

Board Office Use: Legislative File Info.	
File ID Number:	16-2749
Introduction Date:	01/11/2017
Enactment Number:	
Enactment Date:	

Memo

To: Board of Education

From: Antwan Wilson, Superintendent

Board Meeting Date: 01/11/2017

Subject: Professional Service Contract

Contractor: Destiny Arts Center of Oakland, CA

Services for: 179-MANZANITA COMMUNITY SCHOOL

Board Action Requested and Recommendation: Ratification by the Board of Education of a Professional Services Contract between the District and Destiny Arts Center, Oakland, CA, for the latter to provide: Destiny Arts Center will provide programming that aligns with the vision, mission, youth development model, principles and goals of Destiny Arts Center and the Partner. In addition, they will provide supervision and administrative infrastructure for Destiny Arts Center teaching artist; Maintain Communication between Destiny Arts Center and the Partner (Manzanita Community School); And provide designated teaching artist with training, supervision, and program development to ensure optimum operation of the classes. for the period of 09/19/2016 through 06/09/2017 in an amount not to exceed \$15,000.00.

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

Vendor services are need to create a positive and dynamic school climate that gives students the opportunity to use movement and dance to express themselves and build each other up.

Discussion:
(QUANTIFY what is being purchased.)

Destiny Arts Center will provide programming that aligns with the vision, mission, youth development model, principles and goals of Destiny Arts Center and the Partner. In addition, they will provide supervision and administrative infrastructure for Destiny Arts Center teaching artist; Maintain Communication between Destiny Arts Center and the Partner (Manzanita Community School); And provide designated teaching artist with training, supervision, and program development to ensure optimum operation of the classes.

Board Office Use: Legislative File Info.	
File ID Number:	16-2749
Introduction Date:	01/11/2017
Enactment Number:	
Enactment Date:	

Fiscal Impact: Funding Resource name(s) (detailed below) not to exceed \$15,000.00.

\$15,000.00

MEASURE G PARCEL TAX

Attachments: Professional Services Contract including Scope of Work



CONTRACT JUSTIFICATION FORM

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

Legislative File ID No. 16-2749

Department: 179-MANZANITA COMMUNITY SCHOOL

Vendor Name: Destiny Arts Center

Contract Term: Start Date: 09/19/2016 End Date: 06/09/2017

Annual Cost: \$ \$15,000.00

Approved by: BERNARD MCCUNE

Is Vendor a local Oakland business? Yes ☒ No ☐

Why was this Vendor selected?

Worked with Vendor previously at OUSD

Summarize the services this Vendor will be providing.

Was this contract competitively bid? Yes ☒ No ☐

If No, answer the following:

1) How did you determine the price is competitive?

Price compared with other vendors

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 \$87,800.00 (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 \$87,800.00 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

Board Office Use: Legislative File Info.	
File ID Number	16-2749
Introduction Date	01/11/2017
Enactment Number	
Enactment Date	



OAKLAND UNIFIED
SCHOOL DISTRICT

PROFESSIONAL SERVICES CONTRACT 2016-2017

This Agreement is entered into between Destiny Arts Center 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 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 09/19/2016, or the day immediately following approval by the Superintendent if the aggregate amount CONTRACTOR has contracted with the District is below \$87,800.00 in the current fiscal year; or, approval by the Board of Education if the total contract(s) exceed \$87,800.00, whichever is later. The work shall be completed no later than 06/09/2017.
- Compensation:** OUSD agrees to pay CONTRACTOR for services satisfactorily rendered pursuant to this Agreement. The compensation under this Contract shall not exceed Fifteen Thousand Dollars and 00/100 Dollars (\$15,000.00) [per fiscal year], at an hourly billing rate not to exceed N/A 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: N/A.

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: N/A, which shall not exceed a total cost of \$0.00.

5. 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: EYANA SPENCER

Site /Dept.: 179-MANZANITA COMMUNITY SCHOOL

Address: 2409 E 27th St

Oakland, CA 94601

Phone: 5352822

Email: EYANA.SPENCER@ousd.org

CONTRACTOR:

Name: Cristy Limon

Title: CEO

Address: 970 Grace Avenue

Oakland, CA 94608

Phone: 510-597-1619

Email: aurora@destinyarts.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 from OUSD's Risk Management.) 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.

