Board Office Use: Legislative File Info.	
File ID Number	12-2226
Introduction Date	8/22/12
Enactment Number	12-2314
Enactment Date	8/22/12 o.s.

OAKLAND UNIFIED SCHOOL DISTRICT

Community Schools Thriving Students

Memo

To	Board of Education
From	Tony Smith, Ph.D., Superintendent Vernon Hal, Deputy Superintendent Business Services and Operations Jerry Johnson, Risk Management Officer
Board Meeting Date	August 22, 2012
Subject	Approval by the Board of Education of Contract for Professional Services Agreement with David Donn Consulting, Inc. for Auditing and Restructuring of Medical Bill Review within the District's Workers' Compensation Program for the 2012 - 2013 Fiscal Year

Action Requested

Approval of a Contract for Professional Services with David Donn Consulting, Inc. for Workers' Compensation Medical Bill Review Auditing and Restructuring in an amount not to exceed $156,000 for the period of August 23, 2012 through June 30, 2013.

Background

The District has no internal staff capacity to review the more than 10,000 medical bills that are generated annually by its permissibly self-insured Workers Compensation program. The District engages a medical bill review agent (JT2 Integrated Resources) to ensure that payments to providers do not exceed legally permissible amounts under California's workers compensation scheme. David Donn Consulting, Inc. is a unique and well respected firm within this field which audits bill review programs to ensure their efficiency and effectiveness, negotiates better program rates for self-insured entities like the District, restructures existing programs to yield additional savings, and assists, where necessary, in the process of selecting new providers. Multiple Bay Area government entity clients of David Donn Consulting, Inc. have determined it to be a sole source for these services.

Discussion

David Donn Consulting, Inc. provides a complete range of consulting services within the field of medical cost containment within a client's Workers' Compensation program. Consulting fees, not expected to exceed $156,000 in Fiscal Year 2012-13, are calculated based on savings, both one time and ongoing, to the program.

Recommendation

Approval by the Board of Education of the Contract for Professional Services with David Donn Consulting, Inc. in an amount not to exceed $156,000 for the period of August 16, 2012 through June 30, 2013.

Fiscal Impact

Fund 67 Resource Code 0000 (the District's Self Insurance Fund), not to exceed $156,000. The effective impact is projected to be positive, resulting in actual and ongoing savings of $357,000 per year.

David Donn Consulting, Inc.
Oakland Unified School District
Program Restructuring, Program Enforcement & Vendor Selection Proposal

Effective Date: ~~June 1, 2012~~

August 23, 2012 DD ER

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I. Situational Appraisal

Oakland Unified School District ("OUSD") is looking to improve the financial and operational performance of its outsourced workers' compensation managed care program ("Program") comprised of :

"Repricing" services:

- Medical bill review ("MBR").
- Hospital and provider PPO ("PPO") and Medical Provider Network ("MPN").
- Negotiation/Specialty Bill Review ("SBR").

"Medical Management" services:

- Utilization Review ("UR") including physician consultation.

OUSD anticipates making improvements to its Program through a two-phase approach:

1) Restructure the current Program to immediately eliminate/rectify current underperformance in the areas of savings performance, service rates and any past overcharges.
2) At OUSD discretion, perform a vendor selection bid to identify a superior alternative for installation as a permanent new Program to be effective July 1, 2013.

To ensure the actual achievement of targeted financial improvements throughout both the restructuring and vendor selection processes, OUSD wishes to install ongoing high-level performance benchmarks and apply Program enforcement and audit to its Program that will serve to continually maximize Program performance.

David Donn Consulting, Inc. ("DDC") offers a full range of distinct managed care advisory services including program restructuring, program enforcement/audit and vendor selection services ("Services") designed to address the OUSD Program. This Proposal sets forth terms and conditions in connection with such Services. DDC agrees to assist OUSD in connection with its Program as more specifically described below.

