

**PROGRAM AGREEMENT
CONTRA COSTA COUNTY
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

THIS PROGRAM AGREEMENT (“Agreement”) is entered into as of **July 1, 2011** by and between **Contra Costa County**, a political subdivision of the State of California (herein called the "County"), and **Mt. Diablo Unified School District**, a California Public Agency (herein called the "Subrecipient").

WHEREAS, the County has applied for and received funds from the United States Government under Title I of the Housing and Community Development Act of 1974, Public Law 93-383, as amended (“HUD Act”); and

WHEREAS, the County wishes to engage the Subrecipient to assist the County in utilizing such funds;

NOW, THEREFORE, it is agreed between the parties hereto that:

I. SCOPE OF SERVICE

A. Activities

The Subrecipient will be responsible for administering a CDBG Year [37] **CARES After School Enrichment Program** (herein called the “Program”) in a manner satisfactory to the County and consistent with any standards required as a condition of providing these funds, including the FY 2011/12 funding application. Such program will include the following activities eligible under the Community Development Block Grant Program:

1. Subrecipient will provide educational enrichment classes for students enrolled in the after school program at five Bay Point area schools: Bel Air, Rio Vista, Shore Acres, and Delta View elementary schools, and Riverview Middle School. Subrecipient will engage outside service providers to come to each school one day per week. Classes will be provided during the 32-week school year and four weeks during the summer and operate between the hours of 2:00 and 6:00 PM. Activities will include dance, science, gardening, chess club, drumming, and art. All five schools are located in areas that meet “area benefit” criteria (Census Tracts 3141.01 and 3142)

2. Subrecipient will provide program management and general administrative services to support the Program as described above. Administrative support includes but is not limited to the following: data collection and analysis, preparation and submission of quarterly, close-out reports, and Board of

Directors meeting minutes, budget preparation and submission of demands for reimbursement, and any other function that will ensure compliance with this Program Agreement and applicable Federal regulations as expressed herein.

B. National Objectives

The Subrecipient certifies, and agrees to maintain documentation that demonstrates, that the activities carried out with funds provided under this Agreement meet one or more of the CDBG Programs national objectives (1) benefit low/moderate income persons; (2) aid in the prevention or elimination of slums or blight; or (3) meet community development needs having a particular urgency as defined in 24 CFR Part 570.208.

The community served by the Program is in an area (CT 3141.01 and 3142: 57 percent low/moderate population) that qualifies under “Area Benefit” as defined by the U.S. Department of Housing and Urban Development. Area Benefit activities are activities, the benefits of which are available to all the residents in a particular area, where at least 51 percent of the residents are low/moderate income persons. Contra Costa County is considered an “exception grantee”; therefore activities that benefit all residents in a particular area, where at least 42.6 percent of the residents are low/moderate income persons shall be considered “area benefit” activities.

C. Levels of Accomplishment

In addition to the normal administrative services required as part of this Agreement, the Subrecipient agrees to operate the Program throughout the term of this Agreement. The Subrecipient is responsible for employing a trained and qualified staff and a sufficient number of volunteers needed to carry out the Program.

The primary performance measurement of the Program to be reported is to:

Provide after school enrichment classes for 700 K-8 students in Bay Point resulting in improved academic performance of 200 students measured through evaluations completed by students, parents and teachers.

D. Staffing

Subrecipient shall provide the name of employee(s), title, description of job responsibilities, hourly base pay rate or billable rate, and an estimate of time to be spent on the Program per pay period within thirty (30) days of the Program start date. Subrecipient shall inform the County in writing, within ten (10) working days, of any changes of staff that occur during the term of this Agreement.

E. Performance Monitoring

The County will have the right to monitor the performance of the Subrecipient against goals and performance standards established herein. Substandard performance as determined by the County will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Subrecipient within thirty (30) days after being notified by the County, County may initiate Agreement suspension or termination procedures.

II. TIME OF PERFORMANCE AND TERM OF AGREEMENT

Services of the Subrecipient shall start on the **1st** day of **July 2011** and end on the **30th** day of **June 2012**. The term of this Agreement and the provisions herein may be extended to cover any additional time period during which the Subrecipient remains in control of CDBG funds or other CDBG assets including program income, at County's sole discretion. The County utilizes a two (2)-year funding cycle. However, it is expressly agreed and understood that the Subrecipient's services and the total County payment under Section III are solely for the term of this Agreement dated July 1, 2010– June 30, 2011. The Subrecipient shall receive FY 2011/12 funds contingent on the availability of funds and satisfactory Program performance.

