



County of San Bernardino

F A S

STANDARD CONTRACT

FOR COUNTY USE ONLY

<input checked="" type="checkbox"/> New	Vendor Code		<b>SC</b>	Dept. <b>A</b>	Contract Number	
<input type="checkbox"/> Change			JOB	JOB		
<input type="checkbox"/> Cancel						
County Department Department of Workforce Development			Dept. JOB	Orgn. JOB	Contractor's License No.	
County Department Contract Representative Sandra Harmsen, Director			Telephone (909)387-9862		Total Contract Amount \$	
Contract Type <input type="checkbox"/> Revenue <input checked="" type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input type="checkbox"/> Other:						
If not encumbered or revenue contract type, provide reason:						
Commodity Code		Contract Start Date		Contract End Date		Original Amount \$
						Amendment Amount \$
Fund SAC	Dept. JOB	Organization YTH	Appr. 300	Obj/Rev Source 3900	GRC/PROJ/JOB No.	Amount \$
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount \$
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount \$
Project Name			Estimated Payment Total by Fiscal Year			
Title I WIA Youth Program			FY 11/12	Amount	I/D	FY Amount I/D
Contract Type I			12/13			

THIS CONTRACT is entered into in the State of California by and between the County of San Bernardino, hereinafter called the County, and

Name \_\_\_\_\_ hereinafter called Service Provider and/or Contractor

Address \_\_\_\_\_

Telephone \_\_\_\_\_ Federal ID No. or Social Security No. \_\_\_\_\_  
( ) - \_\_\_\_\_

**IT IS HEREBY AGREED AS FOLLOWS:**

**WHEREAS**, the County desires to provide services and training for eligible enrolled youth;

**WHEREAS**, the County has been allocated funds under the Title I WIA Youth Program to provide such services;

**WHEREAS**, the County finds Service Provider qualified to provide Title I WIA youth services;

**WHEREAS**, the County desires that such services be provided by Service Provider and Service Provider agrees to perform these services as set forth below;

**NOW THEREFORE**, the County and Service Provider mutually agree to the following terms and conditions:

<b>Auditor/Controller-Recorder Use Only</b>	
<input type="checkbox"/> Contract Database	<input type="checkbox"/> FAS
Input Date	Keyed By

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**I. CONTRACT SPECIFICATIONS**

**A. Contract Representatives.** The Contract representatives are:

- 1. Contract Administrator                      Department of Workforce Development  
     Representative                                 Sandra Harmsen, Director  
     Address    215 North D Street, Suite 301  
     San Bernardino, CA 92415-0046  
     Phone Number                                 909.387.9859  
     Fax Number                                      909.387-9880
  
- 2. Contract Office                                Department of Workforce Development  
     Representative                                 Janice Lindsay, Deputy Director Administrative Services  
     Address    215 North D Street, Suite 301  
     San Bernardino, CA 92415-0046  
     Phone Number                                 909.387.9871  
     Fax Number                                      909.387.9880
  
- 3. Service Provider  
     Representative  
     Administrative Office  
     Mailing Address  
     Phone Number  
     Fax Number  
     Federal ID #                                      State ID #

**B. Contract Type:** Cost Reimbursement

**C. Total Contract:** \$            to serve    in-school and    out-of-school Youth.

**D. Funding Source:** Title I Workforce Investment Act

**E. Training Sites**

Agency Name	Address	Contact Person	Telephone No.	Fax No.

**F. Service Provider's Obligation.** The Service Provider shall operate a County of San Bernardino Workforce Investment Act (WIA) program in accordance with the Contract as approved by the Youth Council, Local Workforce Investment Board (LWIB), and the San Bernardino County Board of Supervisors as set forth in the County's Request for Proposal (RFP) for Year Round Innovative Youth Programs PY 2011-2013 that is incorporated herein by this reference.

**G. Complete Contract.** This Contract, consisting of twenty-four (24) total pages, as well as the RFP which is herein incorporated by reference, constitute the complete agreement, describing all covenants, conditions, and benefits by and between the County and Service Provider.

**H. Contract Modifications.** No alteration or variation of the terms of this Contract shall be valid, unless made in writing, and signed by the authorized parties hereto. Any oral understanding or agreement not incorporated herein shall not be binding on the parties hereto. Only authorized representatives of both parties shall sign any modifications, alterations or variations made.

## II. TERM OF CONTRACT

**A. Contract Period.** The term and conditions of this contract shall commence on July 1, 2011 and end on June 30, 2013, unless otherwise indicated by a formal notice or amendment.

**B. Enrollment, Program and Follow-up Period.** One hundred percent (100%) of the youth to be enrolled, per the contract, must occur by September 30, 2011. Twelve months of follow-up services must be provided to all youth and shall begin at the time of program exit and shall conclude during the contract period.

**C. Termination.** Notwithstanding any other provision of this Contract, either party may terminate this contract, without cause and without any further liability or cost, upon giving the other party at least thirty (30) calendar days advance notice of the termination. Other than the provision of notice setting forth the date of termination, there shall be no pre-requisites to either party's exercise of the right to terminate the Contract and there is no right to appeal. The Assistant Administrator of the Economic Development Agency is authorized to exercise the County's rights with respect to any termination of this Contract. Upon termination of the Contract, Service Provider will only be reimbursed for amounts properly expended prior to the date of termination. There is no right to appeal a termination. Service Provider will not be reimbursed for costs incurred after the date of termination. Upon termination of the Contract all property purchased, documents, data, studies, reports and records prepared by the Service Provider under this contract, and any property transferred from previous programs, including JTPA, shall be returned to the County or disposed of, according to County's instructions.

## III. DEFINITIONS

<u>Allowable Costs</u>	The necessary and reasonable costs incurred in operating a WIA program that are allocable to the corresponding expense categories.
<u>Assessment</u>	Assessment includes a review of educational skill levels, occupational skills, prior work experience, employability, interest, aptitudes (including interest in non-traditional jobs), and supportive services needs.
<u>Barriers to Employment</u>	Any demonstrable characteristic(s) of a person that has served to limit, hinder or prohibit that person's opportunities for employment and/or promotion. Barriers to employment for youth can be limited English language proficiency, teen parenting, individuals with disabilities, substance abuse, homelessness, basic skills deficiency, youth assisted by government subsistence, etc.
<u>Basic Skills Deficient</u>	An in-school youth that has English, reading, writing or computing skills at or below the eight (8 <sup>th</sup> ) grade level (8.9) on one of the standardized tests listed under the definition of Assessment Tools.
<u>Career Ladders</u>	The Local Workforce Investment Board has established certain occupations and career paths that are in high demand within San Bernardino County that will lead County residents to self-sufficiency. These are: <ol style="list-style-type: none"><li>1. Transportation, Logistics and Distribution</li><li>2. Health Care</li><li>3. Manufacturing</li><li>4. Aviation, Aerospace</li><li>5. Green Career Opportunities</li></ol>
<u>Community Based Organization</u>	A non-profit, public benefit corporation as described in Section 501(c) (3) of the Internal Revenue Service Code.

