60 days 7/29/08

N-12

LIEBERT CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION
6033 W Century Boulevard, Suite 500
Los Angeles, California 90045
Tel: (310) 981-2000 • Fax: (310) 337-0560
www lcwlegal com

June 19, 2008

John Tortarolo
Assistant Superintendent/VP, Human Resource Service
Palomar Community College District
1140 West Mission Road
San Marcos, CA 92069

Re. Southern California Community College District Employment Relations Consortium

Dear Mr. Tortarolo:

We are looking forward to another successful year with the Southern California Community College District Employment Relations Consortium. The consortium committee has selected a wide variety of topics for your managers and supervisors. We are pleased to provide the consortium with six days of training, as well as our monthly newsletter, *Education Matters*

The workshops chosen for the upcoming training are listed on the enclosed planning meeting notes. We will send a detailed schedule of the workshops in the next few weeks.

Enclosed is an Agreement for Special Services Please execute and return a copy to our office.

Some members have requested information regarding our customized training. We provide training outside of the consortium on a variety of topics, all of which can be customized to include your policies and procedures. Our current rates for individual training are from $1,600 to $2,000 for a three hour, half-day presentation and $2,500 - $3,000 for a six hour, full-day presentation. The rates vary depending on who the presenter is. We are willing to provide this customized training for an individual college/district or a group of districts so that the rate can be pro-rated.

If you have any questions about the consortium or our other training programs, please contact Cynthia Weldon, Director of Training & Marketing at (310) 981-2055 or cweldon@lcwlegal.com

We thank you for your membership and we look forward to another successful training year.

Sincerely,

LIEBERT CASSIDY WHITMORE

BY: Melanie M. Poturica
Managing Partner

Enclosure

60 day 7/28/08 make file

304005

CONSULTANT AGREEMENT
BETWEEN
METCALF DEVELOPMENT & CONSULTING, INC.
AND
PALOMAR COMMUNITY COLLEGE DISTRICT

THIS AGREEMENT is made and entered into this **17th day of July, 2008** by and between **Palomar Community College District** (hereinafter referred to as "DISTRICT") and **Metcalf Development & Consulting, Inc.,** (hereinafter referred to as "CONSULTANT").

RECITALS

1. The District is in need of special services, assistance and advice associated with the process of obtaining the required entitlements and permits for the Palomar College North Education Center.

2. CONSULTANT is experienced and competent to perform the special services required.

3. CONSULTANT will provide special services and assistance in support of the Palomar Community College North Education Center as required by the Vice President of Finance & Administrative Services.

4. The services District requires are needed on a limited and not a full time basis.

AGREEMENT

NOW THEREFORE, it is mutually agreed by the parties hereto as follows:

1. **CONSULTANT's Staff to Perform Services**

CONSULTANT will provide special services and assistance in support of DISTRICT's North Education Center as defined in Exhibit "A", hereto attached

2. **CONSULTANT is Independent Contractor**

CONSULTANT shall perform said services as an independent contractor and not as an employee of DISTRICT. CONSULTANT shall be under the control of DISTRICT as to the result to be accomplished and not as to the means or manner by which such result is to be accomplished. This Agreement will continue in effect until the services provided for have been performed or until otherwise terminated by either party.

3. **Employee Benefits**

CONSULTANT shall be responsible for all salaries, payments, and benefits for all of its officers, agents and employees in performing services pursuant to this agreement.

4. **Workers' Compensation Insurance**

CONSULTANT agrees to procure and maintain in full force and effect Workers' Compensation Insurance as required under California law, covering any employees or agents while these persons are participating in the activities hereunder. In the event a claim under the provisions of the California Workers' Compensation Act is filed against DISTRICT by a bona fide employee of CONSULTANT participating under this agreement, CONSULTANT agrees to defend and hold harmless the DISTRICT from such claim.

5 **Insurance**

Should CONSULTANT ever operate their owned, private automobile during the performance of this agreement, CONSULTANT shall obtain and carry at least $100,000/$300,000 single limit liability coverage, naming the DISTRICT as an additional insured and furnishing a certificate evidencing this coverage to DISTRICT prior to operating said automobile under this agreement.

