data centers. Upgrades are performed approximately four times per year to ensure that our Aeries version is current and supported. The One-Year Term Extension and 2018 Amendment to the Agreement for Acquisition of License for Aeries Software with Aeries Software includes licensing, upgrades and support for the 2018-19 fiscal year. Approval of this Agreement will enable OUSD to continue using its SIS to help ensure the continued successful management of student information.

Recommendation

Approval of One-Year Term Extension and 2018 Amendment to the Agreement for Acquisition of License for Aeries Software between Oakland Unified School District and Aeries Software, Inc. beginning July 1, 2018 through June 30, 2019 in the amount of \$90,083.88.

Fiscal Impact

\$90,083.88 from Funding Resource
010-0000-0-0000-7700-5846-999-9860-9994-9999-99999: General Purpose (GP), Data Processing, License Agreements, Districtwide

Attachments

One-Year Term Extension and 2018 Amendment to the Agreement for Acquisition of License for Aeries Software between Oakland Unified School District and Aeries Software, Inc.



CONTRACT JUSTIFICATION FORM
This Form Shall Be Submitted to the Board Office With Every Consent Agenda Contract.

Legislative File ID No. 18-1742

Department: Technology Services

Vendor Name: Aeries Software

Contract Term: Start Date: July 1, 2018 End Date: June 30, 2019

Annual Cost: \$ 90,083.88

Approved by: Susan Beltz

Is Vendor a local Oakland business? Yes ___ No X

Why was this Vendor selected?

The Aeries Student Information System (SIS) is used by Oakland Unified School District (OUSD) staff to manage student data, including attendance, master scheduling, grade reporting, discipline records, state-mandated reporting, and many other student data requirements. Aeries has been successfully used by OUSD for this purpose for 2017-18 and for over 10 prior school years.

Summarize the services this Vendor will be providing.

Aeries Software will provide licensing, upgrades and support for Aeries SIS for the 2018-19 fiscal year.

Was this contract competitively bid? Yes ___ No X

If No, answer the following:

1) How did you determine the price is competitive?

The Oakland Unified School District receives the Aeries SIS at a highly discounted rate of \$2.40 per student per year. (The retail price for the Aeries SIS is \$7.50 per student per year). For comparison purposes, the retail price for the Illuminate student information system (SIS), which is a also a leading provider in California K-12 education, is listed as \$7 per student per year.

2) Please check the competitive bid exception relied upon:

- Educational Materials**
- Special Services** contracts for financial, economic, accounting, legal or administrative services
- CUPCCAA exception** (Uniform Public Construction Cost Accounting Act)
- Professional Service Agreements** of less than \$ 90,200 (increases a small amount on January 1 of each year)
- Construction related Professional Services** such as Architects, DSA Inspectors, Environmental Consultants and Construction Managers (require a "fair, competitive selection process)
- Energy** conservation and alternative energy supply (e.g., solar, energy conservation, co-generation and alternate energy supply sources)
- Emergency** contracts [requires Board resolution declaring an emergency]
- Technology** contracts
 - electronic data-processing systems, supporting software and/or services (including copiers/printers) over the \$ 90,200 bid limit, must be competitively advertised, but any one of the three lowest responsible bidders may be selected
 - contracts for computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus, including E-Rate solicitations, may be procured through an RFP process instead of a competitive, lowest price bid process
 - Western States Contracting Alliance Contracts (WSCA)
 - California Multiple Award Schedule Contracts (CMAS) [contracts are often used for the purchase of information technology and software]
- "Piggyback" Contracts** with other governmental entities
- Perishable Food**
- Sole Source**
- Change Order for Material and Supplies** if the cost agreed upon in writing does not exceed ten percent of the original contract price
- Other, please provide specific exception**

**ONE (1) YEAR TERM EXTENSION OF AND 2018 AMENDMENT TO
THE AGREEMENT FOR ACQUISITION OF LICENSE FOR AERIES
SOFTWARE BETWEEN AERIES SOFTWARE, INC. (d/b/a EAGLE
SOFTWARE) AND OAKLAND UNIFIED SCHOOL DISTRICT**

This Agreement Extension and 2018 Amendment is entered into by and between Oakland Unified School District ("OUSD"), and Aeries Software, Inc., d/b/a Eagle Software ("Eagle Software"), a California Corporation (collectively, the "Parties").

RECITALS

1. WHEREAS, OUSD and Eagle Software entered into an agreement effective July 14, 2004 (OUSD Enactment No. 04-0186) ("Agreement"), a true and correct copy of which is attached hereto as Exhibit A.
2. WHEREAS, through various extensions, the Agreement expires on June 30, 2018.
3. WHEREAS, OUSD and Eagle Software seek to extend and amend the Agreement for one (1) year (*i.e.*, through June 30, 2019).
4. The foregoing recitals are agreed to by the Parties.

TERMS AND CONDITIONS


1. Term of Agreement Extension and 2018 Amendment - This Agreement Extension and 2018 Amendment is for a one (1) year contract extension term effective July 1, 2018 through June 30, 2019 for the Software License/Support Subscription, with said license/support subscription at a total cost to OUSD of \$90,083.88, as set forth in the July 1, 2018 Invoice No. M&S-6245, which invoice is attached hereto as Exhibit B and incorporated as if fully set forth herein.
3. Not To Exceed - The Parties hereby agree that the total consideration payable and paid to Eagle Software by OUSD for the Term of the Agreement Extension and 2018 Amendment shall not exceed \$90,083.88.
4. Extension of Prior Terms and Conditions - Except as amended above, all other terms and conditions of the Agreement are extended by incorporation herein.
5. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - OUSD and Eagle Software certify to the best of their knowledge and belief that OUSD's, Eagle Software's, and their respective principals: Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or contractor according to Federal Acquisition Regulation Subpart 9.4, and by signing

this Agreement Extension and Amendment No. 1 to the Agreement, verify that this vendor does not appear on the Excluded Parties List. <https://www.sam.gov>.

6. Integration of Agreement and Agreement Extension and 2018 Amendment – All understandings, agreements, covenants, and representations, express or implied, oral or written, between the Parties are contained and merged herein. No other agreements, covenants, or representations, express or implied, oral or written, have been made by or between the Parties concerning the subject of this Agreement Extension and Amendment. This is an integrated Agreement Extension and 2018 Amendment. It may not be altered, modified or otherwise changed in any respect except in a writing signed by OUSD and Eagle Software.


Dated: 7/27/18

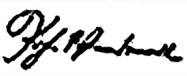
Aeries Software, Inc. d/b/a Eagle Software

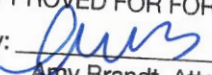
By: 
Brent Lloyd CEO Vice President

Dated: 8/23/18

Oakland Unified School District

By: 
Aimee Eng, Board President

By: 
Kyla Johnson-Trammell, Superintendent
& Board Secretary

OAKLAND UNIFIED SCHOOL DISTRICT
Office of the General Counsel
APPROVED FOR FORM & SUBSTANCE
By:  8.3.18
Amy Brandt, Attorney at Law



INVOICE NO. : M&S-6245
 DATE : 07/01/2018
 TERMS : Net 30
 P.O. NO. :

PLEASE REMIT TO:
Aeries Software
 1065 N. PacificCenter Dr.
 Suite 400
 Anaheim, CA 92806

BILL TO Oakland Unified School District
 900 High St.
 Attn: Accounts Payable
 Oakland, CA 94601

Please make all checks payable to Aeries Software and include a copy of this invoice with your check. If you have any questions, please contact Connie Castillo at conniec@aeries.com or (888) 487-7555

Message:

Quantity	Description	Unit Price	Start Date	End Date	Total Amount
37692	Software License/Support Subscription \$2.50 per student discounted to \$2.39. The difference of \$3,769.20 to be added to the 2019-20 invoice along with an increase to \$2.60.	2.39	07/01/2018	06/30/2019	\$90,083.88
SUBTOTAL					90,083.88
TOTAL					90,083.88
AMOUNT RECEIVED					\$0.00
AMOUNT DUE					\$90,083.88

AGREEMENT FOR ACQUISITION OF LICENSE FOR Aeries™ SOFTWARE

1. Introduction.

This is an Agreement between Aeries Software, Inc. d.b.a. EAGLE SOFTWARE located at 505 N. Tustin Avenue, Suite 150, Santa Ana, California, 92705 (hereinafter "EAGLE SOFTWARE") and its customer Oakland Unified School DISTRICT, a public agency, ("hereinafter "DISTRICT"), under which software is licensed on a non-exclusive basis for the customer's use under the terms and conditions stated below. The effective date for purposes of the interpretation of the Agreement shall be July 14, 2004.

