

**AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND
PROFESSIONAL ASSOCIATION FOR CHILDHOOD EDUCATION**

THIS AGREEMENT, entered into this ____ day of _____, 20____,
by and between the COUNTY OF SAN MATEO, hereinafter called "County," and
PROFESSIONAL ASSOCIATION FOR CHILDHOOD EDUCATION, hereinafter called
"Contractor";

W I T N E S S E T H:

WHEREAS, pursuant to Government Code, Section 31000, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof;

WHEREAS, it is necessary and desirable that Contractor be retained for the purpose of Stage 2 child care and development services as required by the California Department of Education.

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:

1. Exhibits and Attachments

The following exhibits and attachments are included hereto and incorporated by reference herein:

- Exhibit A - Program Description
- Exhibit B - Fiscal Provision and Payment Schedule
- Exhibit C - Performance Guidelines
- Attachment I - §504 Compliance
- Attachment J - Equal Benefits Compliance Declaration

2. Services to be performed by Contractor

In consideration of the payments set forth herein and in Exhibit "B," Contractor shall perform services for County in accordance with the terms, conditions and specifications set forth herein and in Exhibit "A and Exhibit C."

3. Payments

In consideration of the services provided by Contractor in accordance with all terms, conditions and specifications set forth herein and in Exhibit "A and Exhibit C," County shall make payment to Contractor based on the rates and in the manner specified in Exhibit "B." The County reserves the right to withhold payment if the County determines that the quantity

or quality of the work performed is unacceptable. In no event shall the County's total fiscal obligation under this Agreement exceed **five hundred thirty three thousand three hundred fifty five dollars, (\$533,355)**.

4. Term and Termination

Subject to compliance with all terms and conditions, the term of this Agreement shall be from **July 1, 2005 through June 30, 2008**.

This Agreement may be terminated by Contractor, the Human Services Agency Director or his/her designee at any time without a requirement of good cause upon thirty (30) days' written notice to the other party.

In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereafter referred to as materials) prepared by Contractor under this Agreement shall become the property of the County and shall be promptly delivered to the County. Upon termination, the Contractor may make and retain a copy of such materials. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that portion of the full payment which is determined by comparing the work/services completed to the work/services required by the Agreement.

5. Availability of Funds

The County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon unavailability of Federal, State, or County funds, by providing written notice to Contractor as soon as is reasonably possible after the county learns of said unavailability of outside funding.

6. Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent Contractor and not as an employee of the County and that Contractor acquires none of the rights, privileges, powers, or advantages of County employees.

7. Hold Harmless

Contractor shall indemnify and save harmless County, its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description, brought for, or on account of: (A) injuries to or death of any person, including Contractor, or (B) damage to any property of any kind whatsoever and to whomsoever belonging, (C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended, or (D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County, its officers, agents, employees, or servants, resulting from the performance of any work required of Contractor or payments made pursuant to this Agreement, provided that this shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own

negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

8. Assignability and Subcontracting

Contractor shall not assign this Agreement or any portion thereof to a third party or subcontract with a third party to provide services required by contractor under this Agreement without the prior written consent of County. Any such assignment or subcontract without the County's prior written consent shall give County the right to automatically and immediately terminate this Agreement.

9. Insurance

The Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this paragraph has been obtained and such insurance has been approved by Risk Management, and Contractor shall use diligence to obtain such issuance and to obtain such approval. The Contractor shall furnish the Department/Division with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending the Contractor's coverage to include the contractual liability assumed by the Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to the Department/Division of any pending change in the limits of liability or of any cancellation or modification of the policy.

- (1) **Worker's Compensation and Employer's Liability Insurance** The Contractor shall have in effect during the entire life of this Agreement Workers' Compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Agreement, the Contractor certifies, as required by Section 1861 of the California Labor Code, that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement.

- (2) **Liability Insurance** The Contractor shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him/her while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from contractors operations under this Agreement, whether such operations be by himself/herself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall be not less than the amount specified below.

Such insurance shall include:

- (a) Comprehensive General Liability \$1,000,000

(b) Motor Vehicle Liability Insurance	\$1,000,000
(c) Professional Liability	\$1,000,000

County and its officers, agents, employees and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that the insurance afforded thereby to the County, its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, and that if the County or its officers and employees have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, the County of San Mateo at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

10. Compliance with laws; payment of Permits/Licenses

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, including, but not limited to, Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended, and the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended and attached hereto and incorporated by reference herein as Attachment “I,” which prohibits discrimination on the basis of handicap in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including, but not limited to, appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations.

