



SACRAMENTO CITY UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION

Agenda Item# 8.1a

Meeting Date: August 16, 2012

Subject: Grants, Entitlements, and Other Income Agreements
Ratification of Other Agreements
Approval of Bid Awards
Approval of Declared Surplus Materials and Equipment
Change Notices
Notices of Completion

- Information Item Only
- Approval on Consent Agenda
- Conference (for discussion only)
- Conference/First Reading (Action Anticipated: _____)
- Conference/Action
- Action
- Public Hearing

Division: Administrative Services

Recommendation: Recommend approval of items submitted.

Background/Rationale:

Financial Considerations: See attached.

Documents Attached:

1. Grants, Entitlements, and Other Income Agreements
2. Other Agreements
3. Approval of Declared Surplus Materials and Equipment

Estimated Time:	N/A
Submitted by:	Daniel M. Sanchez, Manager II, Purchasing Services Kimberly Teague, Contract Specialist
Approved by:	Patricia A. Hagemeyer, Chief Business Officer

GRANTS, ENTITLEMENTS AND OTHER INCOME AGREEMENTS - REVENUE

Contractor Description Amount

YOUTH DEVELOPMENT

A13-00022 7/1/12 – 6/30/13: After School Education and Safety (ASES) Program Grant. Components include educational and literacy elements focusing on activities that reinforce and complement the academic programs, as well as recreational and youth development. Programs provide safe and constructive alternatives for students at 54 elementary and middle school sites. The partnering organizations have been determined through a Request for Proposals process.

California Department of Education

Sites: Abraham Lincoln, A.M. Winn, Bret Harte, C.B. Wire, Elder Creek, Ethel Philips, Fr. Keith B. Kenny, Fruit Ridge, Hollywood Park, Hubert Bancroft, Isador Cohen, James Marshall, Mark Hopkins, Mark Twain, O.W. Erlewine, Parkway, Peter Burnett, Pony Express, Susan B. Anthony, Tahoe, Washington, William Land, Joseph Bonnheim, Bowling Green, Camellia Basic, Cesar Chavez, C.P. Huntington, David Lubin, Earl Warren, Edward Kemble, Ethel I. Baker, Freeport, Golden Empire, H.W. Harkness, Jedediah Smith, John Bidwell, John Cabrillo, John Sloat, Maple, Martin Luther King, Nicholas, Oak Ridge, Pacific, Theodore Judah, Woodbine, Albert Einstein, California Middle, Fern Bacon, Rosa Parks, Sam Brannan, John Still, Kit Carson, Will C. Wood, PS7.

\$7,041,811
No Match

EXPENDITURE AND OTHER AGREEMENTS

Contractor Description Amount

SPECIAL EDUCATION

SA13-00087 7/1/12 – 6/30/15: Three year agreement provides on-line access to Veritam's Medi-Cal Administrative Activities (MAA) Software. This software is used to track and invoice district time spent supporting health and mental health outreach services, and linking families and students to available resources. Costs are covered by revenues generated by this program.

Veritam, Inc.

\$109,300
Annually
Medi-Cal Activities
Administrative Funds

Strategic Plan: Aligns with Pillar II, Family and Community Engagement, by ensuring that every school will become an integral hub of community life and provide access to resources.

APPROVAL OF DECLARED SURPLUS MATERIALS AND EQUIPMENT

ITEM	SITE/DEPARTMENT	TOTAL VALUE	DISPOSAL METHOD
Shop Equip / Vehicle	Maintenance Operations	\$700 (estimated)	Salvage/Auction



ON-LINE ACCESS AND SERVICE AGREEMENT

This On-Line Access and Service Agreement (“Agreement”) is entered into as of July 1, 2012 the (“Effective Date”) between Veritam, Inc., (“Veritam”) a California Corporation, and the Sacramento City Unified School District (“SCUSD”).

