

Board Office Use: Legislative File Info.	
File ID Number	18-1008
Introduction Date	5/23/18
Enactment Number	18-0863
Enactment Date	5/23/18 er



OAKLAND UNIFIED SCHOOL DISTRICT

Community Schools, Thriving Students

Memo

To Board of Education
From Kyla Johnson-Trammell, Superintendent

Board Meeting Date _____
(To be completed by Procurement)

Subject Professional Services Contract- The Achievement Network (contractor) - Roosevelt Middle School (site/department)

Action Requested Approval by the Board of Education of the Professional Services Contract between the District and The Achievement Network. Services to be primarily provided to Roosevelt Middle School for the period of April 15, 2018 through June 30, 2018.

Background
A one paragraph explanation of why the consultant's services are needed.
 The Achievement Network will advance the capacity of Roosevelt Middle School's team to leverage data in cycles of inquiry through a lens which addresses equity gaps; additional support in implementing routines around data discourse and instructional actions and in improving their fluency in using data to shape instruction; Roosevelt seeks to refine their data practices so that they are accessible for a wider range of skills and comfort by providing differentiated levels of support; Roosevelt is interested in moving to a deeper level of data use and analysis.

Discussion
One paragraph summary of the scope of work.
 Approval by Board of Education of a Professional Services Contract between the District and The Achievement Network, Ltd. W (ANET), Boston, MA, for the latter to begin by conducting a site-specific review process to fully understand Roosevelt Middle School's strengths and needs; using observations, school document analysis, and focus groups, ANET will build context in the school's beliefs and practices, connected to the following areas: prioritization, schedule, dedicated leadership, culture of continuous learning, and standards based instruction; work alongside the school team to develop an arc of activities and trainings that address the challenges present at the school site; support schools in setting foundations building a strong data culture while leveraging ANET's expertise and ability to assert thought-leadership throughout the process for the period of April 15, 2018 through June 30, 2018, in an amount not to exceed \$27,000.00.

Approval by the Board of Education of the Professional Services Contract between the District and The Achievement Network. Services to be primarily provided to Roosevelt Middle School for the period of April 15, 2018 through June 30, 2018.

Recommendation Funding resource name (please spell out): 3010/Title I in the amount of \$27,000.00

Fiscal Impact

Attachments

- Program Agreement



CONTRACT JUSTIFICATION FORM
This Form Shall Be Submitted to the Board Office
With *Every* Consent Agenda Contract.

Legislative File ID No. 18-1008

Department: Roosevelt Middle School

Vendor Name: The Achievement Network LTD

Contract Term: Start Date: 4/15/18 End Date: 6/30/18

Annual Cost: \$ 27,000.00

Approved by: Clifford Hong

Is Vendor a local Oakland business? Yes No

Why was this Vendor selected?

The Achievement Network, LTD, is experienced in providing these services.

Summarize the services this Vendor will be providing.

The Achievement Network will advance the capacity of Roosevelt Middle School's team to leverage data in cycles of inquiry through a lens which addresses equity gaps; additional support in implementing routines around data discourse and instructional actions and in improving their fluency in using data to shape instruction; Roosevelt seeks to refine their data practices so that they are accessible for a wider range of skills and comfort by providing differentiated levels of support; Roosevelt is interested in moving to a deeper level of data use and analysis.

Was this contract competitively bid? Yes No

If No, answer the following:

- 1) How did you determine the price is competitive?

2) Please check the competitive bid exception relied upon:

- Educational Materials**
- Special Services** contracts for financial, economic, accounting, legal or administrative services
- CUPCCAA exception** (Uniform Public Construction Cost Accounting Act)
- Professional Service Agreements** of less than \$87,800 (increases a small amount on January 1 of each year)
- Construction related Professional Services** such as Architects, DSA Inspectors, Environmental Consultants and Construction Managers (require a "fair, competitive selection process)
- Energy** conservation and alternative energy supply (e.g., solar, energy conservation, co-generation and alternate energy supply sources)
- Emergency** contracts [requires Board resolution declaring an emergency]
- Technology** contracts
 - electronic data-processing systems, supporting software and/or services (including copiers/printers) over the \$87,800 bid limit, must be competitively advertised, but any one of the three lowest responsible bidders may be selected
 - contracts for computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus, including E-Rate solicitations, may be procured through an RFP process instead of a competitive, lowest price bid process
 - Western States Contracting Alliance Contracts (WSCA)
 - California Multiple Award Schedule Contracts (CMAS) [contracts are often used for the purchase of information technology and software]
- "Piggyback" Contracts** with other governmental entities
- Perishable Food**
- Sole Source**
- Change Order for Material and Supplies** if the cost agreed upon in writing does not exceed ten percent of the original contract price
- Other, please provide specific exception**

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OAKLAND UNIFIED SCHOOL DISTRICT
Community Schools, Thriving Students

