



**TRAINING SERVICES COST REIMBURSEMENT AGREEMENT**

County of Orange

**FUNDING SOURCES:**\_\_\_\_\_

**AGREEMENT #**\_\_\_\_\_

**CFDA**

TABLE OF CONTENTS

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

<b>No.</b>		<b>Page</b>
1.	ADMINISTRATION OF AGREEMENT .....	6
2.	PURPOSE .....	6
3.	TERM .....	6
4.	CONTINGENCY OF FUNDS.....	6
5.	APPROVED TRAINING PROGRAMS AND SERVICES.....	7
6.	SERVICES .....	7
7.	BREACH-SANCTIONS .....	8
8.	TERMINATION.....	8
9.	COMPLIANCE WITH LAW.....	8
	(a) Federal.....	9
	(1) Clear Air and Clean Water Act.....	9
	(2) Energy Efficiency Standards .....	9
	(b) State.....	9
	(c) County.....	9
	(d) Local .....	9
	(e) Court Orders .....	9
	(f) Terms and Conditions.....	9
10.	COMPLIANCE WITH COUNTY WIA POLICIES AND PROCEDURES .....	9
11.	PERFORMANCE STANDARDS .....	9
12.	MODIFICATION OF PROGRAM COMPONENTS AND SERVICE LEVELS .....	10
13.	PARTICIPANTS .....	11
14.	CONFIDENTIALITY .....	13
15.	INSTRUCTORS.....	14
16.	SATISFACTORY WORK.....	15
17.	REPORTS .....	15
18.	BUDGET SCHEDULE .....	15
19.	MODIFICATION OF BUDGET SCHEDULE .....	15
20.	PAYMENTS BY COUNTY.....	16
	(a) Payment Schedule.....	16
	(b) Invoices.....	16
	(c) Education Assistance .....	16
	(d) Documentations .....	17

## Agreement #

1	(e) Withholding Payment .....	17
2	(f) COUNTY Discretion .....	17
3	21. PROGRAM INCOME .....	18
4	22. PELL GRANT/HEA TITLE IV .....	19
5	23. INDEPENDENT CONTRACTOR .....	19
6	24. SUBCONTRACTORS .....	19
7	25. NO SUPPLANTATION .....	20
8	26. EMPLOYEE ELIGIBILITY VERIFICATION .....	20
9	27. ASSIGNMENT .....	21
10	28. FISCAL ACCOUNTABILITY .....	21
11	(a) Financial Management System .....	21
12	(b) CONTRACTOR's Records .....	21
13	(c) Costs Charged .....	21
14	29. ANNUAL AUDIT .....	22
15	30. ACCESS AND RECORDS .....	22
16	(a) Access .....	22
17	(b) Records Retention .....	23
18	31. FRAUD .....	23
19	32. MUTUAL INDEMNIFICATION .....	23
20	33. INSURANCE .....	23
21	34. PATENT/COPYRIGHT MATERIALS/PROPRIETARY INFORMATION .....	27
22	35. INTELLECTUAL PROPERTY .....	27
23	(a) Federal Funding .....	27
24	(b) Ownership .....	27
25	(c) Retained Rights/License Rights .....	29
26	(d) Copyright .....	30
	(e) Patent Rights .....	31
	(f) Third Party Intellectual Property .....	31
	(g) Warranties .....	31
	(h) Intellectual Property Indemnity .....	33
	(i) Survival .....	34
	36. CORPORATE STATUS .....	34
	37. STANDARDS OF CONDUCT .....	34
	(a) General Assurance .....	34

Agreement #

1 (b) Employment of Former State and COUNTY Employees .....35

2 (c) Conducting Business Involving Relatives.....35

3 (d) Conducting Business Involving Close Personal Friends and Associates .....35

4 (e) Avoidance of Conflict of Economic Interest.....35

4 38. SWEATFREE CODE OF CONDUCT .....35

5 39. DRUG FREE WORKPLACE .....36

6 40. DEBARMENT .....36

7 41. SECTARIAN ACTIVITIES .....36

8 42. LITERATURE .....37

9 43. LOBBYING .....37

10 44. DISPUTES .....37

11 45. TOTAL AGREEMENT .....38

12 46. CHILD SUPPORT ENFORCEMENT.....38

13 47. EDD INDEPENDENT CONTRACTOR REPORTING REQUIREMENTS .....38

14 48. NOTICES .....38

15 49. GOVERNING LAW AND VENUE .....39

16 50. WAIVER .....39

17 51. PUBLICITY .....39

18 52. CALENDAR DAYS .....39

**SIGNATURES**

**EXHIBITS**

- 17 A. General Program Requirements
- 18 B. Approved Training Programs
- 19 C. Performance Standards
- 20 D. Budget Schedule
- 21 E. Drug-Free Workplace Certification
- 22 F. Suspension & Debarment
- 23 G. Certification Regarding Lobbying
- 24 H. Disclosure Form to Report Lobbying
- 25 I. Child Support Enforcement Provision (for profit only providers)
- 26 J. EDD Independent Operator Reporting Requirements
- K. OC Community Resources Contract Reimbursement Policy
- L. Authorized Signature Form

## Agreement #

1 THIS Cost Reimbursement Agreement ("Agreement") by and between the County of Orange,  
2 hereinafter referred to as "COUNTY", and \_\_\_\_\_ hereinafter referred to as "CONTRACTOR",  
3 County and Contractor are sometimes individually referred to as "Party", or collectively referred to as  
4 "Parties", consists of fifty-two (52) sections and the following twelve (12) exhibits: A. General  
5 Requirements; B. Statement of Work; C. Performance Standards; D. Budget Schedule; E. Drug Free  
6 Workplace Certification, F. Suspension & Debarment Certification G. Certification Regarding Lobbying, H.  
7 Disclosure Form to Report Lobbying, I. Child Support Enforcement Provision (for-profit providers only), J.  
8 Employment Development Department Independent Operator Reporting Requirements, K. OC Community  
9 Resources Contract Reimbursement Policy, and L. Authorized Signature Form.

10 **WHEREAS**, Congress has enacted the "Workforce Investment Act of 1998," hereinafter referred to  
11 as "the Act," to provide workforce investment activities, through statewide and local workforce investment  
12 systems, that increase employment, retention and earnings of participants, and increase occupational skill  
13 attainment by participants, and, as a result, improve the quality of the workforce and enhance the  
14 productivity and competitiveness of the Nation; and

15 **WHEREAS**, COUNTY, acting as the Administrator of the Act funds, is empowered to make a  
16 portion of the funds available pursuant to the Act (hereinafter referred to as "grant funds") to  
17 CONTRACTOR, for the purpose of implementing the provisions of the Act; and

18 **WHEREAS**, COUNTY receives additional funding to provide workforce and economic development  
19 activities; and

20 **WHEREAS**, COUNTY, by Minute Order dated, July 19, 2011 a copy of which is on file with the Clerk  
21 of the Board of Supervisors of Orange County and which by this reference is incorporated herein and  
22 made a part hereof as if fully set forth, has appropriated a portion of grant funds in an amount not to  
23 exceed \_\_\_\_\_ (\$\_\_\_\_\_) to engage CONTRACTOR to carry out certain  
24 program services; and

25 **WHEREAS**, CONTRACTOR, in order to receive grant funds, is agreeable to the terms and  
26 conditions hereinafter set forth;

1 **NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:**

2 **1. ADMINISTRATION OF AGREEMENT**

3 COUNTY'S OC Community Resources Director or designee (hereinafter referred to as "DIRECTOR"),  
4 shall administer this Agreement as is necessary or reasonable to comply with or implement the grant funds  
5 received by COUNTY and as required by law or applicable regulations.

6 **2. PURPOSE**

7 This Agreement is funded by the Workforce Investment Act of 1998 (WIA), the County of Orange,  
8 and/or other sources of funding that may come from federal, state and local governmental agencies, and/or  
9 private corporations. The purpose of the program(s) funded by this Agreement is to prepare eligible  
10 participants for entry or re-entry into the labor force by providing training services as described in Exhibit B  
11 of this Agreement. The funds are intended to improve the quality of the workforce and enhance the  
12 productivity and competitiveness of Orange County and the United States.

13 **3. TERM**

14 The effective term of this Agreement shall commence on \_\_\_\_\_ and terminate on \_\_\_\_\_  
15 subject to the provisions of this Agreement; however, CONTRACTOR shall perform such duties extending  
16 beyond this term, including but not limited to obligations with respect to indemnification, audits, monitoring,  
17 reporting and accounting. CONTRACTOR and CONTRACT ADMINISTRATOR may mutually agree in  
18 writing to extend the term of this Agreement up to and including a period of one year, provided that  
19 COUNTY's maximum obligation stated in this Agreement does not increase as a result, and on the same  
20 terms and conditions upon mutual agreement of the parties in writing without further Board action, unless  
21 the COUNTY earlier terminates this AGREEMENT pursuant to the provisions contained herein.