13. **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.
 14. **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.
 15. **Copyright/Trademark/Patent/Ownership:** CONTRACTOR understands and agrees that all matters produced under this Agreement shall become the property of OUSD and cannot be used without OUSD's express written permission. OUSD shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark, and/or patent of said matter in the name of OUSD. CONTRACTOR consents to use of CONTRACTOR's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium. 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 CONTRACTOR or its Sub-CONTRACTORS in connection with the Services performed under this Agreement. All works 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.
 16. **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 similar subsequent act from constituting a violation of the Agreement.
 17. **Termination:** OUSD may at any time terminate this Agreement upon 30 days prior 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.
 18. **Conduct of CONTRACTOR:** By signing this Agreement, CONTRACTOR certifies compliance with the following requirements and will provide OUSD with evidence of staff qualifications, which include:
 1. **Tuberculosis Screening:** CONTRACTOR is required to screen employees who will be working at OUSD sites for more than six hours. CONTRACTOR affirms that each employee has current proof of negative TB testing on file and TB results are monitored.
 2. **Fingerprinting of Employees and Agents.** The fingerprinting and criminal background investigation requirements of Education Code section 45125.1 apply to CONTRACTOR's services under this Agreement and CONTRACTOR certifies its compliance with these provisions as follows: "CONTRACTOR certifies that CONTRACTOR has complied with the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 with respect to all CONTRACTOR's employees, subcontractors, agents, and subcontractors' employees or agents ("Employees") regardless of whether those Employees are paid or unpaid, concurrently employed by OUSD, or acting as independent contractors of CONTRACTOR, who may have contact with OUSD pupils in the course of providing services pursuant to the Agreement, and the California Department of Justice has determined that none of those Employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. Contractor further certifies that it has received and reviewed fingerprint results for each of its Employees and Contractor has requested and reviews subsequent arrest records for all Employees who may come into contract with OUSD pupils in providing services to the District under this Agreement.
- In the event that OUSD, in its sole discretion, at any time during the term of this contract, desires the removal of any CONTRACTOR related persons, employee, representative or agent from an OUSD school site and, or property, CONTRACTOR shall immediately, upon receiving notice from OUSD of such desire, cause the removal of such person or persons.
19. **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.
 20. **OUSD's Evaluation of CONTRACTOR and CONTRACTOR's Employees and/or Subcontractors.** OUSD may evaluate CONTRACTOR's work in any way that OUSD is entitled to do so pursuant to applicable law. The OUSD's evaluation may include, without limitation:
 1. Requesting that OUSD employee(s) evaluate the CONTRACTOR and the CONTRACTOR's employees and subcontractors and each of their performance.
 2. Announced and unannounced observance of CONTRACTOR, CONTRACTOR's employee(s), and/or subcontractor(s).
 21. **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.
 22. **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.

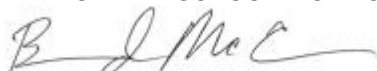
23. **Conflict of Interest:** CONTRACTOR shall abide by and be subject to all applicable, regulations, statutes or other laws regarding conflict of interest. CONTRACTOR shall not hire any officer or employee of OUSD to perform any service by this Agreement without the prior approval of OUSD Human Resources.

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.sam.gov/>).
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.
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.
31. **W-9 Form:** If CONTRACTOR is doing business with OUSD for the first time, complete and return with the signed Contract the W-9 form.

OAKLAND UNIFIED SCHOOL DISTRICT


☐ President, Board of Education

☒ Superintendent or Designee

Secretary, Board of Education

CONTRACTOR

Cristy Limon

Contractor Signature

Cristy Limon, CEO

Print Name, Title

Form approved by OUSD General Counsel for 2015-16 FY

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.