**OAKLAND UNIFIED SCHOOL DISTRICT-ACHIEVEMENT NETWORK
PROFESSIONAL SERVICES CONTRACT (2017-2018)**

This Agreement is entered into between The Achievement Network, Ltd. (CONTRACTOR) and Oakland Unified School District (OUSD). OUSD is authorized by Government Code Section 53060 to contract for the furnishing of special services and advice in financial, economic, accounting, engineering, legal, and administrative matters with persons specially trained, experienced, and competent to perform such services. CONTRACTOR warrants it is specially trained, experienced, and competent to provide such services. The parties agree as follows:

1. **Services:** CONTRACTOR shall provide the services ("Services" or "Work") as described in Exhibit "A," attached hereto and incorporated herein by reference.
2. **Terms:** This term of this Agreement is for the period ~~November 8, 2017~~ ^{April 1, 2018 (RM)} to June 30, 2018. CONTRACTOR shall commence work on the day immediately following approval by the Board of Education of this and any underlying, including subsequent, OUSD-Achievement Network School Program Agreement. The work shall be completed no later than the end date as set forth in each underlying Board-approved OUSD-Achievement Network School Program Agreement.
3. **Compensation:** OUSD agrees to pay CONTRACTOR for services satisfactorily rendered pursuant to each underlying School Program Agreement that is submitted to and approved by OUSD's Board of Education. The compensation under this Contract shall be governed by, and shall not exceed, the amount as set forth in each underlying School Program Agreement that is submitted to the Board of Education for approval under this Professional Services Contract and the Addendum No. 1 to this OUSD-Achievement Network Professional Services Contract (2017-2018) during the OUSD 2017-2018 fiscal year. This sum shall be for full performance of this Agreement and includes all fees, costs, and expenses incurred by Contractor including, but not limited to, labor, materials, taxes, profit, overhead, travel, insurance, subcontractor costs, and other costs.

If CONTRACTOR will be compensated hourly for services provided under this Contract, CONTRACTOR shall describe in Exhibit "A," attached hereto, the specific scope of services to be delivered on an hourly basis to OUSD.

OUSD shall not be liable to CONTRACTOR for any costs or expenses paid or incurred by CONTRACTOR in performing services for OUSD, except as follows:

Payment for Work shall be made for all undisputed amounts in monthly installment payments within forty-five (45) days after CONTRACTOR submits an invoice to OUSD for Work actually completed and after OUSD's written approval of the Work, or the portion of the Work for which payment is to be made.

The granting of any payment by OUSD, or the receipt thereof by CONTRACTOR, shall in no way lessen the liability of CONTRACTOR to correct unsatisfactory work, although the unsatisfactory character of that work may not have been apparent or detected at the time a payment was made. Work, which does not conform to the requirements of this Agreement, may be rejected by the District and in that case must be replaced by CONTRACTOR without delay.

4. **Equipment and Materials:** CONTRACTOR shall provide all equipment, materials, and supplies necessary for the performance of this Agreement *except*: _____, which shall not exceed a total cost of \$627,000.
5. **Use Rights:** ANet hereby grants to OUSD during the term of the Agreement (the "Term") the following rights:
 - i. **Platform:** A non-exclusive, non-transferable right to access and use the MyAchievementnetwork.org solely for Member's internal education-related purposes at Member's facility in connection with the provision of services by ANet.
 - ii. **Resources:** A non-exclusive, non-transferable license to use and reproduce in hard copy form the Resources (defined below) provided to Member during the provision of services to Member, solely for Member's internal, informational purposes related to Member's educational mission. "Resources" means protocols and templates to facilitate planning, including the ANet Schedule of Assessed Standards, standards and objectives guides aligned to state standards and common core standards, and lesson plans and examples to facilitate re-teaching.
 - iii. **Other Downloadable Content:** with respect to such additional content and materials that are owned by or licensed to ANet and made available for download by Member through proper use of the Platform (collectively, "Additional Content", and together with Resources, "ANet Content"), a non-exclusive license, non-transferable to download a copy of any portion of such Additional Content, and use such Additional Content solely for Member's internal purposes in connection with the provision of the Services.
 - iv. **Permitted Users:** "Permitted Users" shall mean the employees, board members and volunteers of Member with a professional need to know or need to access the Platform and ANet Content in connection with the provision of the

Services. ANet will either issue to Member or authorize a Member administrator to create and issue to each Permitted User, a user identification number and/or password for access to and use of the Platform. Member and its Permitted Users are responsible for maintaining the confidentiality of all user identification numbers and/or passwords and for ensuring that each user identification number and/or password is used only by the Permitted User to which it was issued. Member shall be solely responsible for the Permitted Users' compliance with this Agreement, and for any and all activities that occur under Member's account. Member will restrict Permitted Users from sharing passwords. Member will immediately notify ANet of any unauthorized use of Member's account or any user identification number and/or password, or any other breach of security known to Member.

