

Board Office Use: Legislative File Info.	
File ID Number	21-0084
Introduction Date	2/10/21
Enactment Number	21-0189
Enactment Date	2/10/21 er



**OAKLAND UNIFIED
SCHOOL DISTRICT**
Community Schools, Thriving Students

Memo

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Lisa Grant-Dawson, Chief Business Officer
Joshua R. Daniels, General Counsel

Meeting Date February 10, 2021

Subject Resolution No. 2021-0032 - Termination, For Convenience, of Year 3 of the District's Contract with School Innovations & Achievement

Action Approve Resolution No. 2021-0032 - Termination, For Convenience, of Year 3 of the District's Contract with School Innovations & Achievement

Background & Discussion The District entered into its Good Governance and Program Advisory Services Agreement ("Contract") with School Innovations & Achievement ("SI&A") on or about June 26, 2019. The Contract consists of three one-year periods (2019-20, 2020-21, and 2021-22). Section 1 of the Contract permits OUSD to terminate the Contract, with or without cause, for the third year (2021-22) "by delivering written notice of termination to [SI&A]. To be effective, any Termination Notice for [the third year] must be received . . . [¶] . . . not less than 60 calendar days prior to June 30, 2021."

Staff now wishes to terminate the Contract for convenience for 2021-22 as the services that SI&A was contracted to provide are no longer necessary.

Fiscal Impact By terminating the Contract, the District will not incur the \$50,000 that would otherwise be due to SI&A.

Attachment(s)

- Resolution No. 2021-0032 - Termination, For Convenience, of Year 3 of the District's Contract with School Innovations & Achievement
- Good Governance and Program Advisory Services Agreement between School Innovations & Achievement and Oakland Unified School District

**RESOLUTION OF THE
BOARD OF EDUCATION
OAKLAND UNIFIED SCHOOL DISTRICT**

Resolution No. 2021-0032

Termination, For Convenience, of Year 3 of the District's Contract with School Innovations & Achievement

WHEREAS, the District entered into its Good Governance and Program Advisory Services Agreement ("Contract") with School Innovations & Achievement ("SI&A") on or about June 26, 2019;

WHEREAS, the Contract consists of three periods, with each last one fiscal year (2019-20, 2020-21, and 2021-22);

WHEREAS, Section 1 of the Contract permits OUSD to terminate the Contract, with or without cause, for the third year (2021-22) "by delivering written notice of termination to [SI&A]. To be effective, any Termination Notice for [the third year] must be received . . . [¶] . . . not less than 60 calendar days prior to June 30, 2021"; and

WHEREAS, Staff now wishes to terminate the Contract for convenience as the services that SI&A was contracted to provide are no longer necessary.

NOW, THEREFORE, BE IT RESOLVED, the Board hereby declares its intent and desire to terminate, for convenience, the Contract for 2021-22 as provided for under Section 1 of the Contract; and

BE IT FURTHER RESOLVED, the Board directs the Superintendent, or designee, to deliver written notice to SI&A of such termination not less than 60 calendar days prior to June 30, 2021.

PASSED AND ADOPTED on February 10, 2021, by the Governing Board of the Oakland Unified School District by the following vote:

PREFERENTIAL AYE: Jessica Ramos

PREFERENTIAL NOE: None

PREFERENTIAL ABSTENTION: None

PREFERENTIAL RECUSE: None

AYES: Aimee Eng, VanCedric Williams, Gary Yee, Mike Hutchinson, Clifford Thompson, Vice President Benjamin "Sam" Davis and President

Shanthi Gonzales

NOES: None

ABSTAINED: None

RECUSED: None

ABSENT: Samantha Pal (Student Member)

CERTIFICATION

We hereby certify that the foregoing is a full, true and correct copy of the Resolution that passed at a Regular Meeting of the Board of Education of the Oakland Unified School District held on February 10, 2021.