<u>Contractor</u>	An organization selected to enter into an agreement with the County to provide WIA youth services pursuant to this contract, and assume the other responsibilities delineated under "Service Provider Responsibilities."
<u>Cost Allocation Methodology</u>	The distribution of allowable costs to the benefiting/funded program(s) and cost categories using reasonable and equitable distribution methods.
<u>Degree/Certificate</u>	Degrees will include, but are not limited to: a high school diploma, General Equivalence Diploma (GED) or other recognized equivalents, and post-secondary degrees. Certificates are awarded for attainment of measurable technical or occupational skill based upon standards endorsed by employers.
<u>Disability</u>	A physical or mental impairment, including a learning impairment that substantially limits one or more of the major life activities.
<u>Eligibility Determination</u>	The process of gathering and analyzing data to determine whether an applicant meets the criteria, which would allow him or her to participate in the program. Examples of WIA eligibility criteria are found in 20 CFR §664.200, 664.220, and 664.250.
<u>Employment Resource Center</u>	One-Stop Career Service Center established by the Workforce Investment Board and operated by the Department of Workforce Development (WDD) under Title I of the Workforce Investment Act
<u>Formalized Agreement</u>	A formal agreement between two agencies that specifies the responsibilities of each agency in implementing the project.
<u>High School Dropout</u>	An individual who is no longer attending school and who has not received a high school diploma or its recognized equivalent. This does not include a youth attending an alternative school. A youth's dropout status is determined at the time of application and remains in effect throughout her or his participation.
<u>Individual Service Strategy (ISS)</u>	An individual plan that identifies the youth's education and employment goals. The ISS is a living document and must be updated as needed. Updates may include further discussions of education and employment strategies, training options, and training information, barriers to education and/or employment, and the Supportive Services or other services needed to overcome barriers.
<u>In-School Youth</u>	The individual is not a high school graduate (or equivalent) and is attending any school (including elementary, intermediate, junior high school, secondary or post-secondary, or an alternative school or program whether full or part-time), or is between school terms and intends to return to school.
<u>Leadership Development</u>	Activities that promote citizenship and leadership development that encourage responsibility, employability and other positive social behaviors. These can be developed through voluntary community service participation, peer-centered mentoring or tutoring activities, and through life skills workshops.
<u>Local Workforce Delivery Area</u>	A geographical area within the State designated by the Governor in accordance with WIA guidelines, such as San Bernardino County.
<u>Occupational Skills Training</u>	Short-term vocational skills training that provide participants with the skills necessary to obtain employment in career ladders leading to self-sufficiency.
<u>Offender</u>	An individual who has been subject to any stage of the criminal justice process or who requires assistance in overcoming Barriers to Employment resulting from a record of arrest or conviction.
<u>Out-of-School Youth</u>	An individual who is a school dropout or is an eligible youth, who has either graduated from high school or holds a GED, but is basic skills deficient, unemployed, or underemployed. Note: Youth attending alternative schools and/or adult schools are not considered out of school youth.
<u>Performance Standards</u>	Represents the core measures of performance for employment and training activities. The performance indicators for the WIA Youth are the common measures as required by federal policy in the Training & Employment Guidance Letter (TEGL) 17-05, issued on February 17, 2006. The three (3) youth common measures are placement in employment or education,

attainment of a degree or certificate, and/or literacy/numeracy gains.

<u>Service Provider</u>	A public agency, private nonprofit organization, or private-for-profit entity that delivers educational, training, employment or supportive services to WIA participants.
<u>Supportive Services</u>	Services such as transportation, child care, clothing/uniforms, work related tools, or license/certification fees that are necessary to enable an individual to participate in activities authorized under Title 1 of WIA and consistent with the provisions of the act.
<u>Work Experience, Internships &amp; Job Shadowing</u>	Work experiences is a short-term and/or part-time work assignments with an employer or private non-profit agency that is subsidized or unsubsidized and which provides the participant with the opportunity to acquire skills, appropriate work habits and behaviors necessary to perform a job. Internships and job shadowing are unpaid work assignments that are designed to provide the same experiences.
<u>Workforce Investment Act (WIA)</u>	Employment and training program legislation that was effective July 1, 2000, intended to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the U.S. ( <a href="#">29 U.S.C.A. § 2801 et seq.</a> ).

#### IV. SERVICE PROVIDER SCOPE OF WORK

- A. Scope of Work.** The Service Provider agrees to enroll and serve WIA Title I Youth Program participants and have the capability to provide them with the ten (10) Program Elements. The Service Provider agrees to meet or exceed the performance requirements as stated in Section VII (A) of the Contract. The Service Provider understands and agrees that this Contract shall not be construed as an obligation on the part of the County to refer participants. The Service Provider warrants that it is capable and willing to provide services and training to program participants.
- B. Contracted Services.** The purpose of this Contract is to provide one year of program and one year of follow-up services that provide year-round assistance to youth that will improve long-term employability and enhance academic and occupational learning, leadership development skills, educational advancement and employment preparation.
- C. Program Elements**
1. The following four (4) elements have been identified as WIA priority elements. The service provider agrees to provide, at a minimum, two (2) of these priority elements:
    - a. Occupational Skills Training in the building trades, transportation, logistics/distribution, healthcare, manufacturing, and/or aviation that will result in a recognized certificate;
    - b. Paid/Unpaid Work Experience, internship and job shadowing;
    - c. Leadership Development;
    - d. Literacy/Numeracy basic and remedial education, including tutoring, study skills training, and instruction leading to the completion of secondary school.
  2. The ten (10) program elements (including the four WIA priority elements) are as follows:
    - a. Tutoring, Study Skills, Training. And Instruction Leading to the Completion of Secondary School including Dropout Prevention Strategies.
    - b. Alternative Secondary School Services
    - c. Summer Employment Opportunities
    - d. Paid/Unpaid Work Experience, Internship and Job Shadowing
    - e. Occupational Skills Training
    - f. Leadership Development Opportunities
    - g. Supportive Services
    - h. Adult Mentoring
    - i. Follow-up Services

j. Comprehensive Guidance and Counseling Services

**D. Geographical Area(s) to be served by Provider:** Service Provider will provide services to the following geographical area(s): \_\_\_\_\_

**E. Youth Enrollment Plan.** All youth to be served must be enrolled by September 30, 2011.

**V. SERVICE PROVIDER RESPONSIBILITIES**

**A. Conditions**

1. The Service Provider agrees to the terms and conditions cited under WIA and Department of Labor (DOL) legislation and regulations (<http://wdr.doleta.gov/directives/>).
2. All individuals enrolled by the Service Provider shall meet the WIA Title I Youth eligibility criteria as established and mandated by the WIA and the Youth Council. All in-school youth must be classified academically as high school seniors. Individuals must be San Bernardino County residents (excluding the City of San Bernardino).
3. The Service Provider may enroll more than the number of participants specified in the Contract if there are sufficient contract funds in the Service Provider's budget available to serve additional participants. Over-enrollments require advance approval by the WDD staff.
4. The Service Provider shall administer the designated Program Elements in accordance with the Youth Program Request for Proposal (RFP) and contract policy as approved by the Youth Council, Local Workforce Investment Board, County Board of Supervisors and WDD.
5. Less than five percent (5%) of enrolled youth may be individuals who do not meet the income criterion for eligible youth. Prior to enrolling five (5%) youth, WDD approval is required. Ref. WIA §129 (c) 5.
6. Participation in the training activities shall be for a reasonable length of time, based on the needs of the participant, and shall be documented in the ISS.
7. Service Provider agrees that subcontractors with responsibility for providing direct services to participants, as well as the Service Provider, will attend conferences, seminars, and/or meetings, as designated by WDD, in order to remain updated on Youth Program developments and policies.
8. Service Provider shall develop, implement, and maintain written program and fiscal procedures covering all aspects of the services provided under its program.
9. Service Provider shall provide an adequate number of qualified staff to operate an effective program for the number of participants enrolled.
10. Qualified teachers must provide basic and remedial education.

