

<b>Board Office Use: Legislative File Info.</b>	
File ID Number	19-0323
Introduction Date	5/8/19
Enactment Number	19-0623
Enactment Date	5/8/19 If



**OAKLAND UNIFIED SCHOOL DISTRICT**  
*Community Schools, Thriving Students*

## MEMORANDUM OF UNDERSTANDING (NO COST) 2018-2019

This MEMORANDUM OF UNDERSTANDING (MOU) is entered into between Oakland Unified School District (OUSD) and Lao Family Community Development, Inc. (CONTRACTOR) and. 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).

The parties agree as follows:

- 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):

All OUSD high school sites.

- Services:** CONTRACTOR shall provide the services ("Services" or "Work") as described in **Exhibit "A,"** attached hereto and incorporated herein by reference.
- Term:** The term of this MOU shall be from April 24, 2019 to April 24, 2022, not to exceed three years from the start date.
- Compensation:** CONTRACTOR's services or program described in this MOU will be provided at no cost to OUSD. The following are all costs to parents or students (if applicable):

None

- CONTRACTOR Qualifications / Performance of Services:**

- CONTRACTOR Qualifications:** CONTRACTOR warrants it is specially trained, experienced, competent and fully licensed to provide the Services identified in this MOU 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. A description of CONTRACTOR'S organization with evidence of relevant experience is attached as **Exhibit "B":** Statement of Qualifications.
- Expectations or Goals of Program's Services:** The following checked items are in agreement with CONTRACTOR'S program's services:
  - Develop student's social health/skills
  - Develop student's emotional health
  - Develop student's physical health
  - Develop student's cognitive and academic skills
  - Create equitable opportunities for learning
  - Ensure, maintain, or support high quality and effective instruction
  - Prepare students for success in college and careers
  - Help ensure, create, and/or sustain safe, healthy and supportive schools
  - Help create full service community schools in OUSD
  - Increase graduation rates
  - Other: \_\_\_\_\_

6. **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 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: Kathy Chao Rothberg  
Title: Executive Director  
Address: 2325 East 12<sup>th</sup> Street, Suite 226  
Oakland, CA 94601  
Phone: (510) 533-8850  
E-mail: [krothberg@lfcfd.org](mailto:krothberg@lfcfd.org)

OUSD Sponsoring Department: English Language Learner and Multilingual Achievement Office

7. **Status of Contractor:** This is not an employment contract. CONTRACTOR, in the performance of this MOU, 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.

8. **Insurance:**

Unless specifically waived by OUSD, the following insurance is required:

1. 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 (including, but not limited to, Labor Code section 3700) and Federal laws when applicable. Employers' Liability Insurance shall not be less than One Million Dollars (\$1,000,000) per accident or disease.
2. CONTRACTOR shall maintain Commercial General Liability insurance, including automobile coverage, with limits of at least One Million Dollars (\$1,000,000) per occurrence for corporal punishment, sexual misconduct, harassment, bodily injury and property damage. The coverage shall be primary as to OUSD and shall name OUSD as an additional insured with the additional insured endorsement provided to OUSD within 15 days of effective date of the MOU (and within 15 days of each new policy year thereafter during the term of this MOU). 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.
3. 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**

CONTRACTOR is not required to maintain any insurance under this MOU. (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.

9. **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.
10. **Assignment:** The rights and obligations of CONTRACTOR under this MOU shall not be assigned without the express prior written consent of OUSD.
11. **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, sexual orientation, or other legally protected class.

12. **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 or prevent a similar subsequent act from constituting a violation of the MOU.
13. **Termination/Amendment:** Either party may terminate this MOU at any time, without cause, with 30 days 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.

14. **Responsibilities of CONTRACTOR:**

1. **Tuberculosis Screening:** CONTRACTOR is required to screen employees who will be working at OUSD sites for more than six hours. CONTRACTOR agents who work with students must submit to a tuberculosis risk assessment as required by Education Code 49406 within 60 days prior to working with students. If tuberculosis risk factors are identified, CONTRACTOR agents must submit to an intradermal or other approved tuberculosis examination to determine that he/she is free of infectious tuberculosis. If the results of the examination are positive, the CONTRACTOR agent shall obtain an x-ray of the lungs. At his/her discretion, CONTRACTOR agent may choose to submit to the examination instead of the risk assessment.
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 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.