Quarterly reports and Board of Directors meeting minutes are due no later than:

<u>Period to be covered</u>	<u>Due Date</u>
July 1, 2011 through September 30, 2011	October 15, 2011
October 1, 2011 through December 31, 2011	January 15, 2012
January 1, 2012 through March 31, 2012	April 15, 2012

A Year-end report covering the entire program year is due no later than July 15, 2012.

III. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the County under this Agreement shall not exceed **Ten Thousand Dollars (\$10,000)**. To the extent practicable, the use of CDBG funds shall be used on a pro rata basis with other funds provided to this Program. Demands for the payment of eligible expenses shall be based upon information submitted by the Subrecipient consistent with the approved Agreement Budget, attached hereto and made a part hereof as Exhibit A, and with County policy concerning payments. At a minimum, demands must be submitted on a quarterly basis. Demands may be submitted more frequently, if needed. The payment of demands is contingent upon the timely submission of quarterly reports and any other required reports and/or documents.

Payments may be contingent upon certification of the Subrecipient's financial management system in accordance with the standards specified in OMB Circular A-110, and as specified in Section VII C.4, Payment Procedures.

IV. NOTICES

All notices required by this Agreement must be in writing and delivered via United States Mail, certified and with postage prepaid or by commercial courier or personal delivery. Any notice delivered or sent in the manner described above shall be effective on the date of delivery or sending. All notices and other written communication concerning this

Agreement and/or any amendments hereto shall be directed to the following, unless otherwise modified by written notice:

Contra Costa County	<u>Subrecipient</u>
Robert T. Calkins	Ali Medina
Department of Conservation and Development	and MDUSD
Contra Costa County	
2530 Arnold Dr., Suite 190	1266 San Carlos Ave., Room A6
Martinez, CA 94553	Concord, CA 94518
Phone (925) 335-7220	Phone (925) 691-0351
Fax (925) 335-7201	Fax 925-691-1447
robert.calkins@dcd.cccounty.us	medinaa@mdusd.org

V. SPECIAL CONDITIONS

- A. The Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 of the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG) including subpart K of these regulations, and all Federal regulations and policies issued pursuant to these regulations. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than to supplant funds otherwise available.
- B. The Subrecipient agrees to provide documentation of matching funds (as described in Exhibit A) in a form and content prescribed by the County. The status of matching funds must be updated quarterly. The Subrecipient agrees to provide year-to-date Sources and Uses of Funds report at the end of each quarter. The report should be submitted with the quarterly demand or, in the case of those Subrecipients that submit demands monthly, with the September, December, March, and June demands. The Sources and Uses Funds report will include all sources of funding for the Program and how each source is expended.

VI. GENERAL CONDITIONS

A. General Compliance

The Subrecipient agrees to comply with all applicable Federal, State and local laws and regulations governing the funds provided under this Agreement and with those laws and regulations concerning the Subrecipient's performance hereunder, including but not limited to Federal regulations, guidelines, bulletins, and circulars pursuant to Title I of the Housing and Community Development Act of 1974, including Title 24 of the Code of Federal Regulations, Chapter V, Part 570 as published in the Federal Register, Vol. 30, No. 220, Thursday, November 9, 1995, as may be revised and amended; and which are incorporated herein by reference. Documentation of such compliance shall be made available for review by the County upon request.

B. Independent Contractor Status

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee, agent/servant, partnership, joint venture or association between the parties. The Subrecipient shall at all times remain an independent contractor with respect to the services to be performed under this Agreement. The County shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance as the Subrecipient is an independent contractor.

C. Indemnification

The Subrecipient shall defend, indemnify, save, and hold harmless the County and its officers and employees from any and all claims, costs and liability for any damages, sickness, death, or injury to person(s) or property, including without limitation all consequential damages, from any cause whatsoever arising directly or indirectly from, or connected with the operations or services of the Subrecipient or its agents, servants, employees or subcontractors hereunder, save and except claims or litigation arising through the sole negligence or sole willful misconduct of the County or its officers or employees. The Subrecipient will reimburse the County for any expenditures, including reasonable attorneys' fees, the County may make by reason of the matters that are the subject of this indemnification, and if requested by the County will defend any claims or litigation to which this indemnification provision applies at the sole cost and expense of the Subrecipient.