**B. Program Activities / Services.** The Service Provider shall:

1. Conduct the necessary outreach and recruitment activities to ensure full contractual enrollment numbers and establish recruitment processes that will target groups, such as foster care youth, school dropout, pregnant and parenting youth, and offenders.
2. Coordinate determination of eligibility for youth applicants with WDD Youth Team. Assist with collection and submittal of all original eligibility documentation for review and final approval. No youth will be allowed to begin receiving services until the WDD Youth Team has completed eligibility determination.
3. Provide an orientation program to all participants regarding WIA Youth program elements and expectations, grievance procedures, and services and programs available at the WDD Employment Resource Centers.
4. Provide each youth with an objective assessment. Standardized assessment tests will be used for assessment of basic skills, career interests and aptitudes, and work readiness needs. Reasonable accommodations for individuals with disabilities and/or special needs will be provided to allow for participation in the assessment process. The Service Provider may assess supportive services through individual interviews and/or evaluation tools.

5. Develop an ISS Plan with each youth participant that will reflect and utilize the information obtained from the objective assessment, individual interviews, and other sources of information. The ISS shall identify current and past educational/employment history, primary educational and employment goals, and describe the training activities and appropriate supportive services the youth will receive to achieve those goals. The ISS will be reviewed with the participant on a regular basis and any changes in training activities will be noted on ISS Plan. For In-School Youth, the Service Provider ensures accomplishment of a diploma or equivalent degree.
6. Maintain on file all pre-testing and post-testing documentation, grade reports, test scores, documents showing skills acquired, certificates of completions issued, State certified licenses, credentials, diplomas, etc.
7. Provide at least a minimum of two of the four priority elements: occupational skill training, paid/unpaid work experiences, internships and job shadowing; leadership development opportunities; tutoring, study skills training, and instruction leading to the completion of secondary school including dropout prevention strategies.
8. Provide or have the capability of providing all ten (10) of the required program elements listed in section IV (C) (2) herein. Each youth participant shall receive services covering the elements that have been identified through the objective assessment and listed on the individual's ISS. These elements may be provided one at a time or in any combination.
9. Provide preparation for unsubsidized employment opportunities and facilitate effective connections to intermediaries with strong links to the job market and local and regional employers.
10. Develop a Worksite Agreement (WSA) for all participants enrolled in paid work-based activities. WSAs must be signed by the participant, service provider and the worksite operator. The Service Provider shall maintain on file a copy of the WSA with one (1) copy given to the participant and one (1) copy given to the worksite supervisor.
11. With its linking agencies, monitor and maintain daily attendance. At a minimum, participant's progress must be monitored and documented monthly.
12. At a minimum, from the exit date of the youth from program services, provide applicable follow-up services for twelve (12) months and submit reports at the end of the first (1st), second (2nd), third (3rd), and fourth (4th) quarters. The type of follow-up services provided and the duration of the services will be based upon the needs of the individual. The Service Provider, whenever possible, will meet with the youth to determine what follow-up services are needed. Follow-up services will be completed during the contract period.
13. Ensure that eligible applicants, who do not meet the requirements of the Service Provider's training program, or applicants who cannot be served, are referred to the local Employment Resource Center (ERC) for further assessment.
14. Require all participants to register with the ERC in the immediate area.

**C. Payment of Benefits and Wages**

1. Participants employed in activities authorized under this Contract shall be paid wages which shall not be less than the highest of the following: (a) the minimum wage under Section 6 (a) (1) of the Fair Labor Standard Act of 1938; (b) the minimum wage under the applicable State or local minimum wage law; or (c) the prevailing rates of pay for individuals employed in similar occupations by the same employer.
2. A trainee shall receive no compensation for employment activities in which the trainee fails to participate. Attendance/time sheets must match paid hours.
3. Fringe benefits, which are paid on behalf of participants in Paid Work Experience, shall include, but are not limited to, FICA and Workers' Compensation Insurance Coverage. WIA funds cannot be used for the participant's portion of retirement benefits.

**D. Subcontracts / Linkages**

1. Service Provider agrees not to enter into any sub-agreements for work contemplated under this Contract without first obtaining written approval from WDD. Any subcontractor and/or linking agency

shall be subject to the same provisions as the Service Provider. Service Provider shall be fully responsible for the performance of any subcontractor and/or linking agency.

2. Service Provider, using another party to provide services under this Contract, shall document such services with a formalized agreement. The Service Provider shall develop written agreement formats that shall include, but are not limited to, the following requirements:
  - Compliance with the Workforce Investment Act (WIA) and its regulations.
  - Agreement to hold the County harmless as a result of subcontracting.
  - Statement of training and other applicable services to be offered by the subcontractor.
  - Indemnification and Insurance requirements imposed on the subcontractor.
  - Method of payment to subcontractors.
3. Copies of all formalized agreements must be forwarded to the County for approval prior to sub-contract execution. The Service Provider acknowledges the requirements and agrees to furnish such agreements as a condition to receiving payment.
4. The Service Provider shall provide written notification to the County of any default, termination, or findings of disallowed costs under these formalized agreements. This written notification will be submitted within five (5) working days from the date the Service Provider realized the breach of the formalized agreement(s).
5. Service Provider is responsible for monitoring its off-site WIA program activities. Service Provider's staff shall make a written record of their findings and share them with the appropriate WDD staff. Copies of the findings must be available for review by the County. The Service Provider is responsible for developing its own monitoring guide and for documenting visits made by its staff.

#### **E. Internal Management**

1. By September 30, 2011, the Service Provider is required to have one hundred percent (100%) of contracted youth enrolled. Failure to meet this requirement may result in funds being recaptured in part or in total.
2. The Service Provider will expend Contract funds at an efficient rate to ensure full usage of Contract funds, as indicated in the budget document, for the continuous provision of youth services throughout the term of the Contract. The Service Provider will track expenditures carefully to ensure this requirement is met and to ensure the proper expenditure rate for out-of-school youth is met, if this population is being served.
3. From time-to-time, performance data on participant enrollments and exits will be provided by WDD to the Service Provider. The Service Provider will be responsible for review and validation of the reported information. Any variance in the data must be supported by documentation and submitted to WDD within **ten (10) days of receipt of the report**.

