

AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES

This AGREEMENT, made and entered into this January 25, 2012 by and between the Partnership for Children and Youth, a California non-profit corporation, hereinafter referred to as "PCY", and Mt. Diablo CARES with offices at 1266 San Carlos Ave., Room A-6 Concord, CA 94518, hereinafter referred to as "CONSULTANT".

RECITALS

- A. PCY desires certain professional consultant services hereinafter described.
- B. PCY desires to engage CONSULTANT to provide these services by reason of its qualifications and experience for performing such services and CONSULTANT has offered to provide the required services on the terms and in a manner set forth herein.

NOW THEREFORE, IT IS AGREED as follows:

SECTION 1 - SCOPE OF SERVICES

In consideration of the payment herein provided, CONSULTANT shall perform the following services as outlined in CONSULTANT'S Scope of Work, which is attached hereto as Exhibit A, and incorporated herein and made a part hereof by this reference. The services shall be performed upon direction of the PCY Board of Directors.

It is understood by PCY and the CONSULTANT that this Scope of Work may be revised during the process (upon agreement by both parties).

SECTION 2 - DUTIES OF CONSULTANT

CONSULTANT shall be responsible for the professional quality, technical accuracy and coordination of all work furnished by CONSULTANT under this agreement in accordance with the professional care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

CONSULTANT represents that it is qualified to furnish the services described under this agreement.

CONSULTANT shall be responsible for employing or engaging all persons necessary to perform the services of CONSULTANT.

SECTION 3 - DUTIES OF PCY

PCY shall provide pertinent information regarding its requirements under this agreement.

PCY shall examine documents submitted by CONSULTANT and shall render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of CONSULTANT'S work.

SECTION 4 - TERM

The services to be performed under this agreement shall commence on November 29, 2011 and continue in full force until December 31, 2012 unless terminated earlier by either party in accordance with Section Six (§6) of this agreement.

SECTION 5 - PAYMENT

Payment shall be made by PCY for services rendered upon submission of a payment request and PCY approval of the work performed. PCY and CONSULTANT agree that CONSULTANT'S invoices, detailing the expenses incurred, will be submitted at least bi-monthly.

It is understood by both parties that total fees paid to CONSULTANT for services rendered under this agreement may not exceed the amount of \$80,000 for expenses described in the attached budget.

SECTION 6 - TERMINATION

Without limitation to rights or remedies as otherwise exist by law, PCY or CONSULTANT shall have the right to terminate this agreement for any reason, upon ten (10) days written notice to the other party. CONSULTANT agrees to cease all work under this agreement upon receipt of said written notice from PCY.

SECTION 7 - OWNERSHIP OF DOCUMENTS

All documents, files, graphics, and data prepared by the CONSULTANT in the performance of this agreement, although instruments of professional service, are and shall be the property of PCY, whether the project for which they are made is executed or not. CONSULTANT shall transfer them to PCY upon request without additional compensation.

SECTION 8 - CONFIDENTIALITY

All reports and documents prepared by CONSULTANT in connection with the performance of this agreement are confidential until released by PCY to the public. Unless required by law, CONSULTANT shall not make any such documents or information available to any individual or organization not employed by CONSULTANT or PCY without the written consent of PCY before any such release.

SECTION 9 - INTEREST OF CONSULTANT

CONSULTANT covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services under this agreement.

SECTION 10 - CONSULTANT'S STATUS AS INDEPENDENT CONTRACTOR

It is expressly agreed that in the performance of the professional services required under this agreement, CONSULTANT shall at all times be considered an independent contractor as defined in Labor Code Section 3353, under control of PCY as to the result of the work but not the means by which the result is accomplished. Nothing herein shall be construed to make consultant an agent or employee of PCY while providing services under this agreement.

SECTION 11 - NON-DISCRIMINATION

CONSULTANT warrants that it is an Equal Opportunity Employer and shall comply with applicable regulations governing equal employment opportunity. Neither CONSULTANT nor any of its subcontractors shall discriminate in the employment of any person because of race, color, national origin, ancestry, physical disability, medical condition, marital status, sex, religion, sexual orientation, or age, unless based on a bona fide occupational qualification pursuant to the California Fair Employment and Housing Act.

SECTION 12 - COSTS AND ATTORNEYS FEES

In the event of any action or actions to enforce the provisions of this agreement, attorneys fees in an amount not to exceed \$85 per hour per attorney, and in total amount not exceeding \$5,000, shall be recoverable as costs (by the filing of a cost bill) by the prevailing party. The above \$5,000 limit is the total of attorneys' fees recoverable whether in the trial court, appellate court, or otherwise, and regardless of the number of attorneys, trials, appeals, or actions. It is the intent of this agreement that neither party shall have to pay the other more than \$5,000 for attorneys' fees arising out of an action, or actions to enforce the provisions of this agreement.

SECTION 13 - MEDIATION

Should a dispute arise out of this Agreement, any party may request that it be submitted to mediation. The parties shall meet in mediation within 30 days of a request. The mediator shall be agreed to by the mediating parties; in the absence of an agreement, the parties shall each submit one name from mediators listed by either the American Arbitration Association, the California State Board of Mediation and Conciliation, or other agreed-upon service. The mediator shall then be selected by a "blindfolded" process.

The cost of mediation shall be borne equally by the parties. No party shall be permitted to file legal action without first meeting in mediation and making a good faith attempt to reach a settlement. The mediation process shall last until agreement is reached but not more than sixty days, unless extended by the parties.

SECTION 14 - ARBITRATION

After mediation above, and upon agreement of the parties, any dispute or claim arising out of or relating to this agreement may be settled by arbitration in accordance with the rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. The costs of arbitration shall be borne equally by the parties.

SECTION 15 - WAIVERS

The waiver by either party of any breach or violation of any term, covenant, or condition of this agreement or of any provisions of any ordinance or law shall not be deemed to be a waiver of any subsequent breach or violation of the same or of any other term, covenant, condition, ordinance or law or of any subsequent breach or violation of the same or of any other term, condition, ordinance or law. The subsequent acceptance by either party of any fee or other money which may become due hereunder shall not be deemed to be a waiver of any preceding breach or violation by the other party of any term, covenant, or condition of this agreement or of any applicable law or ordinance.

SECTION 16 - NOTICES

All notices hereunder shall be given in writing and mailed, postage prepaid, addressed as follows:

To PCY: Partnership for Children and Youth
1611 Telegraph Ave, Suite 404
Oakland, CA 94612

To Consultant: Mt. Diablo CARES
Attention: Ali Medina
1266 San Carlos Ave., Room A-6
Concord, CA 94518

SECTION 17 - AGREEMENT CONTAINS ALL UNDERSTANDINGS

This document represents the entire and integrated agreement between PCY and CONSULTANT and supersedes all prior negotiations, representations, and agreements, either written or oral.

This document may be amended only by written instrument, signed by both PCY and CONSULTANT.

SECTION 18 - GOVERNING LAW

This agreement shall be governed by the laws of the State of California.

IN WITNESS WHEREOF, PCY and CONSULTANT have executed this agreement the day and year first written above.

PARTNERSHIP FOR CHILDREN AND YOUTH
A California non-profit corporation

Date: _____

Jennifer Peck, Executive Director

Mt. Diablo Unified School District

Date: _____

Signature

Print name