2. Definitions.

The following terms, when used in this Agreement, shall have the following meanings:

- "Acceptance" shall mean the date on which EAGLE SOFTWARE informs the DISTRICT and the DISTRICT confirms that the Licensed Software has been installed in accordance with the *Implementation Plan (Exhibit "B")*.
- "Agreement" shall mean this Agreement, Exhibits, and all documentation incorporated herein by reference.
- "Correction" or "Update" shall mean electronic media containing a Licensed Software correction or "bug fix" or a newly programmed feature intended to either rectify Licensed Software errors or cause the System to perform in a manner which conforms to the System Specifications.
- "Defect" shall mean the failure of the Licensed Software component to function in accordance with the System Specifications.
- "Documentation" shall mean all of EAGLE SOFTWARE'S training course materials, system specifications and technical manuals, and all other user instructions *regarding the capabilities, operation, installation and use of the Licensed Software*, including but not limited to manuals, handbooks, flow charts, technical information, and other reference materials relating to the Licensed Software.
- "Enhancement" or "Improvement" shall mean electronic media containing any functional or operational improvement made to the Licensed Software.
- "Equipment" shall mean the computer hardware comprising DISTRICT'S existing computer system.
- "First Productive Use" shall mean the first use of the System to process data of DISTRICT'S students in day-to-day operations.
- "Implementation" shall mean the activities such as training, data conversion and

installation which are used to prepare the DISTRICT for use of the Licensed Software as provided in this Agreement.

- "Installation" shall mean the process which is used to make the Licensed Software available for DISTRICT'S use, testing, and training without regard to who performs the process.
- "Licensed Software" shall mean individually each, and collectively all, of the computer programs or Modules provided by EAGLE SOFTWARE under this Agreement, including Aeries™ (formerly known as EASY95, EASY96, EASY97, EASY98 and EASY99), and subsequent releases thereof, however denominated, including as to each program or Module; the processes and routines used in the processing of data, the source code and object code, tapes, disks, Documentation, Corrections, Updates, Enhancements, Improvements, Releases, and Versions to such programs or Modules as may generally be made available by EAGLE SOFTWARE, and any and all programs or Modules provided by EAGLE SOFTWARE in the future under this Agreement pursuant to the mutual written agreement of the parties.
- "DISTRICT" shall include Oakland Unified School DISTRICT, its officers, employees and agents, and any person or entity to which this Agreement is assigned in accordance with the terms and conditions of this Agreement.
- "Module" shall mean a self contained unit of the Licensed Software that has its own discrete function and may be separately compiled.
- "Proprietary or Confidential Information" shall mean, with respect to a party hereto, all information or material which (i) gives that party some competitive business advantage or the opportunity of obtaining such advantage or the disclosure of which could be detrimental to the interests of that party; or (ii) which is either (A) marked "Confidential," "Restricted," or "Proprietary Information" or other similar marking, (B) known by the parties to be considered confidential and proprietary or (C) from all the relevant circumstances should reasonably be assumed to be confidential and proprietary. Proprietary or Confidential Information includes, but is not limited to, the System and any trade secrets related thereto, and DISTRICT'S student data, provided, however, that no information constitutes Proprietary or Confidential Information if it is generic information or otherwise publicly known or in the public domain. All information regarding any student input into Aeries™ shall be considered confidential.
- "Reference Date" shall mean the earlier of the delivery of the Licensed Software to DISTRICT or the date of the DISTRICT'S purchase order or the date of this agreement or the date of the DISTRICT'S payment or the date of the official action approving acquisition of the Licensed Software by the DISTRICT'S governing board.
- "Release" shall mean the general availability of a new, modified or updated version of the Licensed Software containing an aggregation of Licensed Software

Corrections or Enhancements made to the Licensed Software.

- "Source Material" shall mean the source code for the Licensed Software, including all new releases, updates, modifications, enhancements, corrections, patches, and improvements, and all Documentation and other proprietary information related to the source code.
- "System" shall mean the operation of the Licensed Software in a functionally integrated manner, with each System Component enabling Users to access and input information to, from, or between Module(s) of the Licensed Software as provided under this Agreement.
- "System Component(s)" shall mean individually each, and collectively all, of the Licensed Software.
- "System Specifications" shall mean the minimum required computer hardware required to properly operate the Licensed Software.
- "Users" shall mean any individual or entity authorized by DISTRICT to use the Licensed Software under this Agreement.
- "Version" shall mean a descriptive reference (which is typically a number qualified by a date) to new Licensed Software features packaged and delivered as a significant revision to Licensed Software.
- "Implementation Plan" shall mean the documentation of tasks and events including the assignment of responsibilities leading to general productive use of the Licensed Software by the DISTRICT, attached hereto as *Implementation Plan (Exhibit "B")*.

3. Grant of Nonexclusive Software License.

EAGLE SOFTWARE hereby grants to DISTRICT a perpetual, non-exclusive license to use the Licensed Software and Documentation for its and its Users' business activities subject to the provisions of the *Nonexclusive Software License (Exhibit "C")*.

At no additional charge to DISTRICT, EAGLE SOFTWARE shall provide DISTRICT access to all Documentation on EAGLE SOFTWARE'S current Web site relating to the Licensed Software. DISTRICT may, at any time, reproduce copies of all Documentation and other materials provided by EAGLE SOFTWARE, distribute such copies to its Users, and incorporate such copies into its own technical manuals, provided that such reproduction relates to DISTRICT'S use of the Licensed Software or Module(s), and copyright notices, if any, are reproduced thereon.

4. Restrictions on Grant of Software License.

DISTRICT shall not actually nor attempt to disassemble, decompile, or reverse engineer modify, copy, duplicate, reproduce, license or sublicense the Software, or transfer or convey the Software or any right in the Software to anyone else without the

prior written consent of Eagle Software; provided that DISTRICT may make one copy of the Software for backup or archival purposes. DISTRICT shall not be authorized to make the Licensed Software available for use to any person or entity that has no substantive affiliation or relationship with DISTRICT'S business.

DISTRICT may develop, install, and make operational DISTRICT Custom Programming, but DISTRICT shall be solely responsible for such programming and shall be the sole owner of such code modifications. During the first year following the Reference Date of this Agreement and any period during which the DISTRICT purchases and properly pays for maintenance and support of the Licensed Software from EAGLE SOFTWARE, DISTRICT shall have the right to acquire from EAGLE SOFTWARE any subsequent Release or Version of the Licensed Software produced by EAGLE SOFTWARE as an update to the Licensed Software at no charge to DISTRICT.

5. Licensed Software Installation, Implementation Plan, and First Productive Use.

EAGLE SOFTWARE agrees to install the Licensed Software in accordance with the time schedule as set forth in the *Implementation Plan (Exhibit "B")* or upon such reasonable time schedule as agreed to by and between the parties. The Licensed Software may be delivered to DISTRICT by electronic transmission. EAGLE SOFTWARE'S responsibilities for the delivery, installation, and First Productive Use, as applicable, as to each Module and as to the System, and the training of DISTRICT Users in the use of each Module and the System, shall be limited to the terms and conditions set forth herein and in the *Implementation Plan (Exhibit "B")*. Failure of EAGLE SOFTWARE to satisfy its responsibilities as set forth in the Implementation Plan as to any Module or as to the System, unless modified, shall be a material breach by EAGLE SOFTWARE of this Agreement, entitling DISTRICT, in addition to and cumulative of all remedies available to it at law, in equity or under this Agreement, to immediately commence withholding payments to EAGLE SOFTWARE under this Agreement until EAGLE SOFTWARE cures the Implementation Plan time schedule default. The amount of any payment(s) withheld by DISTRICT shall be in an amount that is in proportion to magnitude of the default.

6. System Configuration.

EAGLE SOFTWARE shall provide documentation of EAGLE SOFTWARE 's minimum and recommended hardware requirements and may assist the DISTRICT in evaluating the DISTRICT'S existing information systems, computer platform(s), operating system(s), applications, network connectivity, and workstation configurations (hereinafter collectively referred to as the "Existing System"). The DISTRICT is responsible for insuring that its Existing System is sufficient in size, capacity, and processing capability to operate the Licensed Software for the use of DISTRICT and its Users. *Nothing in this agreement shall require EAGLE SOFTWARE to pay for any necessary hardware or third party software upgrades or third party services that*

DISTRICT may employ to enhance its system.

The parties expressly acknowledge that EAGLE SOFTWARE is not providing any equipment or software other than the Licensed Software under this Agreement. Further, DISTRICT expressly represents and EAGLE SOFTWARE is relying upon the representation that the Existing System consists of the DISTRICT computer platform(s), operating system(s), scanners, printers, applications, network connectivity (local and wide area networks), and workstations. The DISTRICT'S Existing System operates on personal computers using Windows 3.1 or later operating system on a Windows-compatible network, using Windows-compatible protocols. The DISTRICT is responsible for insuring that its Existing System is sufficient in size, capacity, and processing capability to operate the Licensed Software for the use of DISTRICT and its Users

7. Software Training.

EAGLE SOFTWARE shall provide training to the DISTRICT and its Users in accordance with the time schedule and assignment of responsibilities as agreed during the implementation planning and the pricing/number of days of training needed as outlined by the *Sales Proposal (Exhibit "A")*.

