

CITY OF FRESNO
City Clerk's Office (Original)

AGREEMENT
Between
CLOVIS UNIFIED SCHOOL DISTRICT
And the
CITY OF FRESNO

ASES/21CENTURY
After School Program 2010

GENERAL INFORMATION

CUSD:

CUSD Department: Child Development
Program: ASES/21 Century
Contact Person: Erin Parker

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:

Clovis Unified School District
Child Development

District:

School Site/Address: Clovis Unified School District
Nelson Elementary
1336 W. Spruce
Pinedale, CA 93650

This Agreement is made and entered into this 23rd day of February 2010, by and between Clovis Unified School District (hereinafter referred to as "CUSD"), 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: Twelve (12) Leader(s) (hereinafter "Leader") to instruct and coordinate Informal Family Science Night (hereinafter "Science") instruction for students enrolled in the After School Program located at Clovis Unified School District's Nelson Elementary School.

Leader shall be responsible for providing such services for each day (1) of the After School Program is operated at the site from approximately 4 pm. to 7 pm. A day of service shall consist of six (6) hours. The program shall consist of a maximum of one (1) day. The After School Program operates according to the school site's calendar, which begins on August 24, 2009 and concludes June 11, 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 CUSD 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 CUSD 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 CUSD 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 June 17, 2010, and shall terminate on August 14, 2010. There shall be no extension of the term of the agreement without a written agreement signed by both parties.
4. Compensation. CUSD shall pay CONTRACTOR a maximum of One Thousand Six Hundred Ninety Seven Dollars and 78/100s (\$1,697.78) 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)]
CUSD agrees to pay Contractor within thirty (30) days of receipt of invoice.
 - a. Maximum payment to CONTRACTOR for Leader services shall not exceed Nine Hundred Forty Three Dollars and 44/100s (\$943.44).
 - b. Payment to the CONTRACTOR of Six Hundred Dollars and 00/100s (\$600.00) 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 One Hundred Fifty Four Dollars and 34/100s (\$154.34) 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 CUSD 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. CUSD may then proceed with the work in any manner CUSD deems proper.

7. Indemnity. The CONTRACTOR shall indemnify, hold harmless, and defend CUSD 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 CUSD, 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.

CUSD 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, CUSD, 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 CUSD 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 CUSD 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 CUSD 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 CUSD.
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 CUSD or to any employment or fringe benefits from CUSD. Payments to the CONTRACTOR pursuant to this Agreement will be reported to Federal and State taxing authorities as required. CUSD will not withhold any money from compensation payable to CONTRACTOR. In particular, CUSD 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 CUSD.
13. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the CONTRACTOR and CUSD 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:

CUSD:

Clovis Unified School District
After School Program
Attention: Jackie Burgan, Director
1735 David E. Cook Way
Clovis, CA 93611

CONTRACTOR:

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

cc: Nelson Elementary
1336 W. Spruce
Pinedale, CA 93650

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 Clovis, California, on the date and year first written above.

CUSD

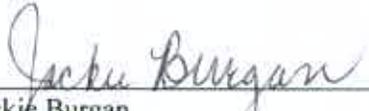
CONTRACTOR

Clovis Unified School District



Michael Johnston
Asst. Superintendent, Business Services

REVIEWED BY:



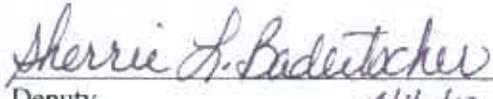
Jackie Burgan
Director, CUSD After School Programs

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



Randall Cooper
Director, Fresno PARCS

ATTEST:
REBECCA KLISCH
Clerk, City of Fresno



Deputy 4/16/10

APPROVED TO AS FORM:
Fresno City Attorney



Deputy **BRADLEY**

Date: 4/23/10

Clovis Unified School District
CONSULTANT SERVICE AGREEMENT & CERTIFICATE FOR PAYMENT
(\$5000 or Less)

Date:	01/29/2010
Agreement #:	DWER-826U9S
Initiator:	Debbie Welcker
Site/Dept.	Child Development

This agreement is entered into by and between Clovis Unified School District,
1450 Herndon Ave., Clovis, California 93611 and:

City of Fresno
(Consultant/Contractor Name as shown on W9)

Social Security Number Federal Tax ID
(Social Security # or Tax ID)
946000338
(Social Security # or Tax ID)
(NO SPACES OR DASHES PLEASE)

Additional Service Provider Agreement?
 Yes No

Please send additional agreement to Accounting Department
referencing agreement # DWER-826U9S

(Street Address)	2600 Fresno Street
(City)	Fresno
(State)	CA
(Zip)	93721
(Phone)	559 6217717

DUTIES:

(Describe work to be completed, obligations of consultant)
(Payment will not be issued unless this field is completed)
To provide afterschool informal hands on science labs/programs including Family Science Nights to the students of the ACES Afterschool program at Nelson Elementary

TERMS:
This agreement is effective 06/17/2010 and shall continue until 08/14/2010.
Either party may terminate this Agreement upon not less than thirty (30) days written notice to the other party.