22 **4. CONTINGENCY OF FUNDS**

23 CONTRACTOR acknowledges that the obligations of COUNTY under this Agreement are contingent  
24 upon the availability of Federal State, County and/or other funds, as applicable, for the reimbursement of  
25 CONTRACTOR's expenditures, and inclusion of sufficient funds for the services hereunder in the budget  
26 approved by COUNTY's Board of Supervisors each fiscal year this Agreement remains in effect or

1 operation. In the event that such funding is terminated or reduced, CONTRACT ADMINISTRATOR may  
2 immediately terminate this Agreement, reduce COUNTY's maximum obligation, or modify this Agreement,  
3 without penalty. The decision of CONTRACT ADMINISTRATOR shall be binding on CONTRACTOR.  
4 CONTRACT ADMINISTRATOR shall provide CONTRACTOR with written notification of such  
5 determination. CONTRACTOR shall immediately comply with CONTRACT ADMINISTRATOR's decision.

#### 6 **5. APPROVED TRAINING PROGRAMS AND SERVICES**

7 This Agreement is based upon the information and representations contained in Exhibit B,  
8 CONTRACTOR'S Approved Training Programs. CONTRACTOR agrees to comply with all provisions, to  
9 perform all work, and to provide all services set forth in this Agreement. The specific program components  
10 to be performed by CONTRACTOR and the service levels to be utilized by COUNTY for program  
11 evaluation and monitoring include, but are not limited to, those listed in Exhibit B hereto. Training to be  
12 provided hereunder shall be restricted to those classes and programs described in Exhibit B hereto for  
13 which at least one participant is enrolled.

#### 14 **6. SERVICES**

15 CONTRACTOR agrees that those specific program components to be performed by CONTRACTOR,  
16 and the service levels to be utilized by COUNTY for program evaluation and monitoring, include, but are  
17 not limited to, those set forth in Exhibits "A", "B", and "C" "C-1" which are attached hereto and incorporated  
18 herein as if fully set forth. CONTRACTOR agrees that it is responsible for and guarantees performance of  
19 all of the specific program components and service levels listed in Exhibits "A", "B", and "C" "C-1".  
20 CONTRACTOR further agrees that lack of compliance with Exhibits "A", "B", and "C" "C-1" may, in addition  
21 to those remedies as provided herein, constitute grounds for COUNTY to reduce the level of payment  
22 otherwise provided of this Agreement or to reduce the payment level and budget at which CONTRACTOR  
23 will be funded for the remainder of the period of this Agreement. Reductions in an amount up to 10% of  
24 the total contract may be made by CONTRACT ADMINISTRATOR. Except for Section 4 of the Agreement,  
25 any reduction over 10% shall occur only as a result of action of Board of Supervisors upon  
26 recommendation by CONTRACT ADMINISTRATOR.

1 **7. BREACH - SANCTIONS**

2 If, through any cause, CONTRACTOR violates any of the terms and conditions of this Agreement, or  
3 any prior Agreements whereby grant funds were received by CONTRACTOR, or if CONTRACTOR reports  
4 inaccurately, or if an audit report makes disallowances, CONTRACTOR shall promptly remedy its acts or  
5 omissions and/or repay COUNTY all amounts due COUNTY as a result thereof. For any such failures or  
6 violations COUNTY shall also have the right, at its sole discretion, to: (1) immediately discontinue program  
7 support until such time as CONTRACTOR fulfills its obligations or remedies all violations of this Agreement  
8 or prior Agreements; and/or (2) collect outstanding amounts, as determined by CONTRACT  
9 ADMINISTRATOR to be due COUNTY from CONTRACTOR, by offsetting or debiting from current claims  
10 or invoices, if after thirty (30) days written notice CONTRACTOR has failed to repay same or a repayment  
11 schedule has not been made; and/or (3) terminate this Agreement in accordance with Section 4 herein.  
12 CONTRACT ADMINISTRATOR shall give CONTRACTOR written notice of any action pursuant to this  
13 paragraph, which notice shall be deemed served on the date of mailing.

14 **8. TERMINATION**

15 (a) DIRECTOR may terminate this Agreement without penalty immediately with cause or after thirty  
16 (30) days written notice without cause, unless otherwise specified. Notice shall be deemed served on the  
17 date of mailing. Cause shall be defined as any breach of contract, any misrepresentation or fraud on the  
18 part of the CONTRACTOR. Exercise by DIRECTOR of the right to terminate this Agreement shall relieve  
19 COUNTY of all further obligations under this Agreement.

20 (b) Upon termination, or notice thereof, CONTRACTOR agrees to cooperate with DIRECTOR in the  
21 orderly transfer of service responsibilities, active case records, pertinent documents and all equipment or  
22 materials purchased with COUNTY funds.

23 **9. COMPLIANCE WITH LAW**

24 In its performance under this Agreement, CONTRACTOR shall fully comply with the requirements of  
25 the following, whether or not otherwise referred to in this Agreement:  
26



1 (a) The Act and all applicable federal statutes, regulations, policies, procedures and directives,  
2 including but not limited to, 20 C.F.R. Parts 652 and 660 through 671.

3 (1) All applicable standards and orders and requirements issued under Section 306 of the  
4 Clean Air Act, Section 508 of the Clean Water Act and Environmental Protection Agency regulations in  
5 contracts in excess of \$100,000.

6 (2) CONTRACTOR shall comply with such mandatory standards and policies relating to energy  
7 efficiency as particularized in the State Energy Conservation Plan. (Title 20, California Code of  
8 Regulations), as required by the U.S. Energy Policy and Conservation Act (P.L. 94-163) as each may now  
9 exist or be hereafter amended.

10 (b) All applicable State statutes, regulations, policies, procedures and directives;

11 (c) All applicable COUNTY policies, procedures and directives;

12 (d) All applicable local ordinances and requirements, including use permits and licensing;

13 (e) Court orders applicable to CONTRACTOR'S operations; and

14 (f) The terms and conditions of this Agreement, including Exhibits.

15 If any of the foregoing is enacted, amended, or revised, CONTRACTOR will comply with such or will notify  
16 CONTRACT ADMINISTRATOR in writing within thirty (30) days after enactment or modification that it  
17 cannot so comply. COUNTY may thereupon terminate this Agreement, if necessary.

## 18 **10. COMPLIANCE WITH WIA POLICIES AND PROCEDURES**

19 If any services under this Agreement are funded by WIA, CONTRACTOR shall monitor its program  
20 for compliance with the provisions of this Agreement. CONTRACTOR shall also comply with all applicable  
21 parts of COUNTY's WIA Policies and Procedures for recruitment, intake, assessment and referral, copies  
22 of which are available from CONTRACT ADMINISTRATOR. Said Policies and Procedures may be  
23 modified by CONTRACT ADMINISTRATOR upon ten (10) days written notice to CONTRACTOR.

## 24 **11. PERFORMANCE STANDARDS**

25 CONTRACTOR shall comply with and adhere to the performance accountability standards and  
26 general program requirements described in Exhibit "G" "C-1". Should the Performance Requirements

1 defined in the Agreement between the State of California, the Federal government or other funding source  
2 and the County of Orange be changed, COUNTY shall have the right to unilaterally modify this Agreement  
3 to meet such requirements.

4 **12. MODIFICATION OF PROGRAM COMPONENTS AND SERVICE LEVELS**

5 The parties hereto agree that those program components and service levels detailed in Exhibits "A",  
6 "B", and "C" "C-1" may be modified upon mutual written agreement of the CONTRACT ADMINISTRATOR  
7 and CONTRACTOR so long as the total payments under this Agreement are not increased and the basic  
8 goals and objectives of the program are not altered. Should the Federal Government and/or the State of  
9 California or other funding source modify any program component and/or service level detailed in Exhibits  
10 "A", "B", and/or "C" "C-1" then the COUNTY shall have the right to unilaterally modify this Agreement to  
11 meet such requirements.

12 (a) CONTRACT ADMINISTRATOR may at any time, by written change order to CONTRACTOR,  
13 make changes within the general scope of this Agreement, including, in the definition of services and tasks  
14 to be performed, the manner in which services are performed, the time and place of performance thereof  
15 and additional related provisions. Such change orders may be made when necessitated by changes in the  
16 Orange County workforce delivery system operations or performance, the operations or performance of  
17 CONTRACTOR, or changes in applicable statutes, regulations or State of California or Federal mandates  
18 or directives.

19 CONTRACTOR and CONTRACT ADMINISTRATOR shall make a good faith effort to reach  
20 agreement with respect to change orders, which affect the price of services under the Agreement.  
21 CONTRACTOR's protest or failure to agree to the amount of any adjustment to be made as a result of a  
22 change order shall be a dispute for which an appeal may be made pursuant to this Agreement.  
23 Notwithstanding the foregoing, the price of services under this Agreement shall not be increased except by  
24 written modification of this Agreement indicating the new services and price of this Agreement if applicable.  
25 Until the parties reach agreement, CONTRACTOR shall not be obligated to assume increased  
26 performance under the change order beyond the limitation of funds established within this Agreement.

1 (b) CONTRACTOR may request changes in the scope of performance or services under this  
2 Agreement, by submitting a written request to CONTRACT ADMINISTRATOR describing the request and  
3 its impact on the Statement of Work and Budget Schedule. CONTRACT ADMINISTRATOR will review the  
4 request and respond in writing within ten (10) business days. Requests shall be reviewed in light of all CID  
5 program activities. CONTRACT ADMINISTRATOR's decision whether to approve the request or request  
6 Board of Supervisors' approval shall be final. CONTRACT ADMINISTRATOR may approve a request that  
7 meets all of the following criteria:

8 (i) It does not materially change the terms of this Agreement, and

9 (ii) It is supported by adequate consideration to COUNTY.

10 Board of Supervisors' action is necessary to approve a request from CONTRACTOR that does not  
11 satisfy all of the criteria listed above.