8. Payment of Software Licensing Fee and Related Fees.

In consideration of the license granted under this Agreement, DISTRICT shall pay EAGLE SOFTWARE the sum of \$578,000.00 plus any applicable sales tax for the license of the 'Aeries™' software in accordance with the *Sales Proposal (Exhibit "A")*. The license fee of \$578,000.00 covers the Oakland Unified School DISTRICT with a total base enrollment of 50,000 students in grades K-12 in accordance with the *Sales Proposal (Exhibit "A") and List of Schools (Exhibit "D")*. Additional Software License fees will not be required unless the DISTRICT enrollment as reported via the annual California Basic Educational Data System (CBEDS) exceeds 50,500 students in grades K-12. A base K-12 student enrollment of 50,000 students shall be the basis for calculating additional Software License fees. Additional Software License fees shall be due and payable to EAGLE SOFTWARE in the amount of \$6,140.00 per enrollment increase increment of 500 K-12 students above the base K-12 enrollment of 50,000 students based upon the DISTRICT'S enrollment as reported each year via the annual CBEDS report. Payment shall be made in accordance with the *Payment Schedule (Exhibit "H")*.

Data Conversion. In addition to the payment of the license fee, DISTRICT shall pay EAGLE SOFTWARE the sum of \$40,000.00 for conversion of DISTRICT'S existing data for the 2004-2005 school year to a format that is recognizable to and may be used by the Licensed Software in accordance with the *Sales Proposal (Exhibit "A")*. One day of training for the DISTRICT'S Technical Staff is included to enable the District Staff to convert an unlimited number of previous year's data independent of Eagle Software. In addition to the payment of the license fee, DISTRICT shall pay EAGLE SOFTWARE the sum of \$15,000.00 for conversion of DISTRICT'S existing data for the three (3)

school years prior to the 2004-2005 school year to include the 2003-2004 school year, the 2002-2003 school year, and the 2001-2002 school year to a format that is recognizable to and may be used by the Licensed Software in accordance with the *Sales Proposal (Exhibit "A")*. The EAGLE SOFTWARE data conversion services require that the DISTRICT provide EAGLE SOFTWARE with uniformly formatted ASCII (fixed length) text file extracts from the existing SASI-III AS400 student information system data using identical formats for each school year/file extract. Payment shall be made in accordance with the *Payment Schedule (Exhibit "H")*.

Maintenance and Support. In addition to the payment of the license fee, DISTRICT shall pay EAGLE SOFTWARE the sum of \$66,000.00 for maintenance and support using the discounted district coordinator (DISTRICT Project Administrator) support terms as described in the *Sales Proposal (Exhibit "A")* for the period beginning with the Reference Date continuing through ~~June 30, 2005~~ ^{December 31, 2005} DISTRICT shall pay ~~0746~~ ^{11/03/04} EAGLE SOFTWARE a fee for maintenance and support for any subsequent year's maintenance and support at the then current rate for maintenance and support. ^{0746 11/03/04}

The annual maintenance and support fee covers the Oakland Unified School DISTRICT with a total base enrollment of 50,000 students in grades K-12 in accordance with the *Sales Proposal (Exhibit "A")* and *List of Schools (Exhibit "D")*. The sum of \$66,000.00 for the school year 2004-2005 shall be considered a base fee for the DISTRICT'S maintenance and support costs when calculating subsequent year's maintenance and support costs. The annual maintenance and support fees which is charged to the DISTRICT may be increased by EAGLE SOFTWARE in subsequent year's based upon a calculation applying the same percentage increase as may be applied to other EAGLE SOFTWARE clients and the then current DISTRICT base maintenance and support cost plus any incremental maintenance and support cost increase which is based upon an increase in the DISTRICT'S K-12 student enrollment.

The DISTRICT'S base fee for annual maintenance and support will be increased when DISTRICT enrollment as reported via the annual California Basic Educational Data System (CBEDS) exceeds 50, 500 students in grades K-12 or when a general percentage based increase is charged to other EAGLE SOFTWARE clients. The base K-12 student enrollment of 50,000 students shall be the basis for considering an incremental increase in the DISTRICT'S base fee for maintenance and support due to increased enrollment. An increase in the base maintenance and support fees shall be due and payable to EAGLE SOFTWARE in the amount of \$655.00 per enrollment increase increment of 500 K-12 students above the base K-12 enrollment of 50,000 students based upon the annual CBEDS report. When a general percentage based increase is charged to other EAGLE SOFTWARE clients the percentage will be applied to both the DISTRICT'S base fee for annual maintenance and support and the incremental cost increase based upon an increase in the DISTRICT'S K-12 student enrollment.

Training Fees. In addition to the payment of the license fee, DISTRICT shall pay EAGLE SOFTWARE a fee as described in the *Sales Proposal (Exhibit "A")* for training of DISTRICT staff. DISTRICT may negotiate and pay for a schedule for

additional days of training based upon EAGLE SOFTWARE'S fee for training services at the time of the request and the availability of EAGLE SOFTWARE'S Staff. Payment shall be made in accordance with the *Payment Schedule (Exhibit "H")*.

Installation. In addition to the payment of the license fee, DISTRICT shall pay EAGLE SOFTWARE the sum of \$1,000.00 per day plus expenses per Eagle Software representative that may be required to provide services on an if and as needed basis for installation of the Licensed Software on DISTRICT'S computer system.

Custom Programming. In addition to the payment of the license fee, DISTRICT shall pay EAGLE SOFTWARE a fee to be negotiated for custom programming services on an if and as needed basis for any DISTRICT custom programming needs in accordance with the *Implementation Plan (Exhibit "B")*.

Implementation/Project Management. In addition to the payment of the license fee, DISTRICT shall pay EAGLE SOFTWARE the sum of \$100.00 per hour plus expenses per EAGLE SOFTWARE representative that may be required to provide implementation/project management services on an if and as needed basis in accordance with the *Sales Proposal (Exhibit "A")*.

Other Services. In addition to the payment of the license fee, DISTRICT may negotiate a schedule for additional services beyond those described in the *Sales Proposal (Exhibit "A")* based upon EAGLE SOFTWARE'S fee for any requested services at the time of the request and the availability of EAGLE SOFTWARE'S Staff.

9. Agreement to Provide Specific Enhancements to the Licensed Software. EAGLE SOFTWARE shall provide the following specific enhancements to the Licensed Software at no additional cost to the DISTRICT:

- A. The ability for the DISTRICT to define fields required for data entry when entering a new student record shall be included as a feature of the Licensed Software by January 31, 2005.
- B. The ability for the DISTRICT to define codes which are valid/acceptable for specific fields when entering a new student record or changing an existing student record shall be included as a feature of the Licensed Software by January 31, 2005.
- C. A web-based Individual Education Plan (IEP) tracking system shall be included as a feature of the Licensed Software by July 1, 2005.
- D. Eagle Software agrees to provide the DISTRICT with a web-based version of the Licensed Software at no additional cost to the DISTRICT according to the following schedule and list of exclusions:
 - 1.) Phase 1 – Web-based functions as documented in Exhibit "E" will be available by September 1, 2005.
 - 2.) Phase 2 – Other web-based functions as documented in Exhibit "F" will be available by September 1, 2006.
 - 3.) Aeries functions such as those listed in Exhibit "G" will be excluded from

the contractual obligations of Phase 1 and 2 development of a web-based version of the Licensed Software.

- E. A user configurable student filter that can optionally be remembered for each user by July 1, 2005.
- F. A School Interoperability Framework (SIF) interface by March 31, 2005.
- G. Add additional security to the Teacher Data form to prevent the changing of the Staff ID field by users who do not have read permissions to the Staff Data table by July 1, 2005.
- H. A security restriction mechanism for the district to identify which specific users may use the Aeries QUERY Change functionality by July 1, 2005.

10. Maintenance and Support.

EAGLE SOFTWARE shall correct any failure of the Licensed Software or any Module, to perform in accordance with the System Specifications, including without limitation, defect repair, programming corrections, and remedial programming, and provide such services and repairs required to maintain the Licensed Software so that it operates properly and in accordance with the System Specifications.

Further, EAGLE SOFTWARE shall provide support as follows:

(a) All requests for support shall be first directed to the DISTRICT'S Project Administrator if the *Sales Proposal (Exhibit "A")* documents the expectation that the DISTRICT will take responsibility for local support that is to be provided by the DISTRICT'S Project Administrator. The DISTRICT'S Project Administrator (if any) shall first make reasonable efforts to resolve the support issue before contacting EAGLE SOFTWARE.

(b) If the DISTRICT'S Project Administrator cannot resolve the support issue, the DISTRICT'S Project Administrator will contact EAGLE SOFTWARE. The DISTRICT'S Project Administrator shall transmit all information relevant to the support issue to EAGLE SOFTWARE, including the relevant hardware and operating system information and the circumstances under which the support issue arose. If the DISTRICT does not have a Project Administrator as documented by the absence of a support discount on the *Sales Proposal (Exhibit "A")* and the DISTRICT has purchased support services from EAGLE SOFTWARE as documented on the *Sales Proposal (Exhibit "A")* then a designated, technically competent DISTRICT Representative for each site may contact EAGLE SOFTWARE for support.

(c) All requests for support shall be made during normal business hours (8:00 a.m. to 4:30 p.m. Pacific Standard Time, Monday through Friday, other than legal holidays and days designated by EAGLE SOFTWARE as non-work days. A complete list of legal holidays and days designated by EAGLE SOFTWARE as non-work days is posted on EAGLE SOFTWARE'S Web site. No further notice will be provided.).