- v. **Restrictions:** The rights and licenses set forth in this Section 1 are granted subject to the following restrictions:
- (a) The Platform and ANet Content shall be used or accessed only by Permitted Users; and
 - (b) Member shall not, directly or indirectly, and Member shall not encourage or assist, or knowingly permit any User to: (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the object code or source code of the Platform; (ii) modify, translate, or create derivative works based on any element of the Services or the Platform; (iii) license, sublicense, sell, resell, rent, lease, distribute, assign, or transfer its rights to use the Platform or any elements of the ANet services, or otherwise commercially exploit or make available to any third party any portion of the Platform or ANet services; (iv) use the Platform for timesharing purposes, to process data on behalf of third parties, or otherwise for the benefit of any person or entity other than for the benefit of Member and Permitted Users at Member's facility; (v) remove any proprietary notices from any materials furnished or made available to Member; (vi) publish any evaluation of the Platform without ANet's prior written consent; (vii) use the Platform for any purpose other than its intended purpose; (viii) use or access the Platform from or for the benefit of any facility or location other than the Member's primary facility; (ix) circumvent or otherwise interfere with any user authentication or security of the Platform, or disrupt the integrity or performance of the Platform; (x) attempt to gain unauthorized access to the Platform or its related systems or networks or any ANet Content; or (xi) use the Platform to store or transmit infringing, libelous, or otherwise unlawful or tortuous content or material, or to store or transmit content or material in violation of any rights of any third party.
6. **Ownership; Reservation of Rights:** Subject only to the rights expressly granted to Member under this Agreement, as between ANet and Member, all rights, title and interest in and to the ANet Content and the Platform, and any other ANet materials furnished or made available hereunder, and all modifications and enhancements thereof, including all copyright rights, patent rights and other intellectual property rights in each of the foregoing, will remain with and belong exclusively to ANet or ANet's licensors and providers, as applicable.
7. **Printing:** Member is responsible for all printing and printing costs associated with duplicating the Assessment Materials prior to the administration of each assessment.
8. **Confidentiality/Data Sharing Agreement:**
- i. **Confidential Information:** ANet understands that the information provided by or exchanged with OUSD will contain identifiable student data. OUSD and ANet therefore agree as follows. ANet and all of its agents, personnel and employees shall maintain the confidentiality of all OUSD information received. ANet understands that student records are confidential and agrees to comply with all state and federal laws, including but not limited to the Family Educational Rights and Privacy Act (FERPA); Article 1, Section 1 of the California Constitution; and California Education Code Section 49062, et seq., concerning the maintenance and disclosure of pupil records and data.
 - ii. ANet shall comply with all of the foregoing, as follows:
 - (a) **Definition:** "Confidential Information" means any and all information or data, regardless of whether it is in tangible form, disclosed orally or in writing, by either Party (the "Disclosing Party") to the other Party (the "Receiving Party"), (a) that the Disclosing Party has identified as confidential or proprietary (either orally or in writing), and (b) such information which is reasonably understood by a reasonable person to be confidential or proprietary information of the Disclosing Party; provided, however, that in any event ANet's Confidential Information shall include (i) all information relating to the Program, including without limitation the Resources. The term "Confidential Information" shall also mean OUSD's trade secrets, confidential knowledge, know-how, Student Personal Identity Data, student records, personnel records, or other proprietary information or materials of OUSD or in OUSD's possession and all information that a reasonable person would consider sensitive or confidential in nature.
 - (b) ANet agrees to take strict precautions to safeguard OUSD student Confidential Information and to limit access to such Confidential Information to ANet's authorized personnel or agents who require such access and have agreed to use similar precautions to safeguard OUSD student Confidential Information.
 - (c) ANet agrees to promptly return all such Confidential Information and related materials to OUSD if required by OUSD upon termination of the Agreement or at such time as may be requested by OUSD provided that ANet shall be permitted to retain and use one copy of De-Identified Aggregate Data solely to (i) conduct detailed

internal analysis that enables ANet to analyze performance outcomes and determine how effective its services are; and (ii) provide robust aggregate reports to all schools within the same network as OUSD, as well as schools outside the OUSD network that receive services from ANet.