II. Objectives

The objectives for this engagement will be:

1. Program Restructuring

   a) Evaluate OUSD current Program to benchmark current performance.

   b) Analyze Program cost, savings and statistical reports for irregularities that have a financial impact on the Program, correct all irregularities, and obtain for OUSD maximum possible compensation for any inappropriate costs or losses.

   c) As directed by OUSD, identify and resolve current and future key areas of operational concern.

   d) Optimize current Program fee structure and implement DDC's proprietary techniques to improve current Program savings performance.

2. Vendor Selection
   a) Identify a financially and operationally superior managed care service provider or providers and collective service offering for installation on the OUSD Program.
   b) Efficiently install this new Program for OUSD with the most cost-effective pricing structure for all services.
3. DDC Model Enforcement & Audit
   a) Apply procedures and techniques, as detailed in Section "IV. Engagement Methodology" of this Proposal, for effectively evaluating and continuously maximizing Restructured Program performance.
   b) Identify vendor deviation from Program structural requirements, resource commitments, performance targets, and contractual terms.
   c) Expediently correct such deviations to obtain optimal Program performance.

III. Expression of Value[1]

Through both the restructuring of the current Program and installation of a new superior Program, DDC will increase net financial performance produced for OUSD. DDC seeks to accomplish this goal by working directly with OUSD's current and future managed care service providers as OUSD's agent. Under both processes (Program Restructuring and Vendor Selection), DDC estimates the following specific financial improvements:

1. Combined Repricing fees will be reduced by approximately \$9.53-\$12.53 per bill, reducing combined Repricing service fees by approximately \$97,000 - \$128,000 annually.
2. Proprietary techniques (the "DDC Model[2]") will be formally introduced and the application of the DDC Model will be monitored by DDC to maximize overall Repricing savings (medical payment reductions). Total Repricing savings (measured as a percent of total reviewed medical charges) will be increased by approximately 5-6 savings points, increasing medical cost savings (i.e. reducing medical payments) by approximately \$290,000 - \$348,000 annually.
3. Historic fees overcharges if any will be identified and quantified, and DDC will seek to recapture these fees from OUSD's incumbent service provider.
4. Based on a preliminary analysis of vendor data, total fees per UR appear competitive. However, we will evaluate UR fees to identify and correct any excessive fees, as well as evaluate usage levels and seek to optimize the amount of UR delivered for the Program.

[1] Achievement of improvements is contingent on various factors including service provider execution on DDC program guidelines, and DDC cannot guarantee that these estimates will be achieved.
[2] The DDC Model is a comprehensive set of operational and financial program guidelines that includes techniques and methodologies such as: Expansion of the CPT code ranges manually reviewed against medical reports for billing code correction; auditing of review results for missed reductions or incomplete reductions; assignment of senior review analysts to all DDC client accounts; improvement in account management responsiveness and transparent reporting; and other techniques and supporting documentation and updates.

IV. Engagement Methodology

Program Restructuring, Program Enforcement & Vendor Selection/Implementation

Phase 1: Program Restructuring

DDC will contact and interview OUSD's service providers and collect all material Program operational information, statistical information and Program reports. DDC will evaluate OUSD's existing Program in terms of volume, fees, savings performance, and Program structure. Based on this evaluation, DDC will produce a value-based SMART™ Report (Specific, Measurable, Actionable, Realistic and Tailored) detailing the course of action for the achievement of all objectives and expressions of value described above. DDC will present the SMART™ Report to OUSD at OUSD's offices or in a convenient forum to review the report, discuss strategy for Program restructuring detailed in the report, and address OUSD's questions regarding Program restructuring. DDC will represent OUSD in negotiating the improved pricing terms, performance and/or base changes and improvements to Program structure required to achieve the Objectives and Expressions of Value detailed above and in the SMART™ Report.

