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**OAKLAND UNIFIED
SCHOOL DISTRICT**

Community Schools, Thriving Students

Memo

To Board of Education

From Kyla Johnson-Trammell, Superintendent

Board Meeting Date _____
(To be completed by Procurement)

Subject Memorandum of Understanding - Mandela MarketPlace (contractor) - Community Schools and Student Services Department (site/department)

Action Requested Approval by the Board of Education of the Memorandum of Understanding between the District and Mandela MarketPlace. Services to be primarily provided to the Community Schools and Student Services Department for the period of November 29, 2017 through November 29, 2020.

Background
A one paragraph explanation of why the consultant's services are needed. Mandela MarketPlace supports OUSD Nutrition initiatives by addressing food insecurity, economic disinvestment and health inequity by providing weekly, pop-up produce stands at OUSD schools.

Discussion
One paragraph summary of the scope of work. Approval by the Board of Education of a Memorandum of Understanding between District and Mandela MarketPlace, Oakland, CA, for the latter provide weekly, pop-up produce stands and nutrition education for International Community School, Think College Now, La Escuelita, and Garfield Elementary School, for the period of November 29, 2017 through November 29, 2020, at no cost to the District.

Recommendation Approval by the Board of Education of a Memorandum of Understanding between the District and Mandela MarketPlace. Services to be primarily provided to the Community Schools and Student Services Department for the period of November 29, 2017 through November 29, 2020.

Fiscal Impact Funding resource name (please spell out): No fiscal impact.

Attachments

- Memorandum of Understanding
- Clearance Letter
- Certificate of Insurance



CONTRACT JUSTIFICATION FORM

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

Legislative File ID No. 18-0491

Department: 922/Community Schools and Student Services

Vendor Name: Mandela MarketPlace

Contract Term: Start Date: 11/29/2017 End Date: 11/29/2020

Annual Cost: \$ 0

Approved by: Andrea Bustamante

Is Vendor a local Oakland business? Yes No

Why was this Vendor selected?

School-sites selected partner for In-Kind agreement.

Summarize the services this Vendor will be providing.

Mandela MarketPlace provides a weekly, pop-up produce stand at OUSD schools for the entire school community to shop for fresh and affordable fruits, vegetables and pantry staples in a friendly, educational and approachable environment. We also provide nutrition education to the school community and support the districts' health and wellness campaigns.

Was this contract competitively bid? Yes No

If No, answer the following:

- 1) How did you determine the price is competitive?

No cost to OUSD for services.

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**

MEMORANDUM OF UNDERSTANDING, NO COST TO OAKLAND UNIFIED SCHOOL DISTRICT

I. Parties

The purpose of this Memorandum of Understanding (“MOU”) is to establish a relationship between Oakland Unified School District (“OUSD”) and Mandela MarketPlace (MMP)
[CONTRACTOR—name of your organization].

WHEREAS, the CONTRACTOR’s services or program described in this MOU will be provided at no cost to OUSD (or students or parents unless otherwise agreed upon by both parties); and

BOTH PARTIES HEREBY enter into this MOU to enable CONTRACTOR to provide said program(s) selected in Section II of the MOU.

II. Site Name(s)

Unless otherwise further agreed to in writing by the parties, the School Sites governed by this MOU are the following (attach separate document if more space is needed):

International Community School, Think College Now, La Escuelita, Garfield Elementary

III. CONTRACTOR Responsibilities/Scope of Services

A. Provide a description of the services that your program(s) will be providing to OUSD. Please be specific by answering all of the following questions.

1. A detailed description of the type of services your program(s) will provide to OUSD (reference Exhibit A: Scope of Work)
2. A description of your organization and relevant experience (reference Exhibit B: Statement of Qualifications)
3. Please disclose all costs to parents or students (if applicable). If no such costs, leave blank or write “N/A.”

MMP will operate pop-up produce stands to increase access to fresh, healthy fruits, vegetables and pantry items

to school families.

