



AGENDA REPORT

Meeting Date: October 18, 2010

Item Number: G-17

To: Honorable Mayor & City Council

From: Scott Miller, Director of Administrative Services and CFO
Noel Marquis, Assistant Director of Administrative Services - Finance

Subject: **APPROVALS RELATED TO VARIOUS CITY PURCHASING AND BUDGET TRANSACTIONS AS DESCRIBED HEREIN**

Attachments: Agreement

Item A. APPROVAL OF AN AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND STAR, INC. FOR AFTERSCHOOL AND SUMMER CLASS INSTRUCTION SERVICES THROUGH THE COMMUNITY SERVICES DEPARTMENT AND;

APPROVAL TO ISSUE A PURCHASE ORDER IN THE AMOUNT OF \$210,000 FOR THE SERVICES DESCRIBED.

RECOMMENDATION

Staff recommends that City Council approve an agreement and purchase order with STAR, Inc. for one year of service to provide after school and summer class instruction services in an amount not-to-exceed \$210,000 per year.

INTRODUCTION

The services of STAR, Inc. have been used by the City for the past three years. STAR, Inc. offers over two hundred various afterschool classes at each of the elementary schools and attracts large participation amongst the community's youth. The vendor's staff is comprised of highly qualified professionals from diverse backgrounds teaching in their area of expertise.

DISCUSSION

STAR, Inc. will provide afterschool and summer class instruction for the City's Community Services Department in accordance with a schedule approved by the City. Instruction in classes such as crafts, math, science, theatre, and other areas will be offered.

FISCAL IMPACT

The costs of the program are covered by the revenues generated from class fees.


Noel Marquis
Finance Approval


Scott G. Miller
Approved By

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND STAR, INC. FOR
AFTER SCHOOL AND SUMMER CLASS INSTRUCTION SERVICES THROUGH THE
CITY'S DEPARTMENT OF COMMUNITY SERVICES

NAME OF CONTRACTOR:	Star, Inc.
RESPONSIBLE PRINCIPAL OF CONTRACTOR:	Katya Bozzi, Executive Director
CONTRACTOR'S ADDRESS:	10117 W. Jefferson Culver City, CA 90232
CITY'S ADDRESS:	City of Beverly Hills 455 N. Rexford Drive Beverly Hills, CA 90210 Attention: Steve Zoet Interim Director of Community Services
COMMENCEMENT DATE:	August 1, 2010
TERMINATION DATE:	June 30, 2011
CONSIDERATION:	Not to exceed \$210,000 as more particularly described in Section 3 of the Agreement

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND STAR, INC. FOR
AFTER SCHOOL AND SUMMER CLASS INSTRUCTION SERVICES THROUGH THE
CITY'S DEPARTMENT OF COMMUNITY SERVICES

THIS AGREEMENT is made by and between the City of Beverly Hills (hereinafter called "CITY"), and Star, Inc. (hereinafter called "CONTRACTOR").

RECITALS

A. CITY desires to have certain services and/or goods provided as set forth in Exhibit A (the "Scope of Work"), attached hereto and incorporated herein.

B. CONTRACTOR represents that it is qualified and able to perform the Scope of Work.

NOW, THEREFORE, the parties agree as follows:

Section 1. CONTRACTOR's Scope of Work.

(a) CONTRACTOR shall perform the Scope of Work described in Exhibit A in a manner satisfactory to CITY.

(b) CONTRACTOR shall acquire and maintain at its sole cost and expense such equipment as CONTRACTOR requires to conduct the services required by this Agreement.

Section 2. Time of Performance.

CONTRACTOR shall commence its services under this Agreement upon receipt of a written notice to proceed from CITY. CONTRACTOR shall complete the performance of services by the Termination Date set forth above.

Section 3. Compensation.

(a) Upon satisfactory completion of all class instruction services to be provided as set forth in Exhibit A of this Agreement, CITY shall pay CONTRACTOR in an amount not to exceed the amount set forth above, at the rate of eighty-five (85%) of the CITY resident rate multiplied by the number of registrants of the classes provided by CONTRACTOR for CITY under this Agreement.

(b) CITY shall make two payments to CONTRACTOR upon receipt of an itemized statement on a form acceptable to CITY for CONTRACTOR's services performed. The first payment shall be made midway through each session and the second payment shall be made at the end of each session. CITY shall pay CONTRACTOR the amount of such undisputed billings within thirty (30) days of receipt of same.

(c) Additional Services.

City may from time to time require CONTRACTOR to perform additional services not included in the Scope of Services. Such requests for additional services shall be made by City in writing and agreed upon by both parties in writing.