Phase 2: Vendor Selection

Within the context of OUSD directives, DDC will develop documentation for the competitive bid of the OUSD workers' compensation managed care Program; including as appropriate a Request for Proposal (RFP) or vendor questionnaire, scoring procedure and worksheets, and final candidate evaluation summaries. DDC will also coordinate with the OUSD in all necessary bid planning processes, and coordinate the managed care vendor selection process as appropriate with any OUSD claims administration bid process. DDC will prepare vendor selection documentation in cooperation with OUSD personnel and under the OUSD timeline for its overall claims administration/managed care bid process. DDC will provide full support to the OUSD on all candidate interaction, including providing responses to candidate question and overseeing finalist onsite interviews. As appropriate, DDC will evaluate, score, and rank all candidate bid submissions based on the agreed scoring methodology. Based on final scores, DDC will recommend a winning candidate or candidates and implement a new Program best-suited to achieve maximum financial and operational performance for OUSD. Upon the selection of a winning vendor or vendors, DDC will recommend financially effective negotiating strategies for service rates, provide contractual advice, negotiate final contractual terms and conditions, and implement the new OUSD Program in cooperation with any associated claims administration program transition.[3]

DDC Model Enforcement & Audit (applied in both Phases 1 and 2)

For both the Restructure Program and any new Program implemented through Vendor Selection, DDC will provide monthly Model Enforcement & Audit. DDC will evaluate Program performance, provide monthly Program analysis/trending reports to OUSD, identify areas of Program underperformance, and coordinate implementation of any necessary Program

[3] Contract negotiation and execution covers the negotiation of price, performance, and operational terms specific to the actual services provided under the negotiated service agreement. DDC does not provide legal counsel.

enhancements or corrections. DDC's Model Enforcement & Audit process, to the extent of DDC's direct control, will address the following:

- Execution of ongoing Program structure and performance improvements;
- Correction of operational problems and deficiencies;
- Oversight of performance incentive agreement application;
- Early identification of reporting issues related to Repricing services;
- Early identification of financially unfavorable service shifting;
- Representation and advisory in all service provider interaction, if requested;
- Representation and advisory on legislative and regulatory issues that may impact Program.

Through Model Enforcement & Audit services, DDC also seeks to assist OUSD as follows:

- Enforcement of contract terms;
- Identification and correction of fee discrepancies;
- Identification and correction of savings reporting errors.

V. Timing

For this engagement, DDC estimates a starting date of ~~June 1,~~ August 23rd 2012. DDG

DDC estimates that for Phase 1 (Program Restructuring), Program evaluation and SMART™ Report presentation can be completed in approximately 2 months or by August 1, 2012. Program Restructuring can begin immediately thereafter, and DDC estimates that the new OUSD program can launch by September 1, 2012. DDC Model Enforcement & Audit for the Restructured Program will commence immediately upon the launch of the Restructured Program.

For Phase 2 (Vendor Selection), OUSD Request for Proposal (RFP) documentation and process development can begin as directed by OUSD, to allow adequate time for RFP issuance consistent with OUSD timetables. Full candidate evaluation and winning bidder selection can be completed in 2-3 months depending on project protocols, and once a winning bidder is selected and approved by OUSD a new Program can be implemented in 2 months.

Please note that these dates are estimates only, and DDC is not responsible for delays due to client actions or events outside of DDC's control.

Phase 1 (Program Restructuring)		**Phase 2 (Vendor Selection)**	
Task	**Timeframe**	**Task**	**Timeframe**
Program Evaluation	Completed by ~~8~~ 11/1/12 DDG	Bid Evaluation	Completed by TBD
Restructuring	Completed by ~~9~~ 12/1/12 DDG	Program Installation	Completed by 7/1/13
Enforcement & Audit	Commencing ~~9~~ 12/1/12 DDG	Enforcement & Audit	Commencing 7/1/13

VI. Joint Accountabilities[4]

OUSD agrees to appoint DDC as its advisor for workers' compensation managed care advisory services. Upon the execution of this Proposal, OUSD will send a letter to its current managed care service provider(s) announcing its retention of DDC. As appropriate under the scope of restructuring dictated by OUSD, OUSD will require its service provider to cooperate with DDC, perform services in compliance with the DDC Model, fulfill DDC reporting requirements, and, upon DDC's or OUSD'S discovery of service provider non-compliance with the DDC Model, require the service provider to promptly remedy such non-compliance at no additional cost to OUSD. OUSD will be responsible for adhering to the schedules established for DDC payment.