- (d) ANet shall not, other than for the purposes permitted under the Agreement (i) use any OUSD Confidential Information; (ii) disclose OUSD Confidential Information to any third parties; (iii) reverse engineer, disassemble, or decompile any OUSD Confidential Information, or make any derivatives or translations of the OUSD Confidential Information, without OUSD's prior written consent.
- (e) The foregoing requirements to maintain confidentiality of OUSD's Confidential Information shall extend beyond the termination of the Agreement.
- (f) Exclusions: Information and data will not be deemed "Confidential Information" if such information: (i) is known to the Receiving Party prior to receipt from the Disclosing Party directly or indirectly from a source other than one having an obligation of confidentiality to the Disclosing Party; (ii) becomes known (independently of disclosure by the Disclosing Party) to the Receiving Party directly or indirectly from a source other than one having an obligation of confidentiality to the Disclosing Party; (iii) becomes publicly known or otherwise ceases to be secret or confidential, except through a breach of this Agreement by the Receiving Party; or (iv) is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information. However, this subsection 4(f) does not apply to OUSD identifiable student data.
- (g) Obligations: The Parties shall use reasonable measures to protect the secrecy of, avoid disclosure and unauthorized use or reproduction of the other Party's Confidential Information. Without restricting or otherwise limiting the exercise by a Party of the rights and licenses expressly granted to it under this Agreement, Confidential Information may be disclosed to only (1) such employees and consultants of the Parties as may have a need to know such information in connection with the exercise of its rights and performance of its obligations under this Agreement, and (2) legal or financial advisors of the Parties, provided that such employees and consultants are bound by written agreements, and advisors are bound by ethical duties, in each case respecting such Confidential Information in accordance with the terms of this Section. However, subpart (2) of this subsection 4(g) does not apply to OUSD identifiable student data.

9. **Limitation of Liability:** UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, WHETHER IN TORT, CONTRACT, OR OTHERWISE, SHALL ANET BE LIABLE TO MEMBER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY CHARACTER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL, LOST PROFITS, LOST SALES OR BUSINESS, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, LOST DATA, OR FOR ANY AND ALL OTHER DAMAGES OR LOSSES, EVEN IF ANET HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. CONTRACTOR SHALL NOT BE LIABLE FOR ANY DIRECT DAMAGES, COSTS, OR LIABILITIES TO OUSD IN EXCESS OF TWICE THE FEES PAID OR PROPERLY PAYABLE BY MEMBER UNDER THE AGREEMENT OR AN APPLICABLE SCHOOL PROGRAM AGREEMENT. THIS ADDENDUM SECTION 5 DOES NOT ALTER IN ANY WAY ANY PROVISION OF THE UNDERLYING AGREEMENT, INCLUDING BUT NOT LIMITED TO SECTIONS 14 AND 21 THEREIN.

10. **Publicity:**

- i. ANet shall be entitled to (a) identify Member as a customer of ANet, (b) use Member's name in any advertising, promotional or sales literature, or in any other form of publicity, and (c) publicize, by news release or other public announcements, the existence of an arrangement between the Parties.
- ii. Member hereby grants permission to take photographic, audio and video recordings of Member employees, contractors and consultants during sessions with Member and Member and Network events, subject to ANet requiring the consent of such employees, contractors and consultants. ANet will use such photographic, audio and video recordings only for the purposes of education, advertising, promotion, marketing, and/or public relations. Member waives any right to royalties or other compensation arising or related to the use of such images and recordings.

11. **CONTRACTOR Qualifications / Performance of Services:**

CONTRACTOR Qualifications: CONTRACTOR warrants it is specially trained, experienced, competent and fully licensed to provide the Services required by this Agreement in conformity with the laws and regulations of the State of California, the United States of America, and all local laws, ordinances and/or regulations, as they may apply.

Standard of Care: CONTRACTOR warrants that CONTRACTOR has the qualifications and ability to perform the Services in a professional manner, without the advice, control, or supervision of OUSD. CONTRACTOR's services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California school districts.

12. **Invoicing:** Invoices furnished by CONTRACTOR under this Agreement must be in a form acceptable to OUSD. All amounts paid by OUSD shall be subject to audit by OUSD. Invoices shall include, but not be limited to: Contractor name,

Contractor address, invoice date, invoice number, purchase order number, name of school or department service was provided to, period of service, name of the person performing the service, date service was rendered, brief description of services provided, number of hours of service, hourly rate, total payment requested.

- 13. Notices: All notices and invoices provided for under this Agreement shall be in writing and either personally delivered during normal business hours or sent by U.S. Mail (certified, return receipt requested) with postage prepaid to the other party at the address set forth below:

OUSD Representative:

Name: Latashi Russell
Site /Dept.: 923 -- Network 4 - SIG
Address: 1000 Broadway, Suite 600
Oakland, CA 94607
Phone: (510) 879-2278
Email: latashi.russell@ousd.org

CONTRACTOR:

Name: Natasha Telesford
Title: SFO
Address: One Beacon Street
Boston, MA 02108
Phone: (857) 400-8887
Email: montmeny@achievementnetwork.org

Notice shall be effective when received if personally served or, if mailed, three days after mailing. Either party must give written notice of a change of address.

- 14. Status of Contractor: This is not an employment contract. CONTRACTOR, in the performance of this Agreement, shall be and act as an independent contractor. CONTRACTOR understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of OUSD, and are not entitled to benefits of any kind or nature normally provided employees of OUSD and/or to which OUSD's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. CONTRACTOR shall assume full responsibility for payment of all Federal, State, and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to CONTRACTOR's employees. In the performance of the work herein contemplated, CONTRACTOR is an independent contractor or business entity, with the sole authority for controlling and directing the performance of the details of the work, OUSD being interested only in the results obtained.

