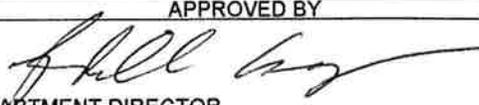


| | | |
|---|----------------|---|
| AGENDA ITEM NO. | 1 | H |
| <u>COUNCIL MEETING</u> | <u>3/25/10</u> | |
| APPROVED BY | | |
|  | | |
| DEPARTMENT DIRECTOR | | |
| CITY MANAGER | | |

March 25, 2010

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

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

SUBJECT: 1) APPROVAL OF A CONTRACT FOR \$22,000 WITH FRESNO UNIFIED SCHOOL DISTRICT FOR THE PARKS, AFTER SCHOOL, RECREATION AND COMMUNITY SERVICES DEPARTMENT TO CONDUCT THE FRESNO BEST PROGRAM AT EDISON HIGH SCHOOL RUNNING THROUGH JUNE 30, 2010.

2) A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO ADOPTING THE 67TH AMENDMENT TO THE ANNUAL APPROPRIATION RESOLUTION NO. 2009-149 APPROPRIATING \$19,800 FOR THE PARKS, AFTER SCHOOL, RECREATION AND COMMUNITY SERVICES DEPARTMENT TO CONDUCT THE FRESNO BEST PROGRAM AT EDISON HIGH SCHOOL RUNNING THROUGH JUNE 30, 2010.

RECOMMENDATIONS

Staff recommends that the City Council approve the attached one-year agreement with the Fresno Unified School District (FUSD) 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 and corresponding appropriations will allow PARCS to receive up to \$22,000 in FY 2010 to cover personnel and operating costs associated with providing a collaborative After School Fresno BEST program at Edison High School through June 30, 2010.

EXECUTIVE SUMMARY

The attached contractor service agreement was created by FUSD for consideration and approval by both the Fresno City Council and the Fresno Unified School Board. The contractual agreement will establish a commitment at \$22,000 for a full reimbursement of services from FUSD. The contract will allow PARCS staff to create additional program components to the Fresno BEST Program at Edison High School. The contract will begin in March 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 and no General Fund dollars are requested to implement the program. The Fresno BEST program engages youth with a variety of activities and resources during the critical 3:00 p.m. – 6:00 p.m. after-school hours.

FISCAL IMPACT

Acceptance of the grant funds will have no impact to the General Fund as up to \$22,000 of revenue will be received from FUSD as reimbursement for up to \$22,000 of program expenses, which includes a 10% administration fee. Additional appropriations are needed as this contract was not anticipated in the FY 2010 Adopted Budget.

Attachments: Contract with FUSD
AAR

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO
ADOPTING THE 67th AMENDMENT TO THE ANNUAL APPROPRIATION
RESOLUTION NO. 2009-149 APPROPRIATING \$19,800 FOR THE
PARKS, AFTER SCHOOL, RECREATION AND COMMUNITY SERVICES
DEPARTMENT TO CONDUCT THE FRESNO BEST PROGRAM AT
EDISON HIGH SCHOOL RUNNING 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 | \$ 19,800 |

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

PARCS Contracted Services

Revenues:

| | |
|--|------------------|
| Account: 33809 Fresno Unified School District | <u>\$ 19,800</u> |
| Fund: 24048 | |
| Org Unit: 170602 | |

| | |
|----------------|------------------|
| Total Revenues | <u>\$ 19,800</u> |
|----------------|------------------|

Appropriations:

| | |
|--|--------------|
| Account: 51201 Non-Permanent Salaries | \$ 14,400 |
| 51202 Non-Permanent Fringe | 1,200 |
| 56120 Athletic & Recreation | <u>4,200</u> |

Fund: **24048**
Org Unit: **170602**
CS: **SQ002**

| | |
|----------------------|------------------|
| Total Appropriations | <u>\$ 19,800</u> |
|----------------------|------------------|