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.

3. **Required Documents re Tuberculosis and Fingerprinting:**

CONTRACTOR CANNOT commence the services agreed to in this MOU until it has submitted the following documents (in addition to the insurance document noted above):

i. **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 clearance from the tuberculosis risk assessment or negative TB status of individual within the prior 60 days.

**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.

15. **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.
16. **Limitation of OUSD Liability:** 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 MOU for the services performed in connection with this MOU.
17. **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 MOU. 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.
18. **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.

19. **Register With/Update Enrichment Provider database:** In order to maintain accurate up-to-date information on the services provided, CONTRACTOR shall register in OUSD's Enrichment Provider database, update program information and schools during the school year when CONTRACTOR's programs and schools change midyear, and update program information and schools prior to commencing services during subsequent school years.
20. **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.
21. **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/>).
22. **Severability:** If any term, condition or provision of this MOU is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
23. **Provisions Required By Law Deemed Inserted:** Each and every provision of law and clause required by law to be inserted in this MOU shall be deemed to be inserted herein and this MOU shall be read and enforced as though it were included therein.
24. **Captions and Interpretations:** Section and paragraph headings in this MOU are used solely for convenience and shall be wholly disregarded in the construction of this MOU. No provision of this MOU shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this MOU shall be construed as if jointly prepared by the Parties.
25. **Copyright/Trademark/Patent/Ownership:** CONTRACTOR understands and agrees that all matters produced under this MOU 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 (specifically excluding any underlying pre-existing intellectual property). OUSD may, with CONTRACTOR's prior written consent, use 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 MOU. 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.
26. **Litigation:** This MOU shall be performed in Oakland, California and is governed by the laws of the State of California, but without resort to California's principles and laws regarding conflict of laws. The Alameda County Superior Court shall have jurisdiction over any litigation initiated to enforce or interpret this MOU.
27. **Incorporation of Recitals and Exhibits:** Any recitals and exhibits attached to this MOU are incorporated herein by reference. CONTRACTOR agrees that to the extent any recital or document incorporated herein conflicts with any term or provision of this Professional Services Contract, the terms and provisions of this Professional Services Contract shall govern.
28. **Integration/Entire Agreement of Parties:** 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 by a written instrument executed by both Parties.
29. **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 drugs on these sites, including at these School(s).
30. **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.
31. **Signature Authority:** Each party has the full power and authority to enter into and perform this MOU, and the person signing this MOU on behalf of each Party has been given the proper authority and empowered to enter into this MOU.
32. **Indemnification:** To the furthest extent permitted by California law, CONTRACTOR shall indemnify, defend and hold harmless OUSD, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers ("the Indemnified Parties") from any and all claims or losses accruing or resulting from injury, damage, or death of any person or entity arising out of or in any way related to the performance of this MOU. CONTRACTOR also agrees to hold harmless, indemnify, and defend the Indemnified Parties from any and all claims or losses incurred by any supplier, contractor, or subcontractor furnishing work, services, or materials to CONTRACTOR arising out of or in any way related to the performance of this MOU. CONTRACTOR shall, to the fullest extent permitted by California law, defend the Indemnified Parties at CONTRACTOR's own expense, including attorneys' fees and costs, and OUSD shall have the right to accept or reject any legal representation that CONTRACTOR proposes to defend the Indemnified Parties. This provision survives termination of this MOU.