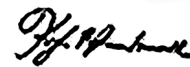
Legislative File	
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OAKLAND UNIFIED SCHOOL DISTRICT



Shanthi Gonzales

President, Board of Education



Kyla Johnston-Trammell
Superintendent and Secretary, Board of
Education

Board Office Use: Legislative File Info.	
File ID Number	19-1152
Introduction Date	6/26/2019
Enactment Number	19-1217
Enactment Date	6/26/19 lf



**OAKLAND UNIFIED
SCHOOL DISTRICT**

Community Schools, Thriving Students

Memo

To Board of Education

From Kyla Johnson-Trammell, Superintendent of Schools
Gina Murphy-Garrett, Senior Executive Director

Board Meeting Date June 26, 2019

Subject Good Governance and Program Advisory Services Agreement Between Oakland Unified School District and School Innovations & Achievement

Action Requested Ratification by the Board of Education for the approval of the Good Governance and Program Advisory Agreement between the District and School Innovations and Achievement (SI&A) of El Dorado Hills, CA beginning July 1, 2019 through June 30, 2022 in an amount not to exceed \$50,000.00 per year.

Background SI&A's Risk Management Program provides a comprehensive service around the mandate programs that OUSD receive outside of the Mandate Block Grant. SI&A service includes an independent third-party compliance review of the programs at the district and site level, yearly training on Education Code requirements, process documentation, a review of the Comprehensive School Safety Plans, 2 annual reports, filing of any claims outside of the mandate block grant and audit support.

Discussion SI&A has a strong record of audit success; working closely with the State Controller's Office and attending Commission on State Mandate meetings. They are experts extremely knowledgeable and are dedicated to make sure claims are accurate and the process is easy.

Recommendation Ratification by the Board of Education for the approval of the Good Governance and Program Advisory Agreement between the District and School Innovations and Achievement of El Dorado Hills, CA beginning July 1, 2019 through June 30, 2022 in an amount not to exceed \$50,000.00 per year.

Fiscal Impact \$50,000.00 per year General Purpose Fund

Attachments

- SI&A Proposal & Agreement
- Contract Justification Form



CONTRACT JUSTIFICATION FORM

**This Form Shall Be Submitted to the Board Office
With *Every* Consent Agenda Contract.**

Legislative File ID No. 19-1152

Department: Accounting Department

Vendor Name: School Innovations & Achievement (SI&A)

Contract Term: Start Date: July 1, 2019 End Date: June 30, 2022

Annual Cost: \$ 50,000.00

Approved by: _____

Is Vendor a local Oakland business? Yes ☐ No ☒

Why was this Vendor selected?

The vendor, School Innovations & Achievement (SI&A), has assisted the District previously with filing Mandated Cost Claims with a high success rate in getting reimbursements the District.

Summarize the services this Vendor will be providing.

SI&A will be assisting the District in filing claims for Cal Grant Opt-out Notifications and Feminine Hygiene Products in school restrooms. In addition, SI&A will provide Ed. Code training and support related to Mandated Programs to site administration and District office staff. They will also provide audit support, annual status report, and dedicated Help Desk.

Was this contract competitively bid? Yes ☐ No ☒

If No, answer the following:

1) How did you determine the price is competitive?

Price was negotiated in the District's favor as the vendor values the relationship with OUSD.

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 \$86,000 (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

☐

Technology contracts

☐

electronic data-processing systems, supporting software and/or services (including copiers/printers) over the \$86,000 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

Purpose:

Oakland Unified School District (OUSD) has requested School Innovations & Achievement (SIA) provide a proposal for Mandate claims filing and Block Grant Advisory service known as our “Risk Management Service”. SIA is proposing the district implement a plan that would address the need to file mandate claims outside the Block Grant. SIA’s solution, The Risk Management Service, ensures costs incurred for new mandates and mandates not included in the Block Grant funding are prepared and filed in accordance to the State guidelines. SIA will assist Oakland USD in filing claims for the following programs:

- Cal Grant- Opt out Notifications
- Public Restrooms- Feminine Hygiene Products

Executive Summary:

Our partnership delivers more than any other mandate services provider in the state. We are 100-employees strong, our products are best in class, our service is second to none, and we provide an all-inclusive contract with the flexibility to switch between block grant and traditional mandate filing.

For more than 14 years, we’ve partnered with hundreds of districts throughout California, supporting their staff, programs and bottom line with our award-winning software and service solutions.

Our Team has a strong record of audit success! We work closely with the State Controller’s Office and attend Commission on State Mandate meetings. Our team of experts are extremely knowledgeable and are dedicated to make sure claims are accurate and the process is easy.