In consideration of the mutual obligations undertaken herein, the parties agree as follows:

A. Primary Duties

1. **Veritam’s Duties:** Subject to the terms and conditions of this Agreement, Veritam shall provide SCUSD with on-line access to Veritam's Medi-Cal Administrative Activities (“MAA”) Software (“VeriMAA”) and other administrative and support services as described in this Section A.1. (collectively, “Services”).

a. Veritam will give SCUSD unlimited on-line access to VeriMAA during the term of the Agreement. Veritam may update VeriMAA from time to time, and the services will include access to any such updates that are made available to all of Veritam’s users.

b. Veritam will give SCUSD individual accounts and related user identification numbers (“User IDs”) and passwords for all SCUSD MAA employees (each an “End User”) approximately three (3) weeks after SCUSD provides Veritam with the names and email addresses for all End Users. Veritam will provide the User IDs and passwords either to SCUSD or to each End User as is requested by SCUSD.

c. Veritam will calculate the “Actual Client Count / DHCS Tape Match” as defined in the current MAA Manual one time each calendar quarter during the term of the Agreement, using enrollment information provided by SCUSD.

d. Veritam will provide SCUSD with the following training and technical support for VeriMAA at no additional charge.

i. Veritam will offer technical support by phone or email during the hours of 8am to 5pm PST Monday through Friday, excluding Federal and State holidays. This support will consist of assistance with the technical aspects of the on-line MAA software program completion and review, reporting, and invoice generation through VeriMAA. This support will not include legal or policy advice or MAA coaching.

ii. Veritam will offer training up to four times per quarter as a single live training module developed by Veritam for all End Users. This training module will cover the technical aspects of the on-line MAA software review, reporting and invoice generation through VeriMAA. As with technical support, this training will not cover legal issues, policy advice or MAA coaching.



iii. Training will also include up to forty (40) hours of personal training for the SCUSD MAA coordinator Cathy Bennett (“Coordinator”) on the administrative features of VeriMAA, including MAA software administration, reporting, and invoice generation. This training will not cover legal issues, policy advice or MAA coaching.

iv. Training and support may also include an on-line guide or video covering the technical aspects of using VeriMAA.

2. SCUSD’s Duties:

a. SCUSD will use the Services solely for the administration (including software entry and review and MAA invoice generation) of its own MAA billing program.

b. SCUSD will also provide Veritam with a list of End Users who are no longer using the Services no later than the first day of each calendar quarter during the term of the Agreement.

c. SCUSD may enter, update and remove End User accounts.

d. SCUSD agrees not to permit any End Users other than SCUSD’s employees to use the Service. If SCUSD wants to permit non-employees to use the Service, SCUSD must first obtain Veritam’s written permission and cause any such non-employees to accept an agreement containing terms in favor of Veritam that are no less restrictive than this Agreement.

e. SCUSD acknowledges and agrees that no User ID may be used by more than one End User. Veritam may include in the Services functionality to track the number of active User IDs and to disallow use by more than the authorized number of User IDs.

f. SCUSD is entirely responsible for maintaining the confidentiality of its User IDs, passwords and account information.

g. SCUSD acknowledges and agrees that as between the parties, SCUSD is solely responsible for all acts, omissions and use under its accounts and any End User content submitted displayed, linked, transmitted through or stored on Veritam’s servers.

h. SCUSD understands and agrees that the Services are for use by SCUSD and its End Users only, and only for SCUSD’s internal business purposes, and not for resale to any third party.

i. Veritam’s obligation to provide the Services are conditioned on the following: (1) SCUSD will provide Veritam access to End Users to duplicate and resolve errors; (2) SCUSD will provide supervision, control and management of the use of the Services; (3)



SCUSD will document and promptly report all errors or malfunctions in the Services to Veritam, and SCUSD will take all steps necessary to carry out procedures for the rectification of errors or malfunctions within a reasonable amount of time after such procedures have been received from Veritam; and (4) SCUSD will maintain a current backup of any data that may be provided by Veritam from time to time.

j. SCUSD is solely responsible for undertaking measures to ensure the confidentiality of its passwords.

k. SCUSD understands and agrees that the Services are not Health Insurance Portability and Accountability Act (“HIPAA”) compliant.

l. SCUSD will take other reasonable actions as Veritam may request to facilitate Veritam’s provision of the Services under this Agreement.

