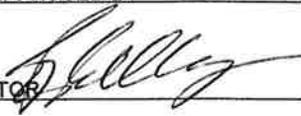


AGENDA ITEM NO.	1	P
COUNCIL MEETING	01/14/10	
APPROVED BY		
		
DEPARTMENT DIRECTOR		
CITY MANAGER		

January 14, 2010

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

BY: MARY JANE FITZPATRICK, Recreation Manager 
PAUL A. MELIKIAN, Administrative Manager 
Parks, After School, Recreation and Community Services Department

SUBJECT: APPROVAL OF THE FIRST AMENDMENT TO AGREEMENT BETWEEN FRESNO COUNTY SUPERINTENDENT OF SCHOOLS AND THE PARKS, AFTER SCHOOL, RECREATION AND COMMUNITY SERVICES DEPARTMENT IN THE AMOUNT OF \$71,560 TO EXPAND THE FRESNO BEST PROGRAM AT COOPER MIDDLE SCHOOL RUNNING THROUGH JUNE 30, 2010

RECOMMENDATIONS

Staff recommends that the City Council approve the attached amendment with the Fresno County Superintendant of Schools (FCSS) 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 amendment and the corresponding appropriations will allow PARCS to receive up to \$71,560 in FY 2010 to cover personnel and operating costs associated with providing a collaborative After School Fresno BEST program at Cooper Middle School.

EXECUTIVE SUMMARY

The attached amendment was created by PARCS for consideration and approval by both the Council and the FCSS. The contractual agreement would establish a nine-month commitment at \$71,560 for a full reimbursement of services from FCSS. The amendment will allow PARCS staff to begin implementation of the Fresno BEST Program at Cooper Middle School. The amendment will begin in January of 2010 and will fund the Fresno BEST program for the duration of the 2009-2010 school year. Funding for the Fresno BEST program will supply the school site with operating costs and one 15-hour per week staff member to deliver programming. The staff costs and related overhead will be fully recovered under the agreement; so no General Fund dollars are requested to implement the program.

An added benefit of this unified effort of Fresno BEST program providers (FCSS and PARCS), is that it will build the strength and leverage needed to acquire additional grant funds aimed at gang prevention that will serve youth from 9th through 12th grades. The Fresno BEST program will provide youth with a variety of activities and resources during the critical 3:00 p.m. – 6:00 p.m. after-school hours.

BACKGROUND

In FY 2006, Parks, After School, Recreation and Community Services (PARCS), in conjunction with Fresno Unified School District (FUSD) began to operate the first collaborative After School High School Program, Fresno BEST, at Roosevelt High School. This 'pilot' program was conducted at one high school site in 2005. Due to the success of the 'pilot' Fresno BEST site, PARCS expanded the Fresno BEST program to four high school sites in FY 2007, to include Sunnyside, J.E. Young, Roosevelt and Fresno High Schools. In FY 2008,

PARCS re-deployed the Literacy program resources to expand the Fresno BEST high school program to all sites, and create the Jr. BEST middle school program. Programming efforts include hiring, training, instruction, materials, supervision, and program coordination.

FISCAL IMPACT

Acceptance of the grant funds will have no impact to the General Fund as \$71,560 of revenue will be received from FCSS as reimbursement for up to \$71,560 of program expenses, which includes a 10% administrative fee. Additional appropriations are not needed as this contract was anticipated in the FY 2010 Adopted Budget.

K:/JosieK/Rept to CC/2010
Revised 12-22-09

Attachment: Amended Agreement with FCSS
Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO ADOPTING THE 43rd AMENDMENT TO THE ANNUAL APPROPRIATION RESOLUTION NO. 2009-149 APPROPRIATING \$15,100 IN THE PARKS, AFTER SCHOOL, RECREATION AND COMMUNITY SERVICES DEPARTMENT FROM FRESNO UNIFIED SCHOOL DISTRICT TO EXPAND THE FRESNO BEST PROGRAM AT COOPER MIDDLE SCHOOL THROUGH JUNE 30, 2010

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FRESNO:

THAT PART III of the Annual Appropriation Resolution No. 2009-149 be and is hereby amended as follows:

	<u>Increase/(Decrease)</u>
TO: PARKS, AFTER SCHOOL, RECREATION & COMMUNITY SERVICES DEPARTMENT PARCS Contracted Services	\$ 15,100

THAT account titles and numbers requiring adjustment by this Resolution are as follows:

PARCS Contracted Services

Revenues:

Account: 33847 Fresno County Office of Educat	<u>\$ 15,100</u>
Fund: 24048	
Org Unit: 170602	

Total Revenues	<u>\$ 15,100</u>
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Appropriations:

Account: 56120 Athletic & Recreation	<u>\$ 15,100</u>
Fund: 24048	
Org Unit: 170602	
CS: SQ002	

Total Appropriations	<u>\$ 15,100</u>
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THAT the purpose is to appropriate \$15,100 in the Parks, After School, Recreation and Community Services Department from Fresno Unified School District to expand the Fresno Best Program at Cooper Middle School through June 30, 2010.