DDC is responsible for coordinating any internal strategy meetings regarding the Program, and coordinating all meetings with outside service providers. DDC will ensure minimal disruption in work procedures and adhere to all schedules. DDC will provide updates and progress reports at OUSD's request and will immediately inform OUSD of any peripheral issues that emerge which merit OUSD's attention.

We will both inform each other immediately of any unforeseen changes, new developments, or other issues, which impact this project so that we can adjust accordingly. We agree to err on the side of over communication to keep each other abreast of all aspects of the project.

VII. Terms and Conditions

A. Payments to DDC:

1. A Base Engagement Fee of $67,000 for Phase 1 (Program Restructuring). The Base Engagement Fee will be paid from Program Improvement (defined below), as follows: Performance Fees (defined below) are paid first, then 100% (one hundred percent) of the remaining Program Improvement (defined below) will be paid to DDC until the Base Engagement Fee is fully paid.

   The Base Engagement Fee is fully guaranteed, meaning that if Program Improvement (defined below) falls short of the Base Engagement Fee after the first year of Restructured Program operation, DDC will refund 100% of the shortfall to OUSD. For example, if first-year Program Improvement totals $60,000, DDC will refund $7,000 to OUSD for the shortfall between total Program Improvement and the $67,000 Base Engagement Fee. Any such refunds will be issued by DDC within 30 days of receipt of DDC-validated service provider reporting for the first year of new Program operation.

   If Needed DD EL   will be charged DD EL

2. A Base Vendor Selection Fee of $59,000 for Phase 2 (Vendor Selection) up to a maximum of 8 candidates. For any candidate(s) beyond 8, there is an additional one-time fee of $2,500 per candidate. The Base Vendor Selection Fee will be paid from Program Improvement (defined below), as follows: Performance Fees (defined

[4] For client convenience and to avoid interruptions, DDC recommends that when possible, it obtain all necessary financial, performance, technical and statistical reports and related data directly from the service provider.

below) are paid first, then 100% (one hundred percent) of the remaining Program Improvement (defined below) will be paid to DDC until the Base Vendor Selection Fees is fully paid.

The Base Vendor Selection Fee is fully guaranteed, meaning that if Program Improvement (defined below) falls short of the Base Vendor Selection Fee after the first year of operation of the new Program implemented through Phase 2 (Vendor Selection), DDC will refund 100% of the shortfall to OUSD. For example, if first-year Program Improvement under the new Program totals $50,000, DDC will refund $9,000 to OUSD for the shortfall between total Program Improvement and the $59,000 Base Vendor Selection Fee. Any such refunds will be issued by DDC within 30 days of receipt of DDC-validated service provider reporting for the first year of new Program operation.

3. A Performance Fee for DDC Model Enforcement & Audit services that is 25% of Program Improvement, defined as the following:
   a) Recaptured Overcharges and Overpayments for all services (Repricing, Medical Management); and
   b) Improvement to Program Service Fees (Repricing, Medical Management); and
   c) Improvement to Repricing Savings.

   DDC Performance Fees are assessed and billed monthly and structured as detailed in "Structure of Performance Fee" below. Performance fees apply to all months of DDC Model Enforcement & Audit provided under both Phase 1 and Phase 2 of this engagement. *The performance fee structure may be converted to a flat monthly fee under circumstances and terms defined below in "Structure of Performance Fee."*

B. Structure of Performance Fee:

1. Definitions: The Repricing services purchased by OUSD act to reduce OUSD gross billings from medical providers (i.e. physicians, hospitals). These billing reductions are "Savings." Conversely, "Fees" are all service fees charged to OUSD for all managed care services (both Repricing and Medical Management service lines).

