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File ID Number	22-2270
Introduction Date	10/6/2022
Enactment Number	22-1731
Enactment Date	10/06/2022 os



OAKLAND UNIFIED SCHOOL DISTRICT
Community Schools, Thriving Students

Memo

To	Board of Education
From	Sondra Aguilera, Acting Superintendent Jennifer Blake, Executive Director, Special Education and Health Services Andrea Bustamante, Executive Director, Community Schools
Meeting Date	10/6/2022
Subject	Approve Contract with Crisis Prevention Institute (CPI) and Resolution No. 2223-0007 Authorizing Use of Sole Source Exception to Public Bidding
Action	Approve Contract with Crisis Prevention Institute (CPI) and Resolution No. 2223-0007 Authorizing Use of Sole Source Exception to Public Bidding
Background & Discussion	<p>In the wake of the COVID-19 pandemic and a number of crises that have impacted our community, many OUSD students are exhibiting higher levels of behavioral need and dysregulation. These behaviors can create unsafe conditions if not properly addressed. Additionally, when a behavioral emergency arises that may require a physical response from staff, it is critical that staff are well-trained in appropriate protocols to avoid injury and minimize risk to OUSD.</p> <p>Crisis Prevention Intervention provides a proprietary method of deescalating students who are engaging in behaviors and responding to behavioral emergencies with safe, effective techniques. Participants will learn to focus on the care, welfare, safety and security of students, how to assess whether a situation could become a behavioral emergency, and how to support students in the least restrictive manner possible</p>
Fiscal Impact	Risk Management RES 9030

Attachment	<ul style="list-style-type: none">• Resolution No. 2223-0007 – Authorizing Use of Sole Source Exception for Crisis Prevention Institute (CPI)• Services Contract with Crisis Prevention Institute (CPI)• Sole source letter• Quote CPI
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**RESOLUTION OF THE
BOARD OF EDUCATION
OAKLAND UNIFIED SCHOOL DISTRICT**

RESOLUTION NO. 2223-0007

**AUTHORIZING USE OF SOLE SOURCE EXCEPTION TO PUBLIC BIDDING FOR
CONTRACT WITH CRISIS PREVENTION INSTITUTE (CPI)**

WHEREAS, the Oakland Unified School District (“District”) has a need to contract with Crisis Prevention Institute (CPI) to provide live and asynchronous training in CPI’s proprietary Nonviolent Crisis Intervention protocols and verbal de-escalation practices to Special Education and site-based general personnel;

WHEREAS, the contemplated contract is in an amount of \$234,000.00;

WHEREAS, under Public Contracts Code section 20111, a contract in this amount would ordinarily require competitive bidding;

WHEREAS, one exception to this competitive bidding requirement is the “sole source” exception, which applies where there is only one supplier of a needed good or service (Los Angeles Gas & Electric Corporation v. Los Angeles, 188 Cal. 307 (1920); Hodgeman v. City of San Diego, 53 Cal.App.2d 610 (1942); County of Riverside v. Whitlock, 22 Cal.App.3d 863 (1972));

WHEREAS, Crisis Prevention Institute’s (CPI) goods/services have several unique features, including a focus on a proprietary method of Verbal Intervention (VI) • that enables staff to diffuse behavioral situations in a non-restrictive manner before a crisis ensues, and Nonviolent Crisis Intervention®, which trains staff to use physical response techniques safely and accurately in a behavioral emergency;

AND WHEREAS, Crisis Prevention Institute (CPI) uses the proprietary systems that include dozens of registered, copyrighted, training sessions specific to crisis intervention, verbal deescalation and advanced physical care in a behavioral emergency;

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The District waives competitive bidding to allow the District to contract directly with Crisis Prevention Institute (CPI) for to provide live and asynchronous training in CPI’s proprietary Nonviolent Crisis Intervention protocols and verbal de-escalation practices to Special Education and site-based general personnel because Crisis Prevention Institute (CPI) is the sole source for this good/service.

2. Approves the Services Agreement for Crisis Prevention Institute (CPI) to provide live and asynchronous training in CPI's proprietary Nonviolent Crisis Intervention protocols and verbal de-escalation practices to Special Education and site-based general personnel.

PASSED AND ADOPTED on 10/6/2022, by the Governing Board of the Oakland Unified School District by the following vote:

PREFERENTIAL AYE: None
 PREFERENTIAL NOE: None
 PREFERENTIAL ABSTENTION: None
 PREFERENTIAL RECUSE: None
 AYES: Mike Hutchinson, Kyra Mungia, Clifford Thompson, Aimee Eng, Vice President Benjamin "Sam" Davis, President Gary Yee
 NOES: VanCedric Williams
 ABSTAINED: None
 RECUSED: None
 ABSENT: Student Director Samantha Pal, Student Director Linh Le

Resolution reviewed by OUSD Procurement Department: Signature: _____ Date: _____	Resolution approved as to form by OUSD Legal Department: Signature: _____ Date: _____
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CERTIFICATION

We hereby certify that the foregoing is a full, true and correct copy of a Resolution passed at a Regular Meeting of the Board of Education of the Oakland Unified School District held on 10/6/2022.

Legislative File	
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By:	os

OAKLAND UNIFIED SCHOOL DISTRICT



 Gary Yee
 President, Board of Education



 Kyla Johnson-Trammell
 Superintendent and Secretary, Board of Education

Approved as to form by OUSD Staff Attorney Joanna Powell on 9/23/22.