B. Additional Duties

1. SCUSD may from time to time request that Veritam perform additional Services related to SCUSD’s MAA program, which Veritam may agree to perform. All such Services are subject to SCUSD’s payment of additional fees.

2. Such a request by SCUSD and agreement by Veritam shall in no way supersede or extinguish the duties of either party under this Agreement.

C. Updates and Changes to MAA

1. Subject to Section C.2., Veritam shall maintain and update VeriMAA to reflect any federal or state government-mandated changes to the MAA program for the duration of this Agreement or the life of the MAA reimbursement program, whichever is shorter.

2. Veritam may upgrade and/or expand the capabilities of VeriMAA. If Veritam upgrades or expands VeriMAA, SCUSD may review the modified version of VeriMAA to confirm that such changes to the user interface do not require significant changes to the VeriMAA training program. If SCUSD determines that the changes negatively impact the functionality of VeriMAA or that the added or upgraded features do not work, Veritam shall, at SCUSD’s request, make an unaltered version of VeriMAA available to SCUSD, and SCUSD may continue to use the unaltered version. If SCUSD does not accept an updated version of VeriMAA, SCUSD acknowledges and agrees that the version of VeriMAA it is using may not reflect any federal or state government-mandated changes to the MAA program.

3. If the MAA program should be cancelled by either the federal government or the State of California, then this Agreement will immediately terminate on the effective date of the MAA program cancellation. SCUSD may not submit any MAA software invoices after the date upon which the MAA program ceases operation.



D. Term and Termination

1. This Agreement will commence on the Effective Date and continue for a period of three years or until earlier terminated pursuant to this Section D. Thereafter, this Agreement will automatically renew for successive one-year terms until terminated pursuant to this Section D.

2. This agreement may be terminated by either party with or without cause upon the provision of at least thirty (30) days prior written notice.

3. Upon the effective date of termination of this Agreement, Veritam will immediately stop providing Services to SCUSD; provided, however, no later than sixty (60) days after the date upon which this Agreement terminates, Veritam shall provide SCUSD with a digital copy of all of SCUSD's confidential data that is stored on Veritam's servers. This data will be provided in a standard, non-proprietary format. SCUSD may request additional assistance in transferring SCUSD's data to SCUSD or another service provider (such services to be subject to Veritam's then-current fees on a time and materials basis, and subject to mutual acceptance of a separate written agreement therefor).

4. All outstanding charges shall become immediately due and payable on the date upon which the Agreement terminates.

E. Fees and Payment Terms

1. SCUSD will pay Veritam an annual service fee of \$109,300.00. This fee reflects a 5% discount from Veritam's standard rate of \$115,000.00 (the Current Standard Rate) for each of year of the three year contract term.

a. The service fee will be divided into twelve monthly payments.

b. Veritam shall submit a monthly invoice to SCUSD showing the amount due for the next month and the total amount due for the remainder of the year.

c. SCUSD may choose to pay the entire remaining balance for the year at any time with no pre-payment penalties.

2. Unless otherwise agreed to in advance in writing by both parties, if Veritam performs additional Services hereunder, SCUSD shall pay Veritam an hourly fee as for each hour of labor Veritam expends in performing these additional duties, including reasonable travel time. This hourly fee will be determined as follows:

a. SCUSD will pay Veritam one hundred and twenty five dollars (\$125) per hour for any additional program training services.



3. Veritam shall submit an invoice to SCUSD on a monthly basis for any such additional services, and payment for these services is net thirty (30) date of receipt of the invoice.