### 12 **13. PARTICIPANTS**

13 (a) Eligibility. Only participants who have been determined to meet all project eligibility requirements  
14 to receive training hereunder shall be enrolled by CONTRACTOR in any occupational training to be  
15 reimbursed hereunder. Determinations that participants meet eligibility requirements shall be made by  
16 One-Stop Centers funded by COUNTY, and, when applicable, by WIA Youth Service Providers.

17 (b) Benefits. Benefits shall be provided to participants in accordance with the standards and  
18 requirements set forth in the Act (20 CFR, Part 663).

19 (c) Rights and Privileges. All participants enrolled in courses pursuant to the Agreement shall be  
20 entitled to all the rights and privileges to which other CONTRACTOR students are entitled, including, but  
21 not limited to, special instruction, use of facilities on CONTRACTOR'S premises such as the libraries and  
22 learning centers, counseling, student body activities, and veterans' benefits. CONTRACTOR'S  
23 representatives will provide academic counseling for participants and inform them of CONTRACTOR'S  
24 services available to them.

25 (d) Labor Standards. CONTRACTOR shall adhere to the Labor Standards described in the Act,  
26 including Section 181 of the Act, and all other applicable codes and regulations.

## Agreement #

1 (e) Complaint Handling Procedures. CONTRACTOR shall comply with the "Complaint Handling  
2 Procedures" under the Act, a copy of which is available from the DIRECTOR. CONTRACTOR shall advise  
3 participants of their right to file complaints under the Act and of the procedures for resolution of any  
4 complaints. CONTRACTOR shall follow COUNTY'S procedures for handling complaints which is available  
5 from the DIRECTOR alleging a violation of the Act, regulations, grants or other agreements under the Act,  
6 and any decision of the COUNTY, the State or the Federal government relating to the complaint shall be  
7 binding on and shall be followed by CONTRACTOR.

8 (f) Nondiscrimination and Compliance Provisions

9 (1) CONTRACTOR shall comply fully with the nondiscrimination and equal opportunity provisions  
10 of the Act (Section 188); the Nontraditional Employment for Women Act of 1991; Title VI of the Civil Rights  
11 Act of 1964, as amended; section 504 of the Rehabilitation Act of 1973, as amended; the Age  
12 Discrimination Act of 1975, as amended; the Americans with Disabilities Act of 1990; Title IX of the  
13 Education Amendments of 1972, as amended; the Equal Opportunity provisions in Executive Order 11246,  
14 as amended by Executive Order 11375 and supplemented by the requirements of 41 C.F.R. Part 60; and  
15 with all applicable requirements imposed by or pursuant to regulations or Executive Order implementing  
16 those laws, including, but not limited to, 29 C.F.R. Part 37. The United States, the State of California and  
17 COUNTY have the right to seek judicial enforcement of this requirement.

18 (2) CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act  
19 (California Government Code, Section 12900 et seq.) and the regulations promulgated thereunder  
20 (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair  
21 Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in  
22 Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement  
23 by reference and made a part hereof as if set forth in full.

24 (3) In the performance of this Agreement, CONTRACTOR and its subcontractors shall not deny  
25 the Agreement's benefits to any person on the basis of race, ancestry, national origin, religion, color, ethnic  
26 group identification, sex, age, mental or physical disability (including HIV and AIDS), medical condition

## Agreement #

1 (including cancer), marital status, use of family care leave, political affiliation or belief, nor will they  
2 unlawfully discriminate, harass or allow harassment against any employee or applicant for employment  
3 because of race, ancestry, national origin, religion, color, ethnic group identification, sex, age, mental or  
4 physical disability (including HIV and AIDS), medical condition (including cancer), marital status, use of  
5 family care leave, political affiliation or belief. CONTRACTOR shall insure that the evaluation and  
6 treatment of employees and applicants for employment are free from such discrimination and harassment.

7 (4) CONTRACTOR will include the non-discrimination and compliance provisions of this Section  
8 of the Agreement in all subcontracts to perform work under this Agreement.

9 (5) CONTRACTOR will give written notice of its obligations under this Section of the Agreement  
10 to labor organizations with which CONTRACTOR has a collective bargaining or other agreement.

11 (6) CONTRACTOR shall furnish any and all information requested by DIRECTOR and shall  
12 permit DIRECTOR access, during business hours, to books, records and accounts in order to ascertain  
13 CONTRACTOR'S compliance with the above non-discrimination requirements.

14 **14. CONFIDENTIALITY**

15 (a) Without prejudice to any other section of this Agreement, CONTRACTOR shall, where  
16 applicable, maintain the confidential nature of information provided to it concerning participants in  
17 accordance with the requirements of federal and State law. However, CONTRACTOR shall submit to  
18 COUNTY, the State of California and/or the United States government or their representatives, all records  
19 requested for administrative purposes, including audits, examinations, monitoring and verification of  
20 reports submitted by CONTRACTOR, costs incurred and services rendered hereunder.

21 (b) CONTRACTOR shall require all of its employees, agents, subcontractors and volunteer staff  
22 who may provide services to CONTRACTOR under this Agreement to sign an agreement with  
23 CONTRACTOR before commencing the provision of any such services, to maintain the confidentiality of  
24 any and all materials and information with which they may come into contact, or the identities or any  
25 identifying characteristics or information with respect to any and all participants referred to CONTRACTOR  
26 by COUNTY, except as may be required to provide services under this Agreement or to those specified in

**Agreement #**

1 this Agreement as having the capacity to audit CONTRACTOR, and as to the latter, only during such audit.  
2 CONTRACTOR shall provide reports and any other information required by COUNTY in the administration  
3 of this Agreement, and as otherwise permitted by law.

4 (c) The State of California Information Practices Act of 1977 sets forth certain requirements and  
5 safeguards regarding records pertaining to individuals, including the rights of access by the subject  
6 individual and by third parties. The disclosure of information from student records is governed by the  
7 Federal Family Educational Rights and Privacy Act (FERPA) and in part by the State of California  
8 Education Code and CONTRACTOR Policies Applying to the Disclosure of Information and Student  
9 Records. It is the purpose of these policies to provide reasonable interpretations of those laws and to  
10 protect the student's right to privacy. The Federal Family Educational Rights and Privacy Act (FERPA) is a  
11 U.S. federal law that protects the privacy of student records. Generally, this law states schools must have  
12 written permission from the student in order to release any information from a student's education record.

13 The CONTRACTOR shall be guided by the following principles: (1) the release of any personally  
14 identifiable student information to any third parties shall be managed in ways that are in compliance with  
15 FERPA and (2) the information in the student's file should be disclosed to the student upon request.  
16 Therefore, CONTRACTOR shall procure the written consent from students enrolled through the COUNTY  
17 allowing CONTRACTOR to disclose to the participants' employer, County of Orange, State of California, or  
18 U.S. Department of Labor student information such as grades, academic disputes and other matters  
19 related to a student's status as a student. Such consent shall be obtained materially in the form, titled  
20 Family Educational Rights and Privacy Act (FERPA) Authorization to Release Information to a Designated  
21 Third Party.

22 (d) CONTRACTOR agrees that any and all subcontracts entered into shall be subject to the  
23 confidentiality requirements of this Agreement.

**15. INSTRUCTORS**

24 CONTRACTOR shall ensure that every instructor involved in the training of participants hereunder  
25 shall be qualified to instruct in the program or training component in which he/she acts as an instructor,  
26

1 and that every instructor required to be certified or licensed is appropriately certified or licensed by the  
2 State or other licensing or certifying authority.

3 **16. SATISFACTORY WORK**

4 Services rendered hereunder are to be performed to the written satisfaction of DIRECTOR.  
5 COUNTY'S staff will interpret all reports and determine the quality, acceptability and progress of the  
6 services rendered.

7 **17. REPORTS**

8 CONTRACTOR shall maintain records and submit such reports, data and information regarding the  
9 performance of CONTRACTOR'S services, activities, costs or other data relating to this Agreement, in the  
10 form and at such times as DIRECTOR may require. DIRECTOR may modify the provisions of this  
11 paragraph without further Board action upon written notice to CONTRACTOR.

12 **18. BUDGET SCHEDULE**

13 CONTRACTOR agrees that the expenditures of any and all funds under this Agreement will be in  
14 accordance with the BUDGET SCHEDULE, a copy of which is attached hereto as Exhibit "D" "D-1" and  
15 which by this reference is incorporated herein and made a part hereof as if fully set forth

16 **19. MODIFICATION OF BUDGET SCHEDULE**

17 (a) Upon written approval of CONTRACT ADMINISTRATOR, CONTRACTOR shall have the  
18 authority to transfer allocated program funds from one category of the overall program budget to any other  
19 category of the overall program budget, as long as the amount of the total grant is not increased and the  
20 basic goals and objectives of the program are not altered. No such transfer may be made without the  
21 express prior written approval of CONTRACT ADMINISTRATOR. A modification of the BUDGET  
22 SCHEDULE may include the addition of any new budget category. Approval of the Budget Modification by  
23 CONTRACT ADMINISTRATOR includes approval of the new Budget Category.

