

Board Office Use: Legislative File Info.	
File ID Number	16-0570
Introduction Date	3/23/16
Enactment Number	16-0461
Enactment Date	3/23/16



OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

Memo

To Board of Education

From Jacqueline Minor, Co-General Counsel
Marion McWilliams, Co-General Counsel

Board Meeting Date March 23, 2016

Subject

Action Requested **Ratification of Amendment to Agreement between Van Der Hout, Brigagliano & Nightingale, LLP and the Oakland Unified School District**

Background On June 25, 2014, the District entered into an agreement with Van Der Hout, Brigagliano & Nightingale, LLP to provide legal services relating to immigration laws and processing H-1B petitions for teachers recruited abroad. This agreement adds that the law firm will provide legal services relating to preparing and filing for permanent resident visas for the individuals that the District designates.

Discussion The existing terms of Agreement between the law firm and the District will remain in effect, including without limitation, the expiration of the Agreement in June 30, 2017 and that the costs of the contract will not exceed \$30,000 in any fiscal year.

Recommendation Ratification of Amendment to Agreement between Van Der Hout, Brigagliano & Nightingale, LLP and the Oakland Unified School District for the term March 3, 2016 through June 30, 2017 at a cost not to exceed \$30,000.

Fiscal Impact Funding resource name: General Purpose

Attachments

- Amendment No. 1 to Agreement
- Original Agreement (Legislative File No. 14-1534)



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

Legislative File ID No. 16-0570

Department: Legal

Vendor Name: Van Der Hout, Brigagliano & Nightingale, LLP

Contract Term: Start Date: 06-25-2014 End Date: 06-30-2017

Annual Cost: \$ 30000.00

Approved by: Co General Counsels

Is Vendor a local Oakland business? Yes ☐ No ☒

Why was this Vendor selected?

This vendor already has an agreement beginning June 25, 2014 to provide immigration advice and prepare and file H-1B petitions for teachers recruited abroad for the term March 5, 2014 through June 30, 2017. The additional services of legal services relating to preparing and filing for permanent resident visas for the individuals that the District designates will be provided at no increase in cost.

Summarize the services this Vendor will be providing.

This vendor will continue to provide immigration advice and prepare and file H-1B petitions for teachers recruited abroad the term March 2014 through 2017. Additionally, the vendor will provide legal services related to preparing and filing for permanent resident visas for the individuals that the District designates.

Was this contract competitively bid? Yes ☐ No ☒

If No, answer the following:

1) How did you determine the price is competitive?

Comparison of rates charged by other lawyers in SF Bay Area.

2) Please check the competitive bid exception relied upon:

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

**AMENDMENT No. 1 To AGREEMENT WITH
VAN DER HOUT, BRIGAGLIANO & NIGHTINGALE, LLP**

1. On June 25, 2014, Oakland Unified School District (hereafter "EMPLOYER") retained and employed VAN DER HOUT, BRIGAGLIANO & NIGHTINGALE, LLP (hereafter "FIRM"), to represent EMPLOYER and individual employees as named in separate agreements in connection with H1B immigration matters (Legislative File No. 14-1534 attached and incorporated herein "AGREEMENT"). EMPLOYER and FIRM hereby amend that AGREEMENT to add the services identified below at the rates specified in addition to the H1B services and fees listed in the original AGREEMENT

2. The FIRM agrees to perform the following services:

Prepare and file PERM Labor Certification on Behalf of individuals identified by the EMPLOYER. For each such individual, the Governing Board delegates authority for the General Counsel or Chief Talent Officer to execute an individual fee agreement consistent with the terms of this Master Agreement, as amended.

