

**MEMORANDUM
PERSONNEL DEPARTMENT
COUNTY OF PLACER**

TO: Board of Supervisors
FROM: Nancy Nittler, Personnel Director *WN*
DATE: November 6, 2007
SUBJECT: Authorize the County Executive Officer to sign Consultant Services Contract

ACTION:

Authorize the County Executive Officer to sign a consultant services contract for human resource services provided by Mary Egan for the Department of Health and Human Services.

BACKGROUND:

The Placer County Personnel Department currently has an existing contract with Mary Egan Consulting to provide human resource consultant services for the Department of Health and Human Services (HHS) to fill a full-time allocated and funded Personnel Services Manager position. The current contract will be exhausted and a new contract has been created to continue services provided by Mary Egan. Health and Human Services and Personnel are requesting to continue these services through calendar year 2008. A copy of the contract is attached.

Ms. Egan has done an exceptional job working with HHS Department Management, Personnel staff and HHS employees. Significant progress has been made in the area of managing personnel-related activities and in the training of managers and supervisors in sound personnel practices. Ms. Egan also provides assistance to the executive staff within HHS on matters related to organizational structure, workforce planning, recruitment strategies, and human resource management.

Hiring a full-time benefited employee into the approved and funded Personnel Services Manager allocation would cost more than the recommended contract and would reduce the County's flexibility to respond any changes in funding that HHS may experience. Accordingly, HHS will keep the Personnel Services Manager position vacant until such time as the Mary Egan Consultant services have been concluded.

FISCAL IMPACT:

The total contract is for an amount not to exceed \$100,000. The estimated cost for fiscal year 2007/2008 is \$50,000. The Personnel Department has an approved budget for \$329,731 in fiscal year 2007/2008 for personnel staff services conducted on behalf of Health and Human Services. This budget reflects 4 full time equivalent allocations with the Personnel Services Manager position representing approximately \$100,000 on an annual basis. The estimated cost for fiscal year 2008/2009 is \$50,000 and will be submitted in the HHS and Personnel Department budgets.

Administering Agency: **Placer County Personnel Department**

Contract No. _____

Contract Description:

CONSULTANT SERVICES AGREEMENT

THIS AGREEMENT is made at Auburn, California, as of _____, 2007, by and between the County of Placer, ("County"), and Mary Egan Consulting. ("Contractor"), who agree as follows:

1. **Services.** Subject to the terms and conditions set forth in this Agreement, Contractor shall provide the services described in Exhibit A. Contractor shall provide said services at the time, place, and in the manner specified in Exhibit A.
2. **Payment.** County shall pay Consultant for services rendered pursuant to this Agreement at the time and in the amount set forth in Exhibit A. The payment specified in Exhibit A shall be the only payment made to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all billings for said services to County in the manner specified in Exhibit A; or, if no manner be specified in Exhibit A, then according to the usual and customary procedures which Consultant uses for billing clients similar to County. **The amount of the contract shall not exceed One Hundred Thousand Dollars (\$100,000).**
3. **Facilities, Equipment and Other Materials, and Obligations of County.** Unless otherwise specified herein, Contractor shall, at its sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this Agreement.
4. **Exhibits.** All exhibits referred to herein will be attached hereto and by this reference incorporated herein.
5. **Time for Performance.** Time is of the essence. Failure of Contractor to perform any services within the time limits set forth in Exhibit A shall constitute material breach of this contract.
6. **Independent Contractor.** At all times during the term of this Agreement, Contractor shall be an independent Contractor and shall not be an employee of the County. County shall have the right to control Contractor only insofar as the results of Contractor's services rendered pursuant to this Agreement. County shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement.
7. **Licenses, Permits, Etc.** Contractor represents and warrants to County that it has all licenses, permits, qualifications, and approvals of whatsoever nature, which are legally required for Contractor to practice its profession. Contractor represents and warrants to County that Contractor shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, and approvals which are legally required for Contractor to practice its profession at the time the services are performed.
8. **Time.** Contractor shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for the satisfactory performance of Contractor's obligations pursuant to this Agreement. Neither party shall be considered in default of this

Agreement to the extent performance is prevented or delayed by any cause, present or future, which is beyond the reasonable control of the party.

9. **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.

A. **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 canceled or materially changed without first giving thirty (30) days prior written notice to the County of Placer."

