

MEMORANDUM
OFFICE OF THE COUNTY EXECUTIVE
COUNTY OF PLACER

TO: Honorable Board of Supervisors
FROM: Holly L. Heinzen, Interim County Executive Officer
By: Bekki Riggan, Principal Management Analyst
DATE: June 5, 2012
SUBJECT: Contract Amendment - Placer Dispute Resolution Services

Action Requested

Your Board is requested to approve and sign a two-year contract extension with Placer Dispute Resolution Service (PDRS) for the provision of community-based mediation services from July 1, 2012 through June 30, 2014 totaling \$129,600.

Background

The Dispute Resolution Programs Act of 1986 provided for the establishment and funding of informal and voluntary dispute resolution services to individuals, business groups, public agencies and other organizations in Placer County and function as alternatives for resolving conflicts outside of the formal judicial system. State funding through an \$8 surcharge for each first paper filed in civil court actions fully funds the PDRS contract and the County's share of 20% for allowable administrative costs.

On June 22, 2004, the Board of Supervisors awarded RFP No. 9311 to PDRS and approved a contract in the amount of \$130,000 for a 2-year contract. In June 2006, this contract was extended through June 30, 2008. In April 2008, based on Purchasing Policy Manual Section 1.3 (a), Placer County Procurement authorized an exemption to the competitive RFP process for this professional services contract. A new contract was entered into with PDRS from July 1, 2008 through June 30, 2010 in the amount of \$145,800, and an additional two-year contract extension was approved by your Board for the period of July 1, 2010 through June 30, 2012 at a total cost of \$145,800.

Consistent with the contract extension provision in Section 5.6 of the 2008 contract, the County Executive Office recommends your Board authorize a 2-year extension at a total cost of \$129,600 for the effective dates of July 1, 2012 to June 30, 2014.

Fiscal Impact

This two-year contract extension with Placer Dispute Resolution Service runs from July 1, 2012 through June 30, 2014. Total two-year cost is \$129,600, a reduction of 11% or \$16,200 from the previous contract, based on reduced state funding related to a decline in civil court actions filed. There are no County General Funds associated with this action.

Attachments: Contract Amendment
Attachment B - Insurance and Indemnity Requirements

**Placer Dispute Resolution Service
FY 2012-2014 Payment Schedule**

FY 2012-2013		\$64,800
July-12	\$5,400	\$59,400
August-12	\$5,400	\$54,000
September-12	\$5,400	\$48,600
October-12	\$5,400	\$43,200
November-12	\$5,400	\$37,800
December-12	\$5,400	\$32,400
January-13	\$5,400	\$27,000
February-13	\$5,400	\$21,600
March-13	\$5,400	\$16,200
April-13	\$5,400	\$10,800
May-13	\$5,400	\$5,400
June-13	\$5,400	\$0
FY 2013-2014		\$64,800
July-13	\$5,400	\$59,400
August-13	\$5,400	\$54,000
September-13	\$5,400	\$48,600
October-13	\$5,400	\$43,200
November-13	\$5,400	\$37,800
December-13	\$5,400	\$32,400
January-14	\$5,400	\$27,000
February-14	\$5,400	\$21,600
March-14	\$5,400	\$16,200
April-14	\$5,400	\$10,800
May-14	\$5,400	\$5,400
June-14	\$5,400	\$0
Contract Amendment Total		\$129,600

ALTERNATE DISPUTE RESOLUTION PROGRAM

CONTRACT AMENDMENT

THIS AMENDMENT to the CONTRACT for DISPUTE RESOLUTION SERVICES IN THE COUNTY OF PLACER, by and between the County of Placer, hereinafter referred to as "COUNTY" and Placer Dispute Resolution Services (PDRS) a non-profit community mediation program hereinafter referred to as "CONTRACTOR", mutually agree as follows:

WHEREAS, COUNTY and CONTRACTOR previously entered into Contract # 12617 commencing on July 1, 2008 and terminating on June 30, 2010, and in Contract #12617A entered into July 1, 2010 through June 30, 2012, and

WHEREAS, COUNTY and CONTRACTOR desire to formally amend said Agreement to extend the time frame for the services to be provided herein, and

NOW, THEREFORE, the Agreement is amended as follows:

1. That Section 3, **Total Contract Value** is hereby amended from \$145,800 to \$129,600, payable in twenty-four (24) monthly installments of \$5,400 (\$64,800 per year), unless funds available through the COUNTY Dispute Resolution Trust Fund become deficient pursuant to Section 5.5. herein. If the court filing fees distributed exceed the amount paid to PDRS and the 20 percent County administration fee for three consecutive months, an adjustment to the contract amount will be considered.
2. **Agreement Period/Termination**. Section 5.1 is hereby amended as follows: This Agreement is effective for services beginning July 1, 2012 and ending June 30, 2014, an extension of two years.
3. **Scope of Work**. Attachment A, Section 1.c. of Community Mediation Services and Activities is hereby amended as follows: Provision of a recommended 56 Inquire/Problem Assessments (IPA) per quarter. This anticipates a total of 225 IPAs for FY 2012-13 and 225 IPAs for FY 2013-14.
4. **Insurance and Indemnity Requirements**. Section 19 is hereby amended by the inclusion of the updated Insurance and Indemnity Requirements, set out in Attachment B of this Amendment, replacing the prior Attachment B, as amended.

This amendment is effective July 1, 2012.

In all other respects, except for the above-stated amendments, the original Agreement terms and July 1, 2010 Amendment remains in full force and effect. These documents and any attachments hereto, constitute the entire understanding between the COUNTY and CONTRACTOR concerning the subject matter contained herein.

WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement as of the day and year first above stated:

CONTRACTOR:

Alan Lowe, President

Date: _____

Herb Whitaker, Corporate Secretary

Date: _____

COUNTY OF PLACER:

Chair, Board of Supervisors

Date: _____

Approved as to form:
Office of Placer County Counsel

Placer County Counsel

Date: _____

Placer County Dispute Resolution Services
Insurance and Indemnity Requirements

1. **HOLD HARMLESS AND INDEMNIFICATION AGREEMENT**

The CONSULTANT hereby agrees to protect, defend, indemnify, and hold PLACER COUNTY free and harmless from any and all losses, claims, liens, demands, and causes of action of every kind and character including, but not limited to, the amounts of judgments, penalties, interest, court costs, legal fees, and all other expenses incurred by PLACER COUNTY arising in favor of any party, including claims, liens, debts, personal injuries, death, or damages to property (including employees or property of the COUNTY) and without limitation by enumeration, all other claims or demands of every character occurring or in any way incident to, in connection with or arising directly or indirectly out of, the contract or agreement. CONSULTANT agrees to investigate, handle, respond to, provide defense for, and defend any such claims, demand, or suit at the sole expense of the CONSULTANT. CONSULTANT also agrees to bear all other costs and expenses related thereto, even if the claim or claims alleged are groundless, false, or fraudulent. This provision is not intended to create any cause of action in favor of any third party against CONSULTANT or the COUNTY or to enlarge in any way the CONSULTANT'S liability but is intended solely to provide for indemnification of PLACER COUNTY from liability for damages or injuries to third persons or property arising from CONSULTANT'S performance pursuant to this contract or agreement.

As used above, the term PLACER COUNTY means Placer County or its officers, agents, employees, and volunteers.

2. **INSURANCE:**

CONSULTANT shall file with COUNTY concurrently herewith a Certificate of Insurance, in companies acceptable to COUNTY, with a Best's Rating of no less than A:VII showing.

3. **WORKER'S COMPENSATION AND EMPLOYERS LIABILITY INSURANCE:**

Worker's Compensation Insurance shall be provided as required by any applicable law or regulation. Employer's liability insurance shall be provided in amounts not less than one million dollars (\$1,000,000) each accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit for bodily injury by disease, and one million dollars (\$1,000,000) each employee for bodily injury by disease.

If there is an exposure of injury to CONSULTANT'S employees under the U.S. Longshoremen's and Harbor Worker's Compensation Act, the Jones Act, or under laws, regulations, or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

Each Worker's Compensation policy shall be endorsed with the following specific language:

Cancellation Notice - "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer".

Waiver of Subrogation - The workers' compensation policy shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against the County, its officers, directors, officials, employees, agents or volunteers, which might arise by reason of payment under such policy in connection with performance under this agreement by the CONSULTANT.

