

Board Office Use: <b>Legislative File Info.</b>	
File ID Number	15-1525
Introduction Date	8/12/15
Enactment Number	15-1292
Enactment Date	8/12/15 <i>OA</i>

**OFFICE OF THE GENERAL COUNSEL**



**OAKLAND UNIFIED  
SCHOOL DISTRICT**

*Community Schools, Thriving Students*

# Memo

**To** Board of Education

**From** Lance Jackson, Interim Deputy Chief  
Jacqueline P. Minor, General Counsel

**Board Meeting Date** August 12, 2015

**Subject** **Agreement with Attitudinal Healing Connection for Mural Project at Marcus Foster site**

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**Action Requested** **Ratification of Agreement with Agreement with Attitudinal Healing Connection for Mural Project at Marcus Foster site**

**Background and Discussion**

The District is entering into this Agreement with Attitudinal Healing Connection of Oakland to create a mural project at the Marcus Foster site in Oakland during the Central Kitchen Educational Complex and Instructional Farm construction project. The West Oakland community has asked that the District support efforts to minimize vandalism at the site during the construction period. One of the ways to do so is to create art which discourages graffiti. Attitudinal Healing will partner with the District on this project. An important aspect is that youth artists will participate and have the opportunity to contribute to the community and earn a stipend.

**Fiscal Impact** \$25,000 – Measure J Funds

**Attachment** Agreement

Board Office Use: Legislative File Info.	
File ID Number	15-1525
Introduction Date	8/12/2015
Enactment Number	15-292
Enactment Date	8/24/15



OAKLAND UNIFIED  
SCHOOL DISTRICT

## PROFESSIONAL SERVICES CONTRACT 2015-2016

This Agreement is entered into between Attitudinal Healing Connection (AHC) of Oakland, CA (CONTRACTOR) and Oakland Unified School District (OUSD). OUSD is authorized by Government Code Section 53060 to contract for the furnishing of special services 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 August 1, 2015. The work shall be completed no later than December 30, 2015.
- Compensation:** OUSD agrees to pay CONTRACTOR for services satisfactorily rendered pursuant to this Agreement. The compensation under this Contract shall not exceed \$25,000 for the art project described in the Statement of Work which is attached hereto. 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.

Payment for Work shall be made in one payment within forty-five (45) days of the signing of this Agreement.

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:* N/A \_\_\_\_\_, which shall not exceed a total cost of \_\_\_\_\_ N/A \_\_\_\_\_.
- 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: Jacqueline P. Minor  
Jacqueline.minor@ousd.org  
Office of General Counsel

**CONTRACTOR:**

Amana Harris EXECUTIVE DIRECTOR  
**ATTITUDINAL HEALING CONNECTION**  
3278 West Street/ Oakland, CA/ 94608  
office: 510-652-5530/ cell: 510-395-4772/ Fax: 510-652-8233  
www.ahc-artesteem.com/ www.oaklandmuralproject.com  
WWW.AHC-OAKLAND.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.

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. See attached waiver.

10. **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.
11. **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.
12. **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.
13. **Termination:** OUSD may at any time terminate this Agreement upon 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.

14. **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.
15. ~~**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.~~
16. **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/>)
17. **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.
18. **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.

OAKLAND UNIFIED SCHOOL DISTRICT

- ☒ President, Board of Education  
☐ Superintendent or Designee

Secretary, Board of Education

Date

Date

CONTRACTOR

Contractor Signature

Date

Amana Harris, Executive Director  
 Print Name, Title

OAKLAND UNIFIED SCHOOL DISTRICT  
 Office of General Counsel  
 APPROVED FOR FORM & SUBSTANCE

File ID Number: 15-1525  
 Introduction Date: 8/12/15  
 Enactment Number: 15-1292  
 Enactment Date: 8/12/15  
 By: GA



## EXHIBIT "A" SCOPE OF WORK

[IF A CONTRACTOR PROVIDES AN ACCEPTABLE DESCRIPTION OF SERVICES AS PART OF A PROPOSAL, THAT DESCRIPTION OF SERVICES MAY BE ATTACHED WITHOUT ANY TERMS, CONDITIONS, LIMITATIONS, ETC., FROM THAT PROPOSAL.]

- 1. Description of Services to be Provided:** Provide a description of the service(s) the contractor will provide. Be specific about what service(s) OUSD is purchasing and what *this* Contractor will do.

AHC will provide administrative oversight, leadership, project management and publicity for the creation of a mural at the Marcus Foster facility in West Oakland. AHC will engage community members and local youth to brainstorm and develop ideas that will be embedded in the development of the mural. AHC will work with the City of Oakland's Friday Night Live community events and a team of youth who will conceptually develop the design to be enhanced, cultivated and painted by a team of local artists.

AHC will hire a lead artist that will take the students images and ideas to develop a final design, matched to the scale of 25 vertically placed 4X8' plywood attached to the perimeter fence set for the Marcus Foster construction project. The project will be presented and approved by the City of Oakland's Public Art Advisory Committee. The lead artist will meet, listen, discuss and work with the students, AHC and community members.

The lead artist will engage a minimum of two and a maximum of five additional artists to replicate and render the design on the designated plywood mural to be placed at the Marcus Foster site. AHC will manage the entire production of the mural from start to finish and provide guidance and support for the lead and assisting artists. Local youth will receive stipends for their participation. The total cost for the project will be \$25,000.



## OAKLAND MURAL PROJECT

### A PROJECT OF ARTESTEEM

### Organization Background

The mission and purpose of Attitudinal Healing Connection, Inc. (AHC) is to empower individuals to be self aware and inspired through arts, creativity, and education, making positive choices to break the cycle of violence for themselves and their communities. AHC envisions a world where everyone is whole, safe, loved, educated and valued. For more than 25 years AHC has, with great success, provided access to the arts for schools that lack the resources and provided healing and creative programs to at-risk communities in Oakland through creative expression. AHC's award winning program ArtEsteem has served as a vital force to creatively galvanize the resources to provide arts integrated curriculum with a focus on social justice and self-development to over 57 at-risk schools and communities since 1995 reaching over 50,000 children, youth and families.

### Project Background

Oakland Mural Project is a crucial community development effort by AHC in Oakland that engages hundreds of youth in the ArtEsteem program to be change agents in their community. This project aims to resolve issues that plague our city, create jobs, enhance our neighborhoods and reduce blight. The goal is to cultivate, educate and engage youth in community issues and solutions through the power of public art. For more information go to: [www.oaklandmuralproject.com](http://www.oaklandmuralproject.com) and [www.ahc-artesteem.com](http://www.ahc-artesteem.com)

### Project Proposal

AHC will provide administrative oversight, leadership, project management and publicity for the creation of a mural at the Marcus Foster facility in West Oakland. AHC will engage community members and local youth to brainstorm and develop ideas that will be embedded in the development of the mural. AHC will work with the City of Oakland's Friday Night Live community events and a team of youth who will conceptually develop the design to be enhanced, cultivated and painted by a team of local artists.

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### BUDGET

Title	#/feet	Rate	Cost
Marcus Foster Development Community Engagement/Blight Abatement Mural Project	800	\$25	\$ 20,000.00
Youth Stipends and Food			\$ 5,000.00
<b>TOTAL</b>			<b>\$ 25,000.00</b>