(d) During the term of this Agreement, EAGLE SOFTWARE shall make

available to DISTRICT via the EAGLE SOFTWARE Web site Corrections, Updates, Enhancements, Improvements, and Releases to the Licensed Software, as they are made generally available to other EAGLE SOFTWARE clients.

(e) Charges to DISTRICT for maintenance and support for the initial term as of this Agreement are indicated in the *Sales Proposal (Exhibit "A")*. Thereafter, the maintenance and support fees shall be calculated as set forth in Section 8 (Payment) above.

(f) *Notwithstanding the provisions of this Section, EAGLE SOFTWARE may terminate support with regard to the Licensed Software upon ninety (90) days written notice if (i) DISTRICT fails to remain within at least thirty (30) calendar days of EAGLE SOFTWARE'S most then-current production release of the Licensed Software and the failure to remain within thirty (30) calendar days of EAGLE SOFTWARE'S most then-current production release of the Licensed Software is not disputed by DISTRICT, or (ii) DISTRICT fails to pay undisputed invoices for support.*

(g) *Notwithstanding the provisions of this Section, EAGLE SOFTWARE may terminate support with regard to the Licensed Software upon thirty (30) days written notice if DISTRICT fails or refuses to (i) fully cooperate with EAGLE SOFTWARE, (ii) act in reasonable accordance with EAGLE SOFTWARE'S requests and requirements, (iii) respond in a reasonable time and manner to EAGLE SOFTWARE'S written notice or inquiry, or (iv) otherwise act in good faith in furtherance of the material terms and conditions of this Agreement.*

11. Ownership and Non-Disclosure of Proprietary or Confidential Information

The parties agree, both during the term of this Agreement and for a period of five (5) years after termination of this Agreement to hold each other's Proprietary or Confidential Information in strict confidence, except for DISTRICT'S student data which shall be held in such confidence in perpetuity. The parties agree not to make each other's Proprietary or Confidential Information available in any form to any third party or to use each other's Proprietary or Confidential Information for any purpose other than the implementation of and as specified in this Agreement. Each party agrees to take all reasonable steps to ensure that Proprietary or Confidential Information of either party is not disclosed or distributed by its employees, agents or consultants in violation of the provisions of this Agreement, and DISTRICT also agrees to take all such steps with respect to any Users of the System.

EAGLE SOFTWARE'S Proprietary or Confidential Information shall remain the sole and exclusive property of EAGLE SOFTWARE. DISTRICT'S Proprietary or Confidential Information shall remain the sole and exclusive property of DISTRICT. DISTRICT shall have no interest in, and no right to use, including, without limitation, any use resulting in disclosure to any third party any EAGLE SOFTWARE Proprietary or Confidential Information except as specifically provided for by this Agreement or as otherwise permitted and specified by separate written license agreement executed by

both parties hereto.

Each party shall ensure that its employees, agents and consultants, and in the case of DISTRICT'S granting access to the System, its Users, as described in Section 2, shall be permitted access to the other party's Proprietary or Confidential Information only on a need-to-know basis and are instructed regarding, and agree in writing to act in accordance with, the obligations of nondisclosure and non-use imposed by this Agreement.

Each party acknowledges that any use or disclosure of the other party's Proprietary or Confidential Information other than as specifically provided for in this Agreement and other written agreements between EAGLE SOFTWARE and DISTRICT may result in irreparable injury and damage to the non-using or non-disclosing party. Accordingly, each party hereby agrees that, in the event of use or disclosure by the other party other than as specifically provided for in this Agreement and in other written agreements between the parties, the non-using or non-disclosing party may be entitled to equitable relief as granted by any appropriate judicial body.

Each party expressly agrees to include, maintain, reproduce and perpetuate all notices or markings on all copies of all tangible media comprising each party's Proprietary or Confidential Information in the manner in which such notices or markings appear on such tangible media or in the manner in which either party may reasonably request.

EAGLE SOFTWARE acknowledges and agrees that all student records shall be subject to the confidentiality and disclosure provisions of federal and state law and agrees to maintain the confidentiality of all such records in accordance with such laws.

All of the DISTRICT data, records, and information processed by or input onto the System to which EAGLE SOFTWARE has access, or otherwise provided to EAGLE SOFTWARE under this Agreement shall be and remain the property of DISTRICT and DISTRICT shall retain exclusive rights and ownership thereto. The data of DISTRICT shall not be used by EAGLE SOFTWARE for any purpose other than as required under this Agreement, nor shall such data or any part of such data be disclosed, sold, assigned, leased or otherwise disposed of to third parties by EAGLE SOFTWARE or commercially exploited or otherwise used by or on behalf of EAGLE SOFTWARE, its officers, directors, employees, or agents.

EAGLE SOFTWARE shall provide, at no charge to DISTRICT, sufficient access control applications to enable DISTRICT to identify and authenticate Users and control access to System Modules.

12. EAGLE SOFTWARE'S Representations, Warranties and Covenants

Warranty of Title. EAGLE SOFTWARE hereby represents and warrants to DISTRICT that EAGLE SOFTWARE is the owner of the Software or otherwise has the right to grant to DISTRICT the rights set forth in this Agreement.

Warranty of Functionality. For a period encompassing the term of this Agreement, EAGLE SOFTWARE represents, warrants and agrees that the Licensed Software shall perform in all material respects according to EAGLE SOFTWARE'S specifications concerning the Licensed Software when used with the appropriate computer equipment.

Warranty of Response Time. EAGLE SOFTWARE represents and warrants that the response time for the Licensed Software shall be normal for commercial software. As with any PC-based software, the speed is completely dependent on the speed of the workstation computer, the quantity and type of other software that may be running on any individual workstation and the speed of the PC and quantity and type of software operating on any given server.

Exclusive Remedy. In the event of any breach or threatened breach of the foregoing representation and warranty, DISTRICT'S sole remedy shall be to require EAGLE SOFTWARE to either: (i) procure, at EAGLE SOFTWARE'S expense, the right to use the Software, (ii) replace the Software or any part thereof that is in breach and replace it with Software of comparable functionality that does not cause any breach, or (iii) refund to DISTRICT the full amount of the license fee upon the return of the Software and all copies thereof to EAGLE SOFTWARE. In the event of any breach or alleged breach of these warranties, DISTRICT shall promptly notify EAGLE SOFTWARE thereof and provide EAGLE SOFTWARE a reasonable opportunity to repair or replace the Licensed Software, at EAGLE SOFTWARE'S sole election. These warranties shall not apply to the Licensed Software if modified or if used improperly or on an operating system not approved by EAGLE SOFTWARE.

Warranty Disclaimer. EAGLE SOFTWARE DISCLAIMS AND DISTRICT SPECIFICALLY ACKNOWLEDGES THAT EAGLE SOFTWARE DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, WITH RESPECT TO THE PROGRAM AND THE ACCOMPANYING WRITTEN MATERIALS. EAGLE SOFTWARE WILL NOT BE LIABLE FOR LOST PROFITS, LOST OPPORTUNITIES, OR INCIDENTAL OR CONSEQUENTIAL DAMAGES UNDER ANY CIRCUMSTANCES.

In no event shall any demonstration or any promotional materials pursuant to this Section constitute an endorsement, representation or warranty, express or implied, by DISTRICT, with respect to the Licensed Software. In the event of a dispute between DISTRICT and EAGLE SOFTWARE, DISTRICT'S agreement to participate in promotions and demonstrations under this Section and all statements made by DISTRICT in connection with such activities shall not be deemed an admission or declaration against interest of DISTRICT in any trial or dispute resolution proceeding between the parties.

13. Overall Limitation of Liability and Damages

IN NO CASE SHALL EAGLE SOFTWARE BE RESPONSIBLE FOR NOR SHALL THE AGGREGATE AMOUNT OF DAMAGES PAYABLE TO DISTRICT FROM ANY AND ALL PARTIES FOR ANY CLAIM ARISING FROM THE LICENSED SOFTWARE OR THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, ITS WARRANTY AND INDEMNIFICATION PROVISIONS) EXCEED THE AMOUNTS PAID BY DISTRICT TO EAGLE SOFTWARE UNDER THIS AGREEMENT.

14. Termination.

In addition to any other provision in this Agreement allowing a party to terminate this Agreement in whole or in part, and without limiting any other remedies available at law, in equity, or under this Agreement, if either party materially or repeatedly defaults in the performance of any of its duties or obligations under this Agreement, and: (1) within thirty (30) days after written notice is given to the defaulting party specifying the default, it is not cured to the reasonable satisfaction of the party giving the notice of default, or (2) with respect to those defaults that cannot reasonably be cured within thirty (30) days, if the defaulting party fails to commence curing the default within fifteen (15) days after receipt of the notice of default, and to continue proceeding with all due diligence to cure the default, then the party not in default may terminate this Agreement by giving written notice of termination to the defaulting party, which termination shall be effective immediately upon receipt of the notice of termination. If the default is incapable of being cured, then the thirty (30) day cure period shall not apply, and notice of termination may be given directly by the party not in default. If termination of this Agreement for any reason results in the DISTRICT'S need for services from EAGLE SOFTWARE of any type, EAGLE SOFTWARE shall be paid at its then current rates for such services.