3. As compensation for the above-described services, EMPLOYER agrees to pay:

- Fees for legal services, \$5,000.00. It is understood that this agreement is limited to those services listed immediately above.
- Costs of Administrative Overhead (5% of legal fees): \$250.00
- LawLogix Optimization \$35.00
- Extraordinary costs such as PERM recruitment advertising, overnight mail, international phone calls, credentials evaluations, translations, etc. as needed

4. EMPLOYER understands that legal fees will be renegotiated in the event that unanticipated work is required, in which case a separate retainer agreement will be executed before the firm proceeds with additional work. This could include but is not limited to the following: work related to delays in adjudication, extensions of advance parole or work authorization, responses to assessment notices or Requests for Evidence, unanticipated work required to establish the prevailing wage, legal work not included in this agreement for dependent family members, visa extensions, applications for visas at US consulates abroad, the cost of running PERM advertisements, travel assistance, administrative appeals, and federal court actions.

5. EMPLOYER understands that payment for all services is due and payable upon signing this agreement or within thirty (30) days. If fees and costs due are not paid in full within thirty (30) days after coming due under this contract, the EMPLOYER agrees to pay late charges on the unpaid balance at rate of nine percent (9%) per year until the balance is paid. It is further understood that if EMPLOYER fails to pay the agreed upon legal fees and costs or in any way fails to cooperate with the FIRM; the FIRM may terminate its services and withdraw from the case. EMPLOYER understands that the any retainer and all payments for legal fees are generally non-refundable.

6. If it is necessary for the FIRM to file suit for the collection of any amounts not paid as agreed in this contract, EMPLOYER agrees to pay reasonable attorneys' fees and court costs for such collection.

7. It is agreed that the FIRM has not made any guarantee with regard to the successful outcome of the matters listed above or the time required to complete the case, however, the firm will strive provide the highest level of service, and will make every effort to obtain the desired outcome for the client as expeditiously as possible.

READ, APPROVED, AND ACCEPTED:

Dated: 3/24/16
Executed in Oakland, California

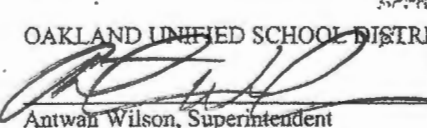
Dated: 3/24/16
Executed in Oakland, California

Process Code: Labor Cert.
Reference Code: LCP

OAKLAND UNIFIED SCHOOL DISTRICT


James Harris, President Board of Education
Office of General Counsel

OAKLAND UNIFIED SCHOOL DISTRICT


Antwan Wilson, Superintendent


Stacey Gartland

VAN DER HOUT, BRIGAGLIANO, & NIGHTINGALE, LLP

Board Office Use: Legislative File Info.	
File ID Number	14-1534
Introduction Date	6-25-14
Enactment Number	14-1325
Enactment Date	6-25-14



OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

Memo

To Board of Education
From Jacqueline Minor, General Counsel
Board Meeting Date June 25, 2014
Subject Agreement between Van Der Hout, Brigagliano & Nightingale, LLP and the Oakland Unified School District

Action Requested Ratification of Agreement between Van Der Hout, Brigagliano & Nightingale, LLP and the Oakland Unified School District

Background Van Der Hout, Brigagliano & Nightingale, LLP will provide immigration advice and prepare and file H-1B petitions for teachers recruited abroad.

Discussion Ratification by the Board of the Agreement between the Oakland Unified School District and Van Der Hout, Brigagliano & Nightingale, LLP for the latter to provide immigration advice and prepare and file H-1B petitions for teachers recruited abroad the term March 5, 2014 through June 30, 2017 at a cost not to exceed \$30,000 in any fiscal year.

Recommendation Ratification of Agreement between Van Der Hout, Brigagliano & Nightingale, LLP and the Oakland Unified School District for the term March 5, 2014 through June 30, 2017 at a cost not to exceed \$30,000 in any fiscal year.

Fiscal Impact Funding resource name: (GP) not to exceed \$30,000.00

Attachments

- Agreement



OAKLAND UNIFIED
SCHOOL DISTRICT

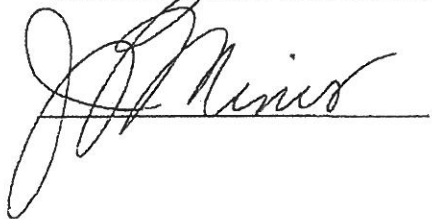
Community Schools, Thriving Students

**ADDENDUM
To Agreement With
Van Der Hout, Brigagliano & Nightingale, LLP**

The term of the Agreement which is attached hereto shall be March 5, 2014 to June 30, 2017, provided however, either Party to the Agreement may terminate said Agreement for no cause by giving thirty days prior written notice to the other Party.