**F. Failure to Perform.** The Service Provider assumes full responsibility for performance of this Contract and any sub agreements executed pursuant to or funded by this Contract, and hereby agrees to indemnify the County for the failure, or non-performance or default of any of its subcontractors. Further, the Service Provider assumes full liability and agrees to reimburse the County for the Service Provider's or any of its subcontractor's failure to comply with any term, condition of the WIA Act, Rules and Regulations, or this Contract.

#### **G. Non-Duplication of Service**

1. Funds provided under this Contract shall only be used for activities that are in addition to those which would otherwise be available in the service delivery area in the absence of such funds.
2. Funds provided under this Contract shall not be used to duplicate facilities or services available in the area (with or without reimbursement) from Federal, State or local County sources, unless the plan establishes that alternative services or facilities would be more effective or more likely to achieve performance goals.

3. All education programs for youth, supported with funds provided under Title I shall be consistent with applicable State and local educational standards. In addition, the standards and procedures, with respect to the awarding of academic credit and certifying educational attainment in programs under Title I, shall be consistent with the requirements of applicable State and local laws and regulations.
4. The Service Provider and its respective linking agencies and/or subcontractors must ensure that youth program services are not duplicated.

**VI. COUNTY RESPONSIBILITIES** The County shall:

- A. WDD Youth Team.** Assign a WDD Youth Team to establish a communication process between the Service Provider and WDD to ensure eligibility determination is in compliance with WIA regulations, which will limit County financial risk.
- B. Eligibility Determination.** Determine eligibility for all individuals referred or recommended for services under this contract. WDD Youth Team will coordinate with the Service Provider to provide eligibility determination services by reviewing eligibility packets prepared and completed by the Service Provider to ensure all required documentation has been obtained.
- C. Response.** Provide timely response for participant acceptance or denial into the WIA program so that the Service Provider has the ability to recruit additional eligible youth to meet contractual obligations.
- D. Cooperation.** Work in partnership with the Service Provider, on a continuous basis, to ensure program participants receive the assistance they need to be successful in their program.
- E. Quarterly Review.** Review program performance on a quarterly basis, allowing for timely technical assistance and/or other action.
- F. Information.** Provide workshops, conferences, and/or meetings to inform and update Service Providers regarding program policies and developments.
- G. Correction.** Implement corrective action plans, which will include deadlines for compliancy.

**VII. PERFORMANCE REQUIREMENTS**

**A. Program Performance**

1. Each Service Provider must operate their respective program to meet the WIA Title I Youth Common Measures of Performance and the Performance Rates that will be negotiated between the State and the LWIB. These measures are described in the RFP.
2. WIA records at WDD shall be used by the County to substantiate the Service Provider's performance. The County shall provide the Service Provider with WIA performance records for data reconciliation.

**B. Performance Review and Evaluation**

1. To ensure effective utilization of WIA funds, the Service Provider's performance shall be reviewed and evaluated by the County on a periodic basis to determine if the performance requirements are being met and whether the budgeted funds are being expended according to the terms of this Contract. Based on the outcomes of the review, the amount of funds originally provided to the Service Provider may be altered as follows, or the County may simply terminate the Contract in accordance with the terms of this Contract:
  - a. De-obligation: The County may de-obligate funds, in part or in full, when the County determines in its sole and absolute discretion that the review indicates that funds were over-allocated, based upon the projected performance to be achieved by the Service Provider, or under-expended in program costs, or the Service Provider is not able to fully expend the total funds within the term of the Contract.
  - b. Re-obligation: The County may add funds into the Contract when the County determines in its sole and absolute discretion that the review indicates the Service Provider may exceed the performance requirements, and where the expenses, as a result of the over achievement, may exceed the amount originally allocated; however, an amendment to the Contract to add funds is subject to the availability of WIA funds received by the County.
2. The Service Provider shall agree and comply with the review and evaluation above.

**C. Correction of Performance Deficiencies and Termination**

1. If County determines in its sole and absolute discretion that the Service Provider has failed to comply with any of the provisions, covenants, requirements, or conditions of this Contract the County may immediately terminate this Contract as provided in Section II, or in its sole and absolute discretion, the County may:
  - a. Afford Service Provider a time period within which to cure the breach. This period shall be established at the sole discretion of WDD; and/or,
  - b. Discontinue reimbursement to Service Provider for and during the period in which Service Provider is in breach. The Service Provider shall not be entitled to later recovery; and/or,
  - c. Withhold funds during the duration of the breach; and/or,
  - d. Offset against any monies billed by the Service Provider, but yet unpaid by the County, those monies disallowed; and/or,
  - e. Impose liquidated damages, in increments of \$5,000, which will reduce the total reimbursable amount of the Contract by the amount(s) levied and not claimable by Service Provider. This remedy shall only be used when reasonable efforts to correct a performance or violation deficiency have failed to correct the problem, or in circumstances of unacceptable or negligent performance of Service Provider as determined by County. There is no limit to the number of adjustments the County may levy.
2. The County's decision to exercise one or more of the options set forth in this section shall in no manner restrict, modify, or otherwise alter the right of the County to terminate this Contract in accordance with Section II.
3. County shall give Service Provider notice of any action pursuant to this subdivision, but such notice shall not be a pre-requisite of the County's right to take action pursuant to this section.

**VIII. COMPLAINT AND GRIEVANCE PROCEDURES**

- A. Procedure.** The Service Provider shall develop and maintain procedures to be used for resolving complaints that the Service Provider receives regarding terms and conditions of the participant's training or other applicable services and/or complaints/grievances arising in connection with WDD programs and activities. A minimum of two staff will be required to be involved with the complaints and grievance process. The procedures must include these steps:

<b>Action:</b>	<b>Timetable for Resolution:</b>
1. Complaint/grievance identified verbally and discussed by participants with: Program Supervisor	Within ninety (90) days of the day the action or decision occurred. The Supervisor will make contact within 3 business days to discuss complaint. If not resolved, go to next step.
2. Complaint/grievance identified in writing and discussed with: Program Director	Within seven (7) business days of the day complaint discussed with Program Supervisor. If not resolved, go to next step.
3. Meeting on grievance: complainant, witnesses, Service Provider staff and WDD Contract Analyst to resolve grievance.	Program Director will set meeting within twenty-five (25) business days of the day complaint discussed with Program Supervisor. If not resolved, go to next step.
4. Complete a <i>WDD 181C Program Complaint and Grievance Request for Hearing</i> form: Program Participant	Must be received by WDD Equal Opportunity Officer within one (1) year of the alleged WIA violation.

- B. Complaint.** The Service Provider shall provide each participant with a copy of its internal Participant Complaint and Grievance Procedures upon enrollment into the program. The Service Provider shall maintain, on file, a copy signed by the participant, with the second signed copy given to the participant.
- C. Retaliation.** The Service Provider shall not discriminate or retaliate against any person, or deny to any person a benefit because such person has filed any complaint, instituted or caused to be instituted any proceeding, has testified, or is about to testify in any investigation, or has provided information or assisted in any investigation.
- D. Equal Opportunities.** All Discrimination Complaints will be handled as provided for in Section XII.
- E. Termination Rights.** Nothing in this Section VIII shall restrict, modify, or otherwise alter the right of the County to terminate this Contract as provided in Section II.