2. "Improvement to Repricing Savings" equals the difference between the current period's old-Program gross savings results (based on the historical average gross savings percent from Repricing applied to current Program activity) vs. the current period's actual gross savings results. The period used to determine old Program historical average Savings will be the one-year baseline period 4/1/11 – 3/31/12, unless OUSD and DDC mutually agree that there are anomalies impacting performance during this period, in which case the parties will identify a mutually acceptable different baseline period.

3. "Improvement to Program Service Fees" equals the difference between the current period's old-Program Fees for all services (based on the historical fee averages applied to current Program activity) vs. the current period's new Fees for all services. The period used to determine old Program historical average service rates will be the

one-year baseline period 4/1/11 – 3/31/12, unless OUSD and DDC mutually agree that there are anomalies impacting managed care service fees during this period, in which case the parties will identify a mutually acceptable different baseline period.

4. "Recaptured Overcharges and Overpayments" includes any managed care fee overcharges and medical provider overpayments identified by DDC and reimbursed to OUSD. Overcharges/overpayments that are acknowledged or identified, but not reimbursed, are not subject to DDC Performance Fees.

5. In any month where Program Improvement is negative or zero, DDC's Performance Fee will be zero and no Performance Fee shall be issued to DDC.

6. Because environmental and Program-specific factors may impact the maximum level of Savings achievable for the Program, the 25%-of-improvement Performance Fee may be converted to a flat monthly management fee under the following circumstances:

    a. Program average monthly gross charges or gross charges per bill for any three-month period fall below the preceding 12-month Program average monthly gross charges or gross charges per bill, respectively, by 15% or more. In this case, the flat monthly management fee will be calculated as the average monthly Performance Fee payment for the 12-month period immediately preceding the three-month period in which gross charges fell by 15% or more. In the event a 12-month period is not available, a shorter period of no less than six months will be used, unless a six-month period is also not available, in which case the calculation period and corresponding flat monthly management fee will be established by mutual agreement.

    b. A material adjustment made to relevant state workers' compensation fee schedules or regulations, including those states with usual and customary (U&C) rate arrangements. An adjustment will be considered material based on the mutual written agreement of OUSD and DDC. In this case, the flat monthly management fee will be calculated as the average of monthly Performance Fee payments for the 12-month period immediately preceding the effective date of the fee schedule or regulatory adjustments necessitating the shift to a flat monthly management fee. In the event a 12-month period is not available, a shorter period of no less than six months will be used, unless a six-month period is also not available, in which case the calculation period and corresponding flat monthly fee will be established by mutual agreement.

C. Payment Schedule, Engagement Term and Termination:

1. Base Engagement Fee: The Base Engagement Fee will be paid as detailed in Section VII. A of this Proposal.

2. Performance Fee: Performance Fees are due within 30 days of invoice receipt. DDC will invoice Performance Fees upon delivery of DDC's monthly program

management reports, which are sourced from service providers' monthly savings reports.

3. Base Vendor Selection Fee: The Vendor Selection Fee will be paid as detailed in Section VII. A of this Proposal.

Upon expiration or termination of this Proposal, OUSD shall immediately pay to DDC the remaining balance of the engagement fee and all Performance Fees owing.

The initial term of this Proposal will begin on the Effective Date and continue for the longer of three years, or the duration of the Repricing vendor service agreement(s) (and any extension(s) thereof) implemented through Phase 2 (Vendor Selection). DDC Model Enforcement & Audit services will be provided under this Proposal for all months up to and including the last month in which this Proposal and any renewal thereof remains active.

If either party materially breaches this Proposal, and the material breach remains uncured for a period of thirty (30) days after receipt of notice from the non-breaching party, the non-breaching party may elect to terminate this Proposal by written notice.

Upon termination of this Proposal, OUSD'S license to the DDC Model and DDC Services will also terminate, and OUSD and its service providers shall retain no rights to use of the DDC Model. Any outstanding fees will be due to DDC thirty (30) days from Proposal termination.