**FIRST AMENDMENT TO AGREEMENT
BETWEEN THE
FRESNO COUNTY SUPERINTENDENT OF SCHOOLS
AND THE
CITY OF FRESNO
21ST CENTURY COMMUNITY LEARNING CENTERS
2009-2010**

THIS FIRST AMENDMENT TO AGREEMENT ("Amendment") is made and entered into this 12th day of November, 2009, 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, a municipal corporation, (hereinafter referred to as "CONTRACTOR").

RECITALS

WHEREAS, FCSS and CONTRACTOR entered into an Independent Contractor Service Agreement effective the 17th day of August 2009, hereinafter referred to as the "Agreement" and attached hereto as Exhibit "A." Under said Agreement CONTRACTOR, through its Parks, After School, Recreation and Community Services Department provides Leaders to instruct and coordinate Fresno Business Education and Service Training/BEST (hereinafter referred to as Fresno Building Everyone's Skills for Tomorrow "BEST/Jr. BEST") for students enrolled in the After School Program located at Fresno Unified School District's Cooper Middle School. The after school programming services, and related activities, are hereinafter collectively referred to as the "Services"; and

WHEREAS, FCSS and CONTRACTOR desire to modify the Agreement in certain regards, upon the terms and conditions herein.

NOW, THEREFORE, in consideration of the foregoing and of the covenants, conditions, and promises hereinafter contained, to be kept and performed by FCSS and CONTRACTOR, the parties agree that the aforesaid Agreement be amended as follows:

1. Section 4 (a)(b) and (c) of the Agreement is amended as follows:
 4. Compensation. FCSS shall pay CONTRACTOR a maximum of Seventy One Thousand Five Hundred Sixty Dollars and No/100s (\$71,560) for all services and materials provided under the terms of this Agreement. Such compensation includes the following [(max compensation amount listed in paragraph 4a) + (amount listed in paragraph 4b) + (amount listed in paragraph 4c)]. FUSD agrees to pay Contractor within thirty (30) days of receipt of invoice.

- a. Maximum payment to CONTRACTOR for Leader services shall not exceed Forty-Six Thousand Dollars and 0/100s (\$46,000).
- b. Payment to the CONTRACTOR of Nineteen Thousand Sixty Dollars and 0/100s (\$19,060.00) for the cost of materials, supplies, and deliverables related to CONTRACTOR's performance of services under the terms of this Agreement.
- c. Payment to the CONTRACTOR of 10% of the sum of paragraphs 4a and 4b in the amount of Six Thousand Five Hundred Dollars and 0/100s (\$6,500.00) related to CONTRACTOR's performance of services under the terms of this Agreement.

2. The SCOPE OF SERVICES is amended as follows:

Purpose

It is expressly understood that After School Programs represent a partnership between parents, students, and schools and whose goal is to improve outcomes for children in middle schools, high schools, their families, and surrounding neighborhoods.

Description of Services

Contractor under the Fresno Jr. Building, Everyone's, Skills for Tomorrow (Jr. BEST) program provides Leaders to facilitate the Jr. BEST program curriculum at Cooper Middle School.

Contractor will provide boxing instructions for 20 students per one (1) Leader. Jr. BEST will provide 1 Leader at Cooper Middle School for the 2009/10 academic year.

Contractor will provide dance instructions for 20 students per one (1) Leader. Contractor will provide 1 Leader at Cooper Middle School for the 2009/10 academic year.

Contractor will provide cooking instructions for 20 students per one (1) Leader. Contractor will provide 1 Leader at Cooper Middle School for the 2009/10 academic year.

Jr. BEST Boxing, Dance and Cooking instructions hours of operation will commence at 2:30 P.M. and conclude at 5:30 P.M. on 3 regularly scheduled school days a week. A typical week of Jr. BEST dance or boxing operation will consist of 10 hours.

Contractor will provide 1 Leader per 10 student ratio for each educational field trip as listed below.

- Science Exploratorium in San Francisco
- McDermott Field House
- Hearst Castle
- Southern California College Tour
- Museum of Tolerance
- University of Santa Cruz College Trip

On occasion the Jr. BEST program may operate on weekends and weeknights. School officials will be notified when these occurrences take place.

Value

The monetary value for Jr. BEST programming and trips including staffing, program supplies and training is \$71,560.00 for the 2009/10 academic year.

Funding Sources

Fresno County Office of Education: After School Education and Safety Grant

3. All capitalized terms used in this Addendum, unless otherwise defined herein, shall have the meanings assigned to such terms in the Agreement.

4. Except as otherwise provided herein, the Agreement remains in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Addendum at Fresno, California, the day and year first above written.