## IX. FISCAL PROVISIONS

- A. Cost Allocation Plan and Methodology.** The Service Provider shall submit to WDD for approval a Cost Allocation Plan for cost reimbursement contracts. The plan will explain the allocation method used to distribute allowable direct and indirect costs. Such a plan will describe the method for the distribution of Allowable Costs to the benefiting/funded program(s) and cost categories using reasonable and equitable distribution methods to ensure each funding source is fairly charged. The Plan will include the process for distributing costs that benefit more than one final cost objective, and insure that costs are equitably distributed to all benefiting activities.
- B. Service Provider's Accounting Systems**
  - 1. Service Provider warrants that it has adopted and will make available internal management systems policy and/or procedure manuals.
  - 2. Service Provider's financial and accounting system will reflect standard accounting practices and shall include records of expenditures, claims for reimbursements, cash payment, check deposits, and evidence of reconciliation with WDD records. Financial and accounting records shall be maintained in a ready condition for fiscal review, monitoring and audits, etc.
  - 3. The Service Provider shall establish an internal control structure and fund accounting procedures as required by State, Federal, or local regulations, as deemed necessary, to assure proper disbursements of, and accounting for, funds paid to the Service Provider under WIA.
- C. Compensation**
  - 1. Funding of this Contract is subject to continuing availability of WIA funds provided to the County during the contract period. The County will inform the Service Provider of any limitation of the availability of funds. The County also reserves the right to renegotiate any awarded contract amount(s).
  - 2. The compensation to be paid to the Service Provider, as provided herein, shall be payment in full for all the Service Provider's services and expenses incurred in the performance hereof, including travel and per diem, as appropriate.
  - 3. Funding of this contract is based upon Service Provider's ability to seek and secure, from other sources, supplemental funding that is equal to or greater than thirty-five percent (35%) of the total contract awarded (WIA funds). Of this supplemental funding, cash must be equal to or greater than fifteen percent (15%) of the contract awarded; the remainder may be from in-kind services/contributions. The distribution of this supplemental funding must be documented on the "Leveraged Resource" form. These funds must be allocated to offset WIA program costs and documented in the program year budget. The service provider will report on the monthly reimbursement claims when the leveraged funds are received and used.
  - 4. The Service Provider shall be paid on a Cost-Reimbursement basis for allowable, reasonable and budgeted expenses under the terms and conditions of this Contract. The Service Provider shall invoice the County on a monthly basis for expenditures actually incurred during the previous month(s). **Administrative Costs are limited to ten percent (10%) of the total invoiced expenditures.**

5. The claim for reimbursement is to be submitted on an approved format provided by WDD no later than ten (10) calendar days following the month of service. Reimbursement claims shall include supporting documentation for each expense classification, such as copies of payroll records, billing invoices or receipts for costs incurred. Cost allocation (percentage) on all supporting documents should be clearly marked. The Service Provider shall submit a claim for reimbursement to:

County of San Bernardino  
Department of Workforce Development – Fiscal / WIA  
215 North D St, Suite 301  
San Bernardino CA 92415-0041

6. Payment shall be issued no later than forty-five (45) calendar days, after receipt by WDD Fiscal of the Service Provider's claim for reimbursement, if feasible, and provided Service Provider's claim is correct.
7. Service Provider shall accept all payments from County via electronic funds transfer (EFT) directly deposited into the Service Provider's designated checking or other bank account. Service Provider shall promptly comply with directions and accurately complete forms provided by County required to process EFT payments.

**D. Advance Payments**

1. The County may, at its sole discretion, approve an advance payment, up to a maximum of fifty percent (50%) of the Contract budget. Advance payment will only be approved for startup costs based upon the anticipated expenditures and cash flow needs of Service Provider. All advances will be repaid to the County within the contract period. Advance payments are considered earned payments, unless an overpayment, monitoring finding, or audit makes repayment necessary.
2. Funds advanced shall be expended only in direct support of this Contract.
3. Release of advance funds and repayment are executed according to procedural rules adopted by WDD.

**E. Stop Payments**

1. Payments under this Contract may be suspended or terminated if grant funds to the County are suspended or terminated, or if the Service Provider refuses to accept additional conditions imposed on it by the Department of Labor, the State, or the County. In the event of such suspension or termination, the Service Provider will be paid, up to the date of suspension or termination, for any amount that is properly incurred by the Service Provider as a result of performance of this Contract.
2. WDD has the authority to withhold payments under this Contract, pending a final determination by the County, of questioned costs and/or expenditures or indebtedness to the County arising from past or present contracts between the County and the Service Provider.

**F. Purchase of Fixed Assets, Equipment and Property**

1. The purchase, lease, or lease to purchase of fixed assets, equipment or property using funds provided by WIA and costing more than \$500, requires advance approval by WDD. Request to purchase, lease, or lease to purchase said equipment must follow the procedural rules adopted by WDD.
2. Any property, equipment, assets furnished to a Service Provider by the County and/or purchased by a Service Provider with funds from WIA must be used in connection with, and/or support of, WIA training programs. Service Provider will be responsible for inventory and maintenance of said equipment.
3. Any property, equipment, or assets furnished to the Service Provider by the County and/or purchased by a Service Provider with funds from WIA shall remain the property of the State of California / County of San Bernardino regardless of whether this Contract is terminated by any party. Within ninety (90) days of Contract termination or expiration, the Service Provider shall return such property, equipment or assets to the County in a reasonable and expeditious manner, and execute any documents required by the County to ensure the County takes free and clear title to such property, equipment or assets.

## **G. Program Income**

1. Program income is defined as income received by the Service Provider directly generated by a grant or sub grant support activities, or earned only as a result of the grant or sub grant.
2. Such income includes income from fees for services performed, conferences, use or rental of real or personal property acquired with grant/sub grant funds, sale of property or sale of commodities, or items fabricated under a grant/sub grant, from revenues earned by governmental/public or private non profit agencies in excess of the actual costs incurred in providing the services and from interest earned on advance of grant/sub grant funds, etc.
3. The Service Provider may retain any program income earned only if such income is added to the funds committed to the WIA grant and used for WIA purposes, and under the terms and conditions applicable to the use of the grant. The Service Provider, receiving funds under WIA, shall maintain records sufficient to determine the amount of income received, and the purpose for which such income is utilized.