CONTRACTOR shall require all SUBCONTRACTORS to maintain adequate Workers' Compensation insurance. Certificates of Workers' Compensation shall be filed forthwith with the County upon demand.

4. GENERAL LIABILITY INSURANCE:

A. Comprehensive General Liability or Commercial General Liability insurance covering all operations by or on behalf of CONSULTANT, providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:

(1) Contractual liability insuring the obligations assumed by CONSULTANT in this Agreement.

B. One of the following forms is required:

- (1) Comprehensive General Liability;
- (2) Commercial General Liability (Occurrence); or
- (3) Commercial General Liability (Claims Made).

C. If CONSULTANT carries a Comprehensive General Liability policy, the limits of liability shall not be less than a Combined Single Limit for bodily injury, property damage, and Personal Injury Liability of:

→One million dollars (\$1,000,000) each occurrence

→Two million dollars (\$2,000,000) aggregate

D. If CONSULTANT carries a Commercial General Liability (Occurrence) policy:

(1) The limits of liability shall not be less than:

→One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)

- One million dollars (\$1,000,000) for Products-Completed Operations
- Two million dollars (\$2,000,000) General Aggregate

- (2) If the policy does not have an endorsement providing that the General Aggregate Limit applies separately, or if defense costs are included in the aggregate limits, then the required aggregate limits shall be two million dollars (\$2,000,000).

E. Special Claims Made Policy Form Provisions:

CONSULTANT shall not provide a Commercial General Liability (Claims Made) policy without the express prior written consent of COUNTY, which consent, if given, shall be subject to the following conditions:

- (1) The limits of liability shall not be less than:
 - One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)
 - One million dollars (\$1,000,000) aggregate for Products Completed Operations
 - Two million dollars (\$2,000,000) General Aggregate
- (2) The insurance coverage provided by CONSULTANT shall contain language providing coverage up to one (1) year following the completion of the contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims-made policy.

Conformity of Coverages - If more than one policy is used to meet the required coverages, such as a separate umbrella policy, such policies shall be consistent with all other applicable policies used to meet these minimum requirements. For example, all policies shall be Occurrence Liability policies or all shall be Claims Made Liability policies, if approved by the County as noted above. In no cases shall the types of policies be different.

5. ENDORSEMENTS:

Each Comprehensive or Commercial General Liability policy shall be endorsed with the following specific language:

- A. "The County of Placer, its officers, agents, employees, and volunteers are to be covered as insured for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement."
- B. "The insurance provided by the Consultant, including any excess liability or umbrella form coverage, is primary coverage to the County of Placer with respect to any insurance or self-insurance programs maintained by the County of Placer and no

insurance held or owned by the County of Placer shall be called upon to contribute to a loss."

- C. "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer."

6. AUTOMOBILE LIABILITY INSURANCE:

Automobile Liability insurance covering bodily injury and property damage in an amount no less than one million dollars (\$1,000,000) combined single limit for each occurrence.

Covered vehicles shall include owned, non-owned, and hired automobiles/trucks.

7. PROFESSIONAL LIABILITY INSURANCE (ERRORS & OMISSIONS):

Professional Liability Insurance for Errors and Omissions coverage in the amount of not less than one million dollars (\$1,000,000).

If Consultant sub-contracts in support of Consultants work provided for in the agreement, Professional Liability Insurance for Errors shall be provided by the sub contractor in an amount not less than one million dollars (\$1,000,000) in aggregate.

The insurance coverage provided by the consultant shall contain language providing coverage up to one (1) year following completion of the contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims-made policy.

8. ADDITIONAL REQUIREMENTS:

Premium Payments - The insurance companies shall have no recourse against the COUNTY and funding agencies, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by a mutual insurance company.

Policy Deductibles - The CONSULTANT shall be responsible for all deductibles in all of the CONSULTANT's insurance policies. The maximum amount of allowable deductible for insurance coverage required herein shall be \$25,000.

CONSULTANT's Obligations - CONSULTANT's indemnity and other obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this agreement.

Verification of Coverage - CONSULTANT shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONSULTANT's obligation to provide them. The County reserves the right to require

complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Material Breach - Failure of the CONSULTANT to maintain the insurance required by this agreement, or to comply with any of the requirements of this section, shall constitute a material breach of the entire agreement.