SIA ensures your district will have all of the components of a successful risk management program. Upon implementation of The Risk Management Service, the district can expect an action plan. The action plan provides a clear roadmap of success. We start with a kickoff meeting to establish working partners, communication channels, and timelines for work needing to be completed. The work outline consists of three key areas:

- Claim Filing- New programs and any outside the Block Grant (along with Audit Support)
- Ed Code Training- Staff required to carry out these programs at the district and site level
- Process review and documentation- we conduct an independent third-party review

SIA is recommending Oakland USD implement, The Risk Management Service, supported by our industry leading service team.

A comprehensive long-term approach to successfully having risk covered in the area of mandates and filing claims for reimbursement includes the following:

**Oakland Unified SD
July 2019**

SI&A'S RISK MANAGEMENT PROGRAM

ANNUAL CONTRACT COST	\$50,000
RISK MANAGEMENT INVESTMENT PER STUDENT	\$1.37

YEAR 1

- **Documentation collection as required**
 - *First-time claim filings*
 - *File claims outside of the block grant*
 - *Annual claim filing for non-block grant participants including Annual Claim Analysis*
- **Baseline Program Review**
 - *Interviews with key district department staff and a sampling of site administrators to determine baseline program adherence*
 - *Review a sampling of School Safety Plans*
 - *Site Detail Report detailing areas for improvement*
 - *Action plan*
 - *List of action items addressing areas for improvement*
- **Standard Ed Code Training**
 - *Training on mandate fundamentals with site administration and district office staff*
 - *Supplemental Training Report detailing status of trainings conducted*
- **Initial Process Documentation**
 - *Discover current processes in place to carry out the mandate and determine inconsistencies in processes utilized to perform mandated activities*
 - *Documentation Detail Report*
- **Audit Support**
- **Annual Status Report**
- **Dedicated Help Desk**

YEAR 2

- **Documentation collection as required**
 - *First-time claim filings*
 - *File claims outside of the block grant*
 - *Annual claim filing for non-block grant participants including Annual Claim Analysis*
- **Customized Program Review**
 - *Interviews with key district department staff and a sampling of site administrators to determine baseline program adherence*
 - *Review a sampling of School Safety Plans*
 - *Site Detail Report detailing areas needing improvement*
 - *Action Plan:*
 - *Follow up on action items to determine improvements made*
 - *Outline any new action items addressing areas for improvement*
- **Tailored Ed Code Training**
 - *Ongoing trainings tailored to the needs discovered during prior year Program Review*
 - *Trainings for incoming staff*
 - *Supplemental Training Report detailing status of trainings conducted*
- **Refine Process Documentation**
 - *Refine processes in place to carry out mandates and determine any inconsistencies still outstanding in processes utilized to perform mandated activities*
 - *Maintain operations and avoid damage, errors or failures*
 - *Documentation Detail Report*
- **Audit Support**
- **Annual Status Report**
- **Dedicated Help Desk**

YEAR 3

- **Documentation collection as required**
 - *First-time claim filings*
 - *File claims outside of the block grant*
 - *Annual claim filing for non-block grant participants including Annual Claim Analysis*
- **Maintenance Program Review**
 - *Interviews to determine ongoing program adherence*
 - *Review a sampling of School Safety Plans*
 - *Site Detail Report detailing areas needing improvement*
 - *Action Plan:*
 - *Follow up on action items to determine improvements made*
 - *Outline any new action items addressing areas for improvement*
- **Customized Ed Code Training**
 - *Ongoing trainings tailored to the needs discovered during prior year Program Review*
 - *Trainings for incoming staff*
 - *Supplemental Training Report detailing status of trainings conducted*
- **Maintain Process Documentation**
 - *Maintain processes in place to carry out mandates and determine any inconsistencies still outstanding in processes utilized to perform mandated activities*
 - *Maintain operations and avoid damage, errors or failures*
 - *Documentation Detail Report*
- **Audit Support**
- **Annual Status Report**
- **Dedicated Help Desk**



GOOD GOVERNANCE AND PROGRAM ADVISORY SERVICES AGREEMENT

**Between
SCHOOL INNOVATIONS & ACHIEVEMENT
And
OAKLAND UNIFIED SCHOOL DISTRICT**

THIS AGREEMENT, dated 6/26/19, 2019, (the "Agreement") is made by and between Oakland Unified School District ("District"), and School Innovations & Achievement, a California corporation ("SI&A"), each being a "Party" and collectively the "Parties."