D. Expenses:

Expenses will be billed at cost and as actually accrued, and are due within 30 days of invoice receipt. Reasonable travel expenses include car mileage reimbursed at the prevailing mileage rate, hotels, coach airfare, meals and tips. Other expenses billed include telephone charges related to conference calls (applies only when using conference services) and express delivery charges. DDC does not bill for fax, administrative work, telephone, copies or related office expenses. Any single expenses in excess of $500 will be discussed with OUSD prior to expenditure.

E. DDC Model:

Subject to the terms and conditions of this Proposal, DDC hereby grants to OUSD a limited, non-exclusive, royalty-free license to use directly and on its behalf by a DDC authorized service provider the DDC Model in conjunction solely with the services provided by DDC under this Proposal. OUSD agrees that it shall not modify, distribute, reverse engineer, lease, license, or otherwise transfer any rights to the DDC Model to any third party without DDC's prior express written consent. DDC retains all rights to the DDC Model. All rights not expressly granted are expressly reserved.

F. Indemnification and Insurance:

1. DDC agrees to defend, indemnify and hold harmless OUSD, including its employees, officers, directors, contractors, members, managers, and shareholders

("Indemnitor") from and against any and all third party claims, penalties, liabilities, damages, causes of action, losses, costs and expenses of any nature, including related legal costs and attorney's fees, which may be incurred by Indemnitor for any and all damages and reasonable attorneys' fees, proximately caused by the willful or negligent acts or omissions of DDC in the course of performing the Agreement, including without limitation Exhibits to this Proposal and for failure to comply with applicable law. Except for damages related to willful acts or omissions, such indemnity obligation by DDC is expressly limited to, and shall not exceed, total compensation paid to DDC under this Proposal.

2. OUSD agrees to indemnify and hold harmless DDC with regard to any and all claims, penalties, liabilities, damages, causes of action, and expenses of any nature, including related legal costs and attorney's fees which may be incurred by DDC as a result of the use by DDC of information provided by OUSD to DDC hereunder. OUSD's liability shall also be similarly limited to, and shall not exceed, total compensation paid to DDC under this Proposal.

3. DDC agrees to maintain the following insurance coverage during the term of the Agreement and where legally appropriate to do so, cause OUSD to be named as an additional insured; and endorse said policies to be primary and non-contributing. ("DDC Insurance Policies"):

    a. Errors and Omissions coverage for all employees of DDC providing service under the agreement in an amount of not less than $1,000,000 per occurrence;

    b. Workers' Compensation insurance as required by the State of California;

    c. Commercial General Liability Insurance (including both owned and non-owned automobile liability) in a combined single limit of not less than $1,000,000 per occurrence with OUSD named as additional insured; and

    d. Such other insurance in such amounts which from time to time may be reasonably required by the mutual consent of OUSD and DDC against other insurable risks relating to performance of this Proposal.

    DDC agrees to provide notice to OUSD of any significant change in such coverage no later than two (2) business days after DDC becomes aware of such change. The presence of any DDC Insurance Policy shall not extend or increase the liability, or be construed as a basis for liability of coverage, for any claim asserted by any party under any theory of law.

G. Limitation of Liability:

Except for any willful acts or omissions on the part of DDC or OUSD, OUSD's and DDC's liability to each other under this Proposal for any damages, regardless of the form of action, shall not exceed the total compensation paid to DDC under this Proposal. This shall be OUSD and DDC's exclusive remedy. Each party will not be liable for any special, indirect, incidental or consequential damages of any character, including, without limitation, damages for loss of goodwill, work stoppage, loss of data, or any loss of profits, even if each party has been advised of the possibility of such damages.