6. **Administrator of Agreement**

This agreement shall be administered on behalf of, and any notice desired to a party hereunder shall be addressed to:

DISTRICT: Palomar Community College District
Bonnie Ann Dowd, Asst. Superintendent/Vice President
Finance & Administrative Services
1140 W. Mission Road
San Marcos, CA 92069

CONSULTANT: Metcalf Development & Consulting, Inc.
Paul Metcalf, Director
5681 Bellevue Avenue
La Jolla, CA 92037

7. **All Information & Work Product to Be Owned by DISTRICT**

DISTRICT will prepare and furnish to CONSULTANT upon request such information as is reasonably necessary for the performance of CONSULTANT under this Agreement. All information provided by DISTRICT, and all information, data, documentation, reports, recommendations, correspondence, and other writings generated by CONSULTANT from its own efforts or from others not a part hereto, shall belong exclusively to the DISTRICT. In addition, DISTRICT shall own any and all intellectual property rights to materials and writings, tapes, tape recordings, video, audio, and any other tangible things, developed, produced or generated by CONSULTANT and/or its agents while performing services under this agreement.

8. **Compensation**

DISTRICT shall pay CONSULTANT for services rendered pursuant to this Agreement on an hourly basis of $100 per hour, and related costs incurred by CONSULANT while

performing services hereunder to include: mileage, billed at the current IRS standard business mileage rate. All other reimbursement expenses require prior approval by DISTRICT. CONSULTANT shall submit invoices to DISTRICT on a monthly basis showing specific services provided, mileage and pre-approved expenses incurred. Such invoices are due and payable within twenty (20) days of receipt by DISTRICT or as normally provided by the processing schedule of the DISTRICT, whichever is longer.

9. **Term of Agreement**

The agreement is effective July 18 2008 on an as-needed basis. DISTRICT may terminate this Agreement at any time upon thirty (30) days prior notice to CONSULTANT, and without cause. In the event of termination under this provision, CONSULTANT shall be entitled to be compensated for all services actually rendered up to the date of termination, but not thereafter.

10. **Hold Harmless & Indemnification**

DISTRICT shall defend, indemnify and hold CONSULTANT, its officers, employees and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, expense, attorneys' fees or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of DISTRICT, its officers, agents, or employees.

CONSULTANT shall defend, indemnify and hold DISTRICT, its officers, employees and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, expense, attorneys' fees or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of CONSULTANT, its officers, agents, or employees.

11. **No Assignment**

CONSULTANT may not assign its rights or delegate its duties under this agreement, to others.

12. **Comply With All Laws**

CONSULTANT shall comply with all applicable federal, state and local laws, rules, regulations, and ordinances including workers' compensation.

13. **Work for Other Public Agencies- Disclosure**

DISTRICT acknowledges that CONSULTANT may at various times perform services for other public agencies with jurisdiction over some of the same territory as DISTRICT and for certain private parties within the boundaries of DISTRICT. CONSULTANT agrees to make appropriate disclosure of such relationships and the parties agree that nothing in this Agreement is intended to imply that CONSULTANT is a "public official", "participating in a

governmental decision" or has a "financial interest" as such terms are used in California Government Code Section 87100.

14. **Choice of Law & Attorney Fees**

DISTRICT and CONSULTANT agree that the law of the State of California shall apply to this agreement; that any action to enforce or interpret the terms hereof shall be commenced and maintained in the Courts of the State, County of San Diego; and in any such action or proceeding the prevailing party therein shall be entitled to recover, in addition to any other award of judgment, its attorney's fees and costs incurred therein, including expert witness fees and costs.

Executed under the laws of the State of California by the authorized agents of the DISTRICT and CONSULTANT.

Metcalf Development & Consulting, Inc.