RECITALS

WHEREAS, District is authorized to retain consulting services to assist District in the preparation and filing of reimbursement claims for the costs of the Mandate Reimbursement Process Program, legislatively mandated by the State of California ("State"), as well as an assessment of compliance practices in place as it relates to the Mandated Block Grant Program, and SI&A is qualified to perform such services; and

WHEREAS, it is necessary and desirable that SI&A be retained by District for the purpose of performing consulting services;

AGREEMENT

NOW, THEREFORE, the Parties agree as follows:

1. **Agreement Term.** The term of this Agreement ("Agreement Term") begins July 1, 2019 ("Effective Date") and will expire automatically on its own terms on June 30, 2022 (the "Expiration Date"). The Agreement Term consists of three (3) periods, each of which ends on June 30 of the years 2020, 2021, and 2022, and are as follows:

- July 1, 2019 to and including June 30, 2020 ("Agreement Year One");
- July 1, 2020 to and including June 30, 2021 ("Agreement Year Two"); and
- July 1, 2021 to and including June 30, 2022 ("Agreement Year Three").

Either Party may terminate, with or without cause, both Agreement Year Two and Agreement Year Three, or Agreement Year Three, by delivering written notice of termination to the other Party ("Termination Notice"). To be effective, any Termination Notice for both Agreement Year Two and Agreement Year Three, or Agreement Year Three must be received as follows:

- To terminate both Agreement Year Two and Agreement Year Three, Termination Notice must be received not less than 60 calendar days prior to June 30, 2020.
- To terminate Agreement Year Three, Termination Notice must be received not less than 60 calendar days prior to June 30, 2021.

2. **Base Services.** SI&A agrees to provide District the following consulting services (“Services”) during the Agreement Term:
- (a) Prepare and file (based on the District’s Participation Status in the Mandate Block Grant Program, with information provided by the District):
 - (1) Any applicable prior year reimbursement claims based on program participation;
 - (2) Late and amended reimbursement claims, based on program participation; and
 - (3) Newly claimable programs approved by the Commission on State Mandates (“Commission”) if the filing deadline is within the Agreement Term.
 - (b) Training sessions will be scheduled for the District’s staff during the Agreement Term, as deemed necessary by either District or SI&A;
 - (c) Conduct interviews with District staff and document processes regarding mandate programs;
 - (d) Conduct a review of the District’s Comprehensive School Safety Plan to determine areas of deficiency and training needs;
 - (e) Provide interim and annual reports on:
 - (1) Program performance;
 - (2) Claim performance for all applicable claims; and
 - (3) Analysis comparing Mandated Program options in preparation for the Districts yearly program election decision.
 - (f) Monitor District’s mandated cost tracking systems;
 - (g) Research and assist District with data collection for test claims approved by the Commission during the Agreement Term;
 - (h) Serve as a liaison with the State Controller’s Office and Commission regarding
 - (i) statewide cost estimate request responses, and
 - (ii) general questions from the State Controller’s Office;
 - (i) Provide representation of District with respect to any State audit of mandate reimbursement claims that were prepared and submitted with SI&A’s assistance pursuant to this Agreement, unless prior to claim submission SI&A advised District that SI&A would not provide audit assistance, due to potentially unresolved audit issues (such as documentation or data problems) or claim rejection concerns; and
 - (j) Free access to K-12 Daily. K-12 Daily is an online trusted source for what’s News in Education. Reporting is aimed at an audience of educators, school administrators and policy-makers.

3. **District's Obligations.**

3.1 **District Responsibilities and Obligations.** District shall be responsible for the following: (a) ensuring District has record retention policies sufficient to maintain original documentation used in support of claims (for audit or examination by any State or regulatory agency); and (b) maintaining original supporting documents for a period of four (4) years after the State's first payment of the claim; and (c) District shall provide SI&A all records and information relevant to any claim in a timely manner and contact information for District's personnel to whom SI&A may direct inquiries. District understands and agrees that the results of SI&A's inquiries, the documentation obtained from District and other corroborating information may be used by SI&A for filing and/or supporting the reimbursement claims, or responding to audits or investigations.