SERVICES AGREEMENT 2022-2023

This Services Agreement (“Agreement”) is a legally binding contract entered into between the Oakland Unified School District (“OUSD”) and the below named entity or individual (“VENDOR,” together with OUSD, “PARTIES”):
Crisis Prevention Intervention (CPI)

The PARTIES hereby agree as follows:

1. **Term.**

- a. This Agreement shall start on the below date (“Start Date”):

10/6/2022

If no Start Date is entered, then the Start Date shall be the latest of the dates on which each of the PARTIES signed this Agreement.

- b. The work shall be completed no later than the below date (“End Date”):

12/30/2023

If no End Date is entered, then the End Date shall be the first June 30 after the Start Date. If the term set forth above would cause the Agreement to exceed the term limits set forth in Education Code section 17596, the Agreement shall instead automatically terminate upon reaching said term limit.

2. **Services.** VENDOR shall provide the services (“Services”) as described in #1A and #1B of **Exhibit A**, attached hereto and incorporated herein by reference. To the extent that there may be a school closure (e.g., due to poor air quality, planned loss of power, COVID-19) or similar event in which school sites and/or District offices may be closed or otherwise inaccessible, VENDOR shall describe in #1B of **Exhibit A** whether and how its services would be able to continue.

3. **Alignment and Evaluation.**

- a. VENDOR agrees to work and communicate with OUSD staff, both formally and informally, to ensure that the Services are aligned with OUSD’s mission and are meeting the needs of students as determined by OUSD.

- receive identifiable student data, other than directory information, only after executing a California Student Data Privacy Agreement ("CSDPA") or CSDPA Exhibit E (available here).
- (ii) If VENDOR is not a software vendor, it agrees to access or receive identifiable student data, other than directory information, only after executing the OUSD Data Sharing Agreement (available here).
 - (iii) Notwithstanding Paragraph 28 (Indemnification), should VENDOR access or receive identifiable student data, other than directory information, without first executing a separate data sharing agreement, VENDOR shall be solely liable for any and all claims or losses resulting from its access or receipt of such data.
- c. All confidentiality requirements, including those set forth in the separate data sharing agreement, extend beyond the termination of this Agreement.

7. **Copyright/Trademark/Patent/Ownership.** VENDOR understands and agrees that all matters produced under this Agreement, excluding any intellectual property that existed prior to execution of this Agreement, 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. 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 VENDOR, its employees, or its subcontractors in connection with the Services performed under this Agreement. VENDOR cannot use, reproduce, distribute, publicly display, perform, alter, remix, or build upon matters produced under this Agreement without OUSD's express written permission. OUSD shall have all right, title and interest in said matters, including the right to register the copyright, trademark, and/or patent of said matter in the name of OUSD. OUSD may, with VENDOR's prior written consent, use VENDOR's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.

8. **Compensation.** OUSD agrees to pay VENDOR for performing Services in accordance with this Paragraph, Paragraph 10 (Invoicing), and #1C in **Exhibit A**.

a. The compensation under this Agreement shall not exceed:

\$234,000.00

This sum shall be for full performance of this Agreement and includes all fees, costs, and expenses incurred by VENDOR including, but not limited to, labor, materials, taxes, profit, overhead, travel, insurance, permitted subcontractor costs, and other costs.

b. OUSD shall not pay and shall not be liable to VENDOR for any costs or expenses paid or incurred by VENDOR not described in **Exhibit A**.

c. Payment for Services shall be made for all undisputed amounts no more frequently than in monthly installment payments within forty-five (45) days after VENDOR submits an invoice to OUSD, in accordance with Paragraph 10 (Invoicing), for Services actually performed and after OUSD's written approval that Services were actually performed. The granting of any payment by OUSD, or the receipt thereof by VENDOR, shall in no way lessen the liability of VENDOR to correct unsatisfactory performance of Services, even if the unsatisfactory character of the performance was not apparent or detected at the time a payment was made. If OUSD determines that VENDOR's performance does not conform to the requirements of this Agreement, VENDOR agrees to correct its performance without delay.

d. Compensation for any Services performed prior to the Start Date or after the End Date shall be at OUSD's sole discretion and in an amount solely determined by OUSD. VENDOR agrees that it shall not expect or demand payment for the performance of such services.

e. VENDOR acknowledges and agrees not to expect or demand payment for any Services performed prior to the PARTIES, particularly OUSD, validly and properly executing this Agreement until this Agreement is validly and properly executed and shall not rely on verbal or written communication from any individual, other than the President of the OUSD Governing Board, the

OUSD Superintendent, or the OUSD General Counsel, stating that OUSD has validly and properly executed this Agreement.

9. **Equipment and Materials.** VENDOR shall provide all equipment, materials, and supplies necessary for the performance of this Agreement.
10. **Invoicing.** Invoices furnished by VENDOR under this Agreement must be in a form acceptable to OUSD.
 - a. All amounts paid by OUSD shall be subject to audit by OUSD. Invoices shall include, without limitation: VENDOR name, VENDOR address, invoice date, invoice number, purchase order number, name of school or department to which Services were provided, name(s) of the person(s) performing Services, date(s) Services were performed, brief description of Services provided on each date, the total invoice amount, and the basis for the total invoice amount (e.g., if hour rate, the number of hours on each date and the rate for those hours).
 - b. If OUSD, at its sole discretion, determines an invoice fails to include the required elements, OUSD will not pay the invoice and will inform VENDOR of the missing items; VENDOR shall resubmit an invoice that includes the required elements before OUSD will pay the invoice.
 - c. Invoices must be submitted monthly, and within 30 days of the conclusion of the applicable billing period, unless otherwise agreed. OUSD reserves the right to refuse to pay untimely invoices.
 - d. OUSD reserves the right to add or change invoicing requirements. If OUSD does add or change invoicing requirements, it shall notify VENDOR in writing and the new or modified requirements shall be mandatory upon receipt by VENDOR of such notice.
 - e. To the extent that VENDOR has described how the Services may be provided both in-person and not in-person, VENDOR's invoices shall—in addition to any invoice requirement added or changed under subparagraph (c)—indicate whether the Services are provided in-person or not.
 - f. All invoices furnished by VENDOR under this Agreement shall be delivered to OUSD via email unless OUSD requests, in writing, a different method of delivery.

