

Board Office Use: Legislative File Info.	
File ID Number	11-2726
Introduction Date	11-17-11
Enactment Number	11-2268
Enactment Date	10-26-11



# Memo

**To** The Board of Education

**From** Tony Smith, Ph.D., Superintendent  
 By: Maria Santos, Deputy Superintendent, Instruction, Leadership & Equity-in-Action  
 Vernon Hal, Deputy Superintendent, Business & Operations

**Board Meeting Date**  
 (To be completed by Procurement) 10-26-11

**Subject** Professional Services Contract -  
Opera Piccola Oakland CA (contractor, City State)  
ELMHURST COMMUNITY PREP 221 (site/department)

**Action Requested** Ratification of a professional services contract between Oakland Unified School District and Opera Piccola. Services to be primarily provided to ELMHURST COMMUNITY PREP 221 for the period of 08/22/2011 through 06/22/2012.

**Background**  
 A one paragraph explanation of why the consultant's services are needed.

Opera Piccola's services are needed at Elmhurst Community Prep extended day and day school program to provide students with access to visual arts, and professional working artist teachers. Students at Elmhurst otherwise have little or no access to visual arts as a cultural form of expression and as an opportunity for a career. Students will learn how to work creatively to promote thoughts, ideas and designs.

**Discussion**  
 One paragraph summary of the scope of work.

Opera Piccola will provide 4 teaching artists at ECP. 1 teacher will teach an in-school elective course, 4 days a week. Another teaching artist will teach an after school class, 3 days a week. 2 teaching artists will do 1 month long residencies and side by side professional development with the SDC class, in the spring.

**Recommendation** Ratification of professional services contract between Oakland Unified School District and Opera Piccola. Services to be primarily provided to ELMHURST COMMUNITY PREP 221 for the period of 08/22/2011 through 06/22/2012.

**Fiscal Impact** Funding resource name (please spell out) Measure G ART, Arts & Music Block Grant,  
Measure G- Libraries not to exceed \$ 25,500.00

- Attachments**
- Professional Services Contract including scope of work
  - Fingerprint/Background Check Certification
  - Commercial General Liability Insurance Certification
  - TB screening documentation
  - Statement of qualifications

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OAKLAND UNIFIED  
SCHOOL DISTRICT

## PROFESSIONAL SERVICES CONTRACT 2011-2012

This Agreement is entered into between the Oakland Unified School District (OUSD) and Opera Piccola (CONTRACTOR). 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:

- Services:** CONTRACTOR shall provide the services described in **Exhibit "A,"** attached hereto and incorporated herein by reference ("Services" or "Work").
- Terms:** CONTRACTOR shall commence work on 08/22/2011, or the day immediately following approval by the Superintendent if the aggregate amount CONTRACTOR has contracted with the District is below \$78,500 in the current fiscal year; or, approval by the Board of Education if the total contract(s) exceed \$78,500, whichever is later. The work shall be completed no later than 06/22/2012.
- Compensation:** OUSD agrees to pay CONTRACTOR for services satisfactorily rendered pursuant to this Agreement, a total fee not to exceed Twenty Five Thousand Five Hundred Dollars (\$25,500.00). 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: none.

Payment for Work shall be made for all undisputed amounts in monthly installment payments within forty-five (45) days after the 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.

- Submittal of Documents:** CONTRACTOR shall not commence the Work under this Contract until CONTRACTOR has submitted and OUSD has approved evidence of the following:
  - Individual consultants:
    - Tuberculosis Clearance -- Documentation from health care provider showing negative TB status within the last four years.
    - Completion of Pre-Consultant Screening Process -- Attach letter from Human Resources Support Services showing completion of Pre-Consultant Screening for this current fiscal year.
    - Insurance Certificates and Endorsements -- General Liability insurance in compliance with section 9 herein.
  - Agencies or organizations:
    - Insurance Certificates and Endorsements -- Workers' Compensation insurance in compliance with section 9 herein.
- Equipment and Materials:** CONTRACTOR shall provide all equipment, materials, and supplies necessary for the performance of this Agreement *except:* none. which shall not exceed a total cost of \$ 0.00.

### 6. 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.

- 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.



Professional Services Contract

- 22. **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.
- 23. **Confidentiality.** The 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.
- 24. **Conflict of Interest.** CONTRACTOR shall abide by and be subject to all applicable OUSD policies, 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.  
  
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.
- 25. **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.
- 26. **Litigation:** This Agreement shall be performed in Oakland, California and is governed by the laws of the State of California. The Alameda County Superior Court shall have jurisdiction over any state court litigation initiated to enforce or interpret this Agreement. If litigation is initiated, the prevailing party shall be entitled to reasonable attorney's fees and costs.
- 27. **Contract Contingent on Governing Board Approval:** The District shall not be bound by the terms of this Agreement until it has been formally approved by the District's Governing Board, and no payment shall be owed or made to CONTRACTOR absent formal approval. This Agreement shall be deemed to be approved when it has been signed by the Board of Education, and/or the Superintendent as its designee.
- 28. **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.
- 29. **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.
- 30. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

Summary of terms and compensation:

Anticipated start date: 08/22/2011 Work shall be completed by: 06/22/2012 Total Fee: \$ 25,500.00

OAKLAND UNIFIED SCHOOL DISTRICT

Maria Santos 9-18-11  
 President, Board of Education Date  
 Superintendent or Designee  
[Signature] [Signature]  
 Secretary, Board of Education Date

CONTRACTOR  
Corrina Marshall 8/26/11  
 Contractor Signature Date  
 Corrina Marshall Executive Director  
 Print Name, Title

Certified:

Edgar Rakostrow, Jr. 10/27/11  
 Edgar Rakostrow, Jr., Secretary  
 Board of Education

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