

**AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND
WEST ED**

THIS AGREEMENT, entered into this _____ day of _____, 20_____,
by and between the COUNTY OF SAN MATEO, hereinafter called "County," and **WEST
ED**, 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; and

WHEREAS, it is necessary and desirable that Contractor be retained for the purpose of providing the services specified in the California Safe and Drug-Free Schools and Communities Round 3 grant, for alcohol and drug prevention, in accordance with state and federal laws, regulations, and funding mandates; and

WHEREAS, it is necessary and desirable that Contractor be retained for the purpose of providing services for Alcohol and Drug Prevention Services; and

WHEREAS, both parties now wish to enter into an Agreement, to provide services for Alcohol and Drug Prevention Services for the period of 10/1/2007 to 9/30/2012, for a total obligation of \$124,750.

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/Project Description

Exhibit B—Method and Rate of Payment

Attachment 1 - Assurance of Compliance with Section §504

Attachment 2 - Fingerprinting

Attachment 3 - Contractor's Declaration Form

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."

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," 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 ONE HUNDRED TWENTY-FOUR THOUSAND SEVEN HUNDRED FIFTY DOLLARS, (\$124,750).

4. Term and Termination

Subject to compliance with all terms and conditions, the term of this Agreement shall be from October 1, 2007 through September 30, 2012.

This Agreement may be terminated by Contractor, the Director of Health 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 insurance 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 subcontractor 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 and Other Requirements

- 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. 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. Compliance with Contractor Employee Jury Service Ordinance

Contractor shall comply with the County Ordinance with respect to provision of jury duty pay to employees and have and adhere to a written policy that provides that its employees shall receive from the contractor, on an annual basis, no less than five days of regular pay for actual jury service in San Mateo County.

Contractor shall comply with the County Ordinance with respect to provision of jury duty pay to employees and have and adhere to a written policy that provides that its employees shall receive from the contractor, on an annual basis, no less than five days of regular pay for actual jury service in San Mateo County. The policy may provide that employees deposit any fees received for such jury service with the contractor or that the contractor deduct from the employees' regular pay the fees received for jury service.

13. 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.

14. Merger Clause

This Agreement, including the Exhibits 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. In the event that any term, condition, provision, requirement or specification set forth in this body of the agreement conflicts with or is inconsistent with any term, condition, provision, requirement or specification in any exhibit and/or attachment to this agreement, the provisions of this body of the agreement shall prevail. 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.

15. 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.

16. Notices

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

In the case of County, to:

Judy Davila, Alcohol and Drug Administrator
400 Harbor Blvd., Bldg. C
Belmont, CA 94002

In the case of Contractor, to:

Paul Martinez, Contracts Administrator
WestEd
730 Harrison Street
San Francisco, CA 94107

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

COUNTY OF SAN MATEO

By: _____
Rose Jacobs Gibson, President,
Board of Supervisors, San Mateo County

Date: _____

ATTEST:

By: _____
Clerk of Said Board

WEST ED
Paul Martinez, Contracts Administrator

Contractor's Signature

Date: _____

Exhibit A

Program/Project Description

WEST ED

The South Coast Project

Prevention Services Supported by a California Safe and Drug-Free Schools and Communities Round 3 Grant

October 1, 2007 through September 30, 2012

I. The South Coast Project

Contractor will be the evaluator for The South Coast Project in San Mateo County in compliance with the requirements of the County's Safe and Drug Free Schools Round 3 Grant Agreement with the State of California Department of Alcohol and Drug Programs (DADP) including the project work plan for The South Coast Project. In addition, the Contractor will maintain compliance with the San Mateo County Alcohol and Other Drug Services Policy and Procedure Manual.

General administrative, fiscal and reporting responsibilities for contractors providing alcohol and drug prevention services and Safe and Drug Free Schools grant-funded services are included in the San Mateo County Alcohol and Other Drug Services Policy and Procedure Manual.

A. Administrative and Reporting Requirements

1. Maintain documentation of all activities implemented in accordance with the project work plan and make such documentation available to the project Steering Committee for project planning, reporting and evaluation.
2. Work collaboratively with San Mateo County Alcohol and Other Drug Services staff, La Honda Pescadero Unified School District and South Coast Children's Services to accomplish data collection, reporting, evaluation and quality improvement tasks included in the project work plan and evaluation plan.
3. Provide and report hours of staff availability each program year dedicated to alcohol and drug prevention direct program services, preparation time, and record keeping time. Annual hours of staff availability are determined based on the formula $1 \text{ FTE} = 1,787 \text{ hours of staff availability}$.

Exhibit B
Method and Rate of Payment
WEST ED
The South Coast Project
Prevention Services Supported by a California Safe and Drug-Free Schools
and Communities Round 3 Grant
October 1, 2007 through September 30, 2012

I. The South Coast Project - Payments

A. Rates of Payment

1. In full consideration of the Safe and Drug Free Schools and Communities Grant program services provided by Contractor, the total amount for prevention services described in this Agreement is ONE HUNDRED TWENTY FOUR THOUSAND SEVEN HUNDRED FIFTY DOLLARS, (\$124,750). The program funding for each year of the project is as follows:
 - a. October 1, 2007 through September 30, 2008, is THIRTY SIX THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$36,750);
 - b. October 1, 2008 through September 30, 2009, is TWENTY TWO THOUSAND DOLLARS (\$22,000);
 - c. October 1, 2009 through September 30, 2010, is TWENTY TWO THOUSAND DOLLARS (\$22,000);
 - d. October 1, 2010 through September 30, 2011, is TWENTY TWO THOUSAND DOLLARS (\$22,000);
 - e. October 1, 2011 through September 30, 2012, is TWENTY TWO THOUSAND DOLLARS (\$22,000).