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

B. **General Liability Insurance:**

- 1) 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:

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

- 2) One of the following forms is required:

- a) Comprehensive General Liability;
- b) Commercial General Liability (Occurrence); or
- c) Commercial General Liability (Claims Made).

- 3) 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
- One million dollars (\$1,000,000) aggregate

- 4) If CONSULTANT carries a Commercial General Liability (Occurrence) policy:
- a) 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
 - One million dollars (\$1,000,000) General Aggregate
 - b) 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).
- 5) 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:

- a) 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
 - One million dollars (\$1,000,000) General Aggregate
- b) The insurance coverage provided by CONSULTANT shall contain language providing coverage up to six (6) months 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.

C. Endorsements:

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

- 1) "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."
- 2) "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."

- 3) "This policy shall not be canceled or materially changed without first giving thirty (30) days' prior written notice to the County of Placer."

D. 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 should include owned, non-owned, and hired automobiles/trucks.

E. 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 \$1,000,000 in aggregate.

The insurance coverage provided by the consultant shall contain language providing coverage up to six (6) months 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.

10. 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.

11. Contractor Not Agent. Except as County may specify in writing Contractor shall have no authority, express or implied, to act on behalf of County in any capacity whatsoever as an agent.

Contractor shall have no authority, express or implied pursuant to this Agreement to Bind County to any obligation whatsoever.

12. **Assignment Prohibited.** Contractor may assign its rights and obligations under this Agreement only upon the prior written approval of County, said approval to be in the sole discretion of County.
13. **Personnel.**
 - A. Contractor shall assign only competent personnel to perform services pursuant to this Agreement. In the event that County, in its sole discretion, at any time during the term of this Agreement, desires the removal of any person or persons assigned by Contractor to perform services pursuant to this Agreement, including those members of the Project Team as explained below, Contractor shall remove any such person immediately upon receiving notice from County of the desire of County for removal of such person or persons.
 - B. Notwithstanding the foregoing, if specific persons are designated as the "Project Team" in Exhibit A, Contractor agrees to perform the work under this agreement with those individuals identified. Reassignment or substitution of individuals or subcontractors named in the Project Team by Contractor without the prior written consent of County shall be grounds for cancellation of the agreement by County, and payment shall be made pursuant to Section 15 (Termination) of this Agreement only for that work performed by Project Team members.
14. **Standard of Performance.** Contractor shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged in the geographical area in which Contractor practices its profession. All products of whatsoever nature which Contractor delivers to County pursuant to this Agreement shall be prepared in a substantial first class and workmanlike manner and conform to the standards or quality normally observed by a person practicing in Contractor's profession.
15. **Termination.**
 - A. County shall have the right to terminate this Agreement at any time by giving notice in writing of such termination to Contractor. In the event County shall give notice of termination, Contractor shall immediately cease rendering service upon receipt of such written notice, pursuant to this Agreement. In the event County shall terminate this Agreement:
 - 1) Contractor shall deliver copies of all writings prepared by it pursuant to this Agreement. The term "writings" shall be construed to mean and include: handwriting, typewriting, printing, Photostating, photographing, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof.
 - 2) County shall have full ownership and control of all such writings delivered by Contractor pursuant to this Agreement.
 - 3) County shall pay Contractor the reasonable value of services rendered by Contractor to the date of termination pursuant to this Agreement not to exceed

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the amount documented by Contractor and approved by County as work accomplished to date; provided, however, that in no event shall any payment hereunder exceed the amount of the agreement specified in Exhibit B, and further provided, however, County shall not in any manner be liable for lost profits which might have been made by Contractor had Contractor completed the services required by this Agreement. In this regard, Contractor shall furnish to County such financial information as in the judgment of the County is necessary to determine the reasonable value of the services rendered by Contractor. The foregoing is cumulative and does not affect any right or remedy, which County may have in law or equity.

B. Contractor may terminate its services under this Agreement upon thirty- (30) working days' advance written notice to the County.