3.2 **Claim Approval.** Upon presentation of a claim for District's approval, District agrees to review the claim and respond to SI&A by either: (a) certifying to SI&A, under penalties of perjury, that the time, costs and other data collected by District and furnished to SI&A in support of the claim are true and correct; or (b) provide SI&A with notice specifying why the foregoing certification may not be true. All notices and certifications must comply with the requirements of Section 4 of the Standard Terms and Conditions.

3.3 **For Districts that Elect the Mandate Block Grant.** The District acknowledges and agrees that the Good Governance and Program Advisory Services, provided by SI&A, in connection with potential audit matters, consists of providing recommendations and support with forms and back-up documentation collected. It is the District's responsibility to ensure the District's compliance with all mandate block grant requirements.

4. **California False Claims Act.** District acknowledges that reimbursement claims filed under this Agreement constitute "claims" under the California False Claims Act (California Government Code Section 12650, et seq.) ("False Claims Act") and consequently, District, its employees, contractors and other persons acting on its behalf, may be subject to the provisions of the False Claims Act. Among other things, the False Claims Act imposes liability for treble damages, penalties and costs of civil recovery actions upon persons who "knowingly" present or cause to be presented false claims, or who "knowingly" make or cause to be made false records or statements in support of a claim. Under the False Claims Act, "knowingly" means that a person, with respect to information, has actual knowledge of the information or acts in deliberate ignorance or reckless disregard of the truth or falsity of the information.

5. **Payment of Fees.**

5.1 **Fees.** For Services provided pursuant to the terms of this Agreement, as outlined in Section 2, above, District agrees to pay SI&A **\$50,000** annually ("Standard Annual Fee").

5.2 **Payment Plan.** The Fee is payable as follows:

	<u>Year 1</u> <u>07/01/19 - 06/30/20</u> Due 07/01/19	<u>Year 2</u> <u>07/01/20 - 06/30/21</u> Due 07/01/20	<u>Year 3</u> <u>07/01/21 - 06/30/22</u> Due 07/01/21
Standard Annual Fee	\$50,000	\$50,000	\$50,000

5.3 Travel; Lodging Expenses. If SI&A reasonably determines that travel to District's site is necessary, SI&A and District shall schedule mutually convenient dates and times for such meetings. All travel and lodging expenses incurred by SI&A in connection with the Initial Scope of Services are included in the Fee.

6. Entire Agreement. This Agreement, including, without limitation, the Standard Terms and Conditions attached hereto as Exhibit A is the final expression of, and contains the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior understandings with respect thereto.
7. Exhibits. All exhibits referred to in this Agreement are attached and incorporated herein by this reference.
8. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, including copies sent to a party by facsimile transmission or in portable document format (pdf), as against the party signing such counterpart, but which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the District and SI&A have made and executed this Agreement as set forth below.

SI&A:

**SCHOOL INNOVATIONS
& ACHIEVEMENT**

Signature: *Jeffrey C. Williams*
Date Signed: 6/20/2019
Print Name: Jeffrey C. Williams
Title: Chief Executive Officer
Company: School Innovations & Achievement
Address: 5200 Golden Foothill Parkway
El Dorado Hills, CA 95762
Phone: (800) 487-9234
Fax: (888) 487-6441

DISTRICT:

**OAKLAND UNIFIED SCHOOL
DISTRICT**

Signature: *Aimee Eng*
Date Signed: 6/27/19
Print Name: Aimee Eng
Title: President, Board of Education
Address: _____
Phone: _____
Fax: _____
Email: _____

File ID Number: 19-1152
Introduction Date: 6/26/19
Enactment Number: 19-1217
Enactment Date: 6/26/19 lf

OAKLAND UNIFIED SCHOOL DISTRICT
Office of the General Counsel
APPROVED FOR FORM & SUBSTANCE
By: *Andrea Epps*
Andrea Epps, Attorney at Law

Kyla Johnson Trammell 6/27/19
Kyla Johnson Trammell,
Secretary, Board of Education