15. Insurance:

Unless specifically waived by OUSD, the following insurance is required:

- i. If CONTRACTOR employs any person to perform work in connection with this Agreement, CONTRACTOR shall procure and maintain at all times during the performance of such work, Workers' Compensation Insurance in conformance with the laws of the State of California and Federal laws when applicable. Employers' Liability Insurance shall not be less than One Million Dollars (\$1,000,000) per accident or disease.

Check one of the boxes below:

- CONTRACTOR is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and will comply with such provisions before commencing the performance of the Work of this Contract.
- CONTRACTOR does not employ anyone in the manner subject to the workers' compensation laws of California.

- ii. CONTRACTOR shall maintain Commercial General Liability insurance, including automobile coverage, with limits of at least One Million Dollars (\$1,000,000) per occurrence for corporal punishment, sexual misconduct, harassment, bodily injury and property damage. The coverage shall be primary as to OUSD and shall name OUSD as an additional insured. Evidence of insurance must be attached. Endorsement of OUSD as an additional insured shall not affect OUSD's rights to any claim, demand, suit or judgment made, brought or recovered against CONTRACTOR. The policy shall protect CONTRACTOR and OUSD in the same manner as though each were separately issued. Nothing in said policy shall operate to increase the Insurer's liability as set forth in the policy beyond the amount or amounts shown or to which the Insurer would have been liable if only one interest were named as an insured.
- iii. If CONTRACTOR is offering OUSD professional advice under this Contract, CONTRACTOR shall maintain Errors and Omissions insurance or Professional Liability insurance with coverage limits of One Million Dollars (\$1,000,000) per claim.

OR

- iv. CONTRACTOR is not required to maintain any insurance under this agreement. (Completed and approved Waiver of Insurance Form is required from OUSD's Risk Management.) Waiver of insurance does not release CONTRACTOR from responsibility for any claim or demand.

- 16. Licenses and Permits: CONTRACTOR shall obtain and keep in force all licenses, permits, and certificates necessary for the performance of this Agreement.

17. **Assignment:** None of the obligations and rights of the Parties under this Agreement may be assigned without the express prior written consent of all Parties to the Agreement.
18. **Non-Discrimination:** It is the policy of OUSD that in connection with all work performed under Contracts there be no discrimination because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age; therefore, CONTRACTOR agrees to comply with applicable Federal and California laws including, but not limited to, the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735 and OUSD policy. In addition, CONTRACTOR agrees to require like compliance by all its subcontractor(s). CONTRACTOR shall not engage in unlawful discrimination in employment on the basis of actual or perceived; race, color, national origin, ancestry, religion, age, marital status, pregnancy, physical or mental disability, medical condition, veteran status, gender, sex, sexual orientation, or other legally protected class.
19. **Drug-Free / Smoke Free Policy:** No drugs, alcohol, and/or smoking are allowed at any time in any buildings and/or grounds on OUSD property. No students, staff, visitors, CONTRACTORS, or subcontractors are to use controlled substances, alcohol or tobacco on these sites.
20. **Indemnification:** CONTRACTOR agrees to hold harmless, indemnify, and defend OUSD and its officers, agents, and employees from any and all claims or losses accruing or resulting from injury, damage, or death of any person, firm, or corporation in connection with the performance of this Agreement. CONTRACTOR also agrees to hold harmless, indemnify, and defend OUSD and its elective board, officers, agents, and employees from any and all claims or losses incurred by any supplier, contractor, or subcontractor furnishing work, services, or materials to CONTRACTOR in connection with the performance of this Agreement. This provision survives termination of this Agreement.
21. **Copyright/Trademark/Patent/Ownership:** CONTRACTOR understands and agrees that all matters produced under this Agreement shall become the property of OUSD and cannot be used without OUSD's express written permission. OUSD shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark, and/or patent of said matter in the name of OUSD. CONTRACTOR consents to use of CONTRACTOR's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium. These matters include, without limitation, drawings, plans, specifications, studies, reports, memoranda, computation sheets, the contents of computer diskettes, artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, source codes or any other original works of authorship, or other documents prepared by CONTRACTOR or its Sub-CONTRACTORS in connection with the Services performed under this Agreement. All works shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in those works are the property of OUSD.
22. **Waiver:** No delay or omission by either party in exercising any right under this Agreement shall operate as a waiver of that or any other right or prevent a similar subsequent act from constituting a violation of the Agreement.
23. **Termination:** OUSD may at any time terminate this Agreement upon 30 days prior written notice to CONTRACTOR. OUSD shall compensate CONTRACTOR for services satisfactorily provided through the date of termination. In addition, OUSD may terminate this Agreement for cause should CONTRACTOR fail to perform any part of this Agreement. ~~In the event of termination for cause, OUSD may secure the required services from another contractor. If the cost to OUSD exceeds the cost of providing the services pursuant to this Agreement, CONTRACTOR shall pay the additional cost.~~
24. **Conduct of CONTRACTOR:** By signing this Agreement, CONTRACTOR certifies compliance with the following requirements and will provide OUSD with evidence of staff qualifications, which include:
 - i. **Tuberculosis Screening:** CONTRACTOR is required to screen employees who will be working at OUSD sites for more than six hours. CONTRACTOR affirms that each employee has current proof of negative TB testing on file and TB results are monitored.
 - ii. ~~**Fingerprinting of Employees and Agents.** The fingerprinting and criminal background investigation requirements of Education Code section 45125.1 apply to CONTRACTOR's services under this Agreement and CONTRACTOR certifies its compliance with these provisions as follows: "CONTRACTOR certifies that CONTRACTOR has complied with the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 with respect to all CONTRACTOR's employees, subcontractors, agents, and subcontractors' employees or agents ("Employees") regardless of whether those Employees are paid or unpaid, concurrently employed by OUSD, or acting as independent contractors of CONTRACTOR, who may have contact with OUSD pupils in the course of providing services pursuant to the Agreement, and the California Department of Justice has determined that none of these Employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. Contractor further certifies that it has received and reviewed fingerprint results for each of its Employees and Contractor has requested and reviews subsequent arrest records for all Employees who may come into contact with OUSD pupils in providing services to the District under this Agreement."~~