24 (b) CONTRACTOR may submit a program or budget modification request in response to the  
25 modification of program components and/or service levels which significantly alter CONTRACTOR'S  
26 Statement of Work. Without further Board action, CONTRACT ADMINISTRATOR may execute

1 amendments to this Agreement modifying CONTRACTOR's services in amounts that do not collectively  
2 increase or decrease by more than 10% the price of said services under this Agreement when originally  
3 executed. Modifications in excess of 10% of the original Agreement price, and modifications that materially  
4 alter either of the parties' obligations hereunder must be approved by the COUNTY's Board of Supervisors.

5 **20. PAYMENTS BY COUNTY**

6 CONTRACTOR agrees that any and all funds received under this Agreement shall be disbursed or  
7 encumbered on or before \_\_\_\_\_, and that any and all funds remaining as of \_\_\_\_\_, which have  
8 not been disbursed or encumbered shall be returned by CONTRACTOR to COUNTY within thirty (30) days  
9 of the expiration or earlier termination of the Agreement as provided herein. No expense of  
10 CONTRACTOR will be reimbursed by COUNTY if incurred after \_\_\_\_\_. No CONTRACTOR  
11 expenses shall be paid if billing is received by COUNTY after \_\_\_\_\_.

12 (a) Payment Schedule. A payment schedule will be developed for each project and deliverable  
13 as described in Exhibits B and "C" "C-1".

14 (b) Invoices. COUNTY will reimburse CONTRACTOR for eligible project-related costs only.  
15 CONTRACTOR shall submit requests for reimbursement to COUNTY in accordance with the payment  
16 schedule, and must provide adequate documentation as required by COUNTY in accordance with the OC  
17 Community Resources Policy for Documenting SUBRECIPIENT Costs, incorporated herein by reference  
18 as Exhibit K. Failure to provide any of the required documentation will cause COUNTY to withhold all or a  
19 portion of a request for reimbursement, or return the entire reimbursement package to CONTRACTOR,  
20 until such documentation has been received and approved by COUNTY.

21 (c) Education Assistance. Notwithstanding the foregoing, CONTRACTOR shall timely either (1)  
22 deduct from invoices submitted to COUNTY the amounts of such Pell or other Education Assistance  
23 received. At DIRECTOR'S sole option, COUNTY may negotiate the use of Pell or other Educational  
24 Assistance awards to meet the social service need(s) of participant(s), or (2) refund to COUNTY an  
25 amount equivalent to any Pell Grant or other Educational Assistance payments received by  
26



## Agreement #

1 CONTRACTOR for or on account of any participants enrolled hereunder whose full or partial costs of  
2 training are covered by this Agreement.

3 (d) Documentation. CONTRACTOR shall be required to submit the following documentation to  
4 CONTRACTOR ADMINISTRATOR in order to be eligible to receive payment hereunder:

5 (7) Verification that the participant completed the training program.

6 (8) To be eligible to receive payment for training not completed by an enrolled participant,  
7 verification of the total number of hours of training actually completed by the participant, as evidenced by  
8 time sheets, attendance records signed by the participant, or such other documentation as may be  
9 deemed satisfactory proof by DIRECTOR and proof of CONTRACTOR'S tuition refund policy in effect at  
10 the time this Agreement is executed;

11 (e) Withholding Payment. COUNTY reserves the right to withhold or refuse payment for late  
12 submission of forms including, but not limited to evidence of insurance as described herein and invoices  
13 required from CONTRACTOR and/or any referring entity. COUNTY reserves the right to withhold or refuse  
14 payment for any portion of services or consideration not rendered by CONTRACTOR and/or received by  
15 participant as required hereby.

16 (f) COUNTY Discretion. At the sole discretion of COUNTY, payments to CONTRACTOR may be  
17 made more frequently than monthly, but such payments shall always be in arrears and not in advance of  
18 the provision of services by CONTRACTOR.

19 (g) In the event the participant does not complete said training, CONTRACTOR will be reimbursed  
20 by COUNTY in an amount not exceeding the lesser of (1) the amount that any other student of  
21 CONTRACTOR would be required to pay for uncompleted training in accordance with  
22 CONTRACTOR'S tuition refund policy in effect at the time this Agreement is made, or (2) the percentage  
23 of the full cost to COUNTY of completed training that is equivalent to the percentage of the training  
24 program actually completed by the participant. Payments to CONTRACTOR hereunder shall be made in  
25 accordance with WIA directives and tuition reimbursement policies.

26

1 **21. PROGRAM INCOME**

2 COUNTY's maximum obligation hereunder shall be reduced by the amount of any program income  
3 earned by CONTRACTOR, from sources other than COUNTY, as a result of this Agreement or the  
4 services provided by CONTRACTOR pursuant to this Agreement. It shall be the responsibility of  
5 CONTRACTOR to inform the COUNTY in writing of any income earned as a result of this Agreement.

6 It is mutually understood that the State or Federal agency responsible for providing the funding for  
7 this Agreement may designate certain revenue of CONTRACTOR as Program Income. To be designated  
8 as Program Income and, therefore, as other than a cost off-set, CONTRACTOR shall do all of the  
9 following:

10 (a) Submit a plan to the CONTRACT ADMINISTRATOR for use of any and all proposed Program  
11 Income;

12 (b) Set-up and maintain a separate bank account for any proposed Program Income and account  
13 for any and all such income received; and

14 (c) Report to CONTRACT ADMINISTRATOR any and all Program Income received no later than  
15 thirty (30) days from the date of receipt; record the amount received on internal financial records; and  
16 indicate the amount received on the monthly claim submitted to CONTRACT ADMINISTRATOR.

17 CONTRACT ADMINISTRATOR shall then forward the plan for the requested use of the proposed  
18 Program Income to the appropriate State and/or Federal agencies for approval.

19 CONTRACTOR shall not spend any of the proposed Program Income unless or until such time as  
20 CONTRACT ADMINISTRATOR obtains authorization for the use of the Program Income from the  
21 responsible State and/or Federal agency and provides CONTRACTOR with prior written approval for the  
22 use of the funds.

23 CONTRACT ADMINISTRATOR may, in its sole discretion, issue future policy statements and/or  
24 instructions with respect to Program Income. CONTRACTOR shall immediately comply with such policy  
25 statements and/or instructions.  
26

1 **22. PELL GRANTS/HEA TITLE IV**

2 If CONTRACTOR provides any services under this Agreement to applicants for or recipients of Pell  
3 Grants or awards pursuant to Title IV of the Higher Education Act, CONTRACTOR shall cooperate with  
4 CONTRACT ADMINISTRATOR in coordinating these grants and awards with WIA funding in accordance  
5 with 20 C.F.R. 663.320 and Section 134 (d) of the Act. CONTRACTOR shall inform CONTRACT  
6 ADMINISTRATOR in writing of the amounts and disposition of any Pell Grants, Higher Education Act Title  
7 IV awards and other financial aid granted to each WIA participant under this Agreement.

8 **23. INDEPENDENT CONTRACTOR**

9 CONTRACTOR is and shall at all times be deemed to be, an independent contractor and shall be  
10 wholly responsible for the manner in which it performs the services required of it by the terms of this  
11 Agreement. Nothing contained herein shall be construed as creating the relationship of employer and  
12 employee, or principal and agent, between COUNTY and CONTRACTOR or any of CONTRACTOR'S  
13 agents or employees. CONTRACTOR assumes exclusively the responsibility for the acts of its employees  
14 or agents as they relate to services to be provided during the course and scope of their employment.  
15 CONTRACTOR, its agents, employees and volunteers, shall not be entitled to any rights and/or privileges  
16 of COUNTY employees, and shall not be considered in any manner to be COUNTY employees.  
17 CONTRACTOR agrees that the services provided hereunder are rendered in its capacity as an  
18 independent contractor and that neither it nor its employees are in any way agent(s) of COUNTY, nor shall  
19 CONTRACTOR or its employees be entitled to any personnel benefits of COUNTY whatsoever.

20 **24. SUBCONTRACTS**

21 CONTRACTOR shall not subcontract for services under this Agreement without the prior written  
22 consent of CONTRACT ADMINISTRATOR. If CONTRACT ADMINISTRATOR consents in writing to a  
23 subcontract, in no event shall the subcontract alter, in any way, any legal responsibility of CONTRACTOR  
24 to COUNTY. CONTRACT ADMINISTRATOR may refuse to pay obligations incurred under any  
25 subcontract that does not comply with the terms of this Agreement. All subcontracts must be in writing and  
26 copies of same shall be provided to CONTRACT ADMINISTRATOR within thirty (30) days of execution.

1 CONTRACTOR shall include in each subcontract any provision CONTRACT ADMINISTRATOR may  
2 require.

3 CONTRACTOR shall ensure that all subcontracts for services and contracted staff are procured in a  
4 manner consistent with Federal, State and local guidelines. Description of the intended method of  
5 procurement must be included as part of the budget which is included as Exhibits "~~D~~" "D-1" of this  
6 Agreement. CONTRACTOR shall itemize all subcontractor and contracted staff costs in the budget so it is  
7 clear how the funds will be allocated and spent by each subcontractor. By entering into this Agreement  
8 CONTRACTOR agrees that it is the direct provider of services.

9 **25. NO SUPPLANTATION**

10 Funds provided under this Agreement shall only be used for activities which are in addition to those  
11 which would otherwise be available in the absence of such funds. CONTRACTOR shall not render  
12 services under this Agreement to any participant whose cost of training is otherwise paid for by any other  
13 person or entity.