PAYMENT:
District agrees to pay consultant a total fee of \$1697.78, which may include actual expenses incurred by the consultant, as full consideration of Consultant's performance under this agreement. District shall make payment in the following manner:

To be paid from invoice provide by vendor
(Specify how consultant is to be paid, e.g. invoice, from this form upon completion, etc. Be specific!)

Have you ever been or are you currently a CUSD Employee? Yes No

ACCOUNT TO BE CHARGED:	
Account Name:	Nelson ACES
Object:	580070 Company Consultant
Key:	6176010210

INDEPENDENT CONTRACTOR STATUS:
Service Provider and all of its employees, agents, subcontractors and representatives shall perform under this Agreement as an independent contractor and not as officers, employees or agents of the District. Nothing in this Agreement shall be deemed to create any contractual relationship between the District and any third party, nor shall anything contained in this Agreement be deemed to give any third party any claim or right of action against the District.

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 FIVE AGREEMENTS WITH CLOVIS UNIFIED SCHOOL DISTRICT TOTALING \$27,943.34 FOR THE PARKS, AFTER SCHOOL, RECREATION AND COMMUNITY SERVICES DEPARTMENT TO CONDUCT AN INFORMAL SCIENCE PROGRAM AT SIX ELEMENTARY AND ONE INTERMEDIATE SCHOOL SITES RUNNING THROUGH JUNE 30, 2010

2) A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO ADOPTING THE 66TH AMENDMENT TO THE ANNUAL APPROPRIATION RESOLUTION NO. 2009-149 APPROPRIATING \$24,500 FOR THE PARKS, AFTER SCHOOL, RECREATION AND COMMUNITY SERVICES DEPARTMENT TO CONDUCT THE INFORMAL SCIENCE PROGRAM AT SEVEN CLOVIS UNIFIED SCHOOL SITES RUNNING THROUGH JUNE 30, 2010.

RECOMMENDATIONS

Staff recommends that the City Council approve the attached academic-year agreements with the Clovis Unified School District (CUSD) and authorize the Director of Parks, After School, Recreation and Community Services (PARCS) to execute the agreement on behalf of the City. Approval of these service contracts and corresponding appropriations will allow PARCS to receive up to \$27,943.34 to cover personnel and operating costs associated with providing a collaborative After School Informal Science program at Nelson, Reagan, Tarpey, Woods, Freedom and Mountain View Elementary Sites and Reyburn Intermediate School.

EXECUTIVE SUMMARY

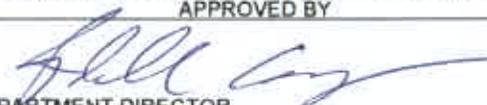
The attached contractor service agreements were created by PARCS for consideration and approval by both the Council and the CUSD. The contractual agreement would establish a three-month commitment at \$27,943.34 for full reimbursement of services from CUSD. The contract will allow PARCS staff to begin implementation of the Informal Science Program at the seven CUSD sites in March 2010. With this funding, PARCS can expand programming opportunities and reach additional customers/participants, which will increase the number of satisfied community members.

FISCAL IMPACT

Approval of the attached contract will have no impact to the General Fund as up to \$27,943.34 of revenue will be received from CUSD as reimbursement for up to \$27,943.34 of program expenses, which includes a 10% administrative fee.

Attachments: CUSD Contracts
Resolution

Presented to City Council
Date 3/25/10
Disposition for approval
Res. 2010-5-9 adopted

AGENDA ITEM NO.	16
COUNCIL MEETING	03/25/10
APPROVED BY	
	
DEPARTMENT DIRECTOR	
CITY MANAGER	
	

March 125, 2010

Council Adoption: 03/25/10

Mayor Approval:

Mayor Veto:

Override Request:

TO: MAYOR ASHLEY SWEARENGIN

FROM: REBECCA E. KLISCH, CMC
City Clerk

SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

At the Council meeting of 3/25/10, Council adopted the attached Resolution No. 2010-53 entitled **66th amndmnt to AAR appro \$24,500, informal science program @ 7 CUSD sites**, Item No. **1G-1**, by the following vote:

Ayes	:	Borgeas, Brand, Dages, Perea, Sterling, Xiong, Westerlund
Noes	:	None
Absent	:	None
Abstain	:	None

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk's office on or before April 5, 2010. In computing the ten day period required by Charter, the first day has been excluded and the tenth day has been included unless the 10th day is a Saturday, Sunday, or holiday, in which case it has also been excluded. Failure to file this memo with the Clerk's office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor's signed approval.

Thank you.

APPROVED:

VETOED for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)

Ashley Swearengin, Mayor

Date: _____

COUNCIL OVERRIDE ACTION:

Date: _____

Ayes	:	
Noes	:	
Absent	:	
Abstain	:	