



AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR
-ALTERNATIVE DISPUTE RESOLUTION PROGRAM CONTRACT -
(Business & Professions Code Sections 465, et seq)
FY 2009-10

THIS AGREEMENT (hereinafter "Agreement") is made by and between the **COUNTY OF SANTA BARBARA**, a political subdivision of the State of California (hereinafter County) and **CONFLICT SOLUTIONS CENTER of SANTA BARBARA COUNTY**, having its place of business at 1528 Chapala Street, Suite 205, Santa Barbara, California 93101 (hereinafter Contractor); wherein Contractor agrees to provide and County agrees to accept the services specified herein.

In consideration of the mutual covenants and conditions contained herein, the parties agree:

1. DESIGNATED REPRESENTATIVES.

GARY M. BLAIR, Superior Court Executive Officer and ADR Program Administrator, 1100 Anacapa Street, P.O. Box 21107, Santa Barbara, California 93102-1107, phone number 805-882-4550 is the representative of County, and will administer this Agreement for and on behalf of County. **KIMBERLY E. ROSA**, Director, 1528 Chapala Street, Suite 205, Santa Barbara California 93101, phone number (805) 963-6765 is the representative for Contractor. Changes in representatives shall be effective only upon written notice to all parties.

2. NOTICES.

Any notice or consent required or permitted under this Agreement shall be given to the respective parties in writing, by first class mail, postage prepaid, or otherwise delivered to:

COUNTY: Gary M. Blair, Superior Court Executive Officer, ADR Administrator
1100 Anacapa Street
P.O. Box 21107
Santa Barbara, California 93102-1107

CONTRACTOR: Kimberly E. Rosa, Director
Conflict Solutions Center
1528 Chapala Street, Suite 205
Santa Barbara, California 93101

or at such other address or to such other person that the parties may from time to time designate. Notices and consents under this section, which are sent by mail, shall be deemed to be received five (5) days following their deposit in the U. S. mail.

3. TERM.

Contractor shall commence performance on **July 1, 2009**, and end performance upon completion of all requirements of this Agreement, except as may otherwise be authorized by County or required by termination of the Agreement. The term of this contract is for a twelve-month period ending **June 30, 2010**. County may extend said contract for additional periods, following the expiration of the initial term, subject to all the terms and conditions of this Agreement and of any subsequent amendments thereto.

4. SCOPE OF SERVICE.

Contractor agrees to provide services to County in accordance with the **Contractor's Proposal**, and with related Contractor and Court responsibilities as set forth in *Program Policies and Service Priorities*, which is "**Exhibit A**" to this Contract, each of which are incorporated herein by this reference.

5. COMPENSATION OF CONTRACTOR.

Contractor shall be paid for performance under this Agreement in accordance with the terms of *Contractor Compensation and Billing*, which is "**Exhibit B**" to this Contract and which is incorporated herein by this reference.

6. INDEPENDENT CONTRACTOR STATUS.

Contractor shall perform all of its services under this Agreement as an independent contractor and not as an employee of County. Contractor understands and acknowledges that neither Contractor nor any of its sub-contractors or employees shall be entitled to any of the employment benefits of County employees, nor to any deduction or withholding of taxes or other payments applicable to employee status.

7. PAYMENT OF TAXES.

County shall not be responsible for paying any taxes on Contractor's behalf, and Contractor shall promptly make any and all required tax payments and assessments in its own behalf, holding County harmless from payment thereof. Should County be required by state, federal or local taxing agencies to make any such payments related to services under this Agreement, Contractor agrees to promptly reimburse County for the full value of such payments, plus any interest and penalties imposed. These include, but are not limited to: FICA (Social Security), income taxes; unemployment disability, and workers' compensation insurance.

8. INDEMNIFICATION AND INSURANCE.

Contractor shall agree to defend, indemnify and save harmless the County and to procure and maintain insurance in accordance with the provisions of *Indemnification and Insurance Provisions*, which is "**Exhibit C**" to this Contract and which is incorporated herein by this reference.

9. PERFORMANCE STANDARDS, CAPABILITIES, AND LICENSES.

Contractor represents that it has the resources, skills, expertise, licenses and permits necessary to perform the services required under this Agreement. Accordingly, Contractor shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession or business in which Contractor is engaged. All products of whatsoever nature which Contractor delivers to County pursuant to this Agreement, shall be prepared in a first class and workmanlike manner, and shall conform to the standards of quality customary within Contractor's business or profession. Contractor shall correct or revise any errors or omissions, at County's request, and without additional compensation.

Any required permits and/or licenses shall be obtained and maintained by Contractor without additional compensation for any cost of licensing or maintaining licenses.

10. COUNTY ASSISTANCE.

County shall provide all information reasonably necessary to assist Contractor in performing the services provided herein, to the extent that such information is readily available.

11. NONDISCRIMINATION.

County hereby notifies Contractor that County's Unlawful Discrimination Ordinance (Article XII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by reference with the same force and effect as if the ordinance were specifically set forth herein. Contractor agrees to comply with provisions of that ordinance.

12. CONFLICTS OF INTEREST.

Contractor covenants that Contractor presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Contractor further covenants that, in the performance of this Agreement, no person having any such interest will be employed by Contractor, or used as a sub-contractor for performance of services herein.

13. OWNERSHIP OF DOCUMENTS.

County shall be the owner of the following items incidental to this Agreement: all data collected, all documents of any type whatsoever, and any material necessary for the practical use of the data and/or documents, from the time of collection and/or production, and whether or not performance under this Agreement is completed or terminated prior to completion; but with the exception of any documents or information required to be maintained by Contractor on a confidential basis, by Federal or California statute or regulation. Contractor shall not release any materials under this section except after prior written approval of County. No materials produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country, except as determined at the sole discretion of County. County shall have the unrestricted authority to publish, disclose, distribute and otherwise use in whole or in part, any reports, data, documents or other materials collected or prepared and provided to County under this Agreement.

