



REPORT TO THE CITY COUNCIL

AGENDA ITEM NO.

COUNCIL MEETING 9/30/08

APPROVED BY

DEPARTMENT DIRECTOR

CITY MANAGER

September 30, 2008

FROM: RANDALL L. COOPER, Director  
Parks, After School, Recreation and Community Services Department

BY: KYLE JEFFCOACH, After School Manager  
PAUL MELIKIAN, Administrative Manager  
Parks, After School, Recreation and Community Services Department

SUBJECT: APPROVAL OF A CONTRACT WITH FRESNO COUNTY OFFICE OF EDUCATION TO PROVIDE UP TO \$11,500 FOR THE PARKS, AFTER SCHOOL, RECREATION AND COMMUNITY SERVICES DEPARTMENT TO CONDUCT A COLLABORATIVE AFTER SCHOOL RECREATION PROGRAM AT WILSON ELEMENTARY RUNNING THROUGH JUNE 30, 2009

KEY RESULT AREA Education

RECOMMENDATIONS

Staff recommends that the City Council approve the attached agreement with the Fresno County Office of Education (FCOE) and authorize the Director of Parks, After School, Recreation and Community Services (PARCS) to execute the agreement on behalf of the City. Approval of this contract will allow PARCS to receive up to \$11,500 in FY 2009 to cover personnel and operating costs associated with providing a collaborative After School Recreation at Wilson Elementary School.

EXECUTIVE SUMMARY

In June of 2008, PARCS was contacted by FCOE with a proposal to begin a collaborative program to provide recreation and enrichment programs to students at Wilson Elementary on a year-to-year contract basis. Programming efforts will include hiring, training, instruction, materials, supervision, and program coordination.

The contractual agreement would establish a one-year commitment at \$11,500 for a reimbursement of services from FCOE. The contract will allow PARCS staff to begin implementation of the Enrichment Program at Wilson Elementary. The one-year contract will begin on October 1, 2008 and will fund the Enrichment Program for the 2008-2009 school year. Funding for the enrichment program will supply Wilson Elementary with one 20-hour per week staff member to deliver programming and operating costs for the site.

## REPORT TO THE CITY COUNCIL

Agreement with FCOE for After School Recreation at Wilson Elementary

September 30, 2008

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### Enrichment Program Highlights

- Intervention and prevention
  - Community Outreach Projects
  - Character Counts component
- Physical Activities
  - S.P.A.R.K. – Sports Play and Active Recreation for Kids
  - Run, Jump, Throw
  - Punt, Pass, Kick
  - Competitive Sports for 5<sup>th</sup> and 6<sup>th</sup> grades
  - Pentathlon
- Nutrition Education
  - 5-A-Day
  - New Food Pyramid

A unified effort of After School Program providers (FCOE and PARCS) in Fresno will build the strength and leverage needed to acquire grant funds that will serve children from Kindergarten through 6<sup>th</sup> grades and uniquely position PARCS to obtain grants aimed at youth intervention and gang prevention. PARCS will become a true partner in education through the provision of recreation, sports and leisure needs of children during the critical 2:00 p.m. – 6:00 p.m. after-school hours.

### **KEY OBJECTIVE BALANCE**

With this additional funding, PARCS can expand programming opportunities and reach additional customers/participants, which will increase the number of satisfied community members. In addition, this collaborative project offers a unique opportunity for our employees to expand their skill sets by managing an expanded recreation program offered to the community. This partnership with FCOE will leverage existing After School Recreation program resources to become a viable means of service augmentation with no impact to the General Fund.

### **BACKGROUND**

Since 2005, PARCS and FCOE have been working together on summer and after-school recreation programming. Both agencies share the vision of energizing young students through hands-on project building. Our common goals and shared resources have made the partnership strong and improved service delivery.

### **FISCAL IMPACT**

Acceptance of the grant funds will have no impact to the General Fund as \$11,500 of revenue will be received from FCOE as reimbursement for \$11,500 of program expenses. No additional appropriations are required to implement the services in this contract as the partnership with FCOE was anticipated and incorporated into the FY 2009 Adopted Budget.

**AGREEMENT**  
**between the**  
**FRESNO COUNTY SUPERINTENDENT OF SCHOOLS**  
**and the**  
**CITY OF FRESNO**

21st Century Community Learning Centers  
2008-2009

GENERAL INFORMATION

**FCSS:**

FCSS Department: After School Programs  
Program: 21<sup>st</sup> CCLC  
FCSS Contact Person: Alix Frazer, Director

**Contractor:**

Contractor: City of Fresno  
Contractor Department/Address: Fresno City Parks and Recreation  
2326 Fresno Street, Room 101  
Fresno, CA 93721  
Contractor's Contact Person: Randall Cooper  
Contractor's Taxpayer Identification Number or SSN: 94-6000338

**Program Provider:**

District: Fresno County Superintendent of Schools  
[aka Fresno County Office of Education]  
School Site/Address: Fresno Unified School District  
Wilson Elementary School  
2131 W. Ashlan  
Fresno, CA 93705

This Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by and between the Fresno County Superintendent of Schools, aka the Fresno County Office of Education (hereinafter referred to as "FCSS"), and the City of Fresno (hereinafter referred to as "CONTRACTOR").