4. SCUSD will incur a late fee of two percent (2%) per month or any part thereof, or the maximum fee allowed by law, whichever is less, on any invoiced amount unpaid after sixty (60) days.

5. All payments required by this Agreement exclude all sales, value-added, use or other taxes and obligations, all of which SCUSD will pay in full, except for taxes based on Veritam's net income.

F. Protection of Confidential Information

1. Definition.

a. "Confidential Information" shall mean all information disclosed by either party to the other that, at the time of first disclosure:

- i. is clearly marked "confidential" or "proprietary;"
- ii. is otherwise disclosed under circumstances of confidence; or
- iii. is reasonably understood by the receiving party to be confidential.

b. Veritam's Confidential Information shall include without limitation all business, marketing, technical, financial, SCUSD, supplier, or other information, data entry means, processed claiming data, instructions, management reports, data file specifications, instructional materials, algorithms, software, forms, boilerplate plans, technologies, and know-how related to making eligibility determinations, and data and results derived from the foregoing.

2. Protection of Confidential Information.

a. Each party shall use reasonable and appropriate measures to safeguard and keep confidential all Confidential Information of the other party and shall not disclose, use, or copy any Confidential Information except as necessary to perform its obligations hereunder. Such reasonable and appropriate measures shall be no less than the measures taken by each party to protect its own confidential information of a similar nature.

b. Each party may disclose Confidential Information of the other party to its responsible employees and independent contractors provided that such employees and independent contractors have a need to know such Confidential Information for purposes of fulfilling the party's obligations hereunder, have been informed of the confidentiality provisions of this Agreement, and have agreed in writing to be bound by such provisions to the same extent as the parties.



c. Each party shall be responsible for any breach of the confidentiality provisions of this Agreement by its employees and independent contractors.

3. Direct Control By SCUSD.

a. The parties acknowledge and agree that, notwithstanding any other provision of this Agreement, SCUSD has taken reasonable and appropriate steps to ensure that Veritam's practices with respect to Confidential Information comply with FERPA requirements, and SCUSD remains legally responsible for any FERPA violations that may occur in the course of Veritam's performance of services under this Agreement.

4. Exceptions to Confidential Information.

a. Information will not be deemed Confidential Information if such information: (i) is known to the receiving party prior to receipt from the disclosing party or indirectly from a source other than one having an obligation of confidentiality to the disclosing party; (ii) becomes known (independently of disclosure by the disclosing party) to the receiving party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing party; (iii) becomes publicly known or otherwise ceases to be secret or confidential, except through a breach of this Agreement by the receiving party; (iv) is independently developed by the receiving party; or (v) is required to be disclosed by law or court order.

b. This Section F shall not be construed as prohibiting either party from disclosing information to the extent required by law, regulation, or court order, provided such party notifies the other party promptly after becoming aware of such obligations and permits the other party to seek a protective order or otherwise to challenge or limit such required disclosure.

5. Continuing Obligations.

a. The obligations contained in this Section shall survive for a period of five (5) years after the expiration or termination of this Agreement.

G. Representations and Warranties.

1. Warranties by SCUSD.

a. **SCUSD Use.** SCUSD hereby represents and warrants that: (i) any data, content, or materials submitted to used, stored or created by SCUSD with the Services and SCUSD's use of the Service, will comply with all applicable laws, and will not infringe the copyright, trade secret, privacy, publicity, or other rights of any third party; (ii) SCUSD will provide accurate End User contact information to Veritam and update that information as necessary; (iii) neither SCUSD nor any End Users will submit any Personal Health Information ("PHI") as it is defined under HIPAA to the Service; (iv) neither SCUSD nor any End Users will submit any personally-identifying information about any third party to the Services; (v) SCUSD



will transfer SCUSD's data from the Service upon termination or expiration of the Agreement; (viii) SCUSD's use of the Services will comply with all applicable laws; and (viii) SCUSD represents and warrants that it has all necessary authority to enter into this Agreement and to perform all of its obligations hereunder.

b. **Breach of Warranties.** In the event of any breach of any of SCUSD's warranties herein, in addition to any other remedies available at law or in equity, Veritam will have the right to immediately, in Veritam's sole discretion, suspend any related Services if deemed reasonably necessary by Veritam to prevent any liability for Veritam.