14 **26. EMPLOYEE ELIGIBILITY VERIFICATION**

15 The Contractor warrants that it fully complies with all Federal and State statutes and regulations  
16 regarding the employment of aliens and others and that all its employees performing work under this  
17 Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The  
18 Contractor shall obtain, from all employees performing work hereunder, all verification and other  
19 documentation of employment eligibility status required by Federal or State statutes and regulations  
20 including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as  
21 they currently exist and as they may be hereafter amended. The Contractor shall retain all such  
22 documentation for all covered employees for the period prescribed by the law. The Contractor shall  
23 indemnify, defend with counsel approved in writing by County, and hold harmless, the County, its agents,  
24 officers, and employees from employer sanctions and any other liability which may be assessed against  
25 the Contractor or the County or both in connection with any alleged violation of any Federal or State  
26

1 statutes or regulations pertaining to the eligibility for employment of any persons performing work under  
2 this Contract.

3 **27. ASSIGNMENT**

4 The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors,  
5 executors, administrators, and assigns of the CONTRACTOR. No portion of this Agreement shall be  
6 assigned without the express written consent of COUNTY. Any attempt by CONTRACTOR to assign any  
7 portion of this Agreement without the express written consent of COUNTY shall be invalid and shall  
8 constitute a breach of this contract.

9 **28. FISCAL ACCOUNTABILITY**

10 (a) Financial Management System. CONTRACTOR shall establish and maintain a sound financial  
11 management system, based upon generally accepted accounting principles. CONTRACTOR's system  
12 shall provide fiscal control and accounting procedures that will include the following:

- 13 (1) Information pertaining to subgrant and contract awards, obligations, unobligated balances,  
14 assets, expenditures, and income;
- 15 (2) Effective internal controls to safeguard assets and assure their proper use;
- 16 (3) A comparison of actual expenditures with budgeted amounts for each subgrant and contract;
- 17 (4) Source documentation to support accounting records; and
- 18 (5) Proper charging of costs and cost allocation.

19 (b) CONTRACTOR's Records. CONTRACTOR's records shall be sufficient to:

- 20 (1) Permit preparation of required reports;
- 21 (2) Permit the tracking of funds to a level of expenditure adequate to establish that funds have  
22 not been used in violation of the applicable restrictions on the use of such funds; and
- 23 (3) Permit the tracking of program income, or profits earned, and any costs incurred (such as  
24 stand-in costs) that are otherwise allowable except for funding limitations.

25 (c) Costs Charged. Costs shall be charged to this Agreement only in accordance with the following:

- 26 (1) the Act;

- 1 (2) 20 C.F.R. Part 667;
- 2 (3) State implementing legislation; and
- 3 (4) Requirements of other funding sources

4 **29. ANNUAL AUDIT**

5 (a) WIA Funds. CONTRACTOR shall arrange for an independent audit to be performed by a  
6 Certified Public Accountant, which shall include an audit of the WIA funds received from COUNTY, in  
7 accordance with the Act and 20 C.F.R. Section 667.200. CONTRACTOR shall submit two (2) copies of  
8 each required audit report to COUNTY within thirty (30) days after the date received by CONTRACTOR.

9 (b) Other Funding Sources. CONTRACTOR shall arrange for an independent audit to be performed  
10 in accordance with the requirements of the funding source. CONTRACTOR shall submit two (2) copies of  
11 each required audit report to COUNTY within thirty (30) days after the date received by CONTRACTOR.

12 **30. ACCESS AND RECORDS**

13 (a) Access. COUNTY, the State of California and the United States Government and/or their  
14 representatives, shall have access, for purposes of monitoring, auditing, and examining, to  
15 CONTRACTOR's activities, books, documents and papers (including computer records and emails) and to  
16 records of CONTRACTOR's subcontractors, consultants, contracted employees, bookkeepers,  
17 accountants, employees and participants related to this Agreement. CONTRACTOR shall insert this  
18 condition in each agreement between CONTRACTOR and a subcontractor that is pursuant to this  
19 Agreement shall require the subcontractor to agree to this condition. Such agencies or representatives  
20 shall have the right to make excerpts, transcripts and photocopies of such records and to schedule on site  
21 monitoring at their discretion. Monitoring activities also may include, but are not limited to, questioning  
22 employees and participants and entering any premises or onto any site in which any of the services or  
23 activities funded hereunder are conducted or in which any of the records of CONTRACTOR are kept.  
24 CONTRACTOR shall make available its books, documents, papers, financial records, etc., within three (3)  
25 days after receipt of written demand by CONTRACT ADMINISTRATOR which shall be deemed received  
26 upon date of sending. In the event CONTRACTOR does not make the above referenced documents

## Agreement #

1 available within the County of Orange, California, CONTRACTOR agrees to pay all necessary and  
2 reasonable expenses incurred by COUNTY, or COUNTY's designee, in conducting any audit at the  
3 location where said records and books of account are maintained.

4 (b) Records Retention. All accounting records and evidence pertaining to all costs of  
5 CONTRACTOR and all documents related to this Agreement shall be kept available at CONTRACTOR's  
6 office or place of business for the duration of this Agreement and thereafter for four (4) years after  
7 completion of an audit. Records which relate to (1) complaints, claims, administrative proceedings or  
8 litigation arising out of the performance of this Agreement, or (2) costs and expenses of this Agreement to  
9 which COUNTY or any other governmental agency takes exception, shall be retained beyond the four (4)  
10 years until final resolution or disposition of such appeals, litigation, claims, or exceptions.

11 (c) CONTRACTOR shall pay to COUNTY the full amount of COUNTY's liability to the State or  
12 Federal government or any agency thereof resulting from any disallowance or other audit exceptions to the  
13 extent that such liability is attributable to CONTRACTOR's failure to perform under this Agreement.

14 **31. FRAUD**

15 CONTRACTOR shall immediately report all suspected or known instances and facts concerning  
16 possible fraud, abuse or criminal activity under this Agreement.

17 **32. MUTUAL INDEMNIFICATION**

18 CONTRACTOR agrees to indemnify, defend with counsel approved in writing by COUNTY, and hold  
19 COUNTY, the State of California, and the Orange County Workforce Investment Board, their elected and  
20 appointed officials, officers, employees, agents and those special districts and agencies which COUNTY'S  
21 Board of Supervisors acts as the governing Board ("COUNTY INDEMNITEES") harmless from any claims,  
22 demands or liability of any kind or nature, including but not limited to personal injury or property damage,  
23 arising from or related to the services, products or other performance provided by CONTRACTOR  
24 pursuant to this CONTRACT.

25 (a) COUNTY agrees to indemnify and hold CONTRACTOR, and its elected and appointed officials,  
26 officers, employees, agents harmless from any claims, demands or liability of any kind or nature, including

1 but not limited to personal injury or property damage, arising from or related to the services, products or  
2 other performance provided by COUNTY pursuant to this CONTRACT.

3 (b) If judgment is entered against CONTRACTOR and COUNTY by a court of competent  
4 jurisdiction because of the concurrent active negligence of COUNTY or COUNTY INDEMNITEES,  
5 CONTRACTOR and COUNTY agree that liability will be apportioned as determined by the court. Neither  
6 party shall request a jury apportionment.

7 **33. INSURANCE**

8 (a) Prior to the provision of services under this Agreement, the CONTRACTOR agrees to  
9 purchase all required insurance at CONTRACTOR's expense and to deposit with CONTRACT  
10 ADMINISTRATOR Certificates of Insurance, including all endorsements required herein, necessary to  
11 satisfy COUNTY that the insurance provisions of this Agreement have been complied with and to keep  
12 such insurance coverage and the certificates therefore on deposit with CONTRACT ADMINISTRATOR  
13 during the entire term of this Agreement. In addition, all subcontractors performing work on behalf of  
14 CONTRACTOR pursuant to this Agreement shall obtain insurance subject to the same terms and  
15 conditions as set forth herein for CONTRACTOR. If the contractor fails to maintain insurance acceptable  
16 to the County for the full term of this contract, the County may terminate this contract.

17 (b) All self-insured retentions (SIRs) and deductibles shall be clearly stated on the Certificate of  
18 Insurance. If no SIRs or deductibles apply, indicate this on the Certificate of Insurance with a 0 by the  
19 appropriate line of coverage. Any self-insured retention (SIR) or deductible in an amount in excess of  
20 \$25,000 (\$5,000 for automobile liability), shall specifically be approved by the County Executive Office  
21 (CEO)/Office of Risk Management. If CONTRACTOR is a governmental entity, CONTRACTOR may elect  
22 to self-insure for the insurance coverage required by this Agreement.

23 (c) Minimum insurance company ratings as determined by the most current edition of the Best's  
24 Key Rating Guide/Property-Casualty/United States or ambest.com shall be A- (Secure A.M. Best's Rating)  
25 and VIII (Financial Size Category).  
26



## Agreement #

(d) The policy or policies of insurance must be issued by an insurer licensed to do business in the State of California (California Admitted Carrier). If the carrier is a non-admitted carrier in the State of California and does not meet or exceed an A.M. Best rating of A-/VIII, CEO/Office of Risk Management retains the right to approve or reject carrier after a review of the company's performance and financial ratings. If the non-admitted carrier meets or exceeds the minimum A.M. Best rating of A-/VIII, the agency can accept the insurance.