11. Termination.

- a. For Convenience by OUSD. OUSD may at any time terminate this Agreement upon thirty (30) days prior written notice to VENDOR. OUSD shall compensate VENDOR for Services satisfactorily provided through the date of termination. Upon approval by OUSD legal counsel, the OUSD Superintendent or an OUSD Chief or Deputy may issue the termination notice without approval by the OUSD Governing Board, in which case this Agreement would terminate upon ratification of the termination by the OUSD Governing Board or thirty (30) days after the notice was provided, whichever is later.
- b. Due to COVID-19. Notwithstanding Paragraph 19 (Coronavirus/ COVID-19) or any other language of this Agreement, if a shelter-in-place (or similar) order due to COVID-19 is issued or is in effect during the term of this Agreement that would prohibit or limit, at the sole discretion of OUSD, the ability of VENDOR to perform the Services, OUSD may terminate this Agreement upon seven (7) days prior written notice to VENDOR. Upon approval by OUSD legal counsel, the OUSD Superintendent or an OUSD Chief or Deputy may issue the termination notice without approval by the OUSD Governing Board, in which case this Agreement would terminate upon ratification of the termination by the OUSD Governing Board or seven (7) days after the notice was provided, whichever is later.
- c. For Cause. Either PARTY may terminate this Agreement by giving written notice of its intention to terminate for cause to the other PARTY. Written notice shall contain the reasons for such intention to terminate. Cause shall include (i) material violation of this Agreement or (ii) if either PARTY is adjudged bankrupt, makes a general assignment for the benefit of creditors, or a receiver is appointed on account of its insolvency. Upon approval by OUSD legal counsel, the OUSD Superintendent or an OUSD Chief or Deputy may issue the termination notice without approval by the OUSD Governing Board, in which case this Agreement would terminate upon ratification of the termination by the OUSD Governing Board or three (3) days after the notice was provided, whichever is later, unless the condition or violation ceases or satisfactory arrangements for the correction are made.

d. Upon termination, VENDOR shall provide OUSD with all materials produced, maintained, or collected by VENDOR pursuant to this Agreement, whether or not such materials are complete or incomplete or are in final or draft form.

12. **Legal Notices.** All legal notices provided for under this Agreement shall be sent via email to the email address set forth below and shall be either (i) personally delivered during normal business hours or (ii) sent by U.S. Mail (certified, return receipt requested) with postage prepaid to the other PARTY at the address set forth below.

OUSD

Name: Joshua R. Daniels
Site/Dept: Office of General Counsel
Address: 1000 Broadway, Suite 300
City, ST Zip: Oakland, CA 94607
Phone: 510-879-8535
Email: ousdlegal@ousd.org

VENDOR

Name: Nathan Cromer
Title: General Counsel & Chief Compliance Officer
Address: 10850 W. Park Place Suite 250
City, ST Zip: Milwaukee, WI, 53224
Phone: 414-979-7178
Email: legal@crisisprevention.com

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

13. **Status**

a. This is not an employment contract. VENDOR, in the performance of this Agreement, shall be and act as an

independent contractor. VENDOR understands and agrees that it and any and all of its employees shall not be considered employees 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. VENDOR 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 VENDOR's employees.

- b. If VENDOR is a natural person, VENDOR verifies all of the following:
 - (i) VENDOR is free from the control and direction of OUSD in connection with VENDOR's work;
 - (ii) VENDOR's work is outside the usual course of OUSD's business; and
 - (iii) VENDOR is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed for OUSD.
- c. If VENDOR is a business entity, VENDOR verifies all of the following:
 - (i) VENDOR is free from the control and direction of OUSD in connection with the performance of the work;
 - (ii) VENDOR is providing services directly to OUSD rather than to customers of OUSD;
 - (iii) the contract between OUSD and VENDOR is in writing;
 - (iv) VENDOR has the required business license or business tax registration, if the work is performed in a jurisdiction that requires VENDOR to have a business license or business tax registration;
 - (v) VENDOR maintains a business location that is separate from the business or work location of OUSD;
 - (vi) VENDOR is customarily engaged in an independently established business of the same nature as that involved in the work performed;
 - (vii) VENDOR actually contracts with other businesses to provide the same or similar services and maintains a clientele without restrictions from OUSD;
 - (viii) VENDOR advertises and holds itself out to the public as available to provide the same or similar services;

- (ix) VENDOR provides its own tools, vehicles, and equipment to perform the services;
- (x) VENDOR can negotiate its own rates;
- (xi) VENDOR can set its own hours and location of work; and
- (xii) VENDOR is not performing the type of work for which a license from the Contractor's State License Board is required, pursuant to Chapter 9 (commencing with section 7000) of Division 3 of the Business and Professions Code.

