ORIGINAL

CITY OF FRESNO
City Clerk's Office (Original)

AGREEMENT
Between
FORKNER ELEMENTARY PTA
And the
CITY OF FRESNO

2014-2015

GENERAL INFORMATION

PTA:

FUSD Department:	Forkner Elementary
Program:	Parent Teacher Association
Contact Person:	Ryan Duff

Contractor:

Contractor:	City of Fresno
Contractor Department/ Address:	PARCS Department 848 M Street Fresno, CA 93721
Contractor's Contact Person:	Manuel I. Hernandez (559) 621-6621
Contractor's Taxpayer Identification Number or SSN:	94-6000338

Program Provider:

District:	Fresno Unified School District
School Site/Address:	Forkner Elementary 7120 N. Valentine Fresno, CA 93711

This Independent Contractor Agreement ("Agreement") is made and entered into this 8th day of September 2014, by and between Forkner Elementary PTA in Fresno Unified School District ("PTA"), and the City of Fresno, a municipal corporation ("CONTRACTOR"). PTA and CONTRACTOR are sometimes referred to as Party and collectively as Parties.

1. CONTRACTOR Services. CONTRACTOR agrees to provide staff members to facilitate the science program curriculum. The curriculum includes (70) sessions of life science, earth science and physical science located at Fresno Unified School District's Forkner Elementary School. The parties anticipate that CONTRACTOR will provide these services 70 days at 8 hours per day.

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 (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 PTA 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 PTA 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 PTA 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 September 8, 2014, and shall terminate on June 11, 2015. There shall be no extension of the term of the agreement without a written agreement signed by both Parties.

4. Compensation. PTA shall pay CONTRACTOR a maximum of Twelve Thousand One Hundred Twenty Seven Dollars and 50/100s ($12,127.50) 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)] PTA agrees to pay Contractor within thirty (30) days of receipt of invoice.

   a. Maximum payment to CONTRACTOR for Leader services shall not exceed Eight Thousand Four Hundred Dollars and 00/100s ($8,400.00).

   b. Payment to the CONTRACTOR of Two Thousand Six Hundred Twenty Five Dollars and 00/100s ($2,625.00) 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 Thousand One Hundred Two Dollars and 50/100s ($1,102.50) 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 or 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 PTA 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. PTA may then proceed with the work in any manner PTA deems proper.

7. Indemnification. CONTRACTOR shall indemnify, hold harmless and defend PTA 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 PTA, 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 have arisen directly or indirectly from the negligent or intentional acts or omissions, or willful misconduct of CONTRACTOR or any of its officers, officials, employees, agents or volunteers in the performance of this Agreement, provided nothing herein shall constitute a waiver by CONTRACTOR of governmental immunities including California Government Code section 810 et. seq.

   PTA 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, PTA 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 have arisen directly or indirectly from the negligent or intentional acts or omissions, or willful misconduct of PTA or any of its officers, officials, employees, agents or volunteers in the performance of this Agreement, provided nothing herein shall constitute a waiver by PTA of governmental immunities including California Government Code section 810 et. seq.

   In the event of concurrent negligence on the part of CONTRACTOR or any of its officers, officials, employees, agents or volunteers, and PTA 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.

8. Insurance. It is understood and agreed that CONTRACTOR and PTA 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 volunteers. Evidence of Insurance, e.g., 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 PTA.

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 PTA or to any employment or fringe benefits from PTA. Payments to the CONTRACTOR pursuant to this Agreement will be reported to Federal and State taxing authorities as required. PTA will not withhold any money from compensation payable to CONTRACTOR. In particular, PTA 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 PTA.

13. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the CONTRACTOR and PTA 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:

PTA:
Fresno Unified School District
Forkner Elementary PTA
Attention: Ryan Duff
Principal
7120 N. Valentine
Fresno, CA 93711

CONTRACTOR:
City of Fresno
PARCS Department
Attention: Manuel A. Mollinedo,
Director
848 M Street 3rd Floor
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 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.

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

Parent Teacher Association
Fresno Unified School District

By: _____ 7/1/14
Stacy Baghdanov — Date
PTA President

By: _____ 7/1/14
Julie Wong — Date
PTA Vice President

Approved As To Form:

By: _____ 7/1/14
Ryan Duff — Date
Principal

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

By: _____
Manuel A. Mollinedo
Director

ATTEST:
YVONNE SPENCE, CMC
City Clerk

By: _____ 8/11/14
Deputy — Date

APPROVED AS TO FORM:
Douglas T. Sloan
Fresno City Attorney

By: _____ 8/5/14
Brandon M. Collet — Date
Deputy