14. RECORDS, AUDIT AND REVIEW.

Contractor shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of Contractor's business or profession, and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting practices. County shall have the right to audit and review all such documents and records at any time during Contractor's regular business hours, or upon reasonable notice.

15. NONEXCLUSIVE AGREEMENT.

Contractor understands that this is not an exclusive Agreement, and that County shall have the right to negotiate with and enter into contracts with, others providing the same or similar services as those provided by Contractor, at County's sole discretion.

16. ASSIGNMENT.

Contractor shall not assign any of its right nor transfer any of its obligations under this Agreement, without the prior written consent of County. Any attempt to so assign or so transfer without such consent shall be void and without legal effect, and shall constitute grounds for termination of the Agreement.

17. TERMINATION BY COUNTY.

County may, by written notice to Contractor, terminate this Agreement in whole or in part at any time, whether for County's convenience or because of the failure of Contractor to fulfill the obligations herein:

A. For Convenience. County may terminate this Agreement upon thirty (30) days written notice. Following notice of such termination, Contractor shall promptly cease work and notify County as to the status of its performance.

B. For Cause. Should Contractor default in the performance of this Agreement or materially breach any of its provisions, County may, at County's sole option, terminate this Agreement by written notice, which shall be effective upon receipt by Contractor.

Upon receipt of notice, Contractor shall immediately discontinue all services affected (unless the notice directs otherwise), and deliver to County, within twenty (20) days of receipt of notice, all data, estimates, graphs, summaries, reports and all other records, documents or papers as may have been accumulated or produced by Contractor in performing this Agreement, whether completed or in process, with the exception of any information required to be kept from County by Contractor on a confidential basis, pursuant to Federal or California statute or regulation.

18. TERMINATION BY CONTRACTOR.

Should County fail to pay Contractor all or any part of the payment set forth in "Exhibit B", Contractor may, at Contractor's option, terminate this agreement if such failure is not remedied by County within thirty (30) days of written notice to County of such late payment.

19. PAYMENT ON TERMINATION.

Notwithstanding any other payment provision of this Agreement, County shall pay Contractor for services performed to the date of termination, to include a prorated amount of compensation due hereunder, less any payments previously made. In no event shall Contractor be paid an amount in excess of the full price under this Agreement, nor for any unperformed portions of service. Contractor shall furnish to County such financial information as in the judgment of County is necessary to determine the reasonable value of the services rendered by Contractor. In the event of a dispute as to the reasonable value of the services rendered by Contractor, the decision of County shall be final. The foregoing is cumulative, and shall not affect any right or remedy which County may have in law or equity.

20. SECTION HEADINGS.

The headings of the sections of this Agreement, and the titles or headings of any exhibits or table of contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of the Agreement.

21. SEVERABILITY.

If any one or more of the provisions contained in this Agreement be, for any reason, held to be invalid, illegal or unenforceable in any respect, such provision or provisions shall be deemed severable from the remainder of the agreement. Any such invalidity, illegality or unenforceability of any provision shall not affect any other provision, and this Agreement shall be construed as if such provision had never been contained herein.

22. REMEDIES NOT EXCLUSIVE.

No remedy herein conferred upon or reserved to County is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law, in equity, or otherwise.

23. TIME IS OF THE ESSENCE.

Time is of the essence in this Agreement and each covenant and term is a condition herein.

24. NO WAIVER OF DEFAULT.

No delay or omission of County to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to County shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of County.

25. ENTIRE AGREEMENT AND AMENDMENT.

In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded or changed by any oral agreements, course of conduct, waiver or estoppel.

26. SUCCESSORS AND ASSIGNS.

All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

27. COMPLIANCE WITH LAW.

Contractor shall, at its sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of Contractor in any action or proceeding against Contractor, whether County be a party thereto or not, that Contractor has violated any such ordinance or statute, shall be conclusive of that fact as between Contractor and County.

28. CALIFORNIA LAW.

This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement shall be filed in the County of Santa Barbara, if jurisdiction is in State court, or in the District Court nearest to Santa Barbara County, if in Federal Court.

29. EXECUTION OF COUNTERPARTS.

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

30. AUTHORITY FOR AGREEMENT.

All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons or firms represented or purported to be represented by such entity(ies) or person(s), or firm(s); and that all formal requirements necessary or required by any state and/or federal law in order to enter into this agreement have been fully complied with. Furthermore, by entering into this Agreement Contractor hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which Contractor is obligated, which breach would have a material effect hereon.

31. PRECEDENCE.

In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by County.

AGREEMENT, County of Santa Barbara and Contractor, *Conflict Solutions Center of Santa Barbara County.*

**ATTEST
CLERK OF THE BOARD**

COUNTY OF SANTA BARBARA;

By _____
Chair, Board of Supervisors

BY _____
Deputy

Date: _____

CONTRACTOR
Conflict Solutions Center of Santa Barbara County,
Soc Sec or Tax ID Number: 77-0463146-

BY _____
Kimberly E. Rosa, Director

**APPROVED AS TO LEGAL FORM
DENNIS MARSHALL
County Counsel**

By _____
Deputy County Counsel

**APPROVED AS TO FORM
ROBERT W. GEIS, CPA
Auditor-Controller**

By _____
Deputy

**APPROVED AS TO FORM
RAY AROMATORIO
Risk Program Administrator**

By _____