15. Assignment.

This Agreement shall not be assigned by either party without the prior written consent of the other except as follows:

EAGLE SOFTWARE may assign this Agreement provided such assignment (i) is in writing and in a form reasonably acceptable to DISTRICT, (ii) states that the assignee is accepting all obligations of EAGLE SOFTWARE under this Agreement and agrees to be bound by and discharge the Agreement's terms, conditions, and obligations as if it were the original party hereto, and (iii) EAGLE SOFTWARE, the assignee entity, or both agree in writing to support the Licensed Software throughout the term of this Agreement.

DISTRICT may assign this Agreement to a parent or subsidiary entity, or any corporation or entity in which DISTRICT has an ownership interest, or in the event of merger, consolidation or other disposition of substantially all of its assets, between DISTRICT and a third party(ies), provided such assignment (i) is in writing and (ii) states that the assignee is accepting all obligations of DISTRICT under this Agreement and agrees to be bound by and discharge each of the Agreement's terms, conditions, and obligations as if it were the original party hereto.

16. General Provisions

Modification. The terms and conditions of the Agreement may not be altered, amended, or modified unless set forth in writing and the writing has been signed by EAGLE SOFTWARE and DISTRICT.

Waiver. All waivers under this Agreement shall be in writing in order to be effective. No waiver by a party of any breach of this Agreement or waiver of any warranty, representation, or other provision hereunder shall be deemed to be a waiver of any other breach, warranty, representation, or provision (whether preceding or succeeding, and whether or not of the same or similar nature), and no acceptance of performance by a party after any breach by the other party shall be deemed to be a waiver of any breach of this Agreement or of any representation, warranty, or other provision, whether or not the party accepting performance knows of such breach at the time of acceptance. No failure or delay by a party to exercise any right it may have by reason of the default of the other party shall operate as a waiver of default or modification of this Agreement or shall prevent the exercise of any right of the non-defaulting party under this Agreement.

Independent Contractor. EAGLE SOFTWARE acknowledges that it is at all times acting as an independent contractor under this Agreement and except as specifically provided herein, not as an agent, employee, or partner of DISTRICT. EAGLE SOFTWARE agrees to be solely responsible for all matters relating to compensation of its employees, including but not limited to compliance with laws governing workers' compensation, Social Security, withholding and payment of any and all federal, state and local personal income taxes, disability insurance, unemployment, and any other taxes for such persons, including any related employer assessment or contributions required by law, and all other regulations governing such matters, and the payment of all salary, vacation and other employee benefits. At EAGLE SOFTWARE'S expense as described herein, EAGLE SOFTWARE agrees to defend, indemnify, and hold harmless DISTRICT, its officers, agents, employees, members, subsidiaries, joint venture partners, and predecessors and successors in interest from and against any claim, action, proceeding, liability, loss, damage, cost, or expense, including, without limitation, attorneys' fees as provided herein arising out of EAGLE SOFTWARE'S alleged failure to pay, when due, all such taxes and obligations (collectively referred to for purposes of this Section as "Employment Claim(s)"). EAGLE SOFTWARE shall pay to DISTRICT any expenses or charges relating to or arising from any such Employment Claim(s) as they are incurred by DISTRICT.

Interpretation of Agreement. In the event of any conflict or inconsistency in the interpretation of this Agreement (including its Exhibits), such conflict or inconsistency shall be resolved by giving precedence first to the body of this Agreement, and then to the Exhibits.

Choice of Law. This Agreement shall be construed under and in accordance with the laws of the State of California.

Venue. The parties expressly agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the state or federal (if permitted by law and a party elects to file an action in federal court) courts located in the County of Orange, State of California. This choice of venue is intended by the parties to be mandatory and not permissive in nature, and to preclude the possibility of litigation between the parties with respect to, or arising out of, this Agreement in any jurisdiction other than that specified in this Section. Each party waives any right it may have to assert the doctrine of *forum non conveniens* or similar doctrine or to object to venue with respect to any proceeding brought in accordance with this Section.

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OAG
11/03/04

Agreement Drafted by All Parties. This Agreement is the result of arm's length negotiations between the parties and shall be construed to have been drafted by all parties such that any ambiguities in this Agreement shall not be construed against either party.

Terminology. All personal pronouns used herein, whether used in the feminine, masculine, or neuter gender, shall include all other genders, and the singular shall include the plural and *vice versa*.

Section Headings. The section headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this Agreement.

Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties as of the Reference Date at such time as all the signatories hereto have signed a counterpart of this Agreement.

Notices. Any notices required or permitted to be given hereunder by either party to the other shall be given in writing: (1) by electronic facsimile with confirmation sent by United States first class registered or certified mail, postage prepaid, return receipt requested; (2) by bonded courier or by a nationally recognized overnight delivery company; or (3) by United States first class registered or certified mail, postage prepaid, return receipt requested, in each case, addressed to the parties as follows (or to such other addresses as the parties may request in writing by notice given pursuant to this section):

TO: DISTRICT @

Oakland Unified School District,
c/o Oswaldo A. Galarza,
Information Technology Officer
1025 Second Ave.
Oakland, California 94606.

TO: EAGLE SOFTWARE @

Aeries Software, Inc.
505 N. Tustin Avenue, Suite 150
Santa Ana, California 92705
Fax: (714) 571-3966

and to

David Christopher Baker
Hart, King and Coldren, A Law Corporation
200 East Sandpointe, Suite 400
P.O. Box 2507
Santa Ana, California 92707
Fax: (714) 546-7457

Notice shall be deemed received on the earliest, upon delivery by electronic facsimile with confirmation from the transmitting machine that the transmission was completed, twenty-four (24) hours following deposit with a bonded courier or overnight delivery company; or seventy-two (72) hours following deposit in the U.S. Mail as required herein.

Entire Agreement. This Agreement contains the entire agreement between EAGLE SOFTWARE and DISTRICT with respect to the subject matter of this Agreement, and it supersedes all other prior and contemporary agreements, understandings, and commitments between EAGLE SOFTWARE and DISTRICT with respect to the subject matter of this Agreement.

Severability. If any provision of this Agreement is found to be invalid or unenforceable by any court, such provision shall be ineffective only to the extent that it is in contravention of applicable laws without invalidating the remaining provisions hereof.

Mediation of Disputes. EAGLE SOFTWARE and DISTRICT agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction, before resorting to arbitration or court action. Mediation fees, if any, shall be divided equally among the parties involved. If any party commences an action based on a dispute or claim to which this paragraph applies, without first attempting to resolve the matter through mediation, then that party shall not be entitled to recover attorney's fees, even if they would otherwise be available to that party in any such action.

Attorneys Fees. Should either party to this Agreement institute any action or proceeding, to enforce this Agreement or any provision hereof, or for damages by reason of any alleged breach of this Agreement, otherwise arising under this Agreement, or for a declaration of rights hereunder, the prevailing party in any such action or proceeding shall be entitled to receive from the other party all costs and expenses, including without limitation reasonable attorney's fees, incurred by the prevailing party in such arbitration, action or proceeding.

Promotions. The parties agree that EAGLE SOFTWARE may use DISTRICT as a reference for all clients and potential clients.

IN WITNESS WHEREOF,

DISTRICT hereby accepts the terms and conditions as set forth above and in the attached exhibits hereto,

DATE: 10/26/04, 2004

DISTRICT

OAKLAND UNIFIED SCHOOL DISTRICT
Office of General Counsel
APPROVED FOR FORM & SUBSTANCE

By: [Signature]
Bert A. COMBS, Attorney at Law
General Counsel

By: [Signature]

Title: Randolph E. Ward, Ed.D.
State Administrator
Oakland Unified School District

EAGLE SOFTWARE hereby accepts the terms and conditions as set forth above and in the attached exhibits hereto,

DATE: 11-3, 2004

EAGLE SOFTWARE

By: [Signature]
Aeries Software, Inc.
d.b.a. EAGLE SOFTWARE

Legislative File

File ID No. 04-1141
Introduction Date 7/14/04
Enactment No. 04-0816
Enactment Date 7/14/04
By [Signature]

AGREEMENT FOR ACQUISITION OF LICENSE FOR Aeries™ SOFTWARE

EXHIBIT A - Sales Proposal

AERIES Software Pricing Proposal Ref# 01142004-Oakland USD-1

The following is a price proposal summary for the Oakland Unified School District's AERIES Administrative Student Information Software purchase.