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

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

B. Ensure that all CONTRACTOR personnel, including subcontractors, will comply with any policy and systems in place at OUSD and School(s). This includes, but is not limited to the following:

1. **Drug and Smoke Free**—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 drugs at these School(s).
2. **Anti-Discrimination**—It is the policy of OUSD that in connection with CONTRACTOR’s services under this MOU there shall be no discrimination against any employee engaged in the work because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, age, or other legally protected class. Therefore, the CONTRACTOR agrees to comply with all applicable Federal and California laws.
3. **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 OUSD employee to perform the services in this MOU, and affirms that to the best of its knowledge no such conflict presently exists. CONTRACTOR agrees to alert OUSD in writing if and when a potential conflict arises.
4. **Family Education Rights and Privacy Act**—CONTRACTOR shall observe all District policies and regulations, and state and federal laws, including the Family Education Rights and Privacy Act of 1974, commonly known as FERPA, related to the confidentiality of pupil and personnel records. A separate Data Sharing Agreement is required if CONTRACTOR seeks identifiable student information.

C. **Tuberculosis Screening:** CONTRACTOR is required to screen employees and agents who will be present at OUSD sites during the current school year. CONTRACTOR affirms that each person has current proof of negative TB testing on file and TB results are monitored. Please see **Section IV** for the relevant documentation that is required.

D. **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 MOU. 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 MOU, 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 contact with OUSD pupils in providing services to the District under this MOU. [Please see **Section IV** for the relevant documentation that is required.]

In the event that OUSD, in its sole discretion, at any time during the term of this MOU, desires the removal of any CONTRACTOR related person, employee, representative or agent from any 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.

E. Insurance

1. **General Liability:** ***EITHER*** (a) CONTRACTOR maintains general liability insurance that names OUSD as an additional insured, for operations, students, volunteers, and personnel at location where CONTRACTOR provides programs/services with at least \$1 Million in coverage, and furnish certificate of said insurance to OUSD ***OR*** (b) CONTRACTOR is not required to maintain general liability insurance under this MOU if the Risk Management Officer signs a waiver of insurance. Please see **Section IV** for the relevant documentation that is required.
2. **Workers' Compensation:** If CONTRACTOR employs any person to perform work in connection with this MOU, 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. The CONTRACTORS' Employers' Liability Insurance shall not be less than One Million Dollars (\$1,000,000) per accident or disease. Please see **Section IV** for the relevant documentation that is required.

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.

F. Communication—CONTRACTOR agrees to communicate with School(s) and OUSD staff, both formally and informally, to ensure, to the best of the program's ability, that the CONTRACTOR'S services are aligned with the School(s) and OUSD's mission and objectives and are adequately meeting student's needs. At the request of School(s) or OUSD staff, CONTRACTOR shall provide reasonable data and information to students participating in the CONTRACTOR's program.

G. Confidentiality—CONTRACTOR shall maintain strict confidentiality of all information about individual students received under this MOU and will not disseminate such information without the express written consent of OUSD. CONTRACTOR will comply with FERPA, and will be allowed to use the data received to solicit funding to continue to expand its services/program, so

long as there is no information from which the identity of any student in the CONTRACTOR's program as a participant could be made.

- H. **Register With/Update Provider Database**—In order to maintain accurate up-to-date information on the services provided, Contractor shall register in OUSD's provider database, update schools of operation prior to commencing services during subsequent school years, and update during the current school year when Contractor's schools of operation change.

IV. Required Documents

CONTRACTOR CANNOT commence the services agreed to in this MOU until it has submitted the following documents:

A. TB and Fingerprinting Clearance

Contractor (Individual):

- Submit clearance letter from authorized agency verifying individual has been Fingerprinted/Criminal Background Checked for this current fiscal year. Additionally, please provide documentation from health care provider showing negative TB status of individual within the last four years.

Contractor (Agency):

- Attach clearance letter from Agency/Community-Based Organization/Non-Profit Organization on agency letterhead verifying all personnel, including subcontractors, have been Fingerprinted/Criminal Background Checked and have TB clearance for this current fiscal year and signed by authorized personnel.

B. Insurance

Contractor (Individual/Agency):

- Please attach documentation of either proof of insurance, or a waiver signed by the Risk Management Officer. The additional insured address must read: Oakland Unified School District, Attention: Risk Management, 1000 Broadway Suite 440, Oakland, CA 94607. Waiver of insurance does not release CONTRACTOR from responsibility for any claim or demand.

V. Responsibilities of Oakland Unified School District

- A. **Space**—Provide a suitable classroom or space at the participating School(s), to be agreed upon by School(s) and the CONTRACTOR.
- B. **Janitorial Service**—Provide necessary services to maintain this space, which may include janitorial services, maintenance, utilities, and technology support.