14. **Qualifications and Training.**

- a. VENDOR represents and warrants that VENDOR has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of OUSD. VENDOR will performed the Services in accordance with generally and currently accepted principles and practices of its profession for services to California school districts and in accordance with applicable laws, codes, rules, regulations, and/or ordinances. All VENDOR employees and agents shall have sufficient skill and experience to perform the work assigned to them.
- b. VENDOR represents and warrants that its employees and agents are specially trained, experienced, competent and fully licensed to provide the Services identified in 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, if VENDOR was selected, at least in part, on such representations and warrants.

15. **Certificates/Permits/Licenses/Registration.** VENDOR's employees or agents shall secure and maintain in force such certificates, permits, licenses and registration as are required by law in connection with the furnishing of Services pursuant to this Agreement.

16. **Insurance.**

- a. Commercial General Liability Insurance. Unless specifically waived by OUSD as noted in **Exhibit A**, VENDOR 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 with the additional insured endorsement provided to OUSD within 15 days of effective date of this Agreement (and within 15 days of each new policy year thereafter during the term of this Agreement). Evidence of insurance shall be attached to this Agreement or otherwise provided to OUSD upon request. 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 VENDOR. The policy shall protect VENDOR 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.

- b. Workers' Compensation Insurance. Unless specifically waived by OUSD as noted in **Exhibit A**, VENDOR 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 (including, but not limited to, Labor Code section 3700) and Federal laws when applicable. Employers' Liability Insurance shall not be less than one million dollars (\$1,000,000) per accident or disease.

17. **Testing and Screening.**

- a. Tuberculosis Screening. Unless specifically waived by OUSD as noted in **Exhibit A**, VENDOR is required to screen employees who will be working at OUSD sites for more than six hours. VENDOR agents who work with students must submit to a tuberculosis risk assessment as required by Education Code section 49406 within the prior 60 days. If tuberculosis risk factors are identified, VENDOR agents must submit to an intradermal or other approved tuberculosis examination to determine that he/she is free of infectious tuberculosis. If the results of the examination are positive, VENDOR shall obtain an x-ray of the lungs. VENDOR, at its discretion, may choose to submit the agent to the examination instead of the risk assessment.
- b. Fingerprinting/Criminal Background Investigation. Unless

specifically waived by OUSD as noted in **Exhibit A**, for all VENDOR employees, subcontractors, volunteers, and agents providing the Services, VENDOR shall ensure completion of fingerprinting and criminal background investigation, and shall request and regularly review subsequent arrest records. VENDOR confirms that no employee, subcontractor, volunteer, or agent providing the Services has been convicted of a felony, as that term is defined in Education Code section 45122.1. VENDOR shall provide the results of the investigations and subsequent arrest notifications to OUSD.

Waivers are not available for VENDORS whose employees, subcontractors, volunteers, and agents will have any contact with OUSD students.

- c. VENDOR shall use either California Department of Justice or Be A Mentor, Inc. (<http://beamentor.org/OUSDPartner>) fingerprinting and subsequent arrest notification services.
- d. VENDOR agrees to immediately remove or cause the removal of any employee, representative, agent, or person under VENDOR's control person from OUSD property upon receiving notice from OUSD of such desire. OUSD is not required to provide VENDOR with a basis or explanation for the removal request.

18. Incident/Accident/Mandated Reporting.

- a. VENDOR shall notify OUSD, via email pursuant to Paragraph 12 (Legal Notices), within twelve (12) hours of learning of any significant accident or incident. Examples of a significant accident or incident include, without limitation, an accident or incident that involves law enforcement, possible or alleged criminal activity, or possible or actual exposure to a communicable disease such as COVID-19. VENDOR shall properly submit required accident or incident reports within one business day pursuant to the procedures specified by OUSD. VENDOR shall bear all costs of compliance with this Paragraph.
- b. To the extent that an employee, subcontractor, agent, or representative of VENDOR is included on the list of mandated reporters found in Penal Code section 11165.7, VENDOR agrees to inform the individual, in writing that they are a

mandated reporter, and describing the associated obligations to report suspected cases of abuse and neglect pursuant to Penal Code section 11166.5.

19. **Coronavirus/COVID-19.**

- a. Through its execution of this Agreement, VENDOR declares that it is able to meet its obligations and perform the Services required pursuant to this Agreement in accordance with any shelter-in-place (or similar) order or curfew (or similar) order ("Orders") issued by local or state authorities and with any social distancing/hygiene (or similar) requirements.
- b. To the extent that VENDOR provides Services in person and consistent with the requirements of Paragraph 10 (Invoicing), VENDOR agrees to include additional information in its invoices as required by OUSD if any Orders are issued by local or state authorities that would prevent VENDOR from providing Services in person.
- c. Consistent with the requirements of Paragraph 18 (Incident/Accident/Mandated Reporting), VENDOR agrees to notify OUSD, via email pursuant to Paragraph 12 (Legal Notices), within twelve (12) hours if VENDOR or any employee, subcontractor, agent, or representative of VENDOR tests positive for COVID-19, shows or reports symptoms consistent with COVID-19, or reports to VENDOR possible COVID-19 exposure.
- d. VENDOR agrees to immediately adhere to and follow any OUSD directives regards health and safety protocols including, but not limited to, providing OUSD with information regarding possible exposure of OUSD employees to VENDOR or any employee, subcontractor, agent, or representative of VENDOR and information necessary to perform contact tracing, as well as complying with any OUSD testing and vaccination requirements.
- e. VENDOR shall bear all costs of compliance with this Paragraph, including but not limited to those imposed by this Agreement.

20. **Assignment.** The obligations of VENDOR under this Agreement shall not be assigned by VENDOR without the express prior written consent of OUSD and any assignment without the express prior written consent of OUSD shall be null and void.