## **H. Auditing Requirements**

1. When required by the Act and its Regulations, Service Provider will hire a licensed Certified Public Accountant (CPA), who shall prepare and file with the County, a certified audit of related expenditures. Audits shall be performed annually in accordance with Generally Accepted Accounting Principles (GAAP) and/or Generally Accepted Government Accounting Standards (GAGAS). In addition to the requirements of GAAP/GAGAS, the auditor will determine whether the Service Provider has complied with laws, regulations, and the provisions of the Contract.
2. Service Providers who fall under the revised audit requirements of OMB Circular A-133 and have expenditures of five hundred thousand dollars (\$500,000) or more in Federal funds in any one fiscal year ending prior to December 31,2003, must procure a single audit. Title 29 CFR Sections 95.26 and 97.26 require each entity receiving funds under the WIA to comply with Title 31 United States Code (USC) Chapter 75
3. As a condition of receiving WIA funds, the independent auditor or monitor of the LWIA and the Employment Development Department (EDD) auditors, investigators, monitors and their representatives shall, at all times during the period that the grant is in force, and for a period of four years thereafter, have access to all related records and financial statements and to individuals with knowledge of the records and financial statements as may be necessary to ensure compliance with the WIA statute, regulations and directives.
4. The Service Provider will be responsible for providing the County with information that will assist the County in determining if the Service Provider has met its audit requirements. This responsibility may include, but is not limited to, providing the County with a copy of the Service Provider's Annual Audit Report.
5. The County is not responsible for arranging or paying for audits outside the Contract. The responsibility for audits will be that of the Service Provider.
6. The County will be notified by the auditors/monitors performing audits of any incidents of fraud, misuse of funds, abuse, or other criminal activity in relation to this Contract, the Act or its Regulations.
7. The Service Provider acknowledges that the County of San Bernardino may not contract with any organization, which is not in compliance with these requirements, and/or payment to the Service Provider may be withheld if the Service Provider fails to comply with the request.

- I. Year-End / End of Contract Report.** Within forty five (45) days following the termination of this Contract, the Service Provider shall submit the Year-End/End of Contract Financial Closeout and all final claims for funds under this Contract. It must accurately reflect all actual costs during the term of this Contract. In the event the Service Provider does not submit the closeout within the prescribed time limits, the County reserves the right to unilaterally prepare and finalize the financial report, using the latest paid invoices and WDD payment records. All excess payments paid to the Service Provider, but not expended, shall be returned to the County as a result of the Year-End/End of Contract Financial Closeout Report.

**J. Additional Requirements**

1. The Service Provider shall assure that funds provided by this Contract must be used exclusively for activities authorized under this Title I Program. Commingling and/or diverting funds to support the activities of other programs is NOT authorized. Documentation supporting expenditures should be readily available at all times for audit and monitoring purposes.
2. For cash management, the Service Provider shall not be required to maintain a separate bank account for this training program, but shall separately maintain an account for Federal funds (including WIA) on deposit in a bank insured by Federal Deposit Insurance Corporation (FDIC).
3. The Service Provider shall not incur expenditures prior to the commencement date or after the termination date of this Contract. In addition, at the expiration of this Contract or upon termination prior to the expiration, funds not obligated or expended shall revert to the County.
4. The Service Provider shall be responsible for any funds expended on participants who were found ineligible for WIA services or found in violation of rules, regulations, grant, or Contract.
5. The County reserves the right to negotiate the percentage of the total contract amount directly expended on youth.

**K. Use of ARRA Funds and Requirements**

This Contract may be funded in whole or in part with funds provided by the American Recovery and Reinvestment Act of 2009 ("ARRA"), signed into law on February 17, 2009. Section 1605 of ARRA prohibits the use of recovery funds for a project for the construction, alteration, maintenance or repair of a public building or public work (both as defined in 2 CFR 176.140) unless all of the iron, steel and manufactured goods (as defined in 2 CFR 176.140) used in the project are produced in the United States. A waiver is available under three limited circumstances: (i) Iron, steel or relevant manufactured goods are not produced in the United States in sufficient and reasonable quantities and of a satisfactory quality; (ii) Inclusion of iron, steel or manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent; or (iii) Applying the domestic preference would be inconsistent with the public interest. This is referred to as the "Buy American" requirement. Request for a waiver must be made to the County for an appropriate determination.

Section 1606 of ARRA requires that laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C.31). This is referred to as the "wage rate" requirement.

The above described provisions constitute notice under ARRA of the Buy American and wage rate requirements. Contractor must contact the County contact if it has any questions regarding the applicability or implementation of the ARRA Buy American and wage rate requirements. Contractor will also be required to provide detailed information regarding compliance with the Buy American requirements, expenditure of funds and wages paid to employees so that the County may fulfill any reporting requirements it has under ARRA. The information may be required as frequently as monthly or quarterly. Contractor agrees to fully cooperate in providing information or documents as requested by the County pursuant to this provision. Failure to do so will be deemed a default and may result in the withholding of payments and termination of this Contract.

Contractor may also be required to register in the Central Contractor Registration (CCR) database at <http://www.ccr.gov> and may be required to have its subcontractors also register in the same database. Contractor must contact the County with any questions regarding registration requirements.

**L. Schedule of Expenditure of Federal Awards**

In addition to the requirements described in "Use of ARRA Funds and Requirements," proper accounting and reporting of ARRA expenditures in single audits is required. Contractor agrees to separately identify the expenditures for each grant award funded under ARRA on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by the Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Nonprofit Organizations." This identification on the SEFA

and SF-SAC shall include the Federal award number, the Catalog of Federal Domestic Assistance (CFDA) number, and amount such that separate accountability and disclosure is provided for ARRA funds by Federal award number consistent with the recipient reports required by ARRA Section 1512 (c).

In addition, Contractor agrees to separately identify to each subcontractor and document at the time of sub-contract and at the time of disbursement of funds, the Federal award number, any special CFDA number assigned for ARRA purposes, and amount of ARRA funds.

Contractor may be required to provide detailed information regarding expenditures so that the County may fulfill any reporting requirements under ARRA described in this section. The information may be required as frequently as monthly or quarterly. Contractor agrees to fully cooperate in providing information or documents as requested by the County pursuant to this provision. Failure to do so will be deemed a default and may result in the withholding of payments and termination of this Contract.

#### Whistleblower Protection

Contractor agrees that both it and its subcontractors shall comply with Section 1553 of the ARRA, which prohibits all non-Federal contractors, including the State, and all contractors of the State, from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of: (1) gross mismanagement of a contract relating to ARRA funds; (2) a gross waste of ARRA funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds; (4) an abuse of authority related to the implementation or use of recovery funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) awarded or issued relating to ARRA funds.

*Contractor agrees that it and its subcontractors shall post notice of the rights and remedies available to employees under Section 1553 of Division A, Title XV of the ARRA.*

## **X. PELL GRANTS AND OTHER EDUCATIONAL ASSISTANCE FUNDS**

- A. Supplemental Funding.** WIA funds should be used to supplement, not supplant, training resources available through Educational Assistance Programs (Title IV). Both WIA funds and Educational Assistance funds may be used to pay costs for the same participant, as long as the Service Provider can demonstrate that WIA funds did not duplicate payments from other sources. This paragraph applies to all Federal and State educational assistance grants that may include, but are not limited to, Pell Grant, SEOG, Cal Grant A, B, C, etc. The Service Provider further agrees to reduce the training costs by the amount of financial aid or grant received by the Service Provider on behalf of the participant.
- B. Notification.** When grant monies have been awarded to a participant, prior to disbursement, the Service Provider agrees to contact WDD and advise of the award amount. An agreement shall be reached among the participant, the educational institution, and WDD, which indicate how the award monies shall be used.
- C. Spending Priorities.** Title IV funds should be used first for tuition/training costs. If there are remaining monies, then the remaining monies can be used for supportive services, books, materials, fees, etc.
- D. Individual Service Strategy.** The Individual Service Strategy (ISS) shall reflect WDD's arrangement with the educational institution, the participants' training-related financial assistance needs, and the mix of WIA and financial aid assistance, if applicable.
- E. Additional Information.** For more details on the use of Educational Assistance (Title IV) funds, which are not described in this paragraph, the Service Provider should consult WDD or refer to Field Memo 98-26, dated March 13, 1998, for guidance.