D. Insurance and Bonding

During the entire term of this Agreement and any extension or modification thereof, the Subrecipient shall keep in effect insurance policies meeting the following insurance requirements unless otherwise expressed in the Special Conditions:

1. **Liability Insurance.** The Subrecipient shall provide comprehensive liability insurance, including coverage for owned and non-owned automobiles, with a minimum combined single limit coverage of \$1,000,000 for all damages, including consequential damages, due to bodily injury, sickness or disease, or death to any person or damage to or destruction of property, including the loss of use thereof, arising from each occurrence. Such insurance shall be endorsed to include the County and its officers and employees as additional insureds as to all services performed by the Subrecipient under this Agreement.
2. **Worker's Compensation.** The Subrecipient shall provide the County with a Certificate of Insurance evidencing workers' compensation insurance coverage for its employees.
3. **All Risk Insurance.** The Subrecipient shall provide a policy or policies of All Risk Property Damage Insurance including Flood Plain Insurance whenever applicable, particularly where CDBG funds are used in the acquisition of real property.

4. **Additional Provisions.** The policies shall include a provision for thirty (30) days written notice to County before cancellation or material change of the above specified coverage. Said policies shall constitute primary insurance as to the County, the State and Federal governments, their officers, agents, and employees, so that other insurance policies held by them or their self-insurance program(s) shall not be required to contribute to any loss covered under the Subrecipient's insurance policy or policies. The Subrecipient shall carry sufficient insurance coverage to protect Program assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the County. **Not later than the commencement date of the Agreement, the Subrecipient shall provide the County with a certificate(s) of insurance evidencing the above liability insurance.**

In addition, the Subrecipient shall comply with the bonding and insurance requirements of OMB Circular A-110, Bonding and Insurance.

E. County Recognition

The Subrecipient shall ensure recognition of the role of the grantor agency in providing services through this Agreement. As appropriate, activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

F. Amendments

County or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of both organizations, and (except as expressly provided below) approved by the County Board of Supervisors. Such amendments shall not invalidate this Agreement, nor relieve or release the County or Subrecipient from its obligations under this Agreement.

Should Federal or State regulations, laws, policies or funding amounts touching upon the subject of this Agreement be adopted or revised during the term hereof, this Agreement shall be deemed amended to assure conformance with such Federal and State requirements. Notwithstanding the foregoing, if such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both County and Subrecipient.

Subject to the Payment Limit, and any required State or Federal approvals, minor changes to only the Agreement Budget and the Scope of Work may be made by a written administrative amendment executed by the Subrecipient and the Deputy Director-

Redevelopment or his or her designee, provided that such administrative amendments do not substantively change the Agreement Budget or the Scope of Work.

G. Suspension or Termination

In accordance with 24 CFR 85.43, the County may suspend or terminate this Agreement if the Subrecipient materially fails to comply with the terms of this Agreement, which include (but are not limited to) the following:

- 1. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time;**
- 2. Failure, for any reason, of the Subrecipient to fulfill in a timely and proper manner its obligations under this Agreement;**
- 3. Ineffective or improper use of funds provided under this Agreement; or**
- 4. Submission by the Subrecipient to the County of reports that are incorrect or incomplete in any material respect.**

Upon suspension or termination of this Agreement, the County may, in addition to any other remedies available at law or in equity, complete Subrecipient's obligations in any reasonable manner it chooses, take possession, in accordance with the Deed of Trust in favor of the County, of any real or personal property associated with the Program, construct, operate or maintain the Program as the County may deem necessary to fulfill the requirements of the Federal government, and deduct the costs thereof and the amount of damage, if any, sustained by County by virtue of Subrecipient's breach of this Agreement from any amounts owing to Subrecipient for services provided prior to County's suspension or termination of this Agreement.

In accordance with 24 CFR 85.44, County may also terminate this Agreement for convenience, in whole or in part, upon thirty (30) days written notice. This Agreement may also be cancelled immediately by written mutual consent.