(e) The policy or policies of insurance maintained by CONTRACTOR shall provide the minimum limits and coverage as set forth below:

Coverage	Minimum Limits
Commercial General Liability	\$1,000,000 combined single limit per occurrence / \$2,000,000 Aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 combined single limit per occurrence
Workers' Compensation	Statutory
Professional Liability Insurance	\$1,000,000 per claims made or per occurrence
Employer's Liability Insurance	\$1,000,000 per occurrence
Sexual Misconduct	\$1,000,000 per occurrence

(f) Required Endorsements: The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of insurance:

(1) An Additional Insured endorsement using ISO form CG 2010 or CG 2033 or a form at least as broad naming the County of Orange, its elected and appointed officials, officers, employees, agents as Additional Insureds. The County of Orange, Orange County Workforce Investment Board, and State of California shall be added as additional insureds on all insurance policies required by this Agreement with respect to the services provided by CONTRACTOR under the terms of this Agreement (except Workers' Compensation/Employers' Liability). An additional insured endorsement evidencing that the County of Orange is an additional insured shall accompany the Certificate of Insurance.

(2) A primary non-contributing endorsement evidencing that the contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-

## Agreement #

1 contributing. An endorsement evidencing that CONTRACTOR's insurance is primary and non-contributing  
2 shall specifically accompany the Certificate of Insurance for the Commercial General Liability and Sexual  
3 Misconduct Insurance.

4 (3) All insurance policies required by this Agreement shall waive all rights of subrogation  
5 against the County of Orange and members of the Board of Supervisors, its elected and appointed  
6 officials, officers, agents and employees when acting within the scope of their employment or appointment.

7 (4) The Workers' Compensation policy shall contain a waiver of subrogation endorsement  
8 waiving all rights of subrogation against the County of Orange, and members of the Board of Supervisors,  
9 its elected and appointed officials, officers, agents and employees.

10 (g) All insurance policies required by this contract shall give the County of Orange 30 days notice  
11 in the event of cancellation and 10 days for non-payment of premium. This shall be evidenced by policy  
12 provisions or an endorsement separate from the Certificate of Insurance.

13 (h) The Commercial General Liability policy shall contain a severability of interests clause also  
14 known as a "separation of insureds" clause (standard in the ISO CG 0001 policy).

15 (i) CONTRACTOR is aware of the provisions of Section 3700 of the California Labor Code which  
16 requires every employer to be insured against liability for Workers' Compensation or be self-insured in  
17 accordance with provisions of that code. CONTRACTOR will comply with such provisions and shall furnish  
18 COUNTY satisfactory evidence that CONTRACTOR has secured, for the period of this Agreement,  
19 statutory Workers' Compensation insurance and Employers' Liability insurance with minimum limits of  
20 \$1,000,000 per occurrence.

21 (j) If CONTRACTOR fails to provide the insurance certificates and endorsements within seven (7)  
22 days of notification by CEO/Risk Management or by CONTRACT ADMINISTRATOR, award may be made  
23 to the next qualified proponent.

24 (k) County expressly retains the right to require Contractor to increase or decrease insurance of  
25 any of the above insurance types throughout the term of this Contract. Any increase or decrease in  
26

1 insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect  
2 County.

3 (l) County shall notify Contractor in writing of changes in the insurance requirements. If Contractor  
4 does not deposit copies of acceptable certificates of insurance and endorsements with County  
5 incorporating such changes within thirty days of receipt of such notice, this Contract may be in breach  
6 without further notice to Contractor, and County shall be entitled to all legal remedies.

7 (m) The procuring of such required policy or policies of insurance shall not be construed to limit  
8 Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this  
9 Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

10 **34. PATENT/COPYRIGHT MATERIALS/PROPRIETARY INFORMATION**

11 CONTRACTOR agrees to grant the COUNTY, Federal and State governments a royalty-free,  
12 nonexclusive and irrevocable license to publish, copy, translate or use, now and hereafter, all materials,  
13 data, films, tapes, etc., developed under this Agreement including those covered by copyright. The  
14 COUNTY, Federal, and State governments reserve the right to authorize others to use or reproduce such  
15 materials. Further, the COUNTY, Federal, and State governments shall have access to any report,  
16 preliminary findings or data assembled by CONTRACTOR under this Agreement and shall retain  
17 ownership and patent rights to any discovery or invention under this Agreement, as provided in 29 CFR  
18 97.34 and 97.36(i)(8&9).

19 **35. INTELLECTUAL PROPERTY**

20 (a) Federal Funding. In any Agreement funded in whole or in part by the federal government,  
21 COUNTY may acquire and maintain the Intellectual Property rights, title, and ownership, which result  
22 directly or indirectly from the Agreement, except as provided in 37 Code of Federal Regulations part  
23 401.14. CONTRACTOR agrees to grant the COUNTY, Federal and State governments a royalty-free,  
24 non-exclusive, irrevocable, paid-up license throughout the world to use, duplicate, or dispose of such  
25 Intellectual Property throughout the world in any manner for governmental purposes and to have and  
26 permit others to do so.

1 (b) Ownership.

2 (1) Except where COUNTY has agreed in a signed writing to accept a license, COUNTY shall  
3 be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all  
4 intellectual property, from the moment of creation, whether or not jointly conceived, that are made,  
5 conceived, derived from, or reduced to practice by CONTRACTOR or COUNTY and which result directly or  
6 indirectly from this Agreement.

7 (2) For the purposes of this Agreement, Intellectual Property means recognized protectable  
8 rights and interest such as: patents, (whether or not issued) copyrights, trademarks, service marks,  
9 applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color  
10 combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works,  
11 mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices,  
12 business processes, developments, innovations, good will, any data or information maintained, collected or  
13 stored in the ordinary course of business by COUNTY, and all other legal rights protecting intangible  
14 proprietary information as may exist now and/or hereafter come into existence, and all renewals and  
15 extensions, regardless of whether those rights arise under the laws of the United States, or any other state,  
16 country or jurisdiction.

17 (i) For the purposes of the definition of Intellectual Property, "works" means all literary  
18 works, writings and printed matter including the medium by which they are recorded or reproduced,  
19 photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion  
20 pictures, digital images, animation cells, and other audiovisual works including positives and negatives  
21 thereof, sound recordings, tapes, educational materials, interactive videos, computer software and any  
22 other materials or products created, produced, conceptualized and fixed in a tangible medium of  
23 expression. It includes preliminary and final products and any materials and information developed for the  
24 purposes of producing those final products. "Works" does not include articles submitted to peer review or  
25 reference journals or independent research projects.

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## Agreement #

1 (3) In the performance of this Agreement, CONTRACTOR may exercise and utilize certain of its  
2 Intellectual Property in existence prior to the effective date of this Agreement. In addition, under this  
3 Agreement, CONTRACTOR may access and utilize certain of COUNTY's Intellectual Property in existence  
4 prior to the effective date of this Agreement. Except as otherwise set forth herein, CONTRACTOR shall  
5 not use any of COUNTY's Intellectual Property now existing or hereafter existing for any purposes without  
6 the prior written permission of COUNTY. Except as otherwise set forth herein, neither the CONTRACTOR  
7 nor COUNTY shall give any ownership interest in or rights to its Intellectual Property to the other Party. If,  
8 during the term of this Agreement, CONTRACTOR accesses any third-party Intellectual Property that is  
9 licensed to COUNTY, CONTRACTOR agrees to abide by all license and confidentiality restrictions  
10 applicable to COUNTY in the third-party's license agreement.

11 (4) CONTRACTOR agrees to cooperate with COUNTY in establishing or maintaining  
12 COUNTY's exclusive rights in the Intellectual Property, and in assuring COUNTY's sole rights against third  
13 parties with respect to the intellectual Property. If the CONTRACTOR enters into any agreements or  
14 subcontracts with other parties in order to perform this Agreement, CONTRACTOR shall require the terms  
15 of the agreement(s) to include all Intellectual Property provisions of paragraphs thirty-five (35) (a) through  
16 thirty-four (i). Such terms must include, but are not limited to, the subcontractor assigning and agreeing to  
17 assign to COUNTY all rights, title and interest in Intellectual Property made, conceived, derived from, or  
18 reduced to practice by the subcontractor, CONTRACTOR or COUNTY and which result directly or  
19 indirectly from this Agreement or any subcontract.

20 (5) Pursuant to paragraph thirty-five (35) (b) (4) of the Intellectual Property Provisions of this  
21 Agreement, the requirement for the CONTRACTOR to include all Intellectual Property Provisions of  
22 paragraph thirty-five (35) (a) through thirty-five (35) (i) of the Intellectual Property Provisions in all  
23 agreements and subcontracts it enters into with other parties does not apply to agreements or  
24 subcontracts that are for customized and on-the-job training as authorized under 20 CFR 663.700-730.

25 (6) CONTRACTOR further agrees to assist and cooperate with COUNTY in all reasonable  
26 respects, and execute all documents and, subject to reasonable availability, give testimony and take all

1 further acts reasonably necessary to acquire, transfer, maintain, and enforce COUNTY's Intellectual  
2 Property rights and interests.

3 (c) Retained Rights/License Rights.

4 (1) Except for Intellectual Property made, conceived, derived from, or reduced to practice by  
5 CONTRACTOR or COUNTY and which result directly or indirectly from this Agreement, CONTRACTOR  
6 shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior  
7 to the effective date of this Agreement. CONTRACTOR hereby grants to COUNTY, without additional  
8 compensation, a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-  
9 terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and  
10 privately display/perform, distribute, and dispose of CONTRACTOR's Intellectual Property with the right to  
11 sublicense through multiple layers, for any purpose whatsoever, to the extent it is incorporated in the  
12 Intellectual Property resulting from this Agreement, unless CONTRACTOR assigns all rights, title and  
13 interest in the Intellectual Property as set forth herein.