In the event that OUSD, in its sole discretion, at any time during the term of this contract, desires the removal of any CONTRACTOR related persons, employee, representative or agent from an OUSD school site and, or property,

CONTRACTOR shall immediately, upon receiving notice from OUSD of such desire, cause the removal of such person or persons.

25. **No Rights in Third Parties:** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
26. **OUSD's Evaluation of CONTRACTOR and CONTRACTOR's Employees and/or Subcontractors.** OUSD may evaluate CONTRACTOR's work in any way that OUSD is entitled to do so pursuant to applicable law. The OUSD's evaluation may include, without limitation:
 1. Requesting that OUSD employee(s) evaluate the CONTRACTOR and the CONTRACTOR's employees and subcontractors and each of their performance.
 2. Announced and unannounced observance of CONTRACTOR, CONTRACTOR's employee(s), and/or subcontractor(s).
27. **Limitation of OUSD Liability:** Other than as provided in this Agreement, OUSD's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall OUSD be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of, or in connection with, this Agreement for the services performed in connection with this Agreement.
28. **Confidentiality:** CONTRACTOR and all CONTRACTOR's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. CONTRACTOR understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement. Contractors will be permitted access to student data only where permissible under state and federal law and only after executing OUSD's Confidentiality Agreement Regarding Student Data.
29. **Conflict of Interest:** CONTRACTOR shall abide by and be subject to all applicable, regulations, statutes or other laws regarding conflict of interest. CONTRACTOR shall not hire any officer or employee of OUSD to perform any service by this Agreement without the prior approval of OUSD Human Resources.

CONTRACTOR affirms to the best of his/her/its knowledge, there exists no actual or potential conflict of interest between CONTRACTOR's family, business or financial interest and the services provided under this Agreement, and in the event of change in either private interest or services under this Agreement, any question regarding possible conflict of interest which may arise as a result of such change will be brought to OUSD's attention in writing.

Through its execution of this Agreement, CONTRACTOR acknowledges that it is familiar with the provisions of section 1090 *et seq.* and section 87100 *et seq.* of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provisions. In the event CONTRACTOR receives any information subsequent to execution of this Agreement which might constitute a violation of said provisions, CONTRACTOR agrees it shall notify OUSD in writing.

30. **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion:** CONTRACTOR certifies to the best of his/her/its knowledge and belief, that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency according to Federal Acquisition Regulation Subpart 9.4, and by signing this contract, certifies that this vendor does not appear on the Excluded Parties List (<https://www.sam.gov/>).
31. **Severability:** In the event that any provision of this Agreement is found to be unenforceable, such provision will be reformed only to the extent necessary to make it enforceable, and such provision as so reformed (and all other provisions) will continue in effect, to the extent consistent with the intent of the Parties as of the Effective Date.
32. **Force Majeure:** ANet shall not be deemed in breach hereunder for any cessation, interruption or delay in the performance of its obligations due to causes beyond its reasonable control, including, without limitation, earthquake, flood, or other natural disaster, act of God, labor controversy, civil disturbance, terrorism, war (whether or not officially declared) or the inability to obtain sufficient supplies, transportation, or other essential commodity or service required in the conduct of its business, or any change in or the adoption of any law, regulation, judgment or decree.
33. **Litigation:** This Agreement shall be performed in Oakland, California and is governed by the laws of the State of California, but without resort to California's principles and laws regarding conflict of laws. The Alameda County Superior Court shall have jurisdiction over any litigation initiated to enforce or interpret this Agreement.
34. **Incorporation of Recitals and Exhibits:** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference. CONTRACTOR agrees that to the extent any recital or document incorporated herein conflicts with any term or provision of this Professional Services Contract, the terms and provisions of this Professional Services Contract shall govern.