B. Payments

1. County will pay Contractor monthly in arrears for actual program expenses based on the Contractor's approved budget.
2. Payments will be made within thirty (30) days after receipt and approval by the Alcohol and Other Drug Services Administrator or the Administrator's designee of Contractor's accurate line item quarterly expenditure invoice and completion of quarterly reporting requirements.
3. Invoices and/or supporting documentation that are inaccurate or contain inconsistencies must be corrected by Contractor and a new invoice submitted prior to payment.
4. Contractor is permitted to adjust expenditures as follows:
 - a. Contractor may adjust budgeted expenditures with the approval of the SMCADS program liaison in accordance with the California Department of Alcohol and Drug Programs (DADP) guidelines for Safe and Drug Free Schools and Communities grantees.
 - b. Contractor may redistribute funds within direct cost categories in their approved program budget, including personnel and travel, as long as the cumulative transfers do not exceed ten (10) percent of the current budget. Any such adjustments shall be documented in Contractor's line item monthly expenditure invoice and will remain within the approved program budget.

- c. Adjustments where the cumulative transfers will exceed ten (10) percent of the approved budget may be made with prior approval in writing by the SMCADS program liaison in accordance with the California Department of Alcohol and Drug Programs (DADP) guidelines for Safe and Drug Free Schools and Communities grantees.
- d. Changes requiring addition of line items require submission of a revised budget proposal for pre-approval in writing by the DADP Project Analyst.

C. Required Fiscal Documentation

Contractor's approved annual budget covering all contracted services under this Agreement shall be included in the DADP Notice of Grant Award for each grant year. Contractor shall submit a revised line item budget proposal and narrative budget justification for each calendar year of the grant period by August 1 prior to the beginning of each subsequent grant year. This proposed budget and narrative justifications are subject to review and approval by the SMCADS program liaison and the DADP Project Analyst.

Contractor will submit to County a final budget revision along with the final billing for program services for each of the grant years covered by this Agreement.

**ATTACHMENT 1 - ASSURANCE OF COMPLIANCE WITH SECTION § 504
of the Rehabilitation Act of 1973, as Amended
WESTED
October 1, 2007 through September 30, 2012**

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 and 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 regulations.

Name of § 504 Person - Type or Print

WestEd
730 Harrison Street
San Francisco, CA 94107-1242

Name of Contractor(s) – type or Print

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."

ATTACHMENT 2 - FINGERPRINTING COMPLIANCE FORM
WestEd
October 1, 2007 though September 30, 2012

Contractor agrees that its employees and/or its subcontractors, assignees and volunteers who, during the course of performing services under this agreement, have contact with children will be fingerprinted in order to determine whether they have a criminal history which would compromise the safety of children with whom contractors employees, assignees and subcontractors or volunteers have contact.

Name

Title

Signature

Date

**ATTACHMENT 3 - CONTRACTOR'S DECLARATION FORM
COUNTY OF SAN MATEO
WESTED**

October 1, 2007 through September 30, 2012

I. CONTRACTOR INFORMATION

Contractor Name:	WestEd	Phone:	(510)302-4230
Contact Person:	Jo Ann Izu	Fax:	(650)565-3012
Address:	730 Harrison Street San Francisco, CA 94107-1242		

II. EQUAL BENEFITS (check one or more boxes)

Contractors with contracts in excess of \$5,000 must treat spouses and domestic partners equally as to employee benefits.

- Contractor complies with the County's Equal Benefits Ordinance by:
 - offering equal benefits to employees with spouses and employees with domestic partners.
 - offering a cash equivalent payment to eligible employees in lieu of equal benefits.
- Contractor does not comply with the County's Equal Benefits Ordinance.
- Contractor is exempt from this requirement because:
 - Contractor has no employees, does not provide benefits to employees' spouses, or the contract is for \$5,000 or less.
 - Contractor is a party to a collective bargaining agreement that began on _____ (date) and expires on _____ (date), and intends to offer equal benefits when said agreement expires.

III. NON-DISCRIMINATION (check appropriate box)

- Finding(s) of discrimination have been issued against Contractor within the past year by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or other investigative entity. Please see attached sheet of paper explaining the outcome(s) or remedy for the discrimination.
- No finding of discrimination has been issued in the past year against the Contractor by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or any other entity.

IV. EMPLOYEE JURY SERVICE (check one or more boxes)

Contractors with original or amended contracts in excess of \$100,000 must have and adhere to a written policy that provides its employees living in San Mateo County up to five days regular pay for actual jury service in the County.

- Contractor complies with the County's Employee Jury Service Ordinance.
- Contractor does not comply with the County's Employee Jury Service Ordinance.
- Contractor is exempt from this requirement because:
 - the contract is for \$100,000 or less.
 - Contractor is a party to a collective bargaining agreement that began on _____ (date) and expires on _____ (date), and intends to comply when the collective bargaining agreement expires.

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.

Signature Name

Date Title