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| Board Office Use: Legislative File Info. | |
| File ID Number: | 14-1177 |
| Introduction Date: | 06/25/2014 |
| Enactment Number: | |
| Enactment Date: | |



Memo

To: Board of Education

From: GARY YEE, EdD, ACTING SUPERINTENDENT; By: MARIA SANTOS, Deputy Superintendent

Board Meeting Date: 06/25/2014

Subject: Professional Service Contract

Contractor: Matthew Clarke of Mill Valley, CA

Services for: 922-COMPLEMENTARY LEARNING

Board Action Requested and Recommendation: Ratification by the Board of Education of a Professional Services Contract between the District and Matthew Clarke, Mill Valley, CA, for the latter to provide: Consultant will complete filming for community schools video by capturing additional background roll at school sites; this will be done in collaboration with the Community Partnerships Office and school site staff. for the period of 02/24/2014 through 06/30/2014 in an amount not to exceed \$2,000.00.

Background:
(A one paragraph explanation of why the consultant's services are needed.)

Produce high quality films that highlights Oakland's Community Schools with a run time of at least 5 minutes in length. These films are intended to help highlight the benefits of community schools to the Oakland Community.

Discussion:
(QUANTIFY what is being purchased.)

Consultant will complete filming for community schools video by capturing additional background roll at school sites; this will be done in collaboration with the Community Partnerships Office and school site staff.

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Fiscal Impact: Funding resources below not to exceed \$2,000.00
\$2,000.00 Kaiser Health&Wellness w/EBCF

Attachments: Professional Services Contract including Scope of Work
Waiver Summary
Resume / Statement of Qualifications
EPLS Search Results Page
Insurance Certification (if no Waiver was granted)

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OAKLAND UNIFIED
SCHOOL DISTRICT

PROFESSIONAL SERVICES CONTRACT 2013-2014

This Agreement is entered into between Matthew Clarke
(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:

- Services:** CONTRACTOR shall provide the ("Services" or "Work") as described in **Exhibit "A,"** attached hereto and incorporated herein by reference.
- Terms:** CONTRACTOR shall commence work on 02/24/2014, or the day immediately following approval by the Superintendent if the aggregate amount CONTRACTOR has contracted with the District is below \$84,100.00 in the current fiscal year; or, approval by the Board of Education if the total contract(s) exceed \$84,100.00, whichever is later. The work shall be completed no later than 06/30/2014.
- Compensation:** OUSD agrees to pay CONTRACTOR for services satisfactorily rendered pursuant to this Agreement. The compensation under this Contract shall not exceed Two Thousand Dollars (\$2,000.00) [per fiscal year], at an hourly billing rate not to exceed _____ per hour. 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: No Reimbursements.

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.

- 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.
- 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.
- 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.
- 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: CURTISS SARIKEY
Site /Dept.: 922-COMPLEMENTARY LEARNING
Address: 746 Grand Avenue
Oakland, CA 94610
Phone: 510-275-1575

CONTRACTOR:

Name: Matthew Clarke
Title: Owner
Address: 689 Edgewood Ave
Mill Valley, CA 94941
Phone: 415-425-0350

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.

8. **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.

9. **Insurance:**

1. 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 One Million Dollars (\$1,000,000) per occurrence for 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.) Waiver of insurance does not release CONTRACTOR from responsibility for any claim or demand.

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

11. **Assignment:** The obligations of CONTRACTOR under this Agreement shall not be assigned by CONTRACTOR without the express prior written consent of OUSD.

12. **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 or sexual orientation.

Professional Services Contract

access to student data only where permissible under state and federal law and only after executing OUSD's Confidentiality Agreement Regarding Student Data.

- 23. 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.

- 24. 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.epls.gov/epls/search.do)
- 25. 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.
- 26. Incorporation of Recitals and Exhibits: The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.
- 27. 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.
- 28. 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.
- 29. 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.
- 30. 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 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.

OAKLAND UNIFIED SCHOOL DISTRICT

MARIA SANTOS 04/30/2014
[] President, Board of Education Date
[X] Superintendent or Designee

Secretary, Board of Education Date

CONTRACTOR

Matthew Clarke 05/25/2014
Contractor eSignature Date

Matthew Clarke, Owner
Print Name, Title

ContractsOnline: Contract Waiver Summary

Site Number-Name: 922-COMPLEMENTARY LEARNING

Principal / Department Head: CURTISS SARIKEY

Contractor Name: Matthew Clarke

Business Name: Matthew Clarke

Contract Type: Standard

Anticipated Start Date: 02/24/2014

Contract End Date: 06/30/2014

Rate Type: FLAT

Contract Amount: \$2,000.00

Applicable Waivers

Approved by Risk Management

Insurance-Reduction Waiver Status: WAIVED

Waiver-Reduction Type: WAIVED

Other Reduction Amount:

Approval Date: 03/21/2014

Approved by Deputy Superintendent

Billing Waiver Status: Approved

Approval Date: 04/22/2014

Fingerprint Waiver Status: Approved

Approval Date: 04/28/2014

TB Test Waiver Status: Approved

Approval Date: 04/28/2014

Matt Clarke Statement of Qualifications

Matt Clarke is a Video Producer specializing in the roles of Director of Photography, Editor and Director. He has worked on numerous documentary projects over the last 10 years for Broadcast, Educational, Non -Profit and Corporate clients. In 2006 he shot and produced a KQED documentary that broadcast nationally on PBS... Matt was nominated for an Emmy for outstanding achievement in the Historical/Cultural-Program/Special category.

His website is www.dotdotdotproductions.com