See Attached Scope of Work

2. **Specific Outcomes:** What are the expected outcomes from the services of this Contract? Be specific. For example, as a result of the service(s): 1) How many more Oakland children are graduating from high school? 2) How many more Oakland children are attending school 95% or more? 3) How many more students have meaningful internships and/or paying jobs? 4) How many more Oakland children have access to, and use, the health services they need? Provide details of program participation (Students will...) and measurable outcomes (Participants will be able to...). NOT THE GOALS OF THE SITE OR DEPARTMENT.

Destiny Arts Center provides movement arts and martial arts programs both in school and after school to emphasize the value of community building and conflict resolution among the youth. Students are exposed to real life examples of art forms, technique, skill-building and opportunities to create, collaborate and perform that provides a positive and healthy vehicle for self-expression and social awareness.

3. **Alignment with District Strategic Plan:** Indicate the goals and visions supported by the services of this contract:
(Check all that apply.)

- | | |
|--|--|
| <input type="checkbox"/> Ensure a high quality instructional core | <input type="checkbox"/> Prepare students for success in college and careers |
| <input type="checkbox"/> Develop social, emotional and physical health | <input type="checkbox"/> Safe, healthy and supportive schools |
| <input type="checkbox"/> Create equitable opportunities for learning | <input type="checkbox"/> Accountable for quality |
| <input type="checkbox"/> High quality and effective instruction | <input type="checkbox"/> Full service community district |

4. **Alignment with Community School Strategic Site Plan – CSSSP (required if using State or Federal Funds):**

Please select:

- ☐ **Action Item included in Board Approved CSSSP** (no additional documentation required) – Item Number(s):

- ☐ **Action Item added as modification to Board Approved CSSSP** – Submit the following documents to the Resource Manager either electronically via email of scanned documents, fax or drop off.

1. Relevant page of CSSSP with action item highlighted. Page must include header with the word “Modified”, modification date, school site name, both principal and school site council chair initials and date.
2. Meeting announcement for meeting in which the CSSSP modification was approved.
3. Minutes for meeting in which the CSSSP modification was approved indicating approval of the modification.
4. Sign-in sheet for meeting in which the CSSSP modification was approved.



PARTNER CONTRACTOR AGREEMENT

This Contractor Agreement (the "**Agreement**") is made and entered into as of September, 15 2016 (the effective date of contract) between Manzanita Community School, (the "**Partner**") and Destiny Arts Center, (the "**Contractor**") (collectively, the "**Parties**").

A. Scope of Work

Destiny Arts Center agrees to:

- Provide programming that aligns with the vision, mission, youth development model, principles and goals of Destiny Arts Center and the Partner.
- Provide supervision and administrative infrastructure for Destiny Arts Center teaching artists.
- Maintain communication between Destiny Arts Center and the Partner.
- Provide designated Destiny Arts Center teaching artists with training, supervision, and program development to ensure optimum operation of the classes.

B. Programming

Destiny Arts Center agrees to provide the following programming:

33 weeks of in-school Capoeira for elementary students during the 2016-2017 school year and 32 weeks for African Dance at Manzanita Community School (2409 E 27th St, Oakland, CA 94601)

- Programming will be from September 19, 2016 – June 9, 2017
- Classes will be held from 10am-5pm weekly on Mondays and 9:55am-2:20pm weekly on Thursdays.
- Destiny Teaching Artist will arrive at 15 minutes before the first class session for set-up
- Site will be responsible for enrolling students
- There will be a maximum of 20 students in each class session
- Instruction may work up to a performance at Destiny's Winter recital: Love in Action on 12/10/16 and Spring recital: LOND on 6/3/17 – with parental permission

C. Evaluation and Tracking

Destiny Arts Center agrees to:

- follow requirements of sites in regards to attendance policies and record keeping.
- administer its own evaluations to ensure the quality of programming at the site
- collect parent/guardian contact information to keep parents/guardians abreast of Destiny events that their child will participate in.
- collect demographic information (gender and ethnicity) from all students in Destiny Arts Center classes for evaluation and data entry purposes.



- obtain consent from all students and their parents/guardians to participate in off-site activities.