Subject to the rights of senior lenders, in the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by Subrecipient under this Agreement shall, at the option of the County, become the property of the County, and Subrecipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

H. Cessation of Funding

The County's obligation to make any payments to the Subrecipient hereunder is contingent on the availability of CDBG funds to the County during the term of this Agreement. In the event the Federal funding for this Agreement ceases, this Agreement is terminated. In the event of unforeseeable budget adjustments by the Federal government, this Agreement is subject to renegotiation.

I. Extension of Term for Performance

Without any additional consideration on the part of Subrecipient or County, the County, through its Deputy Director-Redevelopment, may grant Subrecipient an extension of time for performance, beyond that time specified above under Section II, Time of Performance. Any such extension must be in writing and shall be at the sole discretion of the County.

VII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. **Accounting Standards.** The Subrecipient agrees to comply with 24 CFR 84.21-28 and OMB Circular A-110 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.
2. **Cost Principles.** The Subrecipient shall administer its program in conformance with the applicable sections of 24 CFR Part 85, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" and 24 CFR Part 570.502 for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record-Keeping

1. **Records to be Maintained.** The Subrecipient shall maintain all records required by the federal regulations specified in 24 CFR Part 570.506, and satisfactory to County staff, and that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:
 - a. Records providing a full description of each activity undertaken;
 - b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
 - c. Records required to determine the eligibility of activities;
 - d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
 - e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
 - f. Financial records as required by 24 CFR Part 570.502, 24 CFR 84.21-28 and OMB Circular A-110; and
 - g. Other records necessary to document compliance with Subpart K of 24 CFR 570.
2. **Retention.** The Subrecipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to services performed and expenditures incurred under this Agreement for a period of five (5) years after the termination of all activities funded under this Agreement, or after the resolution of all litigation, claims, Federal audits, negotiation or other actions that involve any of the records cited, whichever occurs later. Records for non-expendable property acquired with funds under this Agreement shall be retained for five (5) years after final disposition of such property. Records for any displaced person must be kept for five (5) years after he/she has received final payment.
3. **Client Data.** The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to County monitors or their designees for review upon their request.

4. **Property Records.** The Subrecipient shall maintain real property inventory records which clearly identify properties purchased, improved or sold with the grant monies. Properties retained shall continue to meet eligibility criteria and shall conform with the "changes in use" restrictions specified in 24 CFR Part 570.505.
5. **National Objectives.** The Subrecipient agrees to maintain documentation that demonstrates that the activities carried out with funds provided under this Agreement meet one or more of the CDBG Program's national objectives - (1) benefit low/moderate income persons; (2) aid in the prevention or elimination of slums or blight; (3) meet community development needs having a particular urgency - as defined in 24 CFR Part 570.208.
6. **Close-Outs.** Subrecipient's obligation to the County shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: submission of close-out report, making final payments, disposing of Program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and receivable accounts to the County), and determining the custodianship of records.
7. **Audits & Inspections.** All Subrecipient records with respect to any matters covered by this Agreement shall be made available to the County, grantor agency, their designees or the Federal government, at any time during normal business hours, as often as the County or grantor agency deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within thirty (30) days after notice of the deficiencies is delivered to the Subrecipient. Failure of the Subrecipient to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments. The Subrecipient hereby agrees to have an annual audit conducted in accordance with current County policy concerning Subrecipient audits and OMB Circular A-133.

C. Reporting and Payment Procedures

1. **Budgets.** The Agreement Budget shall include all sources of funding, the amount of each funding source, and the expenditures to be met by each funding source. The County and the Subrecipient may agree to revise the Agreement Budget from time to time in accordance with existing County policies.
2. **Program Income.** The Subrecipient shall report monthly all program income as defined at 24 CFR 570.500(a) generated by activities carried out with CDBG funds made available under this Agreement. The use of program income by the Subrecipient shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitations, the Subrecipient may only use such income during the Agreement term for activities permitted under this Agreement and shall reduce requests for additional funds by the amount of any such program income balances on hand. All unused program income shall be returned to the County upon expiration or earlier termination of the Agreement, unless specific written amendments are made between the County and the Subrecipient. Any interest

earned on cash advances from the U.S. Treasury is not program income and shall be remitted promptly to the County.