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

21st Century Community Learning Centers
2009-2010

GENERAL INFORMATION

FCSS:

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

Contractor:

Contractor: City of Fresno
Contractor Department/Address: Fresno City Parks and Recreation
1515 Divisadero St.
Fresno, CA 93721
Contractor's Contact Person: Randall Cooper
Contractor's Taxpayer Identification Number or SSN: 94-6000338

Program Provider:

Fresno County Superintendent of Schools
[aka Fresno County Office of Education]

District:

Fresno Unified School District

School Site/Address:

Cooper Middle School
2277 W. Bellaire Way
Fresno, CA 93705

This Agreement is made and entered into this day of August 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: Two (2) Leader(s) (hereinafter "Leader") to instruct and coordinate Fresno Business Education and Service Training (hereinafter "BEST") instruction for students enrolled in the After School Program located at Fresno Unified School District's Cooper Middle School.

Leader shall be responsible for providing such services for each school day of the After School Program is operated at the site from approximately 2:30 p.m. to 5:30 p.m. A school day of service shall consist of three (3) hours. Twenty (20) additional non-school days shall be allotted for activities related, but not limited to, service learning opportunities, job shadowing/ internship and college visitations. The program shall

consist of a maximum of Two Hundred (200) days. The After School Program operates according to the school site's calendar, which begins on August 17, 2009 and concludes June 10, 2010.

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.
3. Term. This Agreement shall begin on July 1, 2009, and shall terminate on June 10, 2010. There shall be no extension of the term of the agreement without a written agreement signed by both parties.
4. Compensation. FUSD shall pay CONTRACTOR a maximum of Twenty Eight Thousand Dollars and No/100s (\$28,000) for all services and materials provided under the terms of this Agreement. Such compensation includes the following [(max compensation amount listed in paragraph 4a) + (amount listed in paragraph 4b) + (amount listed in paragraph 4c)]. FUSD agrees to pay Contractor within thirty (30) days of receipt of invoice.
 - a. Maximum payment to CONTRACTOR for Leader services shall not exceed Twenty-Four Thousand Dollars and 0/100s (\$24,000).

- b. Payment to the CONTRACTOR of One Thousand Six Hundred Dollars and 0/100s (\$1,460) for the cost of materials, supplies, and deliverables related to CONTRACTOR's performance of services under the terms of this Agreement.
 - c. Payment to the CONTRACTOR of 10% of the sum of paragraphs 4a and 4b in the amount of Two Thousand Four Hundred Dollars and 0/100s (\$2,540) 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: Cooper Middle School
Attention: Scott Lamm
2277 W. Bellaire Way
Fresno, CA 93705

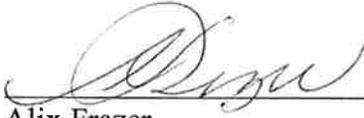
18. Non-Discrimination. During the performance of this Agreement, CONTRACTOR and its subcontractors (if applicable) shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical disability (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



Alix Frazer
Director, FCOE After School Programs

CONTRACTOR

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



Randall Cooper
Director, Fresno PARCS

ATTEST:
REBECCA KLISCH
Clerk, City of Fresno

REVIEWED BY:

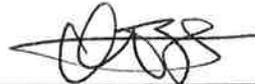


Scott Lamm, Principal
Cooper Middle School
Fresno unified School District



Deputy 10/8/09

APPROVED TO AS FORM:
Fresno City Attorney



Deputy **BRADLEY**

Date: 9/9/09

APPROVED BY
Fresno City Counsel

Date of Approval: _____

Attest: _____

SCOPE OF SERVICES
Agreement between City of Fresno
and Fresno County Office of Education Site
at Cooper Middle School

FRESNO JR. BEST
Program Title

Purpose

It is expressly understood that After School Programs represent a partnership between parents, students, and schools and whose goal is to improve outcomes for children in middle schools, high schools, their families, and surrounding neighborhoods.

Description of Services

The City of Fresno Jr. Business, Education, and Service Training (BEST) program provides one staff member to facilitate the Jr. BEST and/ or Academic Game Plan (AGP) program curriculum at Cooper Middle School.

Staff will provide instruction for 20 students per one (1) instructor. Jr. BEST will provide 2 instructor(s) at Cooper Middle School for the 2009/10 academic year.

Jr. BEST hours of operation will commence at 2:45p.m. and conclude at 5:45p.m. on regularly scheduled school days. A typical week of Jr. BEST operation will consist of 15 hours.

On occasion the Jr. BEST/ AGP programs may operate on weekends and weeknights. School officials will be notified when these occurrences take place.

Value

The monetary value for Jr. BEST including staffing, program supplies and training is \$28,000 for the 2009/10 academic year.

Funding Sources

Fresno County Office of Education: After School Education and Safety Grant