EAGLE SOFTWARE, 505 N. Tustin Avenue, Suite 150, Santa Ana, California, 92705 proposes the sale of a Software License and implementation plan, including a software license and services, installation services (if any), data conversion services (if any) and training with respect to EAGLE SOFTWARE's Aeries™ student administrative software package to Oakland Unified School DISTRICT (hereinafter "DISTRICT") based upon the following price schedule:

QTY	DESCRIPTION	UNIT PRICE	AMOUNT
SOFTWARE			
62	AERIES Student Software System Elementary School version (Please refer to attached school listing)	\$ 5,000.00	\$ 310,000.00
14	AERIES Student Software System Middle School version (Please refer to attached school listing)	\$ 7,000.00	\$ 98,000.00
6	AERIES Student Software System High School version (Please refer to attached school listing)	\$ 10,000.00	\$ 60,000.00
20	AERIES Student Software System Continuation High/Atypical Schools version (Please refer to attached school listing)	\$ 3,000.00	\$ 60,000.00
1	AERIES Student Software System District Office version	\$ 50,000.00	\$ 50,000.00
MAINTENANCE & DISTRICT COORDINATOR SUPPORT			
62	First year software support of AERIES Elementary School version (50% District Coordinator Support discount applied)	\$ 500.00	\$ 31,000.00
14	First year software support of AERIES Middle School version (50% District Coordinator Support discount applied)	\$ 1,000.00	\$ 14,000.00
6	First year software support of AERIES High School version (50% District Coordinator Support discount applied)	\$ 1,000.00	\$ 6,000.00

20	First year software support of AERIES Continuation High/Atypical version (50% District Coordinator Support discount applied)	\$ 500.00	\$ 10,000.00
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1	First year software support of AERIES District Office version (50% District Coordinator Support discount applied)	\$ 5,000.00	\$ 5,000.00
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DATA CONVERSION

Data file conversion from uniform ASCII (fixed length) text file extracts of the existing SASI-III AS400 student information system for the current school year only plus one day of training on the use/modification of the conversion tool for the District Technical Staff. The training as proposed is to enable the District Staff to convert an unlimited number of previous year's data independently of Eagle Software.	\$ 40,000.00
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Data conversion for 3 prior years.	\$ 15,000.00
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TRAINING

(As specified in Eagle Software's response to Oakland Bid No. 03-04/03, the District may use training Option 1, training Option 2 or a combination of both training options which could reduce the cost of training.)

75	<u>Option 1:</u> Training of AERIES users. (Full days) Training of AERIES users. (Full days) Training to be provided by an Eagle Software representative, including Technical Leaders and District Office staff..	\$ 1,000.00	\$ 75,000.00
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15	<u>Option 2:</u> Eagle Software also offers, Train the Trainer, Training Option 2. The Train the Trainer, Training Option 2, may be used in lieu of or in combination with Training Option 1. Option 2 would require fifteen (15) days of training (at \$1,000.00 per day) which could reduce the proposed training costs.	1,000.00/day	\$ 15,000.00
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EXPENSES

90	Travel expenses (estimated): Actual travel expenses (lodging, meals, car rental, airfare, etc.) will be invoiced as incurred. Approximate \$200.00 per day plus airfare.	\$ 18,000.00
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PROJECT MANAGEMENT

10	Project manager and management (Please see clarification below)	\$ 100.00/Hr.	\$ 1,000.00
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COST SUBTOTAL

Software subtotal	\$ 578,000.00
(Software sales tax 8.25%)	\$ (47,685.00)
Data file conversion from uniform ASCII (fixed length) text file extracts of the existing SASI-III AS400 student information system for the current school year only	\$ 40,000.00
Data Conversion 3 prior years	\$ 15,000.00
Software support for year one	\$ 66,000.00
Training at district site (Option 1)	\$ 75,000.00
Training at district site (Option 2)	\$ 15,000.00
Training expenses (estimated)	\$ 18,000.00
Project management	\$ 1,000.00
(Total with sales taxes paid)	\$ 855,685.00
TOTAL (without sales tax)	\$ 808,000.00

EAGLE SOFTWARE hereby expressly represents to DISTRICT that this instant Sales Proposal is merely a proposal and is not binding upon either party unless and until both EAGLE SOFTWARE and DISTRICT have agreed in writing to the terms and conditions set forth in the separate AGREEMENT FOR ACQUISITION OF LICENSE FOR Aeries™ SOFTWARE.

The instant Sales Proposal shall expire at 5:00 p.m. (P.S.T.) on July 15, 2004 without further notice from EAGLE SOFTWARE unless EAGLE SOFTWARE has agreed in writing to extend the expiration thereof or EAGLE SOFTWARE and DISTRICT have agreed in writing to the specific terms and conditions of an AGREEMENT FOR ACQUISITION OF LICENSE FOR Aeries™ SOFTWARE.

We have a policy of waiving California Sales Tax if our product and documentation are downloaded from our web site. California sales tax rules allow for this exemption. California Reg. § 1502 (f))1) (D). If you would like to use this option, it will reduce your quote by \$47,685.00.

Support Option: A discount of 50% of the cost of software support has been applied. It requires that the District use a district coordinator to contact Eagle Software for software support.

Training of Aeries users is available for \$1,000 per day plus expenses. (Full days at a lab within the District.) The number of training days and expenses proposed in this quote is an estimate. Training on Elementary Standards Based Grade Reporting and the Aeries Browser Interface may add to the number of training days required. Training and expenses will be invoiced based upon the actual number of training days and actual expenses that apply. Training may be provided at the Eagle Software training lab located in Santa Ana CA without

additional cost subject to its availability. Eagle Software proposes to negotiate the training options and/or combinations of training options with OUSD to meet the needs of the District.

Installation of Aeries: The cost of installation is omitted in the total cost proposed. Eagle Software's Aeries SIS software is traditionally installed by the District's staff (215 California School Districts to date). Factors such as number of computers per site, the District's continued desire to use Eagle Software's assistance after experiencing the ease of installation plus variables Eagle Software might encounter beyond our control, make it necessary to quote a daily rate for installation services (\$1,000.00 per day) plus travel expenses.

QTY	DESCRIPTION	UNIT PRICE	AMOUNT
To be determined based upon District needs.	Installation Services	1,000.00 per day per Eagle Software Representative required plus travel expenses.	To be determined based upon District needs.

Data Conversion: Any data conversion other than that identified in this proposal will be quoted for an additional fee. Data conversion services are performed in the Santa Ana office of Eagle Software and the data files are transmitted electronically between your district and Eagle Software. The data conversion cost proposed (Ref # 01142004-Oakland USD-1) is for the data file conversion from uniform ASCII (fixed length) text file extracts of the existing SASI-III AS400 student information system for the current school year only. As an additional data conversion option, Aeries will convert standard SASI-III PC based data files within the software.

Eagle Software feels that data synchronization is an unnecessary process which is outside the scope needed for successful data conversion into Aeries SIS. If OUSD determines that data synchronization is required, Eagle Software would need to identify the extent of the procedure before submitting a quote.

Please refer to the detailed explanation of data conversion and data synchronization in the "Implementation Plan".

Implementation/Project Management: The project management costs as follows:

QTY	DESCRIPTION	UNIT PRICE	AMOUNT
10 (ten) hours	Project Management	\$100.00 per hour per Eagle Software Representative required plus travel expenses (if required).	\$1,000.00

If the implementation assistance project management requirements exceeds 10 (ten) hours, the District will be billed the hourly rate.

AGREEMENT FOR ACQUISITION OF LICENSE FOR Aeries™ SOFTWARE

EXHIBIT B - Implementation Plan

Aeries Software, Inc. d.b.a. EAGLE SOFTWARE, 505 N. Tustin Avenue, Suite 150, Santa Ana, California, 92705 (hereinafter "EAGLE SOFTWARE") proposes the following Implementation Plan for the Oakland Unified School DISTRICT'S (hereinafter "DISTRICT") purchase of the software license and services, installation, data conversion (if any) and training with respect to EAGLE SOFTWARE 's Aeries™ student administrative software package. This plan covers the scheduling and coordination of the tasks that are required to enable Oakland Unified School DISTRICT as referenced in the *Sales Proposal (Exhibit "A")* and *List of Schools (Exhibit "D")* to make productive use of the Aeries™ software.

EAGLE SOFTWARE proposes to act in the role of "Product Reseller / Provider" of its product known as Aeries™ for DISTRICT. EAGLE SOFTWARE shall act as an independent contractor and not an officer, agent or employee of DISTRICT.

EAGLE SOFTWARE proposes to develop an implementation schedule based upon discussions and in cooperation with DISTRICT'S designated Liaison/Project Administrator. This schedule will define the dates when installation, training, data conversion and first productive use are planned with regard to the Aeries™ software. DISTRICT will be responsible for scheduling and coordinating any related activities such as preliminary staff training in the use of a mouse/Windows and hardware/software acquisition/upgrades.

EAGLE SOFTWARE proposes to assist DISTRICT with the evaluation of DISTRICT'S various servers, workstations, networks and associated client skill level to determine the customer's readiness to use the EAGLE SOFTWARE. EAGLE SOFTWARE may make recommendations that could require DISTRICT'S attention before installation can begin. Minimum hardware and staff skill requirements will be discussed during the initial implementation-planning meeting. These discussions are proposed with DISTRICT'S satisfaction as the goal. The parties expressly recognize, acknowledge and agree that EAGLE SOFTWARE is not and will not be responsible for the setup and/or configuration of new equipment, hardware upgrades, network issues or ancillary software.

EAGLE SOFTWARE proposes that delivery of the Aeries™ Software and documentation is intended to facilitate installation and training. The software and documentation may be delivered at the initial implementation-planning meeting. DISTRICT may electronically download the Aeries™ software and its related product documentation once the DISTRICT has formally approved the Software License Agreement and has agreed to the purchase of services as outlined in the Sales Proposal attached thereto.

EAGLE SOFTWARE proposes that installation include the addition of the Aeries™ software product on each individual workstation and the file server. Desktop icons will

be added to each workstation. EAGLE SOFTWARE can do file server configuration provided EAGLE SOFTWARE'S employees are granted the necessary file server administration rights and permissions.