3. **Indirect Costs.** If indirect costs are charged, the Subrecipient shall develop an indirect cost allocation plan for determining the appropriate share of administrative overhead costs allocable to the Program and shall submit such plan to the County for approval.
4. **Payment Procedures.** The County will pay to the Subrecipient funds available under this Agreement based upon information submitted by the Subrecipient and consistent with the approved Agreement Budget and County policy concerning payments. With the exception of certain advances, payments will be made on a reimbursement basis for eligible expenses actually paid by the Subrecipient up to the Payment Limit. Any funds remaining shall revert back to the County. Payments will be adjusted by the County in accordance with advance fund and program income balances available in Subrecipient accounts. In addition, County reserves the right to liquidate funds available under this Agreement for costs incurred by County on behalf of Subrecipient.
5. **Progress Reports.** The Subrecipient shall submit regular progress reports to the County in the form, content and frequency as required by the County. The progress reports shall be submitted at least quarterly, unless otherwise directed by the County. A final progress report is due no later than thirty (30) days after the expiration or earlier termination of this Agreement.
6. **Board of Director Meeting Minutes.** The Subrecipient shall submit their Board of Directors meeting minutes to the County in the form, content and frequency as required by the County. The Subrecipient's Board minutes shall be submitted for each Board meeting held within a respective quarter. A set of Board minutes shall be submitted at least quarterly, unless otherwise directed by the County. A final set of Board minutes is due no later than fifteen (15) days after the expiration or earlier termination of this Agreement.

D. Procurement

1. **Compliance.** County shall have the right to require the Subrecipient to comply with any or all current County policies concerning the purchase of equipment and shall maintain an inventory record of all non-expendable personal property (as defined by County policy) as may be procured with funds provided herein. All Program assets (unexpended program income, property, equipment, etc.) shall revert to the County upon termination of this Agreement.
2. **OMB Standards.** The Subrecipient shall procure materials in accordance with the requirements of 24 CFR 84.40-48 and the procurement standards set forth in OMB Circular A-110, and shall subsequently follow the property standards, covering utilization and disposal of property, set forth in OMB Circular A-110.
3. **Travel.** The Subrecipient shall obtain prior written approval from the County for any travel outside the nine (9)-county San Francisco Bay Area with funds provided under this Agreement.

E. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR Part 84 and CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

1. The Subrecipient shall transfer to the County any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.
2. Real property under the Subrecipient's control that was acquired or improved, in whole or in part, with funds under this Agreement shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of this Agreement. If the Subrecipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the Subrecipient shall pay the County an amount equal to the current fair market value of the property less the portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property.
3. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to which funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Subrecipient for activities under this Agreement shall be (a) transferred to the County for the CDBG program or (b) retained after compensating the County an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment.

VIII. RELOCATION, REAL PROPERTY ACQUISITION AND DISPLACEMENT

The Subrecipient agrees to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606, including requirements under Section 104(d) of the Housing and Community Development Act, relating to the acquisition and disposition of all real property utilizing grant funds, and to the displacement of persons, businesses, nonprofit organizations and farms occurring as a direct result of any acquisition or rehabilitation of real property utilizing grant funds. The Subrecipient also agrees to comply with applicable County ordinances, resolutions, and policies concerning displacement of individuals from their residences.

IX. PERSONNEL AND PARTICIPANT CONDITIONS

A. Civil Rights

1. **Compliance.** The Subrecipient agrees to comply with all State and local civil rights laws and regulations, as well as Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, the Fair Housing Amendment Act of 1988, Sections 104 (b) and 109 of Title I of the Housing and

Community Development Act of 1974, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086.

2. **Nondiscrimination.** The Subrecipient agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279, and the applicable non-discrimination provisions in Section 109 of the Housing and Community Development Act of 1974, and will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability, age, marital status, or status with regard to public assistance. The Subrecipient will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
3. **Confidentiality.** Subject to the requirements of the Public Records Act, Subrecipient understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with Subrecipient's obligations hereunder, is prohibited by law. Subrecipient agrees to comply and to require its employees to comply with all applicable State and Federal statutes and regulations respecting confidentiality, including but not limited to, all statutes and regulations that require confidentiality as to the identity of recipients, their records, and services provided them, and assures that:
 - (a) All applications and records concerning any individual made or kept by Subrecipient or any public officer or agency in connection with the administration of or relating to services provided under this Agreement will be confidential, to the extent permitted by law, and will not be open to examination for any purpose not directly connected with the administration of such service, unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible guardian, and
 - (b) No person will publish or disclose or permit or cause to be published or disclosed, any list of persons receiving services, except as may be required by law or in the administration of such service. Subrecipient agrees to inform all employees, agents and partners of the above provisions, and that any person knowingly and intentionally disclosing such information other than as authorized by law may be guilty of a misdemeanor.
4. **Land Covenants.** This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570, Part I. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with

assistance provided under this Agreement, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the County and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