EXHIBIT A - STANDARD TERMS AND CONDITIONS

1. **Scope of Services; Independent Contractor.** SI&A's services described in the Agreement (the "Services") detail the initial scope of services anticipated by SI&A as of the effective date of the Agreement ("Initial Scope of Services"). District acknowledges that the Fee is based on this Initial Scope of Services. If SI&A determines that the Initial Scope of Services may be or has been increased anytime during the Agreement Term, SI&A reserves the right to increase the Fee to compensate for the unanticipated or additional services as mutually agreed upon in writing by both Parties. This Agreement is not for lobbying services and SI&A is not being retained to provide lobbying services to District. The Parties agree that School Innovations & Achievement is an independent contractor and the Agreement shall not be construed to create a relationship of agent, servant, employee, partnership, joint venture, association or any other relationship.
2. **Termination.** Either Party may terminate the Agreement, with or without cause, by delivering written notice of termination to the other Party not later than sixty (60) days prior to expiration of the current Agreement Year within the Agreement Term. The effective date of termination shall be the expiration of such current year of the Agreement. Upon termination, SI&A will invoice District for any Fees owing and District shall pay the full invoice amount within thirty (30) days after receipt of SI&A's invoice. Except as set forth in this Section 2, neither Party shall have any liability to the other for damages resulting solely from a Party's termination of this Agreement in accordance with this Section 2.
3. **Termination Due to Changes in State Law.** If Legislation is enacted that eliminates or suspends K-12 education mandates, thereby making the filing of mandate reimbursement claims impossible or futile, District may immediately terminate this Agreement. Upon termination, SI&A will invoice District for any Fees owing and District shall pay the full invoice amount within thirty (30) days after receipt of SI&A's invoice.
4. **Notice.** All Agreement notices must be in writing, directed to the Party's address set forth below such Party's signature in the Agreement and shall be deemed to be received in accordance with the following: (a) in the case of personal delivery, on the date of such delivery; (b) in the case of facsimile transmission, on the date upon which the sender receives confirmation by facsimile transmission that such notice was received by the addressee, provided that a copy of such transmission is additionally sent by mail as set forth in (d) below; (c) in the case of overnight courier, on the second business day following the day such notice was sent, with receipt confirmed by the courier; and (d) in the case of mailing by first class certified mail, postage prepaid, return receipt requested, on the fifth business day following such mailing. A Party may change the address stated in the Agreement by giving notice to the other Party.
5. **District's General Responsibilities; District Acknowledgment.** During the Agreement Term, in addition to the obligations set forth in the Agreement, District is responsible for the following: (a) ensuring that District, its employees and contractors properly identify and comply with laws and regulations applicable to District's activities; (b) completing any documents required by SI&A for any service obtained by District; (c) importing only data that reflects student performance to the grade level into the school site plan to ensure confidentiality and consistency with FERPA guidelines; and (d) monitoring assignments of login and passwords to assure FERPA compliance. District acknowledges that SI&A's full, accurate and timely performance under this Agreement is materially dependent upon District's reasonable cooperation and assistance. District further acknowledges that SI&A's Initial Scope of Services and Fee presume a reasonable amount of cooperation and assistance from District, such as District's timely provision of certain information, documentation and personnel. SI&A has explained its requirements in this regard to District and District agrees to meet these requirements.
6. **Further Assistances.** Upon request of the other Party, SI&A or District shall execute and deliver additional instruments and take additional actions as may be necessary or appropriate to perform the Agreement.
7. **Assignment Prohibited.** Neither Party may assign any rights or obligations under this Agreement without the prior written consent of the other Party. Any purported assignment in violation of the provisions of this Section 7 shall be null and void.
8. **Family Educational Rights and Privacy Act ("FERPA"); California Education Code.** SI&A may have limited access to student information only for purposes of providing the legally required notification services, if any, specified in this Agreement. SI&A performs the Services as an agent of District and has no right to access or utilize student information for any other purpose. SI&A, its officers and employees, shall comply with the Family Educational Rights and Privacy Act and California Education Code sections 49073 et seq. and/or sections 76240 et seq. at all times.