1. CONTRACTOR Services. CONTRACTOR, through its Parks, After School, Recreation and Community Services Department, agrees to provide: One (1) Leader (hereinafter "Leader") to instruct and coordinate nutrition, wellness, competitive sports, and enrichment instruction for students enrolled in the After School Program located at Fresno Unified School District's Wilson Elementary School. The Leader shall be responsible for the delivery of all curriculum including, but not limited to, cultural, visual and performing arts, youth development, fitness, competitive sports, wellness and nutrition activities for students enrolled in the After School Program, which is managed by FCSS's After School Department.

Leader shall be responsible for providing such services for each day of the After School Program is operated at the site from 2:00 p.m. to 6:00 p.m. A day of service shall consist

of four (4) hours. The After School Program operates according to the school site's calendar, which begins on August 18, 2008 and concludes June 11, 2009.

2. CONTRACTOR Qualifications. CONTRACTOR represents that it has in effect all licenses, permissions, and legal qualifications to perform this Agreement, including:
  - a. Fingerprinting. CONTRACTOR expressly acknowledges and certifies that:
    - i. CONTRACTOR and all of its employees, agents, and consultants (hereinafter collectively "employees") working on a school site do not have a record of conviction for any serious felony and understand that they must submit or have submitted fingerprints in a manner authorized by the Department of Justice, together with the requisite fee as set forth in Education Code Section 45125.1, and that proof of such Department of Justice clearance is to be provided to the FCSS prior to CONTRACTOR or its employees working at site;
    - ii. CONTRACTOR shall not permit any employee to come in contact with students until the Department of Justice has ascertained that the employee has not been convicted of a serious or violent felony;
    - iii. CONTRACTOR shall certify in writing to the FCSS that none of its employees who may come in contact with students have been convicted of a serious or violent felony; and
    - iv. CONTRACTOR shall provide to FCSS a list of names of its employees who may come in contact with students.
  - b. TB Clearance. CONTRACTOR expressly acknowledges and certifies that pursuant to Education Code section 49406 all employees that shall come into contact with students has submitted to an examination within the last 60 days to determine that he/she is free of active tuberculosis, or has on file, such determination that is still current and not expired.
  - c. The CONTRACTOR is required to fulfill these requirements at its own expense.
3. Term. This Agreement shall begin on August 18, 2008, and shall terminate on June 30, 2009. There shall be no extension of the term of the agreement without a written agreement signed by both parties.
4. Compensation. FCSS shall pay CONTRACTOR a maximum of Eleven Thousand Five Hundred Dollars and No/100s (\$11,500.00) for all services and materials provided under the terms of this Agreement. Such compensation includes the following:
  - a. Payment to CONTRACTOR at the rate of Fifty-Two Dollars and 73/100s (\$52.73) per service day for each day of Leader's services as described in this Agreement. Maximum compensation for Leader services shall not exceed Nine Thousand Five Hundred Dollars and No/100s (\$9,500.00).

- b. Payment to the CONTRACTOR of Two Thousand Dollars and No/100s (\$2,000) for the cost of materials, supplies, and deliverables related to CONTRACTOR's performance of services under the terms of this Agreement.
5. Conflict of Interest. CONTRACTOR does not have, or anticipates having, any interest in real property, investments, business interests in or income from sources which would provide CONTRACTOR, his/her spouse or minor child(ren) with personal financial gain as a result of any recommendation, advice, or any other action taken by CONTRACTOR during the rendition of services under this Agreement.
6. Termination of Agreement. Either FCSS or CONTRACTOR may terminate this Agreement at any time for any reason upon thirty (30) days written notice. In the event of early termination, CONTRACTOR shall be paid for satisfactory work performed to the date of termination. FCSS may then proceed with the work in any manner the FCSS deems proper.
7. Indemnity. The CONTRACTOR shall indemnify, hold harmless, and defend FCSS and each of its officers, officials, employees, and agents from any and all loss, liability, fines, penalties, forfeitures, costs, and damages (whether in contract, tort, or strict liability, including, but not limited to, personal injury, death at any time, and property damage) incurred by FCSS, CONTRACTOR, or any other person, and from any and all claims, demands, and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to arise directly or indirectly from the negligent or intentional acts or omissions of CONTRACTOR or any of its officers, officials, employees, or in the performance of this Agreement.