D. Communication

- Destiny Arts Center will provide the school with accurate contact information for each Destiny Arts Center teaching artist.
- Destiny Arts Center's teaching artist will contact the Site Coordinator immediately if they are running late or will be unable to teach class for any reason.
- Destiny Arts Center will attempt to provide replacement staff if the primary teaching artist is unable to attend and will inform the Site Coordinator of any changes.
- Inability to find a suitable substitute for classes may result in cancellation of classes; however, Destiny Arts Center Staff will inform Site Coordinators of this possibility as soon as possible.

E. Operating Agreements

- Destiny Arts Center teaching artist will not leave youth unattended in the program area and will immediately address any inappropriate youth behavior in a manner that honors the sites rules and practices as well as Destiny's guidelines for positive classroom discipline (*see attachments*).
- If there is an incident, Destiny Arts Center staff will report immediately to the Head of School and/or Site Coordinator.
- Destiny Arts Center teaching artists will arrive 15 minutes before classes start to ensure a smooth transition between other classes/activities and Destiny Arts Center classes (Destiny Arts Center considers this 'on time').
- At the time of their arrival, Destiny Arts Center teaching artists will sign in with the Site Coordinator/School Administrator and sign out when they leave.

F. Safety Agreements

- Each Destiny Arts Center teaching artist will be background checked via LiveScan fingerprinting and tested for TB before beginning classes.
- Destiny Arts Center is committed to providing a safe, violence-free environment in which to learn and practice. In this regard, it is strictly prohibited for anyone involved in Destiny Arts Center to act in a violent or threatening manner. If any Destiny Arts Center staff member observes or becomes aware of violent or threatening conduct by a student, an employee, contractor, visitor or anyone else, he or she will notify a school administrator immediately.

G. Site agrees to:

- Manage all aspects of the site's programming and facilities and make sure that the space is program ready (i.e. clean, free of trash, clean floors etc.).



DESTINY
ARTS CENTER

- Provide transparent decision-making and communication between the site and Destiny Arts Center staff.
- Have an on-site Site Coordinator/Administrator to support the Destiny Arts Center classes.
- Site staff will ensure that all youth transition to their next class following the Destiny Arts Center class.
- Provide appropriate studio space and adequate space for movement activities (i.e., ample room, ventilation, free of safety hazards) for classes. Destiny Arts Center teaching artists will leave the program area clean and ready for the next operation.
- Keep Destiny Art Center abreast of school events, staff meetings and days without programming.
- Encourage the site staff to attend appropriate Destiny Arts Center events (i.e. Destiny Open House Party, Winter and Spring Recitals, Destiny Arts Youth Performance Company Show etc...) to support students and strengthen the partnership between programs. Destiny Arts Center will communicate up-coming important events and opportunities to the site.
- Pay invoices to Destiny Arts Center on a regular basis and in a timely fashion as agreed upon by both parties.
- Should a site cancel a class without notice, no monetary fee will be deducted from the total program fee. Classes canceled by Destiny Arts Center may either be made up or deducted from the total program fee.

H. Fees and Payment Terms

The total cost of for the Destiny Arts Center program described above is **\$32,000**. Of the total funding, \$17,000 is provided by the City of Oakland Cultural Funding Program and **\$15,000** is due by the partner. Payment is due within 30 days of invoice date.

Destiny Arts Center Installment Schedule:

Program Period	Invoice Due	Payment Due	Amount
9/15/16-12/31/16	11/30/16	12/30/16	\$7,500
1/1/17-6/9/17	4/1/17	5/1/17	\$7,500

If payment is not received within 30 days of the end of the quarter, a \$200 late fee will be added to the amount owed for each 30-day period after the initial pay period.

I. Term and Termination

This Agreement takes effect immediately as of the Effective Date, and remains in full force and effect until the Contractor has completed the Services (the "Term"), unless earlier terminated.