Section 4. Independent Contractor. CONTRACTOR is and shall at all times remain, as to CITY, a wholly independent contractor. Neither CITY nor any of its agents shall have control over the conduct of CONTRACTOR or any of CONTRACTOR's employees, except as herein set forth. CONTRACTOR shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

Section 5. Assignment. This Agreement shall not be assigned in whole or in part, by CONTRACTOR without the prior written approval of CITY. Any attempt by CONTRACTOR to so assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect.

Section 6. Responsible Principal(s)

(a) CONTRACTOR's Responsible Principal set forth above shall be principally responsible for CONTRACTOR's obligations under this Agreement and shall serve as principal liaison between CITY and CONTRACTOR. Designation of another Responsible by CONTRACTOR shall not be made without prior written consent of CITY.

(b) CITY's Responsible Principal shall be the City Manager or his designee set forth above who shall administer the terms of the Agreement on behalf of CITY.

Section 7. Personnel.

(a) CONTRACTOR represents that it has, or shall secure at its own expense, all personnel required to perform CONTRACTOR's Scope of Work under this Agreement. All personnel engaged in the work shall be qualified to perform such Scope of Work.

(b) Prior to CONTRACTOR performing services under this Agreement, CONTRACTOR shall be fingerprinted by the CITY Police Department in order to conduct a State Department of Justice ("DOJ") background check. CITY shall waive the administrative cost of fingerprinting and shall pay the DOJ fees. If CONTRACTOR has been convicted of a misdemeanor or felony involving moral turpitude according to the DOJ report, CITY may terminate this Agreement immediately.

Section 8. Permits and Licenses. CONTRACTOR shall obtain and maintain during the Agreement term all necessary licenses, permits and certificates required by law for the provision of services under this Agreement, including a business license.

Section 9. Interests of CONTRACTOR. CONTRACTOR affirms that it presently has no interest and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of the Scope of Work contemplated by this Agreement. No person having any such interest shall be employed by or be associated with CONTRACTOR.

Section 10. Insurance.

(a) CONTRACTOR shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

(1) A policy or policies of Comprehensive General Liability Insurance, with minimum limits of One Million Dollars (\$1,000,000) for each occurrence, combined single limit, against any personal injury, death, loss or damage resulting from the wrongful or negligent acts by CONTRACTOR.

(2) A policy or policies of Comprehensive Vehicle Liability insurance covering personal injury and property damage, with minimum limits of One Million Dollars (\$1,000,000) per occurrence combined single limit, covering any vehicle utilized by CONTRACTOR in performing the Scope of Work required by this Agreement.

(3) Workers' compensation as required by the state of California, and employers liability insurance with minimum limits of One Million Dollars (\$1,000,000) per accident.

(b) CONTRACTOR shall require each of its sub-contractors to maintain insurance coverage which meets all of the requirements of this Agreement.

(c) The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least a B+,VII in the latest edition of Best's Insurance Guide.

(d) CONTRACTOR agrees that if it does not keep the aforesaid insurance in full force and effect CITY may immediately terminate this Agreement or, if insurance is available at a reasonable cost, CITY may take out the necessary insurance and pay, at CONTRACTOR's expense, the premium thereon.

(e) At all times during the term of this Agreement, CONTRACTOR shall maintain on file with the City Clerk a certificate or certificates of insurance on the form set forth in Exhibit B, attached hereto and incorporated herein, showing that the aforesaid policies are in effect in the required amounts. CONTRACTOR shall, prior to commencement of work under this Agreement, file with the City Clerk such certificate or certificates. The general liability and auto liability shall contain an endorsement naming the CITY and the Beverly Hills Unified School District (the "DISTRICT") as additional insureds. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty (30) days prior written notice to CITY, and specifically stating that the coverage contained in the policies affords insurance pursuant to the terms and conditions as set forth in this Agreement.

(f) The insurance provided by CONTRACTOR shall be primary to any coverage available to CITY. The policies of insurance required by this Agreement shall include provisions for waiver of subrogation.

(g) Any deductibles or self-insured retentions must be declared to and approved by CITY. At the option of CITY, CONTRACTOR shall either reduce or eliminate the deductibles or self-insured retentions with respect to CITY, or CONTRACTOR shall procure a bond guaranteeing payment of losses and expenses.

Section 11. Indemnification. CONTRACTOR agrees to indemnify, hold harmless and defend CITY, City Council, DISTRICT, and each member thereof, and every officer, employee and agent of CITY and/or DISTRICT, from any claim, liability or financial loss (including, without limitation, attorneys fees and costs) arising from any intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of CONTRACTOR or any person employed by CONTRACTOR in the performance of this Agreement.