By: _____
Paul Metcalf, Director

TAX I.D. #: 26-1707931

Dated: 7/21/8

Palomar Community College District

By: _____
Bonnie Ann Dowd, Ed.D.
Asst. Superintendent/Vice President
Finance & Administrative Services

Metcalf Development & Consulting, Inc.
Land Planning, Development & Management – Strategically Focused, Tactically Sound
5681 Bellevue Avenue, La Jolla, California 92037
Phone 619-733-6056 fax 858-459-9517 e-mail PmDevCon@sbcglobal net

July 17, 2008

Ms Eileen Poole
Contract Specialist, Business Services
Palomar College
1140 West Mission Road
San Marcos, California 92069-1487

Re: Project Assistance for the Palomar College North Education Center Entitlement and Permit Process

Dear Eileen:

It was a pleasure meeting you and Bonnie today and thank you for considering Metcalf Development & Consulting, Inc. to provide services for the above referenced process This process includes the final approval of the project EIR and the subsequent procurement of any additional permits necessary to satisfy the projects needs I understand that my efforts will be "as needed" and determined by consultation with Dr Dowd and her staff

I will report to Dr Dowd on a regular basis and also as needed I would anticipate we would communicate at least weekly My hourly rate is $100

We both reserve the right to cancel our arrangement with reasonable consideration for the welfare of the process, but in any case within 30 days I expect you shall indemnify and defend me from actions that are not a consequence of active or passive negligence on my part I will be happy to provide documentation of my insurance for you review We both understand that the process is discretionary and relies on judgment and there are no guarantees to success

I will bill on a monthly basis for hours spent and reimbursables and provide a detail of the work accomplished and the expenses incurred It is agreed that I shall have no third party payment obligation

Thank for the opportunity to serve you and Palomar College

Yours truly,

Paul Metcalf
Director

Acceptable:
Bonnie Jo Dowd
Date: 7/21/08

MDC Proposal - July 17 2008

EXHIBIT 'A'

AGREEMENT FOR SPECIAL SERVICES

This Agreement is entered into between the Palomar Community College District, hereinafter referred to as "Community College District," and the law firm of LIEBERT CASSIDY WHITMORE, A Professional Corporation, hereinafter referred to as "Attorney."

WHEREAS Community College District has the need to secure expert training and consulting services to assist Community College District in its relations and negotiations with its employee organizations; and

WHEREAS Community College District has determined that no less than twenty-seven (27) Community College Districts in the Southern California area have the same need and have agreed to enter into identical agreements with Attorney; and

WHEREAS Attorney is specially experienced and qualified to perform the special services desired by the Community College District and is willing to perform such services;

NOW, THEREFORE, Community College District and Attorney agree as follows:

Attorney's Services:

During the year beginning July 1, 2008, Attorney will provide the following services to Community College District (and the other aforesaid public agencies):

1. Six (6) days of group training workshops covering such employment relations subjects as management rights and obligations, negotiation strategies, employment discrimination and affirmative action, employment relations from the perspective of elected officials, performance evaluation (administering evaluations), grievance and discipline administration for supervisors and managers, planning for and responding to concerted job actions, current court, administrative and legislative developments in personnel administration and employment relations, etc., with the specific subjects covered and lengths of individual workshop presentations to be determined by Community College District and the other said local agencies.

   It is expressly understood that the material used during these presentations, including written handouts and projected power points are provided solely for the contracted workshops. This agreement warrants there will be no future use of Liebert Cassidy Whitmore material in other trainings or formats without the expressed written permission of Liebert Cassidy Whitmore Any such use will constitute a violation of this agreement and copyright provisions.

2. A monthly newsletter covering employment relations developments

Fee:

Attorney will provide these special services to Community College District for a fee of Two Thousand Five Hundred Dollars ($2,500.00), payable in one payment prior to August 1, 2008. The fee, if paid after August 1, 2008 will be $2,600.00. Said fee will cover Attorney's time in providing said training and consultative services and the development and printing of written materials provided to attendees at the training programs.

Additional Services:

Attorney shall, as and when requested by Community College District, make itself available to Community College District to provide representational, litigation, and other employment relations services. The Community College District will be billed for the actual time such representation services are rendered, including reasonable travel time, plus any necessary costs and expenses authorized by the Community College District.

The range of hourly rates for Attorney time is from One Hundred Sixty to Two Hundred Ninety Dollars ($160.00 - $290.00) per hour for attorney staff and from One Hundred to One Hundred Thirty Dollars ($100.00 - $130.00) per hour for services provided by paraprofessional staff. Attorneys and paraprofessional staff bill their time in minimum units of one-tenth of an hour. Communications advice (telephone, voice-mail, e-mail) is billed in a minimum increment of three-tenths (.30) of an hour.

Independent Contractor:

It is understood and agreed that Attorney is and shall remain an independent contractor under this Agreement.