EAGLE SOFTWARE represents that certain features included in the Aeries™ software are designed to handle data file conversion. Any data file conversion which involves the EAGLE SOFTWARE programming staff as outlined in the Sales Proposal may require up to thirty workdays for completion after the data is available to the EAGLE SOFTWARE staff. Coordination of the data file conversion schedule with the DISTRICT'S staff will be necessary to insure that downtime and added workloads are minimized without loss of data. Data file conversion services, which are not handled by the features of the Aeries™ software "on site" at each school or the DISTRICT Office, will be performed at the EAGLE SOFTWARE offices in Santa Ana, California.

DISTRICT must be prepared to discuss, document and make decisions regarding their unique data files/fields/codes in order to facilitate the data conversion process in a timely manner. Once DISTRICT'S data conversion process has been defined in mutually agreeable terms and the actual conversion process has begun, no changes can be accommodated without additional cost to the DISTRICT.

EAGLE SOFTWARE proposes that it will provide training for the software end users according to EAGLE SOFTWARE'S established training practices based upon the number of days of training purchased as outlined in the sale proposal. EAGLE SOFTWARE will work with the DISTRICT to define the DISTRICT'S training requirements including the number of people to be trained, how the DISTRICT staff will be grouped for training, the levels/types of training needed, the preferred location and a proposed schedule.

EAGLE SOFTWARE proposes that it will provide product support if it is included as part of the Sales Proposal and purchased by the DISTRICT. This product support consists of toll-free telephone support during normal business hours (normal business hours are deemed to be 8:00 A.M. to 4:30 P.M. Pacific Time), and a 24-hour update service for Aeries™ via the EAGLE SOFTWARE Web site. Product support is available now and would begin as of the Reference Date of this agreement.

EAGLE SOFTWARE proposes that any additional services that may be required based upon the DISTRICT'S needs which are not covered by the Sales Proposal (Exhibit "A") and are not specifically noted above will be billed at EAGLE SOFTWARE 's then current hourly rate for such services. Written authorization will be required before these additional services can be delivered. Travel expenses will be added for service, which require driving more than thirty (30) miles from the EAGLE SOFTWARE staff's point of departure.

EAGLE SOFTWARE proposes that EAGLE SOFTWARE 's employees and/or the DISTRICT'S employees shall perform the services specified in this implementation plan as outlined below:

1. DISTRICT responsibilities shall include:

- A. Identification of a qualified customer Liaison/Project Administrator (and backup) who is technically competent and able to make decisions that will impact the implementation process.
- B. Commitment to an implementation schedule and coordination of both activities and staff time based upon the DISTRICT'S targeted date to be operational with live data.
- C. Planning and coordination activities which are independent of EAGLE SOFTWARE 'S involvement or responsibility such as preliminary staff training in the use of a mouse/Windows and hardware/software acquisition/upgrades.
- D. Verification that the DISTRICT'S staff has computer skills appropriate for their job including a basic ability use a mouse, size/move windows and start applications from menus.
- E. Verification that the DISTRICT'S technical users/trainers/support staff have advanced computer skills that will enable them to provide local DISTRICT level support.
- F. Definition of the DISTRICT'S training requirements in cooperation with EAGLE SOFTWARE including the number of people to be trained, how the DISTRICT staff will be grouped for training, levels/types of training, preferred location and proposed schedule.
- G. Verification that the DISTRICT'S computer hardware (workstations, servers, printers and scanners) networks, operating systems and other software configurations comply with EAGLE SOFTWARE 's specifications.
- H. Verification that the DISTRICT has an adequate number of licenses for MS Access, adequate MS SQL Server licenses if necessary and/or acquisition of licenses as needed.
- I. Definition, documentation and decisions regarding unique data files/fields/codes to facilitate data conversion.
- J. Arranging for EAGLE SOFTWARE 's staff to have access to DISTRICT computers/servers with appropriate levels of permission.
- K. Provision for staff access to an e-mail system that is adequate to facilitate communication and transfer of data files as attachments between the DISTRICT and the EAGLE SOFTWARE office.
- L. Provision for staff access to the Internet with the ability to download software, software updates and documents.

2. EAGLE SOFTWARE'S responsibilities shall include:

- A. Implementation planning, scheduling and coordination of tasks involving EAGLE SOFTWARE 's personnel based upon the Sales Proposal and *license/purchase arrangements in cooperation with the DISTRICT'S Project Administrator.*
- B. Delivery of the Aeries™ software and documentation or provision for downloading the software/documentation.
- C. Assisting the DISTRICT'S Project Administrator with evaluation of DISTRICT

equipment, networks and general readiness of the DISTRICT for implementation of the EAGLE SOFTWARE.

- D. Assisting the DISTRICT'S Project Administrator with definition of training needs and scheduling of any training purchased from EAGLE SOFTWARE.
- E. Actual training of DISTRICT staff in use of EAGLE SOFTWARE (may use the train-the-trainer model) using the Sales Proposal as a basis for allocating purchased training time. Typical topics that may be included:
 - 1.) Three and one-half hours (3.5 hours) minimum of overview for everyone who will use Aeries™.
 - 2.) Three and one-half hours (3.5 hours) of system administration for appropriate/selected DISTRICT staff.
 - 3.) Separate three and one-half hour (3.5 hour) sessions for topics such as grades, scheduling, period attendance, daily attendance, enrolling students and Query based upon the DISTRICT'S needs, assignment of responsibilities and the amount of training days purchased as documented in the Sales Proposal.
- F. Assisting the DISTRICT with definition of policies and practices necessary to make proper use of the software. This task will be completed as a part of the system administration training.
- G. Installation of the Aeries™ Software in a manner defined during the license and purchase negotiations as documented in the Sales Proposal.
- H. Telephone support based upon the Sales Proposal and purchase arrangements.
- I. Data conversion as defined by the Sales Proposal and purchase arrangements.
- J. Provision for a Web site accessible by the DISTRICT where software fixes/updates and documentation can be reviewed and optionally downloaded by the DISTRICT.
- K. Providing optional items which may be purchased in addition to the items outlined in the Sales Proposal based upon DISTRICT needs/interests:
 - 1.) Training based upon a daily rate plus expenses.
 - 2.) Installation and/or implementation support based upon an hourly rate plus expenses.
 - 3.) Data conversion assistance for a fee.
 - 4.) Custom programming for a fee.

EAGLE SOFTWARE hereby expressly represents to DISTRICT that the Implementation Plan is merely a proposal and is not binding upon either party unless and until both EAGLE SOFTWARE and DISTRICT have agreed in writing to the terms and conditions set forth in the separate AGREEMENT FOR ACQUISITION OF LICENSE FOR Aeries™ SOFTWARE.

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EAGLE SOFTWARE and DISTRICT expressly acknowledge and agree that the instant Nonexclusive Software License is not binding upon either party unless and until both EAGLE SOFTWARE and DISTRICT have agreed in writing to the terms and conditions set forth in the separate Software License Agreement and separate Implementation Plan.

DISTRICT hereby accepts the terms and conditions as set forth above

DATE: 10/26/04, 2004

OAKLAND UNIFIED SCHOOL DISTRICT
Office of General Counsel
APPROVED FOR FORM & SUBSTANCE
By: [Signature]
HOY K. POMERIS, Attorney at Law
General Counsel

DISTRICT

By: [Signature]
Title: Randolph E. Ward, Ed.D.
State Administrator
Oakland Unified School District

EAGLE SOFTWARE hereby accepts the terms and conditions as set forth above

DATE: 11-3, 2004

EAGLE SOFTWARE

By: [Signature]
Aeries Software, Inc.
d.b.a. EAGLE SOFTWARE

Legislative File

File ID No. 04-1141
Introduction Date 7/14/04
Enactment No 04-0816
Enactment Date 7/14/04
By [Signature]

AGREEMENT FOR ACQUISITION OF LICENSE FOR Aeries™ SOFTWARE

EXHIBIT D – List of Schools

SCHOOL	GRADES
Allendale Elementary	K – 5
Ascend	K - 8
Bella Vista Elementary	K – 5
Bret Harte Middle	6 – 8
Brewer Middle	6 - 8
Brookfield Village Elementary	K – 5
Bunche Academy	6 – 8
Burckhalter Elementary	K – 5
Calvin Simmons Middle	6 – 8
Carl B. Munck Elementary	K – 5
Carter Middle	6 – 8
Castlemont Senior High	9 – 12
Chabot Elementary	K – 5
Claremont Middle	6 – 8
Cleveland Elementary	K – 5
Cole Elementary	4 – 8
Cox Elementary	K – 5
Crocker Highlands Elementary	K – 5
Dewey Academy	9 – 12
Elisabeth Sherman Elementary	K – 5
Elmhurst Middle	6 – 8
Emerson Elementary	K – 5
Far West	6 – 12
Franklin Elementary	K – 5
Fremont (Architecture Academy)	9 – 12
Fremont (Mandela High)	9 – 12
Fremont (Media College Prep)	9 – 12
Fremont (Robeson Visual Performing Arts)	9 – 12
Fremont (Youth Empowerment School)	9 – 12
Fremont In Transition (FIT)	9 – 12
Frick Middle	6 – 8
Fruitvale Elementary	K – 5
Garfield Elementary	K – 5
Glenview Elementary	K – 5
Golden Gate Elementary	K – 5
Grass Valley Elementary	K – 5
Havenscourt Middle	6 – 8
Hawthorne Elementary	K – 5
Highland Elementary	K – 5
Hillcrest Elementary	K – 8