VI. Duration

This MOU is for the 11/29/2017 -- 11/29/2020 period.
[Insert mm/dd/year] [Insert mm/dd/year]

VII. Termination

Either party may terminate this MOU at any time, without cause, with 30 day written notice to the other party. This MOU may be amended by mutual consent of the parties. All amendments must be in writing and signed by both parties.

VIII. Defense/Indemnity/Hold Harmless

Each party to this MOU agrees to defend, indemnify and hold harmless the other for and from any claims, causes of action, or any other proceeding of any type or kind that is made against the other where such claim, cause of action or other proceeding arises from the conduct, act, omission, or commission by the other party.

IX. Jurisdiction

This MOU shall be performed in Oakland, California and is governed by the laws of the State of California. The Alameda County Superior Court or the United States District Court for the Northern District of California shall have jurisdiction over any civil action arising out of or relating to this MOU.

X. Notices

Any notice provided for in this MOU shall be in writing and effective upon receipt at the address set forth below in this section, delivered by any of the following means: personal delivery; certified U.S. mail, return receipt requested; or electronic mail. Either party may change the addresses below by giving notice of such change pursuant to this section.

DISTRICT

Contact: Marion McWilliams
Title: General Counsel
Address: Office of the General Counsel
1000 Broadway, Suite 680
Oakland, CA 94607
Phone: 510-879-8535
Fax: 510-879-4046
Email: marion.mcwilliams@ousd.org

CONTRACTOR

Contact: Josephine Radbill
Title: Healthy Retail Coordinator
Address: 1364 7th Street
Oakland, CA 94607
Phone: 510.433.0993
E-mail: josephine@mandelamarketplace.org

OUSD Sponsoring School/Department: Garfield Elementary

XI. 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.

XII. 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/>).

XIII. Integration and Modification

This MOU constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This MOU may be amended or modified only in writing, signed by both Parties.

XIV. Assignment

The rights and obligations of the each Party under this MOU shall not be assigned without the express prior written consent of the other Party.

XV. Waiver

No delay or omission by either Party in exercising any right under this MOU shall operate as a waiver of that or any other right provided for in this MOU.

XVI. No Rights in Third Parties

This MOU does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.

XVII. Counterparts

This MOU and all amendments and modifications to it may be executed in counterparts, and all counterparts together shall be construed as one document.

XVIII. Intellectual Property

During the term of this MOU, any works created by or inventions of Contractor, his agents or employees, within the scope of the work contracted herein shall belong to the District together with all associated copy rights and patents. Contractor shall not publish any aspect of the work performed hereunder without prior written consent of the District.

XIX. Relationship of Parties

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.

XX. 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.

XXI. Incorporation of Recitals and Exhibits

The Recitals and each exhibit attached hereto are hereby incorporated herein by reference. CONTRACTOR agrees that to the extent any recital or document incorporated herein conflicts with any term or provision of this Agreement, the terms and provisions of this Agreement shall govern.

XXII. Public Document

This contract, its contents, and all incorporated documents are public documents and will be made available by OUSD to the public online via the Internet.

IN WITNESS THEREOF, the parties to this agreement have duly executed it on the day, month and year set forth below.

OAKLAND UNIFIED SCHOOL DISTRICT

Aimee Eng 4/26/18
 President, Board of Education Date (mm/dd/year)
 Superintendent
 Chief or Deputy Chief

[Signature] 4/26/18
Secretary, Board of Education Date (mm/dd/year)

CONTRACTOR

[Signature] 11/29/2017
Contractor Signature Date (mm/dd/year)

Josephine Radbill, Healthy Retail Coordinator
Print Name, Title

Form approved by OUSD General Counsel for 2017-18
FY

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

By: [Signature]
Amy Brandt, Attorney at Law
3.22.18

OUSD or the District verifies that the Contractor does not appear on the Excluded Parties List at <https://www.sam.gov/>

EXHIBIT "A" SCOPE OF WORK

Description of Services to be Provided and Specific Expected Outcomes: Highlight each program that you provide to OUSD. Attach a separate document if more space is needed.

MMP will operate pop-up produce stands to increase access to fresh fruits, vegetables and pantry items to the entire school community. We provide friendly customer service in an approachable market setting. We also perform outreach to families about healthy-promoting programming, as well as nutrition education at the market and may include demonstrations in select classrooms.

