

AGREEMENT  
Between  
CLOVIS UNIFIED SCHOOL DISTRICT  
And the  
CITY OF FRESNO

Oraze Elementary  
2011-2012

GENERAL INFORMATION

**CUSD:**

CUSD Department: Oraze Elementary  
Program: Title One  
Contact Person: Kim Thiesen

**Contractor:**

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

**Program Provider:**

Clovis Unified School District  
Oraze Elementary

**District:**

School Site/Address: Clovis Unified School District  
Oraze Elementary  
3468 N. Armstrong Ave  
Fresno, CA 93727

This Agreement is made and entered into this 8th day of November 2011, 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: one (1) Family Science Night located at Clovis Unified School District's Oraze Elementary School.

Leader shall be responsible for providing such services for each school day (1) of the Title One Program is operated at the site from approximately 2 p.m. to 8 p.m. A school day of service shall consist of six (6) hours. The program shall consist of a maximum of one (1) day. The Title One Program operates according to the school site's calendar, which begins on August 22, 2011 and concludes June 08, 2012.

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 November 08, 2011, and shall terminate on June 08, 2012. 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 Seven Hundred Thirty Two Dollars and 50/100s (\$1,732.50) 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 One Thousand Seventy Five Dollars and 00/100s (\$1,075.00).
  - b. Payment to the CONTRACTOR of Five Hundred Dollars and 00/100s (\$500.00) 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 Seven Dollars and 50/100s (\$157.50) 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. The parties agree that such respective programs or policy coverage for Workers' Compensation shall contain a waiver of subrogation as to the other party and each of its officers, officials, agents, employees and authorized volunteers. 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  
Attention: Suzi Erickson  
Principal, Orazo Elementary  
Orazo Elementary  
3468 N. Armstrong Ave  
Fresno, CA 93727

**CONTRACTOR:**

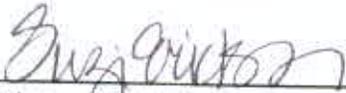
Fresno City Parks and Recreation Department  
Attention: Bruce A. Rudd  
Assistant City Manager  
1515 Divisadero St.  
Fresno, California 93721

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 so 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**

Clovis Unified School District



Suzi Erickson, Principal  
Oraze Elementary

REVIEWED BY:



Kim Thiesen, GIS  
Clovis Unified School District

**CONTRACTOR**

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



Bruce A. Rudd  
Assistant City Manager , Fresno PARCS

ATTEST:

REBECCA KLISCH  
Clerk, City of Fresno



Deputy

12/15/11

APPROVED TO AS FORM:  
Fresno City Attorney



Deputy *DARR*

Date: 12/9/11