Term:

The term of this Agreement is twelve (12) months commencing July 1, 2008. The term may be extended for additional periods of time by the written consent of the parties.

Condition Precedent:

It is understood and agreed that the parties' aforesaid rights and obligations are contingent on no less than twenty-seven (27) local agency employers entering into a substantially identical Agreement with Attorney on or about July 1, 2008.

Dated: 6-26-08

LIEBERT CASSIDY WHITMORE
A Professional Corporation

By _____

Dated: 7/24/08

PALOMAR COMMUNITY COLLEGE DISTRICT

By _____

Ken Jay, Director, Business Services
Palomar Community College District

60 day 7/29/08

AMENDMENT NO. 2 TO AGREEMENT FOR LEGAL SERVICES

This Amendment to Agreement for Legal Services (Amendment) is entered into by and between the PALOMAR COMMUNITY COLLEGE DISTRICT (District) and the law firm of RUTAN & TUCKER, LLP (Attorney) for the purpose of amending the existing Agreement for legal services originally entered into by the parties on August 19, 2005, and as subsequently amended

WHEREAS, it is the desire of the parties to update that Agreement as amended, to become effective as of July 1, 2008.

NOW, THEREFORE, it is hereby agreed by and between the parties hereto that the third paragraph of that Agreement, as amended, shall provide as follows:

The services to be provided to District by Attorney as set forth herein shall be performed at the rate of Two Hundred and Forty Dollars ($240.00) per hour for all attorney time and established hourly rates for paralegal and document clerk time. District shall also reimburse Attorney for any direct costs and expenses incurred in the course of providing the services provided for herein, including but not limited to long distance telephone calls, messenger and other delivery fees, parking and travel expenses, photocopy and facsimile costs. Attorney shall render monthly statements for services rendered during the preceding month, and District shall pay the same upon representation.

Except as expressly provided herein, said Agreement shall remain unchanged and in full force and effect.

Date of Board approval:

7-3, 2008

PALOMAR COMMUNITY COLLEGE DISTRICT

By: _____

Its: Kenneth Tang Director Bus. Ser.

Dated: 7-9, 2008

RUTAN & TUCKER, LLP

By: _____
David C. Larsen

AGREEMENT BETWEEN

PALOMAR COMMUNITY COLLEGE DISTRICT

AND

COMMUNITY COLLEGE LEAGUE OF CALIFORNIA

This agreement made and entered into on the 1st day of July, 2008 to cover the period of July 1, 2008 through June 30, 2009, by and between Palomar Community College District, hereafter referred to as "District," and Community College League of California hereafter referred to as the "League".

WHEREAS, the District is desirous of bringing its Board Policy Manual and Administrative Procedures Manual up-to-date, and

WHEREAS, the League is qualified by experience, knowledge, and materials to assist with the coordination and supervision of updating Board Policy and Administrative Procedures Manuals, and

WHEREAS, Pursuant to Government Code Section 53060, the governing board of the District may contract with persons experienced and competent to perform special services and provide advice in financial, economic, accounting, engineering, legal or administrative matters,

NOW, THEREFORE, the District and the League, for the considerations hereinafter named, agree as follows:

FIRST: The League agrees to perform the professional, technical and management services hereinafter set forth when and as assigned by the District, and

SECOND: The District agrees to pay the League a fee, together with such other payments and reimbursements as are hereinafter provided

LEAGUE CONSULTANT'S SERVICES

ARTICLE 1:

The League agrees to assign a League-approved Consultant to provide professional services and consultation to assist the District in the revision of its Board Policy and Administrative Procedures Manuals The Consultant's services will include, but may not be limited to, the following:

- Presenting a work plan to the District for approval.
- Drafting up-to-date policies for all sections of the Board Policy Manual using as a starting point the League's sample policy templates and the District's current board policies.
- Drafting recommendations for new Administrative Procedures, using as starting points the current District administrative procedures, procedures now contained in the District's Board Policy Manual, and the League's sample procedures.

- Providing to district designee draft board policies and procedures for review by appropriate groups of employees for review.
- Finalizing the recommended Board Policies for review and adoption by the Board.
- Finalizing the recommended Board Policies for review and adoption by the Board.
- Finalizing the Administrative Procedures Manual for review and adoption by the Superintendent/President
- Providing the District with the Board Policies and Administrative Procedures in an electronic format (disk(s) or CD) which can be easily updated and uploaded on the District website.