**FRESNO UNIFIED SCHOOL DISTRICT
INDEPENDENT CONTRACTOR SERVICES AGREEMENT**

GENERAL INFORMATION:

School/Department: **After School Program**
Budget Class: **Edison ASSETS Program**
District Contact Person: **Glenn Starkweather**
Budget Manager Approval: **Glenn Starkweather**
Contractor: **City of Fresno Parks Recreation and Community Services
2326 Fresno Street #101, Fresno, Ca 93721**

Contractor's Contact Person: **Randall Cooper**
Contractor's Taxpayer Identification # or SSN: **94-6000338**
Requisition #: _____

This Independent Contractor Services Agreement is made and entered into effective **March 11, 2010** (the "Effective Date") by and between the **Fresno USD After School Program** ("District") and **City of Fresno Parks Recreation and Community Services**. ("Contractor").

1. **Contractor Services.** Contractor agrees to provide **the City of Fresno BEST program to Edison High, Fresno USD. The City of Fresno will provide two staff members to facilitate the BEST program curriculum. Curriculum includes but is not limited to career and college exploration, leadership development, vocational skills training, entrepreneurial ventures and two California College Excursions which will include a guided tour of the campus and exploration of schools on the campus.**

The parties anticipate that Contractor will provide these services ___ days or **3** hours per **day**.

2. **Contractor Qualifications.** Contractor represents that it has in effect all licenses, permissions and has otherwise all legal qualifications to perform this Agreement. Contractor's qualifications shall be specified in attached VITA.
3. **Term.** This Agreement shall begin on **March 11, 2010**, and shall terminate on **June 10, 2010**. There shall be no extension of the term of the agreement without express written consent of all parties.
4. **Payment.** District agrees to pay Contractor at following rate of **\$22,000**. Checks will be made payable to City of Fresno Parks Recreation and Community Services. Payment shall be limited to amount written in this paragraph, unless specifically indicated in Paragraph 5. District agrees to pay Contractor within thirty (30) days of receipt of a detailed invoice.

5. **Incidental Expenses:**

- a. Lodging \$ 0 Actual cost of single occupancy. Not to exceed \$100 per night. *Receipt Required.
- b. Meals \$ 0 Reimbursement limited to actual cost up to the following rates: Breakfast \$6.00, Lunch \$9.00, Dinner \$15.00. *Receipt Required.
- c. Travel \$ 0 Actual cost by common carrier. Private car expenses reimbursed at .405 cents per mile. *Receipt Required.
- d. Supplies \$ 0 As negotiated with school/department contracting for service.

e. **Total Estimated Cost (Sum of paragraphs 4 and 5a - d):** **\$22,000** _____

6. **California Residency.** Contractor is a resident of the state of California: YES NO

If "NO", Contractor shall complete and attach California Form 590-Withholding Exemption Certificate.

7. 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.
8. Termination of Agreement. Either District or Contractor may terminate this Agreement at any time for any reason upon written notice. In the event of early termination, Contractor shall be paid for satisfactory work performed to the date of termination. The District may then proceed with the work in any manner the District deems proper.
9. Indemnity. The Contractor shall defend, indemnify, and hold harmless the District and its agents, employees, Board of Trustees, members of the Board of Trustees, from and against claims, damages, losses, and expenses (including, but not limited to attorney's fees and costs including fees of consultants) arising out of or resulting from: performance of the contract (including, but not limited to) the Contractor's use of the site; the Contractor's completion of the duties under the contract; injury to or death of persons or damage to property or delay or damage to the District, its agents, employees, Board of Trustees, members of the Board of Trustees, for any act, omission, negligence, or willful misconduct of the Contractor or their respective agents, subcontractors, employees, material or equipment suppliers, invitees, or licensees. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity, which would otherwise exist as to a party, person, or entity described in this paragraph.

FUSD shall indemnify, hold harmless and defend Contractor and each of its officers, officials, employees, agents and volunteers 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, FUSD 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 FUSD or any of its officers, officials, employees, agents or volunteers in the performance of this Agreement.