FCSS shall indemnify, hold harmless and defend CONTRACTOR and each of its officers, officials, employees, or agents from any and all loss, liability, fines, penalties, forfeitures, costs, and damages (whether in contract, tort, or strict liability, including, but not limited to, personal injury, death at any time, and property damage) incurred by the CONTRACTOR, FCSS, or any other person, and from any and all claims, demands, and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to arise directly or indirectly from the negligent or intentional acts or omissions of FCSS or any of its officers, officials, employees, or agents in the performance of this Agreement.

In the event of concurrent negligence on the part of CONTRACTOR or any of its officers, officials, employees, or agents, and FCSS or any of its officers, officials, employees, or agents, the liability for any and all such claims, demands, and actions in law or equity for such losses, fines, penalties, forfeitures, costs, and damages shall be apportioned under the State of California's theory of comparative negligence as presently established or as may be modified hereafter.

This section shall survive termination or expiration of this Agreement.

8. Insurance. It is understood and agreed that CONTRACTOR and FCSS maintain insurance policies or self-insurance programs to fund their respective liabilities. Evidence of Insurance, Certificates of Insurance or other similar documentation shall not be required of either party under this Agreement.
9. Independent CONTRACTOR Status. While engaged in carrying out the terms and conditions of this Agreement, the CONTRACTOR is an independent contractor, and not an officer, employee, agent, partner, or joint venture of the FCSS.
10. Worker's Compensation Insurance. CONTRACTOR agrees to provide all necessary Workers' Compensation insurance for CONTRACTOR's employees, if any, at CONTRACTOR's own cost and expense.
11. Taxes. CONTRACTOR agrees that CONTRACTOR has no entitlement to any future work from the FCSS or to any employment or fringe benefits from the FCSS. Payments to the CONTRACTOR pursuant to this Agreement will be reported to Federal and State taxing authorities as required. FCSS will not withhold any money from compensation payable to CONTRACTOR. In particular, FCSS will not withhold FICA (social security) state or federal unemployment insurance contributions, state or federal income tax or disability insurance. CONTRACTOR is independently responsible for the payment of all applicable taxes.
12. Assignment. The CONTRACTOR shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties, or obligations without the prior written consent of FCSS.
13. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the CONTRACTOR and the FCSS and their respective successors and assigns.
14. Severability. If any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
15. Amendments. The terms of the agreement shall not be waived, altered, modified, supplemented, or amended in any manner whatsoever except by written agreement signed by both parties.
16. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California and venue shall be in the appropriate Superior Court in Fresno, California.
17. Written Notice. Written notice shall be deemed to have been duly served if sent by certified return receipt mail to:

FCSS:

Fresno County Office of Education,  
After School Program  
Attention: Alix Frazer, Director  
1111 Van Ness Avenue  
Fresno, California 93721

CONTRACTOR:

Fresno City Parks and Recreation  
Department  
Attention: Randall Cooper, Director  
2326 Fresno Street, Room 101  
Fresno, California 93721

cc: Wilson Elementary School  
Attention: Melissa Dutra, Principal  
2131 West Ashlan Avenue  
Fresno, CA 93705

18. Non-Discrimination. During the performance of this Agreement, CONTRACTOR and its subcontractors (if applicable) shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical disability (including HIV and AIDS), medical condition (cancer related), marital status, age (over 40), gender, sexual preference, or any other non-merit factor unrelated to job duties. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. CONTRACTOR and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment. CONTRACTOR and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 *et seq.*) and the applicable regulations promulgated hereunder (California Administrative Code, Title 2, Section 7285.0 *et seq.*). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full.
19. Compliance with Law. CONTRACTOR agrees that it shall comply with all legal requirements for the performance of its duties under this agreement and that failure to do shall constitute material breach.
20. Entire Agreement. This Agreement is intended by the Parties as the final expression of their agreement with respect to such terms as are included herein and as the complete and exclusive statement of its terms and may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement, nor explained or supplemented by evidence of consistent additional terms.
21. Execution of Other Documents. The parties to this Agreement shall cooperate fully in the execution of any and all other documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.

22. Council Approval. The effectiveness of this Agreement is contingent upon the approval of the Fresno City Council.

Executed at Fresno, California, on the date and year first written above.

FCSS

Fresno County Superintendent of Schools

  
\_\_\_\_\_  
Larry L. Powell  
Superintendent



REVIEWED BY:

\_\_\_\_\_  
Melissa Dutra, Principal  
Wilson Elementary School  
Fresno Unified School District

CONTRACTOR

City of Fresno  
Parks, After School Recreation and  
Community Services Department

\_\_\_\_\_  
Randall Cooper  
Director, Fresno PARCS

ATTEST:  
REBECCA KLISCH  
Clerk, City of Fresno

\_\_\_\_\_  
Deputy

APPROVED TO AS FORM:  
Fresno City Attorney

  
\_\_\_\_\_  
Deputy

Date: 9/10/08

APPROVED BY  
Fresno City Counsel

Date of Approval: \_\_\_\_\_

Attest: \_\_\_\_\_