H. Confidentiality:

Each party acknowledges that it may be furnished or may otherwise receive or have access to the other party's Proprietary Information (defined below). Each party agrees to preserve and protect the confidentiality of the other party's Proprietary Information and all physical forms thereof, whether disclosed before this Proposal is signed or afterward. Each party agrees to bind its employees and agents in writing to terms no less restrictive than those set forth herein. A party shall not disclose or disseminate the other party's Proprietary Information to any of the party's employees not directly involved in the operation of the Program or to any third party without the disclosing party's prior written consent, and shall not use the Proprietary Information for the receiving party's benefit or for the benefit of any third party. Upon the request of the disclosing party or upon termination of this Proposal, the receiving party shall return to the disclosing party all copies of the Proprietary Information.

For purposes of this Proposal, "Proprietary Information" shall mean any proprietary business, technical and financial information of a party relating to its materials, documentation, inventions, know-how, ideas, products, trade secrets, vendors, customers and markets, business plans and opportunities, finances, the terms and conditions of this Proposal, the DDC Model, and all other proprietary or confidential information related to a party's business or affairs. Proprietary Information shall not include any information which: (a) is known to a party at the time of disclosure; (b) has become publicly known through no wrongful act of a receiving party; (c) has been rightfully received by a party from a third party without restriction on disclosure and without breach of any agreement with a disclosing party; (d) has been independently developed by a receiving party, as evidenced by appropriate documentation; or (e) has been approved in writing for release by a disclosing party. Notwithstanding the foregoing, each party may disclose the other party's Proprietary Information pursuant to a court order or similar mandate, provided however that the disclosing party shall first have been given the opportunity to seek a protective order protecting the Proprietary Information and such disclosure is limited only to the extent necessary by the court order or mandate.

I. Equitable Relief:

Both parties acknowledge and agree that compliance with the obligations under Section VII.H. above is necessary to protect the business, goodwill and proprietary interests of both parties, and that the breach of such obligations may give rise to irreparable injury to either party that cannot be adequately compensated with monetary damages. Both parties agree that both parties shall be entitled to seek and obtain injunctive relief against the breach or threatened breach of such provisions by the other party and/or specific enforcement of such provisions, without posting a bond, in addition to any other legal or equitable remedies that may be available.

J. Dispute Resolution:

The parties will attempt to resolve any dispute, claim or controversy arising out of or relating to this Proposal or the breach, termination, enforcement, interpretation or validity of this Proposal (the "Claim") through good faith informal negotiation between the principles of OUSD and DDC. If the parties are unable to reach a resolution within thirty

(30) days of engaging in good faith negotiations, the Claim shall be determined by arbitration in San Francisco, California, before one arbitrator. The arbitration shall be administered by the American Arbitration Association pursuant to its rules and procedures. Judgment on the Award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. The arbitrator may, in the Award, allocate all or part of the costs of the arbitration, including the fees of the arbitrator and the reasonable attorneys' fees of the prevailing party. California law shall apply to all proceedings, both procedural and substantive.

K. General Conditions:

This Proposal sets forth the entire agreement between DDC and OUSD for the subject matter herein and expressly supersedes any and all oral or written offers, agreements, negotiations, or other materials. The signatures below indicate acceptance of this Proposal and all terms and conditions set forth in this Proposal, dated as of the Effective Date, between DDC and OUSD. Nothing in this Proposal shall entitle either party to special, indirect, incidental, or consequential damages from the other party under any theory of law.

For Oakland Unified School District (OUSD)

Jerry L. Johnson
Risk Management Officer

Jody London 8/23/12
President, Board of Education

Edgar Rakestraw, Jr., Secretary
Board of Education 8/23/12

For David Donn Consulting, Inc. (DDC)

David A. Donn
President

File ID Number: 12-2226
Introduction Date: 8/22/12
Enactment Number: 12-2314
Enactment Date: 8/22/12
By: OS

OAKLAND UNIFIED SCHOOL DISTRICT
Office of General Counsel
APPROVED FOR FORM & SUBSTANCE
By: ________ Attorney at Law

OUSD or the District verifies that the Contractor does not appear on the Excluded Parties List at www.epls.gov/epls/search.do.