The League reserves the right to choose the Consultant and change the Consultant if necessary

FEE STRUCTURE

ARTICLE 2:

The fee structure for the work conducted under this Agreement shall be [10,000] for [fiscal year 2008-2009] If the work of the Consultant exceeds [150] hours during the 2008-2009 fiscal year, additional hours will be billed to the District at the rate of [70] an hour for research, creation of documents, or meeting with District personnel, and at [25] an hour for transportation time or telephone consultation with District personnel]. The District reserves the right to approve the additional professional costs prior to the expenditure of those costs If the work extends beyond June 30, 2009, this contact may be extended at the discretion of both the District and the League

METHOD OF PAYMENT

ARTICLE 3:

Quarterly payments to the League will be made with the approval of the District, upon presentation of the League's invoice Each invoice shall be documented in such detail and demonstrate such progress on each portion of the work as the District may reasonably deem appropriate, as determined by the District.

INDEMNIFICATION

ARTICLE 4:

To the extent allowed by law, the League must save, keep, bear harmless, and fully indemnify the District and any of its officers or agents from all damages, or claims for damages, costs or expenses in law or equity arising out of any activities in the performance of the Agreement.

To the extent allowed by law, the District must save, keep, bear harmless, and fully indemnify the League and any of its officers or agents from all damages, or claims for damages, costs or expenses in law or equity arising out of any activities in the performance of the Agreement.

The District must agree to have the final Board Policy Manual and Administrative Procedures Manuals examined by legal counsel before final adoption to assure the contents are in compliance with legal requirements, legal advisements, or suggested good practice.

EMPLOYEE RELATIONSHIP

ARTICLE 5:

The League and Consultant are not employees of the District. It is understood that the Consultant is responsible for his/her actions and that the Consultant is not an employee or servant of the District regardless of the nature or extent of the acts performed by the Consultant. Therefore, since the Consultant has been deemed not to be an employee of the District, the District does not assume liability under the law for any act or performance pursuant to this Agreement.

CANCELLATION

ARTICLE 6:

Either party giving written notice to the other may cancel this Agreement at any time, with or without cause. In the event of such cancellation, the League shall be paid for authorized services In ascertaining the services actually rendered hereunder up to the date of the termination of this Agreement, consideration shall be given to both completed work and work in process of completion and to complete and incomplete reports and other documents whether delivered to the District or in the possession of the Consultant or League

OWNERSHIP OF DRAWINGS OR REPORTS

ARTICLE 7:

Services as represented on documents or reports are to become the property of the District whether the work is completed or not and may be used by them in any fashion they see fit. Notwithstanding the foregoing, however, the League reserves the right to use any documents or data prepared or collected during the course of this work for other purposes as it sees fit, provided, however, that no such use shall allow the District to be identified without the consent of the District.

CONSULTANT PERSONAL SERVICES

ARTICLE 8:

It is agreed that the District is relying on the personal services of the Consultant and upon his/her technical ability and professional integrity. Such reliance is one of the chief considerations for the execution of this Agreement by the District.

It is further understood and agreed that the Consultant shall not assign nor transfer his/her duties under this Agreement, nor shall this Agreement be assignable or transferable by operation of law or otherwise without the written consent of the District.

CONFLICT OF INTEREST

ARTICLE 9:

The Consultant agrees to perform services exclusively for the District under this Agreement, and expressly agrees not to undertake any conflicting duties to others, with or without compensation, which could in any way compromise that responsibility. The Consultant shall not disclose to others any confidential information gained from this relationship without the prior, written permission from the District. Further, the Consultant shall not seek to use his/her position, the information gained

thereby, nor any other aspect of the project or his/her relationship with others involved in it, for personal gain or other remuneration or benefit, beyond the compensation provided for herein.

TERM OF AGREEMENT

ARTICLE 10:

This Agreement shall be effective when signed by all parties Services shall commence upon execution of this Agreement

This Agreement may be amended but only by an instrument in writing signed by all parties.

By: _____
Palomar Community College District

Date 6/25/08

By: _____
Community College League of California

Date: July 1, 2008