970 Grace Avenue
Oakland, CA 94608

510.597.1619
destinyarts.org



Partner's Initials

11/14/16

Date



Either Party may terminate this Agreement for cause by providing the other Party written notice if the other Party: (i) is in material breach of this Agreement and has failed to cure such breach within five (5) days after its receipt of written notice of such breach provided by the non-breaching Party; (ii) engages in any unlawful business practice related to that Party's performance under the Agreement; or (iii) files a petition for bankruptcy, becomes insolvent, acknowledges its insolvency in any manner, ceases to do business, makes an assignment for the benefit of its creditors, or has a receiver, trustee or similar party appointed for its property.

J. Force Majeure

Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to Acts of God, Government restrictions, wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.

K. Non-Compete Clause

The Partner agrees that for a period of 2 years after completion of this project/service, they cannot solicit any Destiny Teaching Artist to independently perform similar duties as were performed during this program or teach similar art forms that Destiny provides.

L. Representations

Both Parties represent that they are fully authorized and empowered to enter into this Agreement, and that the performance of the obligations under this Agreement will not violate or infringe upon the rights of any third-party, or violate any agreement between the Parties and any other person, firm or organization or any law or governmental regulation. This Agreement shall not be assigned by either party without the express consent of the other party.

This Agreement may be amended only by written agreement duly executed by an authorized representative of each party (email is acceptable). A failure or delay in exercising any right, power or privilege in respect of this Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise, of that right, power or privilege or the exercise of any other right, power or privilege.

M. Indemnification

The Contractor shall indemnify and hold harmless the Company, its affiliates, and its respective officers, directors, agents and employees from any and all claims, demands,



losses, causes of action, damage, lawsuits, judgments, including attorneys' fees and costs, arising out of, or relating to, the Contractor's services under this Agreement.

N. Liability

Except with respect to the parties' indemnification obligations, neither party shall be liable to the other for any special, indirect, incidental, punitive or consequential damages arising from or related to this agreement, including bodily injury, death or related to this agreement, including bodily injury, death, loss of revenue, or profits or other benefits, and claims by any third party, even if the parties have been advised of the possibility of such damages. The foregoing limitation applies to all causes of action in the aggregate, including without limitation to breach of contract, breach of warranty, negligence, strict liability, and other torts. Neither part shall be found liable if "forces of nature" prevent fulfillment of the obligations of this agreement. Either party may terminate this agreement, only if all feasible attempts have been made at fulfillment.

O. Confidential Information

Each Party (on its behalf and on behalf of its subcontractors, employees or representatives, or agents of any kind) agrees to hold and treat all confidential information of the other Party, including, but not limited to, trade secrets, curriculum, employee and student information and any other information that the receiving Party reasonably should know is confidential ("**Confidential Information**") as confidential and protect the Confidential Information with the same degree of care as each Party uses to protect its own Confidential Information of like nature.

Confidential Information does not include any information that (i) at the time of the disclosure or thereafter is lawfully obtained from publically available sources generally known by the public (other than as a result of a disclosure by the receiving Party or its representatives); (ii) is available to the receiving Party on a non-confidential basis from a source that is not and was not bound by a confidentiality agreement with respect to the Confidential Information; or (iii) has been independently acquired or developed by the receiving Party without violating its obligations under this Agreement or under any federal or state law.

P. Law and Jurisdiction

This Agreement is be governed by and construed in accordance with the laws of the State of California without reference to any principles of conflicts of laws, which might cause the application of the laws of another state. Any action instituted by either party arising out of this Agreement will only be brought, tried and resolved in the applicable federal or state courts having jurisdiction in the State of California. EACH PARTY



HEREBY CONSENTS TO THE EXCLUSIVE PERSONAL JURISDICTION AND VENUE OF THE COURTS, STATE AND FEDERAL, HAVING JURISDICTION IN THE STATE OF CALIFORNIA.

Q. Accepted and Agreed

Eyana Spencer _____
Date 11/14/16

Eyana Spencer
Principal

Manzanita Community School

Archana Nagraj
Deputy Director
Destiny Arts Center

_____ Date

970 Grace Avenue
Oakland, CA 94608

510.597.1619
destinyarts.org

GP. _____
Partner's Initials

11/14/16
Date