5. **Section 504.** The Subrecipient agrees to comply with any federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) which prohibits discrimination against individuals with disabilities or handicaps in any Federally-assisted program. The County shall provide the Subrecipient with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

B. Affirmative Action

1. **Approved Plan.** The Subrecipient agrees that it shall be committed to carry out pursuant to the County's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965. The Subrecipient shall submit a plan for the Affirmative Action Program to County for approval prior to the disbursement of any funds to Subrecipient.
2. **WBE/MBE.** The Subrecipient will use its best efforts to afford small businesses, minority and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "small business" means a business that meets the criteria set forth in section (a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women-owned business enterprise" means a business at least fifty-one percent (51%) owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are African-American, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and Native American. The Subrecipient may rely on documentation of certification from another public agency or written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.
3. **Access to Records.** The Subrecipient shall furnish and cause each of its sub-subrecipients to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the County, HUD or its agent, or other authorized federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.
4. **Notifications.** The Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other agreement or understanding, a notice, advising the labor union or workers' representative of the Subrecipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. **EEO/AA Statement.** The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.
6. **Subcontract Provisions.** The Subrecipient will include the provisions of Section IX. A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each sub-subrecipient or vendor.

C. Employment Restrictions

1. **Prohibited Activities.** The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the Program for: political activities; sectarian, or religious activities; lobbying; political patronage; or nepotism activities.
2. **OSHA.** Where employees are engaged in activities not covered under the Occupational Safety and Health Act of 1970, they shall not be required or permitted to work, be trained, or receive services in buildings or surroundings or under working conditions which are unsanitary, hazardous or dangerous to the participants' health or safety.
3. **Right to Know.** Participants employed or trained for inherently dangerous occupations, e.g., fire or police jobs, shall be assigned to work in accordance with reasonable safety practices.
4. **Labor Standards.** The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended (40 U.S.C. 276a-276a-5), the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C 327 *et seq*), the Copeland "Anti-Kickback" Act (40 U.S.C. 276c) and all other applicable Federal, State and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Subrecipient shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the County for review upon request.

The Subrecipient agrees that, except with respect to the rehabilitation, or construction of, property designed for residential use for less than eight (8) households, all Subrecipients engaged under contracts in excess of \$2,000.00 for construction, renovation or repair of any building or work financed in whole or in part with assistance provided under this Agreement, shall comply with Federal requirements adopted by the County pertaining to such agreements and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR, Parts 1, 3, 5, 6, and 7 governing the payment of wages and ratio of apprentices and trainees to journeymen; provided, that if wage rates higher than those required under the regulations are imposed by State or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such agreements subject to such regulations, provisions meeting the requirements of this paragraph.

5. **"Section 3" Clauses.**

- a. Compliance. Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued thereunder prior to the execution of this Agreement, shall be a condition of the Federal financial assistance provided under this Agreement and binding upon the County, the Subrecipient and any sub-subrecipients. Failure to fulfill these requirements shall subject the County, the Subrecipient and any sub-subrecipients, their successors and assigns, to those sanctions specified by the agreement through which Federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements. The Subrecipient further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

"The work to be performed under this Agreement is a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located." The Subrecipient further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded Program is located; where feasible, priority should be given to low- and very low-income persons within the service area of the Program or the neighborhood in which the Program is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded Program is located; where feasible, priority should be given to business concerns that provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the Program is located, and to low- and very low-income participants in other HUD programs.

The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

- b. Notifications. The Subrecipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other agreement or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
 - c. Subcontracts. The Subrecipient will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the sub-subrecipient is in violation of regulations issued by the grantor agency. The Subrecipient will not subcontract with any sub-subrecipient where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the sub-subrecipient has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
6. Use of Debarred or Ineligible Contractors. The Subrecipient shall not use funds provided under this Agreement directly or indirectly to employ, award contracts to, or otherwise engage the services of, or fund any contractor or sub-subrecipient during any period of debarment, suspension, or placement in ineligible status under the provisions of 24 CFR Part 24.