- 35. **Integration/Entire Agreement of Parties:** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
- 36. **Counterparts:** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.
- 37. **Signature Authority:** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been given the proper authority and empowered to enter into this Agreement.
- 38. **Contract Contingent on Governing Board Approval:** OUSD shall not be bound by the terms of this Agreement until it has been formally approved by OUSD's Governing Board, and no payment shall be owed or made to CONTRACTOR absent that formal approval. This Agreement shall be deemed approved when it has been signed by the Board of Education, and/or the Superintendent as its designee.
- 39. **Contract Publicly Posted:** This contract, its contents, and all incorporated documents are public documents and will be made available by OUSD to the public online via the Internet.

OAKLAND UNIFIED SCHOOL DISTRICT

Aimee Ong

5/24/18

- President, Board of Education
- Superintendent
- Chief or Deputy Chief

Date

[Signature]

5/24/18

Secretary, Board of Education

Date

ACHIEVEMENT NETWORK, LTD.

[Signature]

Contractor Signature

5/11/18

Date

Nalasha Telesford, CFO
Print Name, Title

Approved for Form and Content

[Signature]



Program Description for ANet Services (FY2017-2018)
(EXCLUDING ASSESSMENTS)

Member: Roosevelt Middle School
Address: 1926 E 19th Street, Oakland, CA 94606
Phone: (510) 535-2877

Invoicing Contact: Clifford Hong	Invoicing Email: clifford.hong@ousd.org
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Effective Date: The earlier of (a) the date this Agreement is last signed below, and (b) the provision of services by ANet to Member hereunder.	
Program Dates: April 1, 2018-June 30, 2018	
Fees and Payment Schedule:	
Program Fee:	\$ <u>27,000.00</u>
Total Fees:	\$ <u>27,000.00</u>
Total Payment:	\$ <u>27,000.00</u>
Payment Information:	
Fees due by May 31, 2018:	\$ <u>27,000.00</u>

Program Description: ANet will provide:

1. ONLINE PLATFORM

Access for every teacher and administrator to online platform MyAchievementnetwork.org, containing

a. RESOURCES

- i. Planning – Resources, protocols and templates to facilitate planning, including the ANet Schedule of Assessed Standards, Standards and Objectives Guides aligned to State Standards and Common Core Standards, and example lesson or instructional plans
- ii. Professional Learning materials - sessions, videos, and virtual learning modules that provide guidance on planning from texts and standards and teaching and learning cycle practices
- iii. Platform materials - screencasts and guides to using features found on myachievementnetwork.org

2. TRAINING AND COACHING

- a. Member specific coaching/training sessions (as agreed to between ANet’s coach and Member)
- b. The number of coaching interactions provided is based upon Member’s purchased service model
- c. Coaching interaction topics are focused by the partner’s instructional priorities and practice level and vary depending on partner needs
- d. The focus of coaching interactions may include but are not limited to any of the following:
 - i. Beginning of Year meetings (late spring/early summer or late summer: set focus and priorities for the year; map out overall approach for coaching interactions
 - ii. Partnership Kick-Off Meeting: orient teachers and leaders around partnership, instructional purpose of assessments (if purchased by Member), and tools
 - iii. Classroom observations with school leadership
 - iv. Planning Support with leaders/Instructional Leadership Team (based on need)
 - v. Data Meeting Support with leaders/ILT (based on need)
 - vi. Observations of adapted instruction with school leadership
 - vii. Mid-Year and End of Year Meetings to monitor and review progress

3. NETWORK EVENTS

- a. Each ANet Network may offer additional optional specific professional learning events throughout the school year for Member and other Partner schools to access. The exact offering number and type will vary by network.
- b. Events may include but are not limited to the following:
 - i. Professional learning series: A professional learning series is an opportunity to bring leaders together to learn from each other and from ANet facilitators on a topic.
 - ii. Network meeting: An opportunity to bring schools together across the network to learn from each other and from ANet facilitators (typically offered fall/winter and/or spring). These events often provide opportunities for sharing best practices across schools.
 - iii. Learning walk: An opportunity to bring participants together in schools to learn from each other through observation and debrief.
 - iv. Artifact review: An opportunity to bring leaders together to look at teacher plans and/or student work from classrooms where practice is shifting as a result of the content shared through professional learning.