Memorandum of Understanding (No Cost)

To the furthest extent permitted by California law, OUSD shall indemnify, defend and hold harmless CONTRACTOR, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers ("the Indemnified Parties") from any and all claims or losses accruing or resulting from injury, damage, or death of any person or entity arising out of or in any way related to the performance of this MOU. OUSD also agrees to hold harmless, indemnify, and defend the Indemnified Parties from any and all claims or losses incurred by any supplier, contractor, or subcontractor furnishing work, services, or materials to OUSD arising out of or in any way related to the performance of this MOU. OUSD shall, to the fullest extent permitted by California law, defend the Indemnified Parties at OUSD's own expense, including attorneys' fees and costs, and CONTRACTOR shall have the right to accept or reject any legal representation that OUSD proposes to defend the Indemnified Parties. This provision survives termination of this MOU.

- 33. **Contract Publicly Posted:** 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.
- 34. **Contract Contingent on Governing Board Approval:** OUSD shall not be bound by the terms of this MOU until it has been formally approved by OUSD's Governing Board, and no payment shall be owed or made to CONTRACTOR absent that formal approval. This MOU shall be deemed approved when it has been signed by the Board of Education, and/or the Superintendent as its designee.

**OAKLAND UNIFIED SCHOOL DISTRICT**

*Aimee Eng* 5/9/19  
Date  
 President, Board of Education  
 Superintendent  
 Chief or Deputy Chief  
*Jill Whitcomb* 5/9/19  
Date  
Secretary, Board of Education

**CONTRACTOR**

*[Signature]* 4/2/19  
Date  
Contractor Signature  
*Kathy Chan Rothberg, CEO*  
Print Name, Title

Form approved by OUSD General Counsel for 2018-19 FY

OAKLAND UNIFIED SCHOOL DISTRICT  
Office of the General Counsel  
APPROVED FOR FORM & SUBSTANCE  
By: *[Signature]* 4.8.19  
Amy Brandt, Attorney at Law

OAKLAND UNIFIED SCHOOL DISTRICT  
Office of the General Counsel  
APPROVED FOR FORM & SUBSTANCE  
By: *[Signature]*  
Amy Brandt, Attorney at Law

## 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 and Specific Expected Outcomes:** Provide a description of the program(s) and service(s) the contractor will provide. Be specific about what program(s) and service(s) will be provided to OUSD and what *this* Contractor will do.

Within the identified period, Contractor agrees to:

Identify youth at high risk of drop-out with OUSD, meet with youth, and verify eligibility to enroll in the program to support their academic success, employment readiness, diploma attainment, retention service and transition to college or career.

Assist in referring newcomer refugee and asylee youth to OUSD to enroll in High School and/or Alternative School to attain High School Diploma/ GED.

Communicate with ELLMA office to outreach to youth who have recently dropped out of school.

Work closely with ELLMA staff to verify/ensure program enrollment eligibility.

~~Translation assistance as needed for youth services during the information sessions.~~

OUSD ELLMA office agrees to:

Refer high risk of drop-out students, provide and connect drop-out youth who would benefit from additional services to support wrap-around service, intensive case management, work experience and employment opportunities for youth.

Leverage of resources secured by OUSD's ELLMA office to improve services to youth.

Identify and refer unaccompanied minors over the age of 18 who are interested in employment and career advancement.

Share data where consent is given to better serve the family enrolled in the program.

## EXHIBIT "B" STATEMENT OF QUALIFICATIONS

- 1. Description of Organization and Relevant Experience:** For individual consultants, a resume is sufficient. Attach a separate document if more space is needed.

Lao Family Community Development, Inc is a 501(c) 3 nonprofit corporation that was founded in 1980 by Southeast Asian refugees from Laos to help fellow refugees rebuild their lives in the Bay Area after escaping the political and social upheaval that ravaged their home countries. Today, LFCD is located in 7 locations throughout Northern California, with two locations in north and south Sacramento. LFCD has a staff of 50 and serves diverse clients each year in over 25 languages. LFCD offers assistance with employment, housing, ESL classes, financial literacy, VITA tax assistance, youth and senior programs, special crime victim assistance, domestic violence, and social adjustment for immigrants and refugees. Over the past 38 years, LFCD's services have expanded and diversified to meet the needs of the broader community. LFCD's mission is to build healthy communities by helping individuals and families achieve financial and social self-sufficiency.

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