## **XI. INDEMNIFICATION AND INSURANCE REQUIREMENTS**

- A. Indemnification.** The Contractor agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnities. The Contractor's indemnification obligation applies to the County's "active" as well as "passive" negligence but does not apply to the County's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

- B. Additional Insured.** All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability policies, shall contain endorsements naming the County and its officers, employees, agents and volunteers as additional insured's with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability but shall allow coverage for the County to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.
- C. Waiver of Subrogation Rights.** The Contractor shall require the carriers of required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the Contractor and Contractor's employees or agents from waiving the right of subrogation prior to a loss or claim. The Contractor hereby waives all rights of subrogation against the County.
- D. Policies Primary and Non-Contributory.** All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.
- E. Severability of Interests.** The Contractor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between the Contractor and the County or between the County and any other insured or additional insured under the policy.
- F. Proof of Coverage.** The Contractor shall furnish Certificates of Insurance to the County Department administering the contract evidencing the insurance coverage, including endorsements, as required, prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Contractor shall maintain such insurance from the time Contractor commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this contract, the Contractor shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

Original certificates of insurance and other proof of coverage should be sent to:

The County of San Bernardino  
c/o Periculum Services Group  
P.O. Box 257, Dept. 87-Z295142  
Portland, MI 48875  
Or FAX: (517) 647-7900

Prior to start of Contract, a copy of above certificates of insurance should be sent to:

County of San Bernardino  
Department of Workforce Development  
Finance and Contract Unit  
215 North D St., Suite 301  
San Bernardino, CA 92415-0046

- G. Acceptability of Insurance Carrier.** Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A- VII".
- H. Deductibles and Self-Insured Retention.** Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.
- I. Failure to Procure Coverage.** In the event that any policy of insurance required under this contract does not comply with the requirements, is not procured, or is canceled and not replaced, the County has the right but not the obligation or duty to cancel the contract or obtain insurance if it deems necessary and any premiums paid by the County will be promptly reimbursed by the Contractor or County payments to the Contractor will be reduced to pay for County purchased insurance.
- J. Insurance Review**
1. Insurance requirements are subject to periodic review by the County. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance

requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.

2. Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this contract. Contractor agrees to execute any such amendment within thirty (30) days of receipt.
3. Any failure, actual or alleged, on the part of the County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the County.

**K. Insurance Specifications** The Contractor agrees to provide insurance set forth in accordance with the requirements herein. If the Contractor uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the Contractor agrees to amend, supplement or endorse the existing coverage to do so. The type(s) of insurance required is determined by the scope of the contract services. Without in anyway affecting the indemnity herein provided and in addition thereto, the Contractor shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

1. **Workers' Compensation/Employers Liability.**
  - a. A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of the Contractor and all risks to such persons under this contract.
  - b. If Contractor has no employees, it may certify or warrant to the County that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the County's Director of Risk Management.
  - c. With respect to Contractors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.
2. **Commercial/General Liability Insurance.** The Contractor shall carry General Liability Insurance covering all operations performed by or on behalf of the Contractor providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:
  - a. Premises operations and mobile equipment.
  - b. Products and completed operations.
  - c. Broad form property damage (including completed operations).
  - d. Explosion, collapse and underground hazards.
  - e. Personal injury
  - f. Contractual liability.
  - g. \$2,000,000 general aggregate limit.
3. **Automobile Liability Insurance.** Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence. If the Contractor is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence. If

the Contractor owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

4. **Umbrella Liability Insurance.** An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a "dropdown" provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

## XII. EQUAL OPPORTUNITY REQUIREMENTS

- A. **Requirements.** Service Provider agrees to comply with the provisions of the Equal Employment Opportunity Program of the County of San Bernardino and rules and regulations adopted pursuant thereto: Executive Order 11246 (as amended by Executive Orders 11375, 11625, 12138, 12432, and 12250); Title VII of the Civil Rights Act of 1964; the California Fair Employment and Housing Act; and other applicable Federal, state and County laws, regulations and policies, including laws and regulations hereafter enacted. In addition to the above laws, all Service Providers who receive WIA funding must comply fully with the nondiscrimination and equal opportunity provisions of the following laws: Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; Title IX of the Education Amendments of 1972, as amended; Section 188 of the Workforce Investment Act of 1998; Title 29, CFR Part 37; and all other regulations implementing the laws listed above.
- B. **Compliance.** Service Providers shall not unlawfully discriminate against any employee, applicant for employment, or service recipient on the basis of race, color, national origin or ancestry, religion, sex, marital status, age, political affiliation or belief, or disability. The Equal Opportunity is the Law notice, which explains the nondiscrimination and equal opportunity provisions of WIA, shall be provided to each participant. All complaints that allege discrimination on the bases listed above will be referred to the WDD Equal Opportunity Officer for action.

## XIII. GENERAL PROVISIONS

- A. **Verbal Modification.** No verbal commitment or conversation with any officer, agent, or employee of either party shall affect or modify any of the terms and conditions of this contract.
- B. **Advertisement.** The Service Provider shall obtain permission, in writing, from the County prior to publication of any advertisement of its program that reflects its relationship to/w/ith WDD, the US Department of Labor, State of California or the County.
- C. **Influencing.** The Service Provider agrees that it will not perform any religious proselytizing activities in connection with performance of this Contract. Service Provider will ensure no staff will conduct activity intended to influence legislation, administrative rule making or the election of candidates for public office during the time compensated under this Contract or under representation such activity is being performed under this contract.
- D. **Fees.** No person or organization may charge an individual a fee for the placement or referral of such individual in a training program under the Act.
- E. **Internal Controls.** The Service Provider shall establish and implement appropriate internal program controls and management procedures to prevent fraud, abuse and criminal activity. The Service Provider shall also establish a reporting process to insure that the County is notified immediately of any allegation of program-related fraud, abuse or criminal activity.
- F. **Copies.** In the event the Service Provider ceases to provide services, copies of all records (including participant records) relating to the projects or activities that are the subject of this contract shall be furnished to the County.

## XIV. RIGHT TO MONITOR AND AUDIT

- A. **Audit.** The U.S. Department of Labor, the State of California including the Auditor General, or any subdivision or appointee thereof, and the County or any subdivision or appointee thereof, reserve the right to review and audit the Service Provider's program at any time, as deemed necessary, before, during, and/or after the period of this contract. They shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of Service Provider in the delivery of services provided under this contract.