4. MEMBER RESPONSIBILITIES

- a. Member will work with its information technology team to ensure that emails from ‘achievementnetwork.org’ are not blocked or filtered as spam.
- b. Member will provide to ANet within six (6) weeks of the beginning of the applicable school year teacher information for all ANet-involved teachers, including (1) name, (2) grade and subject taught, and (3) email address, updated as necessary to reflect changes in the staffing structure.

- c. Member will provide to ANet by the end of the applicable calendar year school-level targets for state assessments.

Member Data:

Member will provide the following information:

1. For the year prior to the Program Start Date, and all years during the Program:

a. To be provided when available (optional):

- i. State assessment outcomes (1) by student, including student demographic information, scaled scores, and proficiency levels, and (2) by grade, including number of students at each proficiency band and total number of students tested.
- ii. Student outcomes when available, including (1) mobility rate, (2) retention rate (students “held back”), and (3) graduation or progression rate.

b. To be provided by the end of the applicable calendar year, or when available (optional):

- i. School-level demographics, including (1) total enrollment, (2) percentage of students in each race/ethnic category, (3) percentage ELL/FEP/LEP/NEP, (4) percentage special education/students with disabilities, (5) percentage FRL, and (6) Title I status.

2. For all years during the Program:

a. To be provided within six (6) weeks of the beginning of the applicable school year:

- i. Required Student information, including (1) first name, (2) last name, (3) birthdate or SASID, (4) grade. This information should be updated regularly within the online platform to reflect changes in the student body.
- ii. Required Enrollment information, including (1) class name, (2) subject, (3) teacher first name, (4) teacher last name, (5) teacher email for access to myANet
- iii. Optional Student Information, including (1) race/ethnicity, (2) FRL, ELL/FEP/LEP/NEP, special education status



MEMORANDUM OF UNDERSTANDING ROUTING FORM 2017-2018

Basic Directions

Services cannot be provided until the MOU is fully approved and a Purchase Order has been issued.

1. Contractor and OUSD Administrator reach agreement about scope of work and compensation.
2. Contractor and OUSD Administrator agreed upon terms are reflected in the Memorandum of Understanding.
3. OUSD Administrator verifies contractor does not appear on the Excluded Parties List.
4. OUSD contract originator creates the requisition on IFAS.
5. Within 2 weeks of creating the requisition, the OUSD Administrator submits completed MOU packet to Legal for approval.

Agency Information

Agency Name	Achievement Network			Agency's Contact Person	Katie Dunn
Street Address	One Beacon Street			Title	Director, Growth and Partnerships
City	Boston			Telephone	(617) 505-1098
State	MA	Zip Code	02108	Email	kdunn@achievementnetwork.org
OUSD Vendor Number	I007304				
Attachments	<input type="checkbox"/> Proof of general liability and workers' compensation insurance <input type="checkbox"/> Statement of qualifications <input type="checkbox"/> Program Planning Tool and Budget <input type="checkbox"/> Printout showing this vendor does not appear on the Excluded Parties List. (www.sam.gov/portal/public/Sam/)				

Compensation and Terms – Must be within OUSD Billing Guidelines

Anticipated Start Date	May 1, 2018	Date work will end	August 17, 2018	Total Contract Amount	27000
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Budget Information

Resource #	Resource Name	Org Key #	Object Code	Amount	Req. #
3010	Title I	2124850101	5825	\$ 27000	R0184074
			5825	\$ 0.00	
			5825	\$ 0.00	
			5825	\$ 0.00	

OUSD Contract Originator Information

Name of OUSD Contact	Clifford Hong	Email	clifford.hong @ousd.org		
Telephone	510-224-3668	Fax	510-535-2883		
Site/Dept. Name	Roosevelt Middle School	Enrollment Grades	6th	through	8th

Approval and Routing (in order of approval steps)

Services cannot be provided before the MOU is fully approved and a Purchase Order is issued. Signing this document affirms that to your knowledge services were not provided before a PO was issued.

OUSD Administrator verifies that this vendor does not appear on the Excluded Parties List (<https://www.sam.gov>)

Please sign under the appropriate column.	Approved	Denied – Reason	Date
1. Site Administrator			4/30/18
2. Resource Manager			
3. Network Superintendent/Deputy Chief/Exec Dir.			
4. Cabinet (DSASEL, SBO, CFO)			4/30/18
5. Board of Education or Superintendent			
Procurement	Date Received		

SAM Search Results
List of records matching your search for :

Search Term : the* achievement* network*
Record Status: Active

ENTITY Achievement Network, Ltd.,The	Status:Active
DUNS: 832783398 +4:	CAGE Code: 65M64 DoDAAC:
Expiration Date: Mar 14, 2019	Has Active Exclusion?: No Debt Subject to Offset?: No
Address: 1 BEACON ST STE 2200	State/Province: MASSACHUSETTS
City: BOSTON	Country: UNITED STATES
ZIP Code: 02108-3106	