16. **Non-Discrimination.** Contractor shall not discriminate in its employment practices because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex in contravention of the California Fair Employment and Housing Act, Government Code section 12900 et seq.
17. **Records.** Contractor shall maintain, at all times, complete detailed records with regard to work performed under this agreement in a form acceptable to County, and County shall have the right to inspect such records at any reasonable time. Notwithstanding any other terms of this agreement, no payments shall be made to Contractor until County is satisfied that work of such value has been rendered pursuant to this agreement. However, County shall not unreasonably withhold payment and, if a dispute exists, the withheld payment shall be proportional only to the item in dispute.
18. **Ownership of Information.** All professional and technical information developed under this Agreement and all work sheets, reports, and related data shall become the property of County, and Contractor agrees to deliver reproducible copies of such documents to County on completion of the services hereunder. The County agrees to indemnify and hold Contractor harmless from any claim arising out of reuse of the information for other than this project.
19. **Waiver.** One or more waivers by one party of any major or minor breach or default of any provision, term, condition, or covenant of this Agreement shall not operate as a waiver of any subsequent breach or default by the other party.
20. **Conflict of Interest.** Contractor certifies that no official or employee of the County, nor any business entity in which an official of the County has an interest, has been employed or retained to solicit or aid in the procuring of this agreement. In addition, Contractor agrees that no such person will be employed in the performance of this agreement without immediately notifying the County.
21. **Entirety of Agreement.** This Agreement contains the entire agreement of County and Contractor with respect to the subject matter hereof, and no other agreement, statement, or promise made by any party, or to any employee, officer or agent of any party, which is not contained in this Agreement, shall be binding or valid.
22. **Alteration.** No waiver, alteration, modification, or termination of this Agreement shall be valid unless made in writing and signed by all parties, except as expressly provided in Section 15, Termination.

23. **Governing Law.** This Agreement is executed and intended to be performed in the State of California, and the laws of that State shall govern its interpretation and effect. Any legal proceedings on this agreement shall be brought under the jurisdiction of the Superior Court of the County of Placer, State of California, and Contractor hereby expressly waives those provisions in California Code of Civil Procedure §394 that may have allowed it to transfer venue to another jurisdiction.
24. **Notification.** Any notice or demand desired or required to be given hereunder shall be in writing and deemed given when personally delivered or deposited in the mail, postage prepaid, and addressed to the parties as follows:

COUNTY OF PLACER

Placer County Personnel Dept
Attn: Nancy Nittler, Director
145 Fulweiler Avenue, Suite 200
Auburn, CA 95603

Phone: (530) 889-4060
Fax: (530) 886-4626

CONSULTANT:

Mary Egan Consulting
Attn: Mary Egan
PO Box 561
Wilton, CA 95693

Phone:
Fax:

Any notice so delivered personally shall be deemed to be received on the date of delivery, and any notice mailed shall be deemed to be received five (5) days after the date on which it was mailed.

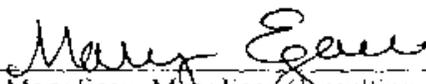
Executed as of the day first above stated:

COUNTY OF PLACER

By:
Printed Name/Title: Thomas Miller, County Executive Officer

Approved As to Form - County Counsel:

By:
Mark Rathe, Deputy County Counsel

CONSULTANT - 
Mary Egan, Mary Egan Consulting

Exhibits

- A. Scope of Work and Payment for Services Rendered

EXHIBIT A

SCOPE OF SERVICES and PAYMENT FOR SERVICES RENDERED

The work program detailed below shall constitute the scope of work to achieve the following objectives:

Provide professional and technical guidance to HHS and Personnel department staff and managers on personnel-related matters; act as a liaison between the Personnel and HHS departments.

Provide mentoring and training to HHS Directors on principles and practices of personnel management.

Participate in the development and implementation of HHS goals and objectives related to staffing requirements and personnel administration.

Provide guidance to staff assigned to HHS personnel operations; recommend improvements and modifications, prepare reports on status of assigned projects, operations, and activities.

Provide staff training on personnel-related matters such as performance management and discipline.

Attend meetings with the Personnel Department, County Executive Office and other departments as needed for implementation of effective personnel practices

Provide assistance with interpreting, applying and complying with applicable federal, state and local laws, rules and regulations.

PAYMENT SCHEDULE

Fees for professional services will be billed at the rate of \$7,500 per month not to exceed the total contract amount of \$100,000. Project related expenses such as travel, long distance telephone and copying/printing would be billed separately on an as necessary basis with a "not to exceed" cost of \$500.00 per month. Professional and related costs and reimbursable expenses would be billed and paid monthly.