- B. Monitor.** The County will monitor and visit, announced or unannounced, the Service Provider's program, including visits to all locations, offices and training sites at any time during normal business hours. The monitoring shall be conducted in accordance with WDD Administrative Manual, dated August 31, 2005, and the WDD Procedures for Subrecipient Monitoring. The monitoring activities become part of the Contract requirements.
- C. Cooperation.** Service Provider shall cooperate with the County in the implementation, monitoring and evaluation of this Contract and comply with any and all reporting requirements established by the County, State and Federal Government.

## **XV. ADDITIONAL REQUIREMENTS**

- A. Service Provider's Management Systems.** The Service Provider will develop and make available to the County policy manuals or procedures, which include, but are not limited, to outreach, recruitment, eligibility verification and determination, orientation, assessment and individual service strategy plan (ISS), ten elements and supportive service(s) implementation counseling services, documentation of skills acquisition, deficiencies/proficiencies in training, pre- and post-testing policy, completion of training, license/certificate/credentials, job placement, verification of job placement, other terminations, post-program follow-up and WIA automation forms.
- B. Availability of Records**
  - 1. All records pertaining to service delivery and all fiscal, statistical, and management books and records shall be available for examination and audit by County, Federal, and State representatives. Program data shall be retained locally and made available upon request or turned over to the County. If said records are not made available at the scheduled monitoring visit Service Provider may, at County's option, be required to reimburse County for expenses incurred due to required rescheduling of monitoring visit(s). Such reimbursement will not exceed fifty dollars (\$50) per hour (including travel time) and be deducted from the following month's claim for reimbursement.
  - 2. Records of the Service Provider that do not pertain to the program shall not be subject to audit unless provided for in another agreement.
  - 3. Service Provider shall provide all reasonable facilities and assistance for the safety and convenience of County's representative in the performance of their duties. All inspections and evaluations shall be performed in such a manner as to not unduly delay the work of the Service Provider.
- C. Maintenance of Records**
  - 1. Records, in their original form, shall be maintained on file to comply with requirements prescribed by WIA and/or the County with respect to all matters covered by this Contract. Such records shall be retained for a period of three (3) years after termination of this Contract, and/or until all other pending matters are completed. "Pending Matters" include, but are not limited to, audit, litigation, investigation, or other actions involving records. If this is the case, the Service Provider will retain the records until the resolution of such audit or litigation is completed.
  - 2. Participant records to be maintained by the Service Provider shall include, but are not limited, to the following documents: orientation/case notes and training evaluations, complaint and grievance procedures, school policies, training information and schedules, eligibility documentation; objective assessment results, individual services strategy (ISS), WIA-required forms, work experience or OJT agreement (if applicable), supportive service(s) pre- and post-test results, certificate(s) of completion, State certified license, certificate, credential, diploma, employer's verification of employment, documents related to program performance and follow-up services provided, certification of employment with employer-assisted benefits, timecards, payroll register, other papers, etc.
- D. Conditions of Employment or Training**
  - 1. Conditions of employment or training shall be appropriate and reasonable in light of such factors as the type of work, geographical region, and proficiency of the participant.
  - 2. The Service Provider shall comply with the Labor Code of California, the Child Labor Laws in California, the Child Labor Standards Act, Assembly Bill 1900 - Employment of Minors, and all other regulations with respect to employment, wages, hours of labor, and industrial safety, if applicable.

3. Health, safety, and fire clearance standards established under State, Federal, and local law, otherwise applicable to working conditions of employees, shall be equally applicable to working conditions of participants. With respect to any participant in a program conducted under this Contract who is engaged in activities which are not covered by health and safety standards under Occupational Safety and Health Act of 1970, the Service Provider shall prescribe, by regulation, such standards as may be necessary to protect the health and safety of such participants.
4. No program under the Act shall impair (1) existing contracts for services, or (2) existing collective bargaining contracts, unless the employer and the labor organization concur, in writing, with respect to any elements of the proposed activities that affect such Contract.
5. No participant shall be employed or job opening filled (1) when any other individual is on layoff from the same or any substantially-equivalent job, or (2) when the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the intention of filling the vacancy created by hiring a participant whose wages are subsidized under the Act.
6. The Contract will not result in the displacement of currently employed workers, including partial displacement, such as reduction in the hours of non-overtime work, wages or employment benefits. The Service Provider will assure that no jobs shall be created in a promotional line that will infringe, in any way, upon the promotional opportunities of currently employed individuals.

**E. Prohibition of Activities**

1. The Service Provider will assure that no funds under this Contract shall be used to assist, promote, or deter union organizing activities.
2. No funds provided under this Act shall be used or proposed for use to encourage or induce the relocation of an establishment, or part thereof, which results in a loss of employment for any employee of such establishment at the original location.
3. None of the funds, materials, property or services provided directly or indirectly under this Contract shall be used for, or to promote, any partisan or non-partisan political activity, or to support or defeat any pending legislation or administrative legislation.
4. The Service Provider is prohibited from using funds under this Contract for the purpose of instituting legal proceedings or legal disputes against the County or its official representatives.

**F. Patents, Inventions and Copyrights.** If any project produces patentable items, patent rights, and/or discovery or inventions in the course of work under a Federal grant or agreement, the Service Provider shall report the fact promptly and fully to the County. The County, or the State, or the DOL representative shall determine how the rights on the invention or discovery, including licensing, reproduction, publishing, utilization and royalty will be administered in order to protect the public interest consistent with the government policy. The County shall have a royalty-free, non-exclusive and irrevocable license to publish, disclose, copy, translate, and otherwise use, copyright or patent, now and hereafter, all reports, studies, information, data, statistics, forms, designs, plans, procedures, systems, and any other materials or properties developed under this Contract, including those covered by copyright. The County reserves the right to authorize others to use or reproduce such material.

**G. Disallowed Costs.** If the County determines in its sole and absolute discretion, through monitoring, audit, investigation, or review of fiscal records, that any disbursements made under this Contract are disallowed costs, the Service Provider shall be notified and given the opportunity to justify the questioned costs prior to the County's final determination of disallowed costs. If the County, in its sole and absolute discretion, determines that the costs are disallowed, reimbursement to the County of said amounts must be made within forty-five (45) days after official notification from the County. If said reimbursement is not made within the stated time, the County may withhold said amount from non-Federal funds that may be due or become due to the Service Provider. The resolution shall be executed in accordance with the Department's Procedures on Audit Resolution (Rev. 2) of September 16, 1991.

**H. Independent Capacity.** In the performance of the Contract, Service Provider, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the County.

**I. Service Provider Primary Contact.** The Service Provider will designate an individual to serve as the primary point of contact for this Contract. Service Provider shall notify WDD when there is a change in the

primary point of contact. Service Provider or designee must respond to County inquiries within two (2) County business days.

**J. Change of Address.** Service Provider shall notify the County, in writing, within ten (10) business days of any change in mailing address.