21. **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, VENDOR 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, VENDOR agrees to require like compliance by all its subcontractor (s). VENDOR 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.
22. **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, VENDORS, or subcontractors are to use controlled substances, alcohol or tobacco on these sites.
23. **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 subsequent act from constituting a violation of this Agreement.
24. **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.
25. **Conflict of Interest.**
 - a. VENDOR shall abide by and be subject to all applicable, regulations, statutes, or other laws regarding conflict of interest. VENDOR shall not hire any officer or employee of OUSD to perform any service by this Agreement without the prior approval of OUSD Human Resources.
 - b. VENDOR affirms to the best of his/her/its knowledge, there exists no actual or potential conflict of interest between VENDOR'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.

- c. Through its execution of this Agreement, VENDOR acknowledges that it is familiar with the provisions of section 1090 *et seq.* and section 87100 *et seq.* of the Government Code, and certifies that it does not know of any facts which constitute a violation of said provisions. In the event VENDOR receives any information subsequent to execution of this Agreement which might constitute a violation of said provisions, VENDOR agrees it shall notify OUSD in writing.
26. **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion.** Through its execution of this Agreement, VENDOR certifies to the best of 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/>).
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 described in Paragraph 8 (Compensation). 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. **Indemnification.**
- a. To the furthest extent permitted by California law, VENDOR shall indemnify, defend and hold harmless OUSD, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers ("OUSD Indemnified Parties") from any and all claims or losses accruing or resulting from injury, damage, or death of any person or entity arising out of VENDOR's performance of this Agreement. VENDOR also agrees to hold harmless, indemnify, and defend OUSD

Indemnified Parties from any and all claims or losses incurred by any supplier, **VENDOR**, or subcontractor furnishing work, services, or materials to **VENDOR** arising out of the performance of this Agreement. **VENDOR** shall, to the fullest extent permitted by California law, defend **OUSD** Indemnified Parties at **VENDOR**'s own expense, including attorneys' fees and costs, and **OUSD** shall have the right to accept or reject any legal representation that **VENDOR** proposes to defend **OUSD** Indemnified Parties.

- b. To the furthest extent permitted by California law, **OUSD** shall indemnify, defend, and hold harmless **VENDOR**, its Board, agents, representatives, officers, consultants, employees, trustees, and volunteers ("VENDOR Indemnified Parties") from any and all claims or losses accruing or resulting from injury, damage, or death of any person or entity arising out of **OUSD**'s performance of this Agreement. **OUSD** shall, to the fullest extent permitted by California law, defend **VENDOR** Indemnified Parties at **OUSD**'s own expense, including attorneys' fees and costs.
29. **Audit.** **VENDOR** shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of **VENDOR** transacted under this Agreement. **VENDOR** shall retain these books, records, and systems of account during the term of this Agreement and for three (3) years after the End Date. **VENDOR** shall permit **OUSD**, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to Services covered by this Agreement. Audit(s) may be performed at any time, provided that **OUSD** shall give reasonable prior notice to **VENDOR** and shall conduct audit(s) during **VENDOR**'S normal business hours, unless **VENDOR** otherwise consents.
 30. **Litigation.** This Agreement shall be deemed to 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.

31. **Incorporation of Recitals and Exhibits.** Any recitals and exhibits attached to this Agreement are incorporated herein by reference. VENDOR agrees that to the extent any recital or document incorporated herein conflicts with any term or provision of this Agreement, the terms and provisions of this Agreement shall govern.
32. **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.
33. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
34. **Provisions Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.
35. **Captions and Interpretations.** Section and paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a PARTY because that PARTY or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the PARTIES.
36. **Calculation of Time.** For the purposes of this Agreement, “days” refers to calendar days unless otherwise specified and “hours” refers to hours regardless of whether it is a work day, weekend, or holiday.
37. **Counterparts and Electronic Signature.** This Agreement, and all amendments, addenda, and supplements to this Agreement, may be executed in one or more counterparts, all of which shall constitute one and the same amendment. Any counterpart may be executed and delivered by facsimile or other electronic signature (including portable

document format) by either PARTY and, notwithstanding any statute or regulations to the contrary (including, but not limited to, Government Code section 16.5 and the regulations promulgated therefrom), the counterpart shall legally bind the signing PARTY and the receiving PARTY may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received. Through its execution of this Agreement, each PARTY waives the requirements and constraints on electronic signatures found in statute and regulations including, but not limited to, Government Code section 16.5 and the regulations promulgated therefrom.

38. **W-9 Form.** If VENDOR is doing business with OUSD for the first time, VENDOR acknowledges that it must complete and return a signed W-9 form to OUSD.
39. **Agreement Publicly Posted.** This Agreement, its contents, and all incorporated documents are public documents and will be made available by OUSD to the public online via the Internet.
40. **Signature Authority.**
 - a. Each PARTY has the full power and authority to enter into and perform this Agreement, and the person(s) signing this Agreement on behalf of each PARTY has been given the proper authority and empowered to enter into this Agreement.
 - b. Notwithstanding subparagraph (a), only the Superintendent, Chiefs, Deputy Chiefs, and the General Counsel have been delegated the authority to sign contracts for OUSD, and only under limited circumstances, which require ratification by the OUSD Governing Board. VENDOR agrees not to accept the signature of another other OUSD employee as having the proper authority and empowered to enter into this Agreement or as legally binding in any way.
 - a. Notwithstanding Paragraph 11, if this Agreement is executed by the signature of the Superintendent, Chiefs, Deputy Chiefs, or General Counsel under their delegated authority, and the Board thereafter declines to ratify the Agreement, the Agreement shall automatically terminate on the date that the Board declines to ratify it. OUSD shall compensate VENDOR for Services satisfactorily provided through the date of termination. Upon

termination, **VENDOR** shall provide OUSD with all materials produced, maintained, or collected by **VENDOR** pursuant to this Agreement, whether or not such materials are complete or incomplete or are in final or draft form.