2. DISCLAIMER OF WARRANTY BY VERITAM. EXCEPT AS SET FORTH HEREIN, THE SERVICES ARE PROVIDED "AS IS," AND SCUSD'S USE OF THE SERVICES IS AT ITS OWN RISK. VERITAM DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT AND TITLE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. VERITAM DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, OR ERROR-FREE. VERITAM SHALL HAVE NO LIABILITY TO SCUSD OR ANY THIRD PARTY FOR ANY LOSS, DAMAGE OR DESTRUCTION OF ANY SCUSD CONTENT.

H. Limitation of Liability.

1. VERITAM WILL NOT BE LIABLE TO SCUSD FOR ANY LOST REVENUE, LOST PROFITS, INCIDENTAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES, LOSS OF DATA, OR INTERRUPTION OF BUSINESS, EVEN IF VERITAM IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER UNDER THEORY OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE.

2. IN NO EVENT SHALL VERITAM'S TOTAL LIABILITY FOR DAMAGES TO SCUSD ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE NET FEES PAID TO VERITAM HEREUNDER DURING THE SIX (6) MONTH PERIOD PRECEDING THE DATE ON WHICH THE CLAIM ALLEGED TO GIVE RISE TO DAMAGES OCCURS.

3. SCUSD acknowledges that Veritam has set its prices and entered into this Agreement in reliance upon the limitations of liability and the disclaimers of warranties and damages set forth herein, and that the same form an essential basis of the bargain between the parties. The parties agree that the limitations and exclusions of liability and disclaimers specified in this Agreement will survive and apply even if found to have failed their essential purpose.

I. Indemnification.



1. **Indemnification by Veritam.** Veritam shall, at its own expense, defend or at its option settle any claim brought against SCUSD to the extent it alleges that the Service breaches any third party copyright or trade secret; provided, however, that SCUSD provides Veritam with: (a) prompt written notice of such claim; (b) control over the defense and settlement of such claim; and (c) proper and full information and assistance to settle and/or defend any such claim. In clarification of the foregoing, Veritam shall not be obligated to defend or be liable for costs or damages under this Section if the alleged infringement arises out of or is in any manner attributable to any modification of any the Service. The foregoing provisions of this Section state the entire liability of Veritam, and the sole remedy of SCUSD, with respect to any actual or alleged claim of infringement or misappropriation of intellectual property rights, or any intellectual property non-infringement warranty.

2. **Indemnification by SCUSD.** SCUSD shall, at its own expense, defend or at its option settle any claim brought against Veritam to the extent it alleges that SCUSD's use of the Service breaches any third party copyright or trade secret; provided, however, that Veritam provides SCUSD with: (a) prompt written notice of such claim; (b) control over the defense and settlement of such claim; and (c) proper and full information and assistance to settle and/or defend any such claim. The foregoing provisions of this Section state the entire liability of SCUSD, and the sole remedy of Veritam, with respect to any actual or alleged claim of infringement or misappropriation of intellectual property rights, or any intellectual property non-infringement warranty.

J. Veritam Proprietary Rights.

1. SCUSD acknowledges and agrees that Veritam retains all right, title, and interest, including without limitation all intellectual property rights, in its software, Services and Veritam's Confidential Information (as defined above) and all forms, materials, submissions, and software prepared or supplied by Veritam. Subject to Veritam's rights in its software, Services and Confidential Information, SCUSD will retain all rights in any reports or data created by SCUSD using the Services.