14 (2) Nothing in this provision shall restrict, limit, or otherwise prevent CONTRACTOR from using  
15 any ideas, concepts, know-how, methodology or techniques related to its performance under this  
16 Agreement, provided that CONTRACTOR's use does not infringe the patent, copyright, trademark rights,  
17 license or other Intellectual Property rights of COUNTY or third party, or result in a breach or default of any  
18 provisions of paragraphs thirty-five (35) (a) through thirty-five (35) (i) or result in a breach of any provisions  
19 of law relating to confidentiality.

20 (d) Copyright.

21 (1) CONTRACTOR agrees that for purposes of copyright law, all works (as defined in  
22 Ownership, paragraph thirty-five (35) (b) (2) (i) of authorship made by or on behalf of CONTRACTOR in  
23 connection with CONTRACTOR's performance of this Agreement shall be deemed "works made for hire."  
24 CONTRACTOR further agrees that the work of each person utilized by CONTRACTOR in connection with  
25 the performance of this Agreement will be a "work made for hire," whether that person is an employee of  
26 CONTRACTOR or that person has entered into an agreement with CONTRACTOR to perform the work.

**Agreement #**

1 CONTRACTOR shall enter into a written agreement with any such person that (i) all work performed for  
2 CONTRACTOR shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall  
3 assign all right, title, and interest to COUNTY to any work product made, conceived, derived from or  
4 reduced to practice by CONTRACTOR or COUNTY and which result directly or indirectly from this  
5 Agreement.

6 (2) All materials, including, but not limited to, computer software, visual works or text, reproduced  
7 or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from,  
8 or reduced to practice by CONTRACTOR or COUNTY and which result directly or indirectly from this  
9 Agreement may not be reproduced or disseminated without prior written permission from COUNTY.

10 (e) Patent Rights. With respect to inventions made by CONTRACTOR in the performance of this  
11 Agreement, which did not result from research and development specifically included in the Agreement's  
12 scope of work, CONTRACTOR hereby grants to COUNTY a license as described under paragraph thirty-  
13 five (35) (c) for devices or material incorporating, or made through the use of such inventions. If such  
14 inventions result from research and development work specifically included within the Agreement's scope  
15 of work, then CONTRACTOR agrees to assign to COUNTY, without additional compensation, all its right,  
16 title and interest in and to such inventions and to assist COUNTY in securing United States and foreign  
17 patents with respect thereto.

18 (f) Third-Party Intellectual Property. Except as provided herein, CONTRACTOR agrees that its  
19 performance of this Agreement shall not be dependent upon or include any Intellectual Property of  
20 CONTRACTOR or third party without first: (i) obtaining COUNTY's prior written approval; and (ii) granting  
21 to or obtaining for COUNTY's, without additional compensation, a license, as described in paragraph thirty-  
22 five (35) (c), for any of CONTRACTOR's or third-party's Intellectual Property in existence prior to the  
23 effective date of this Agreement. If such a license upon these terms is unattainable, and COUNTY  
24 determines that the Intellectual Property should be included in or is required for CONTRACTOR's  
25 performance of this Agreement, CONTRACTOR shall obtain a license under terms acceptable to  
26 COUNTY.

1 (g) Warranties.

2 (1) CONTRACTOR represents and warrants that:

3 (i) CONTRACTOR has secured and will secure all rights and licenses necessary for its  
4 performance of this Agreement.

5 (ii) Neither CONTRACTOR's performance of this Agreement, nor the exercise by either  
6 Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell,  
7 import, export, modification, public and private display/performance, distribution, and disposition of the  
8 Intellectual Property made, conceived, derived from, or reduced to practice by CONTRACTOR or  
9 COUNTY and which result directly or indirectly from this Agreement will infringe upon or violate any  
10 Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party  
11 or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or  
12 any foreign country. There are currently no actual or threatened claims by any such third party based on an  
13 alleged violation of any such right by CONTRACTOR.

14 (iii) Neither CONTRACTOR's performance nor any part of its performance will violate the right  
15 of privacy of, or constitute a libel or slander against any person or entity.

16 (iv) CONTRACTOR has secured and will secure all rights and licenses necessary for  
17 Intellectual Property including, but not limited to, consents, waivers or releases from all authors of music or  
18 performances used, and talent (radio, television and motion picture talent), owners of any interest in and to  
19 real estate, sites locations, property or props that may be used or shown.

20 (v) CONTRACTOR has not granted and shall not grant to any person or entity any right that  
21 would or might derogate, encumber, or interfere with any of the rights granted to COUNTY in this  
22 Agreement.

23 (vi) CONTRACTOR has appropriate systems and controls in place to ensure that state funds  
24 will not be used in the performance of this Agreement for the acquisition, operation or maintenance of  
25 computer software in violation of copyright laws.

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## Agreement #

1 (vii) CONTRACTOR has no knowledge of any outstanding claims, licenses or other charges,  
2 liens or encumbrances of any kind or nature whatsoever that could affect in any way CONTRACTOR's  
3 performance of this Agreement.

4 (2) COUNTY MAKES NO WARRANTY, THAT THE INTELLECTUAL PROPERTY RESULTING  
5 FROM THIS AGREEMENT DOES NOT INFRINGE UPON ANY PATENT, TRADEMARK, COPYRIGHT  
6 OR THE LIKE, NOW EXISTING OR SUBSEQUENTLY ISSUED.

7 (h) Intellectual Property Indemnity.

8 (1) CONTRACTOR shall indemnify, defend and hold harmless COUNTY and its licensees and  
9 assignees, and its officers, contract administrators, employees, agents, representatives, successors, and  
10 users of its products, ("Indemnities") from and against all claims, actions, damages, losses, liabilities (or  
11 actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions  
12 or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses,  
13 court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending  
14 against, any such claim action, or proceeding, commenced or threatened) to which any of the Indemnities  
15 may be subject, whether or not CONTRACTOR is a party to any pending or threatened litigation, which  
16 arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties,  
17 covenants or agreements of CONTRACTOR pertaining to Intellectual Property; or (ii) any Intellectual  
18 Property infringement, or any other type of actual or alleged infringement claim, arising out of COUNTY's  
19 use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and  
20 private performance/display, license, and disposition of the Intellectual Property made, conceived, derived  
21 from, or reduced to practice by CONTRACTOR or COUNTY and which result directly or indirectly from this  
22 Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on  
23 a patent, trademark or copyright registration that was issued after the effective date of this Agreement.  
24 COUNTY reserves the right to participate in and/or control, at CONTRACTOR's expense, any such  
25 infringement action brought against COUNTY.

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1 (2) Should any Intellectual Property licensed by the CONTRACTOR to COUNTY under this  
2 Agreement become the subject of an Intellectual Property infringement claim CONTRACTOR will exercise  
3 its authority reasonably and in good faith to preserve COUNTY's right to use the licensed Intellectual  
4 Property in accordance with this Agreement at no expense to COUNTY. COUNTY shall have the right to  
5 monitor and appear through its own counsel (at CONTRACTOR's expense) in any such claim or action. In  
6 the defense or settlement of the claim, CONTRACTOR may obtain the right for COUNTY to continue using  
7 the licensed intellectual Property or, replace or modify the licensed Intellectual Property, so that the  
8 replaced or modified Intellectual Property becomes non-infringing provided that such replacement or  
9 modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not  
10 reasonably available, COUNTY may be entitled to a refund of all monies paid under this Agreement,  
11 without restriction or limitation of any other rights and remedies available at law or in equity.

12 (3) CONTRACTOR agrees that damages alone would be inadequate to compensate COUNTY  
13 for breach of any term of these Intellectual Property provisions of paragraphs thirty-five (35) (a) through  
14 thirty-five (35) (i) by CONTRACTOR. CONTRACTOR acknowledges COUNTY would suffer irreparable  
15 harm in the event of such breach and agrees COUNTY shall be entitled to obtain equitable relief, including  
16 without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any  
17 other rights and remedies available at law or in equity.

18 (i) Survival. The provisions set forth herein shall survive any termination or expiration of this  
19 Agreement or any project schedule.

20 **36. CORPORATE STATUS**

21 All corporate CONTRACTORS shall be registered with the California Secretary of State and shall be  
22 in good standing, without suspension by the California Secretary of State, Franchise Tax Board, or Internal  
23 Revenue Service. Any change in corporate status or suspension shall be reported by CONTRACTOR  
24 immediately in writing to CONTRACT ADMINISTRATOR.

25 **37. STANDARDS OF CONDUCT**

**Agreement #**

1 (a) General Assurance. Every reasonable course of action will be taken by CONTRACTOR in order  
2 to maintain the integrity of this expenditure of public funds and to avoid favoritism and questionable or  
3 improper conduct. This Agreement will be administered in an impartial manner, free from efforts to gain  
4 personal, financial or political gain. CONTRACTOR, its officers and employees, in administering this  
5 Agreement, will avoid situations which give rise to a suggestion that any decision was influenced by  
6 prejudice, bias, special interest or desire for personal gain.