9. **Confidential and Proprietary Materials of SI&A.** During performance of the Agreement, SI&A may provide materials or disclose information to District that SI&A considers proprietary or confidential including, but not limited to SI&A's training handbooks, policy manuals, instructions, copyrighted checklists and forms ("SI&A's Materials"). District agrees that District acquires no interest of any kind in SI&A's Materials. At all times during and after the Agreement Term, District agrees (a) to keep SI&A's Materials in confidence and trust for SI&A; (b) not to disclose, duplicate or otherwise use SI&A's Materials, except in furtherance of SI&A's performance per the Agreement; (c) to limit access to SI&A's Materials to District's employees and/or contractors who have a "need to know;" and (d) to promptly return all copies of SI&A's Materials to SI&A after a request is made.
10. **Limitation of Liability; Indemnification.** In no event shall SI&A's liability to District, for any reason arising out of this Agreement, exceed the amount of the Fee actually received by SI&A under this Agreement. SI&A shall not be liable for any consequential damages. Each Party agrees to defend, hold harmless, and indemnify the other Party (and its officers, employees, trustees, agents, successors, and assigns) against all claims, suits, expenses (including reasonable attorney's fees), losses, penalties, fines, costs, and liability whether in contract, tort, or strict liability (including but not limited to personal injury, death at any time, and property damage) arising out of or made necessary by the indemnifying Party's breach of the terms of this Agreement. In the event that any action or proceeding is brought against a Party by reason of any claim or demand discussed in this Section 10, upon notice from the Party, the indemnifying Party shall defend the action or proceeding at the indemnifying Party's expense, through counsel reasonably satisfactory to the other Party. The obligations to indemnify set forth in this Section 10 shall include reasonable attorney's fees and investigation costs and all other reasonable costs, expenses, and liabilities from the time of giving the first notice of any claim or demand. The indemnifying Party's obligations under this Section 10 shall apply regardless of whether the other Party (or any of its officers, employees, trustees, or agents) is actively or passively negligent, but shall not apply to any loss, liability, fine, penalty, forfeiture, cost, or damage caused solely by the active negligence or by the willful misconduct of the other Party.
11. **Governing Law; Enforcement Costs.** The Agreement shall be governed by and construed in accordance with the substantive laws of California. If any legal action (including arbitration) is commenced to enforce the Agreement's terms or a Party's rights or obligations under this Agreement, then the prevailing Party shall be entitled to recover all fees and costs incurred by the action, including reasonable attorneys' fees and arbitrators' fees, in addition to any other relief to which the Party may be entitled.
12. **Judicial Reference.** In the event a dispute is not resolved through discussions and negotiations among the Parties, the dispute shall be decided by general reference procedures pursuant to Code of Civil Procedure Section 638 et seq., as modified by the provisions of this Section 12, and any subsequent provisions mutually agreed upon in writing by the Parties. The reference shall be conducted in accordance with California law, including, but not limited to, the Code of Civil Procedure and the Evidence Code. The Parties shall be allowed to conduct discovery in the manner provided by Code of Civil Procedure Section 2017 et seq. BOTH PARTIES HEREBY WAIVE A JURY TRIAL OR PROCEEDING IN CONNECTION WITH ANY DISPUTE ARISING OUT OF THIS AGREEMENT. All general reference proceedings hereunder shall, unless all Parties hereto otherwise agree, be conducted in a mutually agreeable location in the County of Sacramento, State of California.
13. **Modification; Interpretation; Severability; Construction.** No modification or supplement to any provision of the Agreement shall be valid, unless executed in writing by both Parties. No provision of the Agreement shall be construed to require the commission of any act contrary to law. If any term, provision, covenant or condition of the Agreement is held to be invalid or otherwise unenforceable, the rest of the Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated. The headings preceding each Section and subsection of this Agreement are solely for convenience of reference only, are not part of the Agreement, and shall be disregarded in the interpretation of any portion of the Agreement. Whenever required by the context of the Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. The Agreement shall not be construed as if it had been prepared by one of the Parties, but rather as if both Parties had prepared the same. Unless otherwise indicated, all references to paragraphs, Sections, subparagraphs and subsections are to the Agreement.
14. **Waiver.** Either Party's failure at any time to enforce any default or right reserved to it, or to require performance of any of the Agreement's terms, covenants, provisions by the other Party at the time designated, shall not be a waiver of any such default or right to which the Party is entitled, nor shall it in any way affect the right of the Party to enforce such provisions thereafter.
15. **Force Majeure.** A Party shall not be liable under the Agreement as a result of any delay, failure or interruption caused by the other Party or third parties, an act of God, acts or orders of governmental authorities, acts of civil or military authorities, catastrophes or other cause (other than financial) beyond the Party's reasonable control, and such nonperformance will not be a default hereunder or a ground for termination of the Agreement.