Hoover Elementary	K - 5
Horace Mann Elementary	K - 5
Howard Elementary	K - 5
Independent Study	K - 12
International Community	K - 5
Jefferson Elementary	K - 5
Joaquin Miller Elementary	K - 5
Kaiser Elementary	K - 8
King Estates Middle	6 - 8
KIPP-Oak College Preparatory	5 - 6
La Escuelita Elementary	K - 5
Lafayette Elementary	K - 5
Lakeview Elementary	K - 5
Laney Middle College	3 - 9
Laurel Elementary	K - 5
Lazear Elementary	K - 5
LIFE Academy	9 - 12
Lincoln Elementary	K - 5
Lockwood Elementary	K - 5
Lowell Middle	6 - 8
Madison Middle	6 - 8
Manzanita Elementary	K - 5
Marham Elementary	K - 5
Marshall Elementary	K - 5
Martin Luther King Jr. Elementary	K - 3
Maxwell Park Elementary	K - 5
McClymonds Senior High	9 - 12
Melrose Elementary	K - 5
Melrose Leadership Academy	6 - 8
Merrit Middle College High	9 - 12
MetWest High School	9 - 12
Montclair Elementary	K - 5
Montera Middle	6 - 8
Oakland Senior High	9 - 12
Oakland Technical Senior High	9 - 12
Parker Elementary	K - 5
Peralta Elementary	K - 5
Piedmont Avenue Elementary	K - 5
Prescott Elementary	K - 5
Redwood Heights Elementary	K - 5
Roosevelt Middle	6 - 8

Rudsdale Academy	8
Santa Fe Elementary	K - 5
School of Social Justice	9 - 12
Sequoia Elementary	K - 5
Skyline Senior High	9 - 12
Sobrante Park Elementary	K - 5
Stonehurst Elementary	K - 5
Street Academy Senior High	9 - 12
Think College Now	K-2
Thornhill Elementary	K - 5
Urban Promise Academy	6 - 8
Washington Elementary	K - 5
Webster Academy	K - 5
Westlake Middle	6 - 8
Whittier Elementary	K - 5
Woodland Elementary	K - 5
Total # Schools - 97	

NEW SCHOOLS

Castlemont - Splits into 3 schools (Business Information Technology) (Leadership Prep) (East Oakland School for the Arts)	9 - 12
Community Day School	9 - 12
East Oakland Community High School	9 - 12
Encompass	E
Explore MS	6 - 8
Village Academy	6 - 8

AGREEMENT FOR ACQUISITION OF LICENSE FOR Aeries™ SOFTWARE

EXHIBIT E – Web-based Functions

Phase 1
Available September 1, 2005

- General Functions
 - School Options and Configurations
 - School Calendar Management
 - Teacher Data Management
 - Course Data Management
- District Functions
 - Student Data Access
 - View Only
 - Attendance
 - Supplemental Data
 - Interventions
 - Retentions
 - Activities and Awards
 - Medical Log
 - Medical History
 - Immunizations
 - Hearing
 - Vision
 - Physicals
 - Scoliosis
 - Discipline
 - Emergency Contacts
 - Test Scores
 - Enrollment History
 - Change Data
 - Language Assessment
 - Free and Reduced Meals
 - Special Education
- Elementary School Functions
 - Student Demographic Data
 - Add, Transfer, Delete, and Change Data
 - Student Photos
 - Medical
 - Medical Log (MED table)
 - Medical History (MHS table)
 - Immunizations (IMM table)
 - Hearing (HRN table)
 - Vision (VSN table)
 - Physicals (HWO table)
 - Scoliosis (SCO table)

- Supplemental Data (SUP table)
- Interventions (INV table)
- Retentions (RET table)
- Discipline (ADS and DIS tables)
- Emergency Contacts (CON table)
- Test Scores (TST table)
- Fees (FEE table)
- Attendance
 - Teacher or Office Clerk Posting
 - Reports
 - Class Rosters
 - Absence and Tardy Lists
 - Attendance Letters
 - Class Enrollment Reports
 - Attendance Summaries
 - Gain and Loss Report
 - Monthly Attendance Report
 - Monthly Attendance Summary
- Standards Based Grade Reporting
 - Teacher Data Entry and Viewing

AGREEMENT FOR ACQUISITION OF LICENSE FOR Aeries™ SOFTWARE

EXHIBIT F – Other Web-based Functions

Phase 2
Available September 1, 2006

- **General Features**
 - Aeries Query
- **Secondary School Features**
 - **Scheduling**
 - Master Schedule and Scheduling Master Schedule Management
 - Course Request Gathering
 - Master Schedule Building Tools
 - Master Schedule Reports
 - Mass Add/Change Course Requests
 - Course Request Analysis Reports
 - Mass Scheduler and Walk-in Scheduler
 - Scheduling Optimizer
 - Locator Cards
 - Bell Scheduler
 - Block Schedule Calendar
 - **Grade Reporting**
 - Teacher/Administrator Data Entry
 - Missing Mark Listing
 - GPA Computation
 - Report Cards
 - Graduation Status Reports
 - Transcripts/Course History
 - College Entrance Tests
 - UC/CSU Entrance Eligibility
 - Period Attendance Functions
- **Elementary School Functions**
 - **Standards Based Grade Reporting**
 - Configuration and Management
 - Report Cards
- **District Functions**
 - Enrollment Analysis Reports
 - Test Score Pre-ID and Load

AGREEMENT FOR ACQUISITION OF LICENSE FOR Aeries™ SOFTWARE

EXHIBIT G – Functions Excluded from Web-based Versions of Aeries Through Phase 2

1. *Eagle Software recognizes that as Oakland USD moves forward with the implementation of Aeries, the needs of the district will become clearer and the programming priorities for individual functional areas in the web-based version can be adjusted by mutual consent.*
 2. *This list of excluded functions is not exhaustive and it is intended to demonstrate the conceptual areas of Aeries that are not included in the agreement with Oakland USD.*
 3. *This list is intended for general reference only. Omission of a function from this list does NOT imply that the function will be made available in the Web-based version of Aeries.*
- District Functions
 - Miscellaneous Functions
 - Year-end rollover of other like processes that require large volumes of data to be moved or copied
 - School Functions
 - Complex, Rarely Run Reports
 - Textbook Management
 - Complex Assessment and Testing Analysis
 - Progress Reporting (*Multiple Mark Grade Reporting should negate the need for Progress Reports*)
 - Tuition Billing
 - Scrip Tracking
 - Text File Creation Programs not needed by Oakland USD
 - Work Permits
 - Healthy Start Events
 - Hot Keys (*this functionality will be replaced by a Favorites menu in the web-based version*)
 - Scanning
 - Report Printing Packets
 - Run Timed Procedures
 - Security Management (*Microsoft tools handle this function for a SQL database*)
 - Staff Data Management

AGREEMENT FOR ACQUISITION OF LICENSE FOR Aeries™ SOFTWARE

EXHIBIT H – Payment Schedule

I. Cost Summary From Sales Proposal Ref# 01142004-Oakland USD-1:

Software subtotal	\$578,000.00
Data file conversion from uniform ASCII (fixed length) text file extracts of the existing SASI-III AS400 student information system for the current school year only	\$ 40,000.00
Data Conversion 3 prior years	\$ 15,000.00
Software support for year one	\$ 66,000.00
Training at district site (Option 1)	\$ 75,000.00
Training at district site (Option 2)	\$ 15,000.00
Training expenses (estimated)	\$ 18,000.00
Project management	\$ 1,000.00
TOTAL (without sales tax)	\$808,000.00

II. Items for scheduled payments:

Software Licenses	\$578,000.00
Software support for year one 2004-2005	\$ 66,000.00
Software support for year two 2005-2006	\$ 66,000.00
Licenses plus Maintenance and Support for 2004-2005 and 2005-2006	\$710,000.00

III. Scheduled Payments:

Payment #1 due thirty (30) days after agreement is signed	\$ 90,000.00
Payment #2 due one hundred and twenty (120) days after agreement is signed	\$125,000.00
Payment #3 due two hundred and ten (210) days after agreement is signed	\$125,000.00
Payment #4 due three hundred (300) days after agreement is signed	\$158,000.00
Payment #5 due three hundred and ninety (390) days after agreement is signed	\$212,000.00
Total	\$710,000.00

IV. Data conversion services to be paid upon completion of each phase as itemized on the sales proposal:

Data file conversion from uniform ASCII (fixed length) text file extracts of the existing SASI-III AS400 student information system for the current school year only	\$ 40,000.00
Data Conversion 3 prior years	\$ 15,000.00

V. The balance of the services from Eagle Software such as but not limited to Training, Project Management and the associated expenses will be invoiced, due and payable as they are provided to the Oakland Unified School District.