Section 12. Termination.

(a) CITY shall have the right to terminate this Agreement for any reason or for no reason upon five calendar days' written notice to CONTRACTOR. CONTRACTOR agrees to cease all work under this Agreement on or before the effective date of such notice.

(b) In the event of termination or cancellation of this Agreement by CITY, due to no fault or failure of performance by CONTRACTOR, CONTRACTOR shall be paid based on the percentage of work satisfactorily performed at the time of termination. In no event shall CONTRACTOR be entitled to receive more than the amount that would be paid to CONTRACTOR for the full performance of the services required by this Agreement. CONTRACTOR shall have no other claim against CITY by reason of such termination, including any claim for compensation.

Section 13. CITY's Responsibility. CITY shall provide CONTRACTOR with all pertinent data, documents, and other requested information as is available for the proper performance of CONTRACTOR's Scope of Work.

Section 14. Information and Documents. All data, information, documents and drawings prepared for CITY and required to be furnished to CITY in connection with this Agreement shall become the property of CITY, and CITY may use all or any portion of the work submitted by CONTRACTOR and compensated by CITY pursuant to this Agreement as CITY deems appropriate.

Section 15. Records and Inspections. CONTRACTOR shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of three year(s). CITY shall have access, without charge, during normal business hours to such records, and the right to examine and audit the same and to make copies of transcripts therefrom, and to inspect all program data, documents, proceedings and activities.

Section 16. Changes in the Scope of Work. The CITY shall have the right to order, in writing, changes in the scope of work or the services to be performed. Any changes in the scope of work requested by CONTRACTOR must be made in writing and approved by both parties.

Section 17. Notice. Any notices, bills, invoices, etc. required by this Agreement shall be deemed received on (a) the day of delivery if delivered by hand during the receiving party's regular business hours or by facsimile before or during the receiving party's regular business hours; or (b) on the second business day following deposit in the United States mail, postage prepaid to the addresses set forth above, or to such other addresses as the parties may, from time to time, designate in writing pursuant to this section.

Section 18. Attorney's Fees. In the event that either party commences any legal action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party

in such action shall be entitled to reasonable attorney's fees, costs and necessary disbursements, in addition to such other relief as may be sought and awarded.

Section 19. Entire Agreement. This Agreement represents the entire integrated agreement between CITY and CONTRACTOR, and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by a written instrument signed by both CITY and CONTRACTOR.

Section 20 Exhibits; Precedence. All documents referenced as exhibits in this Agreement are hereby incorporated in this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail.

Section 21. Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

Section 22. City Not Obligated to Third Parties. CITY shall not be obligated or liable under this Agreement to any party other than CONTRACTOR.

Section 23. Severability. Invalidation of any provision contained herein or the application thereof to any person or entity by judgment or court order shall in no way affect any of the other covenants, conditions, restrictions, or provisions hereof, or the application thereof to any other person or entity, and the same shall remain in full force and effect.

EXECUTED the _____ day of _____ 201__, at Beverly Hills, California.

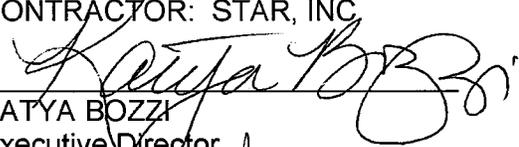
CITY OF BEVERLY HILLS
A Municipal Corporation

JIMMY DELSHAD
Mayor of the City of
Beverly Hills, California

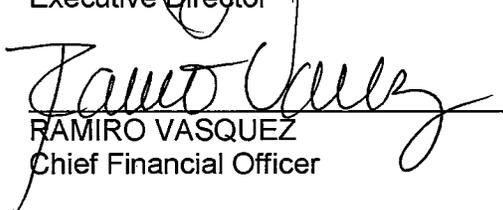
ATTEST:

BYRON POPE
City Clerk

CONTRACTOR: STAR, INC



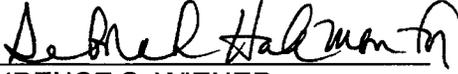
KATYA BOZZI
Executive Director



RAMIRO VASQUEZ
Chief Financial Officer

[Signatures continue]

APPROVED AS TO FORM:

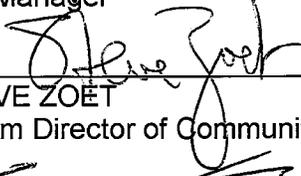


LAURENCE S. WIENER
City Attorney

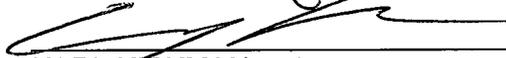
APPROVED AS TO CONTENT:



JEFFREY KOLIN
City Manager



STEVE ZOËT
Interim Director of Community Services



KARL KIRKMAN
Risk Manager

EXHIBIT A
SCOPE OF WORK

CONTRACTOR shall provide the following Services:

CONTRACTOR shall provide after school and summer class instruction services for CITY's Department of Community Services at all Beverly Hills Unified School District elementary school sites, and in accordance with a schedule mutually agreed upon by the parties in writing. The schedule is subject to change by CITY, which may reschedule or cancel any or all classes at its discretion, provided, however, that any such action does not result in CONTRACTOR having less than two subjects per day at each school site. CONTRACTOR may cancel any class due to low enrollment (i.e., less than seven students), except RockSTAR. CITY and CONTRACTOR shall mutually agree upon the rates charged for the after school classes. CITY agrees that, as consideration for CONTRACTOR to enter into this Agreement, CITY shall not permit more than one (1) of CITY's other vendors, one-hour kindergarten class per day per school site.

CONTRACTOR shall provide a Site Director ("Director") employed by CONTRACTOR at each school site. The Director shall be on site after school during the hours of class instruction provided, however, that the Director shall be permitted to leave once all of CONTRACTOR's and CITY's classes have ended. The Director shall oversee the general operation of the instruction services and be responsible for the general supervision of the registered participants and their attendance at and direction to their registered classes. CITY acknowledges and agrees to the following: (1) every class shall have a maximum of fourteen (14) students to one (1) teacher ratio for safety purposes, unless CITY agrees to a different ratio in writing for a particular class; (2) CITY shall be solely responsible for providing CONTRACTOR with all information necessary for the safety and health of the students including, emergency contact information, allergy and any other medical requirements; and (3) if CITY cancels a class offered by another vendor, the CITY shall be responsible for notifying the students, their parents, and the Director of such cancellation in a timely manner; (3) CITY shall provide a substitute teacher or CITY staff to supervise registered participants in classes cancelled by other vendors.

CONTRACTOR may use the class rosters to monitor registrants' attendance and for emergency purposes only. CONTRACTOR shall not use the class rosters for publicity, marketing or any other commercial purposes.

CONTRACTOR shall conduct school assemblies and/or CONTRACTOR class demonstrations from time to time upon CITY's written request during regular school hours.



CERTIFICATE OF INSURANCE

This is to certify that the following endorsement is part of the policy(ies) described below:

NAMED INSURED

COMPANIES AFFORDING COVERAGE

- A.
B.
C.

ADDRESS

Table with 7 columns: COMPANY (A. B. C.), COVERAGE, POLICY NUMBER, EXPIRATION DATE, B.I., LIMITS P.D., AGGREGATE. Rows include checkboxes for AUTOMOBILE LIABILITY, GENERAL LIABILITY, PRODUCTS/COMPLETED OPERATIONS, BLANKET CONTRACTUAL, CONTRACTOR'S PROTECTIVE, PERSONAL INJURY, EXCESS LIABILITY, WORKERS' COMPENSATION, and an empty checkbox.

It is hereby understood and agreed that the City of Beverly Hills, its City Council and each member thereof and every officer and employee of the City shall be named as joint and several assureds with respect to claims arising out of the following project or agreement:

It is further agreed that the following indemnity agreement between the City of Beverly Hills and the named insured is covered under the policy: Contractor agrees to indemnify, hold harmless and defend City, its City Council and each member thereof and every officer and employee of City from any and all liability or financial loss resulting from any suits, claims, losses or actions brought against and from all costs and expenses of litigation brought against City, its City Council and each member thereof and any officer or employee of City which results directly or indirectly from the wrongful or negligent actions of contractor's officers, employees, agents or others employed by Contractor while engaged by Contractor in the (performance of this agreement) construction of this project.

It is further agreed that the inclusion of more than one assured shall not operate to increase the limit of the company's liability and that insurer waives any right of contribution with insurance which may be available to the City of Beverly Hills.

In the event of cancellation or material change in the above coverage, the company will give 30 days written notice of cancellation or material change to the certificate holder.

Except to certify that the policy(ies) described above have the above endorsement attached, this certificate or verification of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate or verification of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies.

DATE: _____

BY: _____
Authorized Insurance Representative

AGENCY: _____

TITLE: _____

ADDRESS _____