41. **Contract Contingent on Governing Board Approval.** OUSD shall not be bound by the terms of this Agreement unless and until it has been (i) formally approved by OUSD's Governing Board or (ii) validly and properly executed by the OUSD Superintendent, the General Counsel, or a Chief or Deputy Chief authorized by the Education Code or Board Policy, and no payment shall be owed or made to **VENDOR** absent such formal approval or valid and proper execution.

REST OF PAGE IS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the PARTIES hereto agree and execute this Agreement and to be bound by its terms and conditions:

VENDOR

Name: John E Murray

Signature: 
John E Murray (Sep 27, 2022 11:40 CDT)

Position: General Counsel

Date: Sep 27, 2022

One of the terms and conditions to which VENDOR agrees by its signature is subparagraph (e) of Paragraph 8 (Compensation), which states that VENDOR acknowledges and agrees not to expect or demand payment for any Services performed prior to the PARTIES, particularly OUSD, validly and properly executing this Agreement until this Agreement is validly and properly executed and shall not rely on verbal or written communication from any individual, other than the President of the OUSD Governing Board, the OUSD Superintendent, or the OUSD General Counsel, stating that OUSD has validly and properly executed this Agreement. VENDOR specifically acknowledges and agrees to this term/condition on the above date.

OUSD

Name: Jennifer Blake Signature: Jennifer Blake
Executive Director, Special Education

Position: Enter OUSD signatory position Date: 9/28/22

- Board President
- Superintendent
- Chief/Deputy Chief/Executive Director

Name: Sondra Aguilera Signature: 

Position: Acting Superintendent, Board of Education Date: 10/07/20022

Approved as to form by OUSD Staff Attorney Joanna Powell on 9/23/22

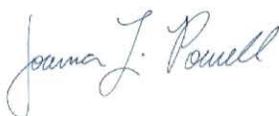


EXHIBIT A

- 1A. **General Description of Services to be Provided:** *Provide a description of the service(s) VENDOR will provide.*
- 500 Verbal Intervention licenses
 - Five on-site, Nonviolent Crisis Response training sessions that each accommodate up to 40 people, led by CPI Instructors
 - Eight slots for OUSD staff to become trained as trainers in Nonviolent Crisis Response for the purpose of training newly-hired personnel
- 1B. **Description of Services to be Provided During School Closure or Similar Event:** *If there is a school closure (e.g., due to poor air quality, planned loss of power, COVID-19) or similar event in which school sites and/or District offices may be closed or otherwise inaccessible, would services be able to continue?*
- No, services would not be able to continue.
 - Yes, services would be able to continue as described in 1A.
 - Yes, but services would be different than described in 1A. Please briefly describe how the services would be different.
Verbal Intervention would be able to continue with no changes. Nonviolent Crisis Response would need to be postponed until such time as staff could be trained in person safely once again.
- 1C. **Rate of Compensation:** *Please describe the basis by which compensation will be paid to VENDOR:*
- Performance/Deliverable Payments: Describe the performance and/or deliverable(s) as well as the associated rate(s) below:
Total compensation of not more than \$234,000. See attached quote for specific costs and payment details.
2. **Specific Outcomes:** *(A) What are the expected outcomes from the services of this Agreement? Please be specific. For example, as a result of the service(s): How many more OUSD students will graduate from high school? How many more OUSD students will attend school 95% or more? How many more OUSD students will have meaningful internships and/or paying jobs? How many more OUSD students will have access to, and use, the health services they need? (B) Please describe the measurable outcomes specific to the services. Please complete the sentence prompt: "Participants will be able to..." C. If*

applicable, please provide details of program participation. Please complete the sentence prompt: "Students will..."

Staff will be confident in their ability to de-escalate students during a behavioral incident and will be able to respond in a behavioral emergency in a safe, evidence-based way. Campuses will experience fewer behavioral emergencies over time, as staff are better able to assess the stages of escalation and respond to emergent student needs.

3. **Alignment with School Plan for Student Achievement – SPSA (required if using State or Federal Funds):** *Please select the appropriate option below: N/A*

- Action Item included in Board Approved SPSA (no additional documentation required) – Item Number:
Click or tap here to enter text.
- Action Item added as modification to Board Approved SPSA – School site must submit the following documents to the Strategic Resource Planning for approval through the Escape workflow process:
- Meeting announcement for meeting in which the SPSA modification was approved.
 - Minutes for meeting in which the SPSA modification was approved indicating approval of the modification.
 - Sign-in sheet for meeting in which the SPSA modification was approved.

4. **Waivers:** *OUSD has waived the following. Confirmation of the waiver is attached herewith:*

- Commercial General Liability Insurance (Waiver only available, at OUSD's sole discretion, if VENDOR's employees, subcontractors, volunteers, and agents will have no contact (in-person **or virtual**) with OUSD students, and the compensation not-to-exceed amount is \$25,000 or less.)
- X Corporal Punishment Insurance Coverage. (Waiver only available, at OUSD's sole discretion, if VENDOR's employees, subcontractors, volunteers, and agents will have no contact (in-person or virtual) with OUSD students.)
- Workers' Compensation Insurance (Waiver only available, at OUSD's sole discretion, if VENDOR has no employees.)