2. Except as and to the extent otherwise provided in this Agreement, neither this Agreement nor Veritam's performance of its duties under this Agreement shall give SCUSD any ownership interest in or license to any of Veritam's software, Services and Confidential Information including without limitation all intellectual or other property rights therein.

K. Miscellaneous.

1. **Notice.**

a. Any notice required or permitted to be give under this Agreement shall be in writing and may be delivered in person, by overnight courier, or by facsimile if confirmed by first class mail, or sent by certified or registered mail, addressed to the other party at the addresses set forth on the signature page of this Agreement.



b. Notice will be effective as of the date personally delivered, or if by facsimile, when confirmed electronically by the sending facsimile machine, or otherwise when actually received.

2. Relationship.

a. It is intended that the relationship of Veritam to SCUSD shall at all times be that of independent contractors. Nothing contained in this Agreement is intended to create any partnership, joint venture, employment, agency, franchise or other relationship between the parties.

b. No party hereto, or their respective officers, directors, employees, or agents shall have any express or implied right or authority to assume or create any obligations on behalf of or in the name of the other party, or to bind the other party to any contract, agreement, or undertaking with any third party.

3. Governing Law, Forum and Venue.

a. This Agreement and the rights and obligations of the parties under it shall be subject to, governed by, construed, and enforced pursuant to the laws of the State of California without giving effect to any choice of law principles. Headings are for convenience only.

b. All disputes arising out of this Agreement are subject to the exclusive jurisdiction of the state and federal courts located in Sacramento, California, and the parties hereby submit to the personal jurisdiction and venue of these courts.

4. Severability.

a. If any provision of this Agreement is held by a court or arbitrator to be invalid or unenforceable, the remaining portions of this Agreement shall remain in full force and effect, without said provision and will be interpreted to reflect the original intent of the parties.

5. Other Remedies.

a. The parties acknowledge and agree that any actual or threatened misappropriation or infringement of intellectual property or breach of the confidentiality provisions of this Agreement will cause irreparable harm for which there is no adequate remedy at law, and accordingly, in addition to any other available remedies, a party may seek to enforce its rights with respect to the protection of confidential information or intellectual property hereunder through injunctive relief in any court of competent jurisdiction.

b. In the event that any party is required to commence an action or arbitration to interpret or enforce any of the terms of this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs.



6. Force Majeure.

a. Neither party shall be liable for any delay or failure to perform its obligations hereunder (except for any obligation to pay fees) resulting from any cause beyond its reasonable control, including but not limited to acts of God, terrorism, weather, fire, explosions, floods, strikes, work stoppages, slowdowns, industrial disputes, accidents, riots, civil disturbances, or acts of government.

7. Entire Agreement; Amendment.

a. This Agreement contains the entire understanding and agreement of the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, and negotiations of the parties, whether oral or written, relating to its contents. This Agreement hereby incorporates the attached "Veritam Software License Agreement."

b. This Agreement precedes any prior written or oral agreement between the parties.

c. This agreement shall be amended only by an instrument signed by all the parties.

8. Assignment.

a. SCUSD shall not assign or transfer this Agreement without the written consent of Veritam, which shall not be unreasonably withheld or delayed.

b. Any assignment or transfer in violation hereof shall be null and void.

9. Binding Effect.

a. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors, assignees and legal representatives. It creates no rights in any third parties including any individual in connection with which reimbursement is sought by SCUSD.

10. Counterparts.

a. This Agreement shall be executed in any number of faced or original counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.



In Witness Whereof, the undersigned have caused this Agreement to be executed by duly authorized persons to be effective as set forth herein.

**SACRAMENTO CITY
UNIFIED SCHOOL DISTRICT**

By: _____
Patricia A. Hagemeyer
Chief Business Officer

Date: _____

By: _____
Catherine Reames
Medi-Cal Program Coordinator

Date: _____

VERITAM, INC.

By: Rose Uranga
Rose Uranga
President

Date: 7/20/2012