OAKLAND UNIFIED SCHOOL DISTRICT

Van Der Hout, Brigagliano &
Nightingale, LLP



3/5/14
Date


Christina Brigagliano 03/18/2014
Date

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: The District 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.epls.gov/eplis/search.doc>)



David Kakishiba
President, Board of Education

6-26-14



Secretary, Board of Education

6-26-14

File ID Number: 14-1534
Introduction Date: 6-25-14
Enactment Number: 14-1325
Enactment Date: 6-25-14
Rv:

VAN DER HOUT, BRIGAGLIANO & NIGHTINGALE, LLP

1. Oakland Unified School District (hereafter "EMPLOYER") hereby retains and employs VAN DER HOUT, BRIGAGLIANO & NIGHTINGALE, LLP (hereafter "FIRM"), to represent EMPLOYER and the following person(s) in connection with the immigration matter stated below.

2. The FIRM agrees to perform the following services:

Prepare and File H-1B Petition on behalf of Employee, _____

3. As compensation for the above-described services, EMPLOYER agrees to pay:

- Fees for legal services, \$2000. It is understood that this agreement is limited to those services listed immediately above.
- Costs of Administrative Overhead (5% of legal fees): \$125.
- LawLogix Optimization \$35.00 x each separate matter or applicant
- Department of Homeland Security filing fees in the amount of \$820:
 - o \$320 for Form I-129
 - o \$500 Fraud Fee
 - o \$0 Training Fee

One check to cover the filing fee(s) may be made payable to Van Der Hout, Brigagliano & Nightingale, LLP.

- Extraordinary costs such as overnight mail, international phone calls, credentials evaluations, etc. as needed

4. EMPLOYER understands that legal fees will be renegotiated in the event that unanticipated work is required, in which case a separate retainer agreement will be executed before the firm proceeds with additional work. This could include but is not limited to the following: work related to delays in adjudication, extensions of advance parole or work authorization, responses to assessment notices or Requests for Evidence, unanticipated work required to establish the prevailing wage, legal work not included in this agreement for dependent family members, visa extensions, applications for visas at US consulates abroad, travel assistance, administrative appeals, and federal court actions.

5. EMPLOYER understands that payment for all services is due and payable upon signing this agreement or within thirty (30) days. If fees and costs due are not paid in full within thirty (30) days after coming due under this contract, the EMPLOYER agrees to pay late charges on the unpaid balance at rate of twelve percent (12%) per year until the balance is paid. It is further understood that if EMPLOYER fails to pay the agreed upon legal fees and costs or in any way fails to cooperate with the FIRM; the FIRM may terminate its services and withdraw from the case. EMPLOYER understands that the any retainer and all payments for legal fees are generally non-refundable.


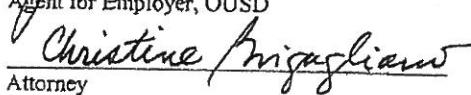
6. If it is necessary for the FIRM to file suit for the collection of any amounts not paid as agreed in this contract, EMPLOYER agrees to pay reasonable attorneys' fees and court costs for such collection.

7. It is agreed that the FIRM has not made any guarantee with regard to the successful outcome of the matters listed above or the time required to complete the case, however, the firm will strive provide the highest level of service, and will make every effort to obtain the desired outcome for the client as expeditiously as possible.

READ, APPROVED, AND ACCEPTED:

Dated: 3-5-2014
Executed in Oakland, California

Process Code: H-1B (E)
Reference Code: H-1B


Agent for Employer, OUSD

Attorney
VAN DER HOUT, BRIGAGLIANO, & NIGHTINGALE, LLP

NOTES

- ☐ Consent to third party billing required.
- ☐ Waiver of confidentiality for third party required.