X Tuberculosis Screening (Waiver only available, at OUSD's sole discretion, if VENDOR's employees, subcontractors, volunteers, and agents will have no in-person contact with OUSD students.)

X Fingerprinting/Criminal Background Investigation (Waiver only available, at OUSD's sole discretion, if VENDOR's employees, subcontractors, volunteers, and agents will have no contact (in-person **or virtual**) with OUSD students.)



September 16, 2022

Jennifer Blake
Special Education Executive Director
Oakland Unified School District
2850 W. Saint Marcus Foster Bldg.
Oakland, CA 94608

Please carefully review the following terms of the proposed agreement between Crisis Prevention Institute, Inc. ("CPI") (Federal Tax I.D. Wisconsin Corporation 39-2012874) and Oakland Unified School District ("Client"):

CPI agrees to:

- 1.) Conduct one (1) Instructor Certification Program in *Nonviolent Crisis Intervention*[®] training for Client on dates to be determined. Candidates for Instructor Certification must attend the full duration of training and successfully complete an instructor practicum, competency-based physical testing, and a written examination to receive Instructor Certification.
Please note: This is a blended training with both Online and classroom learning. All Certified Instructors and Instructor Candidates are required to review the principles, concepts and models of *Nonviolent Crisis Intervention*[®] by completing online modules of the *Nonviolent Crisis Intervention*[®] Blended Learning program. After completion, attend required classroom training to apply and review online content and to learn, practice and prepare, then take a written exam to become a Certified Instructor.
- 2.) Conduct five (5) Non-Instructor training programs in *Nonviolent Crisis Intervention*[®] for Client on dates to be determined.
Please note: Participants must be in attendance the entire day and complete a written exam to receive a certificate. This is not a certification program and individuals who complete this program are not authorized to teach or train this program content.
- 3.) Provide Client with one (1) FREE Instructor Certification Slot at a regularly scheduled program within six (6) months, valued at \$4,249, for each completed Non-Instructor *Nonviolent Crisis Intervention*[®] training.
- 4.) Provide a CPI Global Professional Instructor to conduct each training.
- 5.) Provide all necessary and applicable teaching materials for each training.
- 6.) Make all travel arrangements and hotel reservations for CPI's Global Professional Instructor, after logistical information is returned to CPI.

Client agrees to:

- 1.) Remit payment within 30 days of billing date for:
 - a. A minimum of eight (8) new Instructor Certification candidates at a rate of \$4,249 per person.

- b. A flat-rate fee of \$38,149 for each Non-Instructor *Nonviolent Crisis Intervention*[®] training.
- c. A minimum of five hundred (500) BLEN20VBI Blended Learning Online Course seats at a rate of \$18.49 each.

Please note: If any of these programs is canceled or postponed by Client after travel arrangements have been made Client will be billed for all scheduled program participants from Client's organization. In addition, Client will be charged a \$4,000 cancellation fee and the cost of GPI travel expenses. The unused seats may be used at a future program within 90 days of original program date. In addition, CPI reserves the right to bill Client for any additional travel expenses incurred for the program due to the late return of the executed contract. If Client requires that CPI's Global Professional Instructor be tested for COVID prior to the dates on which training is to take place, Client will be charged an additional \$50 fee.

CPI will bill for the Services through an invoice. Full payment for invoices issued in any given month must be received by CPI within 30 days after the issuance of the invoice (which may be sent by email). If Client is paying by credit card, Client represents and warrants that it has the right to use the credit card provided and grants CPI the right to provide the credit card information, including the credit card number, its expiration date and billing address, to third parties for the purposes of facilitating payment transactions. CPI will charge a 3% surcharge for any credit card payments over \$10,000. Verification of information may be required prior to the acknowledgment or completion of any payment transaction.

- 2.) Maximum program participation for the Instructor Certification Program in *Nonviolent Crisis Intervention*[®] is limited to thirty (30).
- 3.) Maximum program participation for each Non-Instructor *Nonviolent Crisis Intervention*[®] training is limited to forty (40).
- 4.) Ensure each certification candidate completes the online portion of the Instructor Certification Program in *Nonviolent Crisis Intervention*[®] prior to classroom instruction. Participants will not be able to attend the program without first completing the online portion.
- 5.) Meet training room requirements:
 - A. Instructor Certification Program in *Nonviolent Crisis Intervention*[®]:
 - a. Room appropriate for conducting the program (1,800 sq. ft. for up to 25 total participants; 2,000 sq. ft. for greater than 25 participants). A carpeted room is preferred.
 - B. Non-Instructor *Nonviolent Crisis Intervention*[®] training:
 - a. Room appropriate for conducting the program (2,000 sq. ft.). A carpeted room is preferred.

- C. Moveable chairs enough in number for participants, set pod style. The chairs and tables should be set up at the front of the room. The back of the room should be left empty. See enclosed layout.
 - D. Full size flip charts with markers or whiteboard with markers and eraser.
 - E. Head table for Instructor's use.
 - F. Screen and small table with extension cord and power strip for the projector brought by the instructor.
- 6.) Provide logistics information, as listed on the last page of this agreement.
- 7.) Provide names and email addresses of each program participant from your organization to CPI at least three (3) weeks prior to each program's start date.