EXHIBIT "B" STATEMENT OF QUALIFICATIONS

Description of Organization and Relevant Experience: For individual consultants, a résumé will suffice. Attach a separate document if more space is needed.

All staff are CA food handlers' certified. Nutrition Education is relevant and accessible to children. Please see attached sheet for more information about MMP's work overall.

WHO WE ARE

Mandela MarketPlace is a non-profit organization that addresses food insecurity, economic disinvestment and health inequity in under-resourced communities. Through community organizing, education, entrepreneurship, and 'ladder-up' financing, Mandela MarketPlace invests in community members and organizations to cultivate a thriving local economy.

OUR WORK

50% OF PRODUCE PURCHASED BY MANDELA FOODS DISTRIBUTION COMES DIRECTLY FROM LOCAL FARMS = **\$500K** IN ADDITIONAL REVENUE FOR LOCAL UNDER-RESOURCED FARMERS

960,000+ POUNDS OF PRODUCE MADE AVAILABLE IN FOOD INSECURE COMMUNITIES, MOST OF WHICH IS SUSTAINABLY GROWN

\$7.2MM IN REVENUE GENERATED, KEEPING WEALTH IN THE COMMUNITY



OUR MISSION



Mandela MarketPlace works in partnership with local residents, family farmers, and community-based businesses to improve health, create wealth and build assets through cooperative food enterprises.

OUR VALUES



Equity
Community-Driven
Authentic Partnership
Transformative Change
Food is Fundamental

OUR PROJECTS

Healthy Food Access



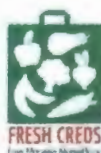
Healthy Retail Network

Increase community access points for healthy food and partner with local retail centers – like corner stores – to provide affordable delivery, technical assistance, and comprehensive marketing.



Community Produce Stands

Work with local organizations – like schools, senior centers and clinics – to place produce stands in high traffic locations so that community members are able to purchase farm fresh produce and wholesome basic staples at affordable prices.



Fresh Creds

Provide lower-income community members CalFresh-match credit through Credibles to access healthy fruits and vegetables at Mandela MarketPlace's network of healthy retail sites and partners.



Community Nutrition Education

Educate community members at Mandela MarketPlace's retail sites and produce stands on ways to eat healthfully on a budget, and the connections between food and other resources in our communities.



Capacity-Building in Alameda & San Joaquin Counties

Work with community-based organizations to plan and coordinate initiatives in under-resourced areas to further efforts around food security, health, and economic vibrancy in low-income communities of color.

Entrepreneurship & Business Development



Mandela Grocery

A worker-owned full service retail grocery store and nutrition center in West Oakland to foster economic empowerment and community health.



Ladder Up Financing

Provide access to financial credit to food retailers, value-added producers, local growers and food distributors targeting food-enterprises serving low-income communities.



Mandela Foods Distribution

Support under-resourced, local farmers by establishing an alternative distribution network that passes on wholesale prices to encourage neighborhood stores and other community-based businesses to carry healthy food offerings.



Soulful Kitchen

Zella's Soulful Kitchen

Independently owned, Zella's is Mandela MarketPlace's most recent incubated food enterprise, located within Mandela Foods Cooperative. Owned and operated by Dionne Knox, Zella's is committed to good food & developing the skills of local residents - both professional and culinary.



Ashland Market and Cafe

Mandela MarketPlace and local partners are building a community-visioned café and market hall that features healthy food and provides kiosks for local entrepreneurs to launch their food businesses.

COMMENTS/REMARKS

Oakland Unified School District (OUSD) is included as an additional insured under General Liability, for operations, students, volunteers and personnel at Cesar Chavez (ICS, TCN, International CDC) and Met West HS, Dewey HS, La Escuelita Elementary and United Nations CDC per attached endorsement form #CG2026 0413, provided it is required in a written contract between the Named Insured and the Additional Insured.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):

Any person or organization that you are required to add as an additional insured on this policy, under a written contract or agreement currently in effect, or becoming effective during the term of this policy. The additional insured status will not be afforded with respect to liability arising out of or related to your activities as a real estate manager for that person or organization.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

- A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:
1. In the performance of your ongoing operations; or
 2. In connection with your premises owned by or rented to you.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

- B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations; whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.