In the event of concurrent negligence on the part of Contractor or any of its officers, officials, employees, agents or volunteers, and FUSD or any of its officers, officials, employees, agents or volunteers, 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

10. Insurance. Without limiting Contractor's indemnification, it is agreed that Contractor shall secure and maintain in force during the term of this Agreement a Commercial General Liability policy (Contractual liability included) utilizing an occurrence policy form, with limits of not less than one million (\$1,000,000) dollars per occurrence, two million (\$2,000,000) annual aggregate limit. Business automobile Liability Insurance shall be maintained for owned, scheduled, non-owned or hired automobiles with a combined single limit not less than one million (\$1,000,000) dollars per occurrence. The District shall be named as an additional insured on the policies by separate endorsement. A Certificate of Insurance and endorsements shall be attached to the Agreement as proof of insurance. The Contractors policy shall provide that it is primary such that insurance maintained by the District, if any, shall be excess and not co-primary. Contractor shall produce the policy for District, upon request.
11. Independent Contractor Status. While engaged in carrying out the terms and conditions of the Contract, the Contractor is an independent contractor, and not an officer, employee, agent, partner, or joint venturer of

the District.

12. Worker's Compensation Insurance. Contractor agrees to provide all necessary worker's compensation insurance for Contractor's employees, in any, at Contractor's own cost and expense.
13. Taxes. Contractor agrees that Contractor has no entitlement to any future work from the District or to any employment or fringe benefits from the District. Payments to the Contractor pursuant to this Agreement will be reported to Federal and State taxing authorities as required. District will not withhold any money from compensation payable to Contractor. In particular, District 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.
14. 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 on the District.
15. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Contractor and the District and their respective successors and assigns.
16. 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.
17. Amendments. The terms of the Contract Documents shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written agreement signed by both parties.
18. 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.
19. Written Notice. Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the company or to an officer of the corporation for whom it was intended, or if delivered at or sent by registered or certified mail to the last business address known to the person who gives the notice.

District: Contractor:

Paul Rosencrans Randall Cooper
Purchasing Department Fresno City Parks Recreation Department
Fresno Unified School District City Hall Annex
4498 N. Brawley Ave. Fresno, CA 93721
Fresno, California 93722

c: Andrew De La Torre
Benefits & Risk Management
Fresno Unified School District
2309 E. Tulare Street
Fresno, California 93721
20. Non-Discrimination. It is the policy of the District that there shall be no discrimination against any of Contractor's prospective or active employees because of race, color, ancestry, national origin, sex or religious creed. Therefore, the Contractor agrees to comply with applicable federal and California laws.
21. Compliance with Law. Each and every provision of law and clause required by law to be inserted into this

Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein. 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.

- 22. 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.
- 23. 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.
- 24. Execution in Counterparts. This Agreement may be executed in counterparts such that the signatures may appear on separate signature pages. A copy, or an original, with all signatures appended together, shall be deemed a fully executed agreement.
- 25. Board Approval. For contracts in excess of \$15,000.00, the effectiveness of this Agreement is contingent upon the approval of the Fresno Unified School District Board of Education.

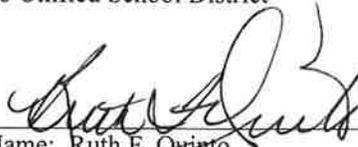
Executed at Fresno, California, on the date and year first written above.

DISTRICT

CONTRACTOR

Fresno Unified School District

Fresno City Parks Recreation and Community Services

By: 
 Name: Ruth F. Quinto
 Title: Associate Superintendent/CFO

By: _____
 Name: **Randall Cooper**
 Title: **Director**

Approved As To Form:

ATTEST:
 REBECCA KLISCH
 Clerk, City of Fresno



By: _____
 Deputy Date

Date: 3/2/10

APPROVED AS TO FORM:
 JAMES C. SANCHEZ
 Fresno City Attorney

By: _____
 Senior Deputy Date