It is Client's responsibility to ensure the appropriate number of staff from your organization participate in this program on the dates and times stated in this agreement. Client is contracting for a minimum number of program participants and will be billed accordingly. CPI provides no substitutions or credits to organizations for staff non-attendance at trainings. If these terms are agreeable, please sign this document. Retain one copy for your file and email (contracts@crisisprevention.com) or fax (414.979.7098) one copy back to us. **Please sign and return to CPI by November 1, 2022.**

Client: _____ Date: _____
(Authorized signature)

Name: _____ Title: _____

CPI: _____ Date: _____
(Authorized signature)

Name: _____ Title: _____

Approved as to form by OUSD Staff Attorney Joanna Powell on 9/23/22.



Logistics Sheet

Contact Information: Contact person for communication between CPI and Client:

Name: _____ Title/Department: _____

Phone: _____ Cell: _____ Email: _____

Requested Training Start Time: All Days: ____ a.m.

Training Site Name: _____ Rm. Name/No.: _____

Address: _____

City: _____ State/Prov.: _____ Zip/Postal Code: _____

Contact Person: _____ Email: _____

Any Additional information about site (accessibility/parking/etc.):

Important reminder about training space: Adequate space is essential for conducting the training program. A room smaller than 1,800 sq. ft. will not allow for enough practice area for exercises, activities, and physical intervention skills. If needed, two smaller adjacent rooms may be utilized. One for classroom training and the other empty for use as a practice area.

Ship materials to:

Name: _____ Title/Department: _____

Company/Facility Address: _____

City: _____ State/Prov.: _____ Zip/Postal Code: _____



QUOTE

Nonviolent Crisis Intervention® program
 Prepare Training® program
 Dementia Care Specialists

Quote	CUSQ18503
Date	9/15/2022
Page:	1

Federal I.D. #39-2012874
 DUNS: 109166061 / CAGE 3A7W3

Quote is Valid for 60 Days from Date of Quote

Bill To:

Accounts Payable
 Oakland Unified School District
 2850 W Saint Marcus Foster Bldg
 Oakland CA 94608

Ship To:

Oakland Unified School District
 2850 W Saint Marcus Foster Bldg
 Oakland CA 94608

Purchase Order No.		Customer ID		Shipping Method	Payment Terms	Req Ship Date	
		753729		US_UPSGND	Net 30	0/0/0000	
Quantity	UOM	Item Number	Description			Unit Price	Ext. Price
5	EACH	ISSN0251	NCI Non-Instructor Seminar Blended			\$38,149.00	\$190,745.00
8	EACH	ISSN0200	NCI ICP Blended			\$4,249.00	\$33,992.00

PRICE QUOTE

If you would like to order the merchandise quoted please contact our office at 1-800-558-8976 and reference the Quote # shown at the top right.

Thank You

Subtotal	\$224,737.00
Tax	\$0.00
Freight	\$0.00
Total Z-US\$	\$224,737.00

Tax exempt organizations: we must have your tax exempt certificate on file.

Crisis Prevention Institute

10850 W. Park Place, Suite 250
 Milwaukee, WI 53224 USA

Customer Service: 1-800-558-8976



QUOTE

Nonviolent Crisis Intervention® program
 Prepare Training® program
 Dementia Care Specialists

Quote	CUSQ18508
Date	9/15/2022
Page:	1

Federal I.D. #39-2012874
 DUNS: 109166061 / CAGE 3A7W3

Quote is Valid for 60 Days from Date of Quote

Bill To:

Jennifer Blake
 Oakland Unified School District
 2850 W Saint Marcus Foster Bldg
 Oakland CA 94608

Ship To:

Jennifer Blake
 Oakland Unified School District SELPA
 2850 W Saint Marcus Foster Bldg
 Oakland CA 94608

Purchase Order No.		Customer ID	Shipping Method	Payment Terms	Req Ship Date	
		753729	US_UPSGND	Net 30	0/0/0000	
Quantity	UOM	Item Number	Description		Unit Price	Ext. Price
500	EACH	BLEN20VBI	VI Blended Learning Online Course		\$18.49	\$9,245.00

PRICE QUOTE

If you would like to order the merchandise quoted please contact our office at 1-800-558-8976 and reference the Quote # shown at the top right.

Thank You

Subtotal	\$9,245.00
Tax	\$0.00
Freight	\$0.00
Total Z-US\$	\$9,245.00

Tax exempt organizations: we must have your tax exempt certificate on file.

Crisis Prevention Institute

10850 W. Park Place, Suite 250
 Milwaukee, WI 53224 USA

Customer Service: 1-800-558-8976

22-2270 - Sole Source Board Memo and Resolution No. 2223-0007 - Crisis Prevention Institute (CPI) - Special Education Department

Final Audit Report

2022-09-27

Created:	2022-09-27
By:	Angelica Lopez (angelica.lopez@ousd.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAZAIFyybrho0ZffhoGlzAKLhLHX2GUq9

"22-2270 - Sole Source Board Memo and Resolution No. 2223-0007 - Crisis Prevention Institute (CPI) - Special Education Department" History

-  Document created by Angelica Lopez (angelica.lopez@ousd.org)
2022-09-27 - 4:34:49 PM GMT - IP address: 104.192.9.104
-  Document emailed to legal@crisisprevention.com for signature
2022-09-27 - 4:36:11 PM GMT
-  Email viewed by legal@crisisprevention.com
2022-09-27 - 4:37:38 PM GMT - IP address: 32.141.36.90
-  Signer legal@crisisprevention.com entered name at signing as John E Murray
2022-09-27 - 4:40:01 PM GMT - IP address: 32.141.36.90
-  Document e-signed by John E Murray (legal@crisisprevention.com)
Signature Date: 2022-09-27 - 4:40:02 PM GMT - Time Source: server- IP address: 32.141.36.90
-  Agreement completed.
2022-09-27 - 4:40:02 PM GMT