

## AGREEMENT

This agreement ("Agreement") dated, for reference purposes only, this \_\_\_ day of November, 2008, by and between Peninsula Conflict Resolution Center, a non-profit corporation, ("PCRC") and the County of San Mateo, a political subdivision of the State of California. ("County").

- A. WHEREAS, On May 1, 2001, by the Board of Supervisors' adoption of Resolution No. 54412, County and PCRC entered into an agreement (the "Financing Agreement") which provided for the County to assist in the financing of PCRC's purchase of the real property commonly known as 1300 El Camino Real, Belmont (the "Property"), and
- B. WHEREAS, Under the terms of the Financing Agreement, the County loaned \$477,125 to PCRC under the County's Non-Profit Agency Office Purchase Loan Program for the acquisition and renovation of the Property, and the loan was secured by a second deed of trust on the Property, and
- C. WHEREAS, Comerica Bank, senior lender in the acquisition of the Property, foreclosed, and the County's lien was extinguished by the foreclosure, and
- D. WHEREAS, on June 8, 2004 by the Board of Supervisors' adoption of Resolution No. 66684, County and PCRC agreed to terminate the Financing Agreement and to restructure PCRC's obligation to County as an unsecured loan, and therefore the parties entered into an agreement (the "Unsecured Loan Agreement") and PCRC executed an adjustable rate promissory note (the "Note") in favor of the County, which provided for payments of Nine Hundred dollars (\$900.00) per month from 2006 through June 2009, with payments to increase to Two Thousand Forty-Six dollars (\$2,046.00) per month from July 2009 until the loan is paid off in 2021, and
- E. WHEREAS, the parties now wish to terminate the Unsecured Loan Agreement in consideration of PCRC's agreement to provide an array of special services to the County, at no cost to the County, through 2021.

NOW THEREFORE, for the mutual benefit of the parties and in consideration of the promises set forth herein, County and PCRC agree as follows:

- 1. **Array of PCRC Services:** PCRC shall offer to County, and to persons and entities designated by County, a menu of ten (10) special services described in Attachment 1, which is attached hereto and incorporated by reference herein. Attachment 1 may be amended by agreement of PCRC and the County Manager or the Manager's designee.
- 2. **No Cost Services:** It is agreed that during the term of this Agreement, the four (4) services selected by the County Manager shall be provided by PCRC at no cost to the County or the recipients of the services, and that the County's forgiveness of the loan shall be full consideration for said services.
- 3. **County's Selection of PCRC Services:**
  - (A) From time to time, the County Manager or the Manager's designee may designate up to four (4) PCRC services, which services PCRC shall provide to the County or its employees.

(B) The range of all services provided by PCRC at the time this agreement is drafted, from which list the County may make its selection, is listed on Attachment 1.

(C) PCRC agrees to keep Attachment 1 current, so the throughout the term of this agreement, County has an updated list of programs provided by PCRC, as well as contact information for the person responsible for each program. In the event PCRC develops new and additional services, County may elect to receive those services.

(D) The County's initial designation of services is described in Attachment 2 to this agreement, which is attached hereto and incorporated by reference herein. This designation shall remain in effect until changed by the County Manager or the Manager's designee.

(E) County and PCRC shall meet as needed to review and revise the scope of available services, and the level of service provided to County.

4. **Hold Harmless:** PCRC 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 PCRC, or (B) damage to any property of any kind whatsoever and to whomsoever belonging, (C) any sanctions, penalties, or claims of damages resulting from PCRC'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 PCRC 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 PCRC 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.

5. **Insurance:** PCRC 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 PCRC shall use diligence to obtain such insurance and to obtain such approval. PCRC shall furnish the County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending the PCRC's coverage to include the contractual liability assumed by PCRC 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 County of any pending change in the limits of liability or of any cancellation or modification of the policy.
- (1) **Workers' Compensation and Employer's Liability Insurance** PCRC 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 PCRC 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 Workers' 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** PCRC 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 PCRCs operations under this Agreement, whether such operations be by himself/herself or by any sub-PCRC 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:

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|---|-------------|
| (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.

## 6. Non-Discrimination and Other Requirements

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.

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.

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.

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.

**7. Compliance with Contractor Employee Jury Service Ordinance**

PCRC 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.

**8. No assignment or subcontracting:** PCRC shall not assign this Agreement or any portion thereof to a third party or subcontract with a third party to provide services required by PCRC under this Agreement without the prior written consent of County.

**9. Term of Agreement:** It is agreed that the designated services described in Attachments 1 and 2 shall be provided, as set forth herein through 2021.

10. **Effective Date:** This Agreement shall become effective, the Unsecured loan Agreement shall terminate, and the Promissory Note shall be canceled upon the completion of the following three events: 1) the San Mateo County Board of Supervisors adoption of a resolution authorizing termination of the Unsecured Loan Agreement, 2) delivery to PCRC the original Note marked "null and void", and 3) PCRC's execution and delivery of this fully executed agreement to County.

11. **Retention of Records, Right to Monitor and Audit:** (a) CONTRACTOR shall maintain all required records for three (3) years after all 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.

12. **Counterparts:** This Agreement may be executed in counterparts, which each severally and together shall constitute one and the same Agreement.

13. **Successors:** This Agreement and the terms and provisions hereof shall inure to the benefit of and be binding upon the heirs, successors, and assigns of the parties.

14. **Whole Agreement:** The mutual benefit of the parties as provided herein is the sole consideration for this Agreement, and no representations; promises, or inducements have been made by the parties other than as appear in this Agreement. This Agreement may not be amended except in writing signed by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates set forth below.

COUNTY:


COUNTY OF SAN MATEO

BY:

President

PCRC:

Peninsula Conflict Resolution Center

BY: 

ITS: Executive Director



BOARD CHAIR