7 (b) Employment of Former State or COUNTY Employees. CONTRACTOR will ensure that any of its  
8 employees who were formerly employed by the State of California or the County of Orange, in a position  
9 that could have enabled such individuals to impact policy regarding or implementation of programs covered  
10 by this Agreement, will not be assigned to any part or phase of the activities conducted pursuant to this  
11 Agreement for a period of not less than two (2) years following the termination of such employment.

12 (c) Conducting Business Involving Relatives. No relative by blood, adoption or marriage of any  
13 executive or employee of CONTRACTOR will receive favorable treatment when considered for enrollment  
14 in programs provided by, or employment with, CONTRACTOR.

15 (d) Conducting Business Involving Close Personal Friends and Associates. Executives and  
16 employees of CONTRACTOR will be particularly aware of the varying degrees of influence that can be  
17 exerted by personal friends and associates and, in administering this Agreement, will exercise due  
18 diligence to avoid situations which give rise to an assertion that favorable treatment is being granted to  
19 friends and associates.

20 (e) Avoidance of Conflict of Economic Interest. No executive or employee of CONTRACTOR,  
21 elected official in the area, or voting or non-voting member of a WIB, will solicit or accept money or any  
22 other consideration from a third person, for the performance of an act reimbursed in whole or part by  
23 CONTRACTOR or COUNTY. Supplies, materials, equipment or services purchased with Agreement funds  
24 will be used solely for purposes allowed under this Agreement. No voting member of the OCWIB will cast  
25 a vote on the provision of services by that member (or any organization which that member represents) or  
26

1 vote on any matter which would provide direct financial benefit to that member or any business or  
2 organization which the member directly represents.

3 **38. SWEATFREE CODE OF CONDUCT**

4 All CONTRACTORS contracting for the procurement or laundering of apparel, garments or  
5 corresponding accessories, or the procurement of equipment, materials, or supplies, other than  
6 procurement related to a public works contract, declare under penalty of perjury that no apparel, garments  
7 or corresponding accessories, equipment, or supplies have been furnished to the Contractor from sources  
8 that include sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive  
9 forms of child labor or exploitation of children in sweatshop labor. The CONTRACTOR further declares  
10 under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California  
11 Department of Industrial Relations website located at [www.dir.ca.gov](http://www.dir.ca.gov), and Public Contract Code Section  
12 6108.

13 The CONTRACTOR agrees to cooperate fully in providing reasonable access to the  
14 CONTRACTOR's records, documents, agents or employees, or premises if reasonably required by  
15 authorized officials of the State or COUNTY, the Department of Industrial Relations, or the Department of  
16 Justice to determine the CONTRACTOR's compliance with the requirements under this paragraph.

17 **39. DRUG FREE WORKPLACE**

18 CONTRACTOR shall execute and abide by the Drug Free Workplace Certification attached hereto as  
19 Exhibit "E" and incorporated herein by this reference.

20 **40. DEBARMENT**

21 CONTRACTOR shall execute and abide by the Debarment & Suspension Certification attached  
22 hereto as Exhibit "F" and incorporated herein by this reference and by so doing declares that it is not  
23 debarred or suspended or otherwise excluded from or ineligible for participation in Federal/State  
24 assistance programs in accordance with 29 C.F.R. Part 98.

25 **41. SECTARIAN ACTIVITIES**

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1 CONTRACTOR agrees that this Agreement will not provide for the advancement or aid to any  
2 religious sect, church or creed for a purpose that is sectarian in nature, nor will it help to support or sustain  
3 any school, college, university, hospital or other institution controlled by any religious creed, church, or  
4 sectarian denomination. However, in accordance with Presidential Executive Order No. 13279, issued  
5 December, 2002, CONTRACTOR shall also provide and promote equal treatment to all faith-based  
6 organizations in administering its federally-funded activities.

7 **42. LITERATURE**

8 Any literature distributed by CONTRACTOR for the purpose of apprising businesses, participants, or  
9 the general public of its programs under this Agreement shall state that its programs are supported by the  
10 County of Orange and the Orange County Workforce Investment Board, and shall state that the program is  
11 an "equal opportunity employer/program" and that "auxiliary aids and services are available upon request  
12 to individuals with disabilities."

13 **43. LOBBYING**

14 (a) CONTRACTOR shall execute and abide by the terms of the "Certification Regarding Lobbying,"  
15 which is attached hereto as Exhibit "G" and incorporated herein by this reference. CONTRACTOR shall  
16 complete and immediately forward to CONTRACT ADMINISTRATOR the "Disclosure Form to Report  
17 Lobbying," a copy of which is attached hereto as Exhibit "H", incorporated herein by this reference, if  
18 CONTRACTOR, or any person, firm or corporation acting on CONTRACTOR's behalf, engaged or  
19 engages in lobbying any federal officer, employee, elected official or agency with respect to this Agreement  
20 or the funds to be received by CONTRACTOR pursuant to this Agreement.

21 (b) CONTRACTOR agrees that the funds provided herein shall not be used to promote, directly or  
22 indirectly, any political party, political candidate or political activity, except as permitted by law.

23 **44. DISPUTES**

24 Except as otherwise provided in this Agreement, any dispute concerning any question arising after  
25 the commencement of this Agreement shall be decided by CONTRACT ADMINISTRATOR. In such a  
26 case, CONTRACT ADMINISTRATOR shall reduce its decision to writing and mail or otherwise furnish a

1 copy thereof to CONTRACTOR. The decision of CONTRACT ADMINISTRATOR shall be final and  
2 conclusive unless within thirty (30) calendar days from the mailing or delivery of such copy, CONTRACT  
3 ADMINISTRATOR receives from CONTRACTOR a written request to appeal said decision to the COUNTY  
4 Board of Supervisors. Pending final decision of the appeal, CONTRACTOR shall act in accordance with  
5 the written decision of CONTRACT ADMINISTRATOR.

6  
7 **45. TOTAL AGREEMENT**

8 This Agreement, together with Exhibits A - K, expresses the total understanding of the parties.  
9 There are no oral understandings of the parties or terms and conditions other than as are stated herein.  
10 CONTRACTOR acknowledges that it has read and agrees to all terms and conditions included in this  
11 Agreement.

12 **46. CHILD SUPPORT ENFORCEMENT**

13 In order to comply with child support enforcement requirements of the County of Orange,  
14 CONTRACTOR shall execute and abide by the "Child Support Enforcement Provision" (for profit only  
15 providers) attached hereto as Exhibit "I" and incorporated herein by this reference within thirty (30) days of  
16 award of contract.

17 Failure of CONTRACTOR to timely submit the data and/or certifications required above or to comply  
18 with all federal and state reporting requirements for child support enforcement or to comply with all lawfully  
19 served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material  
20 breach of this Agreement. Failure to cure such breach within sixty (60) days of notice from COUNTY shall  
21 constitute grounds for termination of this Agreement.

22 **47. EDD INDEPENDENT CONTRACTOR REPORTING REQUIREMENTS**

23 CONTRACTOR shall execute and abide by the "EDD Independent Contractor Reporting  
24 Requirements Certification" attached hereto as Exhibit "J" and incorporated herein by this reference.

25 **48. NOTICES**

1 All notices, reports and correspondence between the parties hereto respecting this Agreement shall  
2 be in writing and deposited in the United States Mail, postage prepaid, addressed as follows:

3 COUNTY: OC Community Resources  
4 OC Community Services / Community Investment Division  
5 1300 South Grand Avenue, Building B, Third Floor  
6 Santa Ana, California 92705

7 CONTRACTOR Taller San Jose St. Joseph's Workshop  
8 801 N. Broadway  
9 Santa Ana, CA 92701  
10 Attn: Shawna Smith, Executive Director

11 **49. GOVERNING LAW AND VENUE**

12 This Agreement has been negotiated and executed in the state of California and shall be governed  
13 by and construed under the laws of the state of California. In the event of any legal action to enforce or  
14 interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in  
15 Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such  
16 court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the parties specifically agree to  
17 waive any and all rights to request that an action be transferred for trial to another County.

18 **50. WAIVER**

19 No delay or omission by either party hereto to exercise any right or power accruing upon any  
20 noncompliance or default by the other party with respect to any of the terms of this Agreement shall impair  
21 any such right or power or be construed to be a waiver thereof. A waiver by either of the parties hereto of  
22 any of the covenants, conditions, or agreements to be performed by the other shall not be construed to be  
23 a waiver of any succeeding breach thereof or of any other covenant, condition or agreement herein  
24 contained.

25 **51. PUBLICITY**

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1 Information and solicitations, prepared and released by CONTRACTOR, concerning the services  
2 provided under this Agreement, shall state that the program, wholly or in part, is funded by the County of  
3 Orange and the Orange County Workforce Investment Board.

4 **52. CALENDAR DAYS**

5 Any reference to the word “day” or “days” herein shall mean calendar day or calendar days,  
6 respectively, unless otherwise expressly provided.

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**IN WITNESS WHEREOF**, the Parties hereto certify that they have read and understand all the terms and conditions contained herein and have duly authorized and caused this Agreement to be executed as of the date stated below written.

"COUNTY OF ORANGE a political  
Subdivision of the State of California"

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Steve Franks  
Director, OC Community Resources

"CONTRACTOR"\*

Taller San Jose St. Joseph's Workshop

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

\*[Authorized signatures for corporations. Requirement of two signatures as follows: (1) One signature by the Chairman of the Board, the President or any Vice President, and (2) one signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or an Assistant Treasurer. For contractors that are not corporations, a person who has the authority to bind the contractor to a contract.]