D. Conduct

1. Assignability. The Subrecipient shall not assign or transfer any interest in this Agreement without the prior written consent of the County thereto; provided, however, that claims for money due or to become due to the Subrecipient from the County under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the County.
2. Hatch Act. The Subrecipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent used or engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.
3. Conflict of Interest. The Subrecipient agrees to abide by the provisions of 24 CFR 84.42 and 24 CFR 570.611 with respect to conflicts of interest, which include (but are not limited to) the following:
 - a. **The Subrecipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.**
 - b. **No employee, officer or agent of the Subrecipient shall participate in the selection, or in the award, or administration of, a contract**

supported by Federal funds if a conflict of interest, real or apparent, would be involved.

- c. Subrecipient covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Subrecipient further covenants that in the performance of this Agreement no person having such a financial interest shall be employed or retained by the Subrecipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the County, the Subrecipient or of any designated public agencies which are receiving funds under the CDBG Entitlement Program.**

4. **Subcontracts**

- a. **Approvals.** The Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the written consent of the County prior to the execution of such subcontract.
- b. **Monitoring.** The Subrecipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.
- c. **Content.** The Subrecipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.
- d. **Selection Process.** The Subrecipient shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competitive basis in accordance with applicable procurement requirements. Executed copies of all subcontracts shall be forwarded to the County along with documentation concerning the selection process.

5. **Copyright.** If this Agreement results in any copyrightable material or inventions, the County and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use, the work or material for government purposes.

6. **Lobbying.** The Subrecipient hereby certifies that:

- a. **No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;**
- b. **If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;**
- c. **It will require that the following language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans,**

and cooperative agreements) and that all sub-subrecipients shall certify and disclose accordingly;

“This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.”

7. **Religious Organization.** The Subrecipient agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the federal regulations specified in 24 CFR 570.200(j).

X. ENVIRONMENTAL CONDITIONS

- A. **Air and Water.** The Subrecipient agrees to comply with the following regulations insofar as they apply to the performance of this Agreement:

- Clean Air Act, 42 U.S.C. 7401, et seq.
- Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.
- National Environmental Policy Act of 1969.
- HUD Environmental Review Procedures (24 CFR Part 58).

- B. **Flood Disaster Protection.** The Subrecipient agrees to comply with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001) in regard to the sale, lease or other transfer of land acquired, cleared or improved under the terms of this Agreement, as it may apply to the provisions of this Agreement, and shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).
- C. **Lead-Based Paint.** The Subrecipient agrees that any activities with regard to residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, and applicable Sub-

Parts. Such regulations pertain to all CDBG-assisted housing and require that all purchasers, occupants, and owner-occupants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. Such regulations further provide that a Lead Hazard Evaluation will be conducted; that Lead Hazard reduction will be undertaken should lead hazard be identified; and that occupants will be provided written notice regarding results of Lead Hazard Evaluation and Lead Hazard Reduction.

- D. **Historic Preservation.** The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty (50) years old or older or that are included on a Federal, State, or local historic property list.

XI. OTHER PROVISIONS

- A. **Entire Agreement.** This Agreement contains all the terms and conditions agreed upon by the parties. Except as expressly provided herein and in the "COOPERATION AGREEMENT, H.C.D.A. 1974" effective November 24, 1981, and amendments relating thereto, if any, no other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.
- B. **Retained Powers.** All powers not explicitly invested in the Subrecipient or incidental to the exercise of those powers invested in the Subrecipient remain in the County.
- C. **Disputes.** Disagreements between County and Subrecipient concerning the meaning, requirements or performance of this Agreement shall be subject to final determination in writing by the head of the County Department for which this Agreement is made or his or her designee or in accordance with applicable procedures (if any) required by the Federal government.
- D. **Law Governing Agreement.** This Agreement is made in Contra Costa County and shall be governed and construed in accordance with the laws of the State of California.
- E. **Conformance with Federal and State Regulations.** Should Federal or State regulations touching upon this Agreement be adopted or revised during the term hereof, this Agreement is subject to modification to assure conformance with such Federal or State requirements.
- F. **Available Copies.** Copies of the County's Program documents and all pertinent Federal statutes, regulations, guidelines, bulletins, and circulars applicable to this Agreement, shall be available at all times for inspection by the Subrecipient during regular business hours at the offices of the Contra Costa County Community Development Department in Martinez, California.

- G. **Original Agreement.** The original copy of this Agreement and of any modification thereto is that copy filed in the Community Development Department of Contra Costa County.
- H. **Severability.** Should any term, portion or provision of this Agreement be finally decided to be in conflict with any law of the United States or of the State of California, or otherwise to be unenforceable or ineffectual, the validity of the remaining parts, terms, portions or provisions of this Agreement shall be deemed severable and shall not be affected thereby, provided that such remaining parts, terms, portions or provisions can be construed in substance to constitute the Agreement that the parties intended to enter into in the first instance.
- I. **No Third-Party Beneficiaries.** Notwithstanding mutual recognition that services under this Agreement may provide some aid or assistance to members of the County's population, it is not the intention of either County or Subrecipient that such individuals occupy the position of intended third-party beneficiaries of the obligations assumed by either party to this Agreement.
- J. **Waivers.** No waiver of any breach of any covenant or provision in this Agreement shall be deemed a waiver of any other covenant or provision in this Agreement and no waiver shall be valid unless in writing and executed by the waiving party.
- K. **Headings and Captions.** The section headings and captions of this Agreement and the arrangement of this instrument is, for the sole convenience of the parties to this Agreement. The section headings, captions and arrangement of this instrument do not in any way affect, limit, amplify or modify the terms and provisions of this Agreement. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared it. The parties to this Agreement and their counsel have read and reviewed this Agreement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

COUNTY

Contra Costa County, a political
subdivision of the State of California

SUBRECIPIENT

Mt. Diablo Unified School District,
a California Public Agency

By: _____
Conservation and Development Director

By: _____
(Print Name and Title)

By: _____
(Signature of Authorized Person)

By: _____
(Print Name and Title)

By: _____
(Signature of Authorized Person)

Recommended By:

Approved As To Form:
Sharon L. Anderson
County Counsel

Note: Two officers must sign on behalf of corporations.
The first signature that of the chairman of the board,
president, or vice president; the second signature
must be that of the secretary, assistant secretary,
chief financial officer or assistant controller.

By _____ Deputy

EXHIBIT A - FY 2011/12 AGREEMENT BUDGET

Agency: Mount Diablo Unified School District

Program: CARES After School Enrichment Program

Budget Item		Contra Costa CDBG Funds	Other Funds	Total
Staff Salaries				
Executive Director	FTE	\$0	\$0	\$0
Project/Prog. Mgr.	1% FTE	\$0	\$16,260	\$16,260
Finance Director	FTE	\$0	\$1,200	\$1,200
Case Manager	FTE	\$0	\$0	\$0
District Coordinator	10% FTE	\$0	\$8,000	\$8,000
Secretary	20% FTE	\$0	\$7,200	\$7,200
4 Site Coordinators	10% FTE	\$0	\$22,750	\$22,750
Employee Benefits		\$0	\$4,365	\$4,365
Employee Taxes		\$0	\$1,092	\$1,092
Subtotal		\$0	\$60,867	\$60,867
Other Expenses				
Admin/Overhead		\$0	\$0	\$0
Rent		\$0	\$0	\$0
Office Supplies		\$0	\$0	\$0
Telephone		\$0	\$0	\$0
Utilities		\$0	\$0	\$0
Insurance		\$0	\$0	\$0
Travel		\$0	\$0	\$0
Equipment		\$0	\$0	\$0
Audit		\$0	\$0	\$0
Client Transportation		\$0	\$0	\$0
Bel Air Elementary Enrichment		\$2,500	\$7,990	\$10,490
Rio Vista Elementary Enrichment		\$2,500	\$7,630	\$10,130
Riverview Middle Enrichment		\$2,500	\$7,630	\$10,130
Shore Acres Elementary Enrichment		\$2,500	\$12,445	\$14,945
Subtotal		\$10,000	\$35,695	\$45,695
TOTAL:		\$10,000	\$96,562	\$106,562

Source of Other Funds	
State	\$82,802
Other	\$13,760
TOTAL:	\$96,562