In the event of a conflict between the terms of this agreement and State, Federal, County, or municipal law or regulations, the requirements of the applicable law will take precedence over the requirements set forth in this Agreement.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

11. Non-Discrimination

A. *Section 504 applies only to Contractor who are providing services to members of the public.* Contractor shall comply with § 504 of the Rehabilitation Act of 1973, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement.

- B. *General non-discrimination.* No person shall, on the grounds of race, color, religion, ancestry, gender, age (over 40), national origin, medical condition (cancer), physical or mental disability, sexual orientation, pregnancy, childbirth or related medical condition, marital status, or political affiliation be denied any benefits or subject to discrimination under this Agreement.
- C. *Equal employment opportunity.* Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County of San Mateo upon request.
- D. *Violation of Non-discrimination provisions.* Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to
 - i) termination of this Agreement;
 - ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
 - iii) liquidated damages of \$2,500 per violation;
 - iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this section, the County Manager shall have the authority to examine Contractor's employment records with respect to compliance with this paragraph and/or to set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint, and a description of the circumstance. Contractor shall provide County with a copy of their response to the Complaint when filed.

- E. *Compliance with Equal Benefits Ordinance.* With respect to the provision of employee benefits, Contractor shall comply with the County Ordinance which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse.
- F. Where applicable, the Contractor shall comply fully with the non-discrimination requirements required by 41 CFR 60-741.5(a), which is incorporated herein as if fully set forth.

12. Retention of Records, Right to Monitor and Audit

- (a) CONTRACTOR shall maintain all required records for three (3) years after the COUNTY makes final payment and all other pending matters are closed, and shall be subject

to the examination and/or audit of the County, a Federal grantor agency, and the State of California.

(b) Reporting and Record Keeping: CONTRACTOR shall comply with all program and fiscal reporting requirements set forth by appropriate Federal, State and local agencies, and as required by the COUNTY.

(c) CONTRACTOR agrees to provide to COUNTY, to any Federal or State department having monitoring or review authority, to COUNTY's authorized representatives, and/or their appropriate audit agencies upon reasonable notice, access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules and regulations, and this Agreement, and to evaluate the quality, appropriateness and timeliness of services performed.

13. Merger Clause

This Agreement, including the Exhibits and Attachments attached hereto and incorporated herein by reference, constitutes the sole Agreement of the parties hereto and correctly states the rights, duties, and obligations of each party as of this document's date. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications shall be in writing and signed by the parties.

14. Controlling Law

The validity of this Agreement and of its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation, and performance of this Agreement shall be governed by the laws of the State of California.

15. Notices

Any notice, request, demand, or other communication required or permitted hereunder shall be deemed to be properly given when deposited in the United State mail, postage prepaid, or when deposited with a public telegraph company for transmittal, charges prepaid, addressed to:

In the case of County, to:

Lorna Strachan, Manager, Child Care
County of San Mateo
400 Harbor Blvd, Bldg B
Belmont, CA 94002

In the case of Contractor, to:

Kim Holman, Director
PACE
114 Sannsome Street, Suite 300
San Francisco, CA 94104

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO

By: _____
Richard S. Gordon, President,
Board of Supervisors, San Mateo County

Date: _____

ATTEST:

By: _____
Clerk of Said Board

PROFESSIONAL ASSOCIATION FOR CHILDHOOD EDUCATION

Contractor's Signature

Date: _____

PROGRAM DESCRIPTION
Professional Association for Childhood Education
July 1, 2005 through June 30, 2008

1. Program Description:

The Contractor will provide funding to Stage 2 child care recipients.

Stage 2 Child Care recipients are working adults who need child care and whose income is below the 85% State Median Income cap. Recipients may choose from a full range of types and categories of care including sectarian and in-home care where two or more children are served. Payment is then made monthly by the Contractor to the provider for child care services. Stage 2 child care is limited to a maximum of two years.

The Contractor will provide Stage 2 child care funding for those children referred by San Mateo County Human Services Agency who are already enrolled or eligible for Stage 2 child care up to a maximum of the allocation as specified by the County. (See Exhibit B)

EXHIBIT B

**FISCAL PROVISION AND PAYMENT SCHEDULE
Professional Association for Childhood Education (PACE)
July 1, 2005 through June 30, 2008**

Each year the contractor receives an allocation of the funds allotted to the Human Services Agency (HSA) by the California Department of Education (CDE). HSA annually, at its discretion, will determine Stage 2 funding distribution percentages for any Stage 2 funds received from CDE. Only 19% of the funds allocated to PACE each Fiscal Year may be use for administrative costs as defined by CDE.

Fiscal Provisions

	FY 2005-06	FY 2006-07	FY 2007-08
PACE Allocation	\$ 533,355	* To Be Determined	* To Be Determined
CDE Allocation to HSA	\$ 2,666,775	* To Be Determined	* To Be Determined

* Amounts for FY 2006-07 and FY 2007-08 will be determined by the amount allotted to the County of San Mateo from CDE during those Fiscal Years.

Payment Schedule

Upon execution of this Agreement, the County shall pay Contractor one lump sum of \$177,785, or 1/3 of Contractor’s total allocation for the FY 2005-06, as advance payment towards allowable invoiced costs for services described in Exhibit A. In the event that such costs are a negative amount, such costs will be deducted from future allowable invoiced costs until fully liquidated. The remaining \$355,570 will be paid to the contractor as described below after the \$177,785 advance payment has been liquidated, for allowable costs invoiced for services as described in Exhibit A.

PACE will invoice the County by the 15th of each month and will submit form 9500-AP by the 17th of each month for services performed for the previous month. Form 9500-AP is a reporting form required by CDE. Upon receipt and approval of monthly invoice and 9500-AP form, HSA shall issue to PACE by the 30th of the month an amount equal to the allowable costs of the invoice.

The Contractor shall provide child care services to families/children to fully expend the contract amount allocated by the Human Services Agency for each Fiscal Year of the contract. In no event shall services exceed \$533,355 for FY 2005-06. The total Agreement obligation for FY 2005-06 is \$533,355. Amounts for FY 2006-07 and FY 2007-08 will be in the form of amendments to this Agreement.

**PERFORMANCE GUIDELINES
Professional Association for Childhood Education
July 1, 2005 through June 30, 2008**

- 1) Staff from Professional Association for Childhood Education (PACE) and Child Care Coordinating Council will meet to distribute transferred Stage 1 cases by the Friday prior to the transfer meetings. Transfer meetings are held on the third Wednesday of each month unless otherwise scheduled.
- 2) Copies of transfer forms will be provided to the Human Services Agency at the case transfer meeting.
- 3) Contractor will set appointments with transferred families within two weeks of the case transfer meeting dates, and provide Stage 2 child care services in a timely manner. Stage 2 child care services will be provided to the client while the client is in the approval stage. If it is determined that the family is not eligible the usual procedures for service discontinuance will be followed.
- 4) Requests for data and information will be provided timely to the Human Services Agency.
- 5) Contractor will notify Human Services Agency of any client that subsequent to transfer becomes unemployed, so Human Services Agency staff can note information in Human Services Agency database. Contractor will strongly suggest to client to utilize Peninsula Works sites to facilitate job search.
- 6) Contractor will do periodic follow-up with clients on job seeking status to ensure client is actively seeking employment.

Assurance of Compliance with Section 504 of the Rehabilitation Act of 1973, as Amended

The undersigned (hereinafter called the "Contractor(s)") hereby agrees that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended, all requirements imposed by the applicable DHHS regulation, and all guidelines and interpretations issued pursuant thereto.

The Contractor(s) gives/give this assurance in consideration of for the purpose of obtaining contracts after the date of this assurance. The Contractor(s) recognizes/recognize and agrees/agree that contracts will be extended in reliance on the representations and agreements made in this assurance. This assurance is binding on the Contractor(s), its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Contractor(s).

The Contractor(s): (Check a or b)

- a. employs fewer than 15 persons.
- b. employs 15 or more persons and, pursuant to section 84.7 (a) of the regulation (45 C.F.R. 84.7 (a)), has designated the following person(s) to coordinate its efforts to comply with the DHHS regulation.

Type or Print

Name of 504 Person: _____

Address: _____

City & State Zip Code: _____

I certify that the above information is complete and correct to the best of my knowledge.

_____ Date

_____ Signature and Title of Authorized Official

*Exception: DHHS regulations state that:

"If a recipient with fewer than 15 employees finds that, after consultation with a disabled person seeking its services, there is no method of complying with (the facility accessibility regulations)...other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible."

COUNTY OF SAN MATEO

Equal Benefits Compliance Declaration Form

I Vendor Identification

Name of Contractor: _____
 Contact Person: _____
 Address: _____

 Phone Number: _____
 Fax Number: _____

II Employees

Does the Contractor have any employees? Yes No

Does the Contractor provide benefits to spouses of employees? Yes No

If the answer to one or both of the above is no, please skip to Section IV.

III Equal Benefits Compliance (Check one)

- Yes, the Contractor complies by offering equal benefits, as defined by Chapter 2.93, to its employees with spouses and its employees with domestic partners.
- Yes, the Contractor complies by offering a cash equivalent payment to eligible employees in lieu of equal benefits.
- No, the Contractor does not comply.
- The Contractor is under a collective bargaining agreement which began on _____ (date) and expires on _____ (date).

IV Declaration

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this ____ day of _____ 2004 at _____, _____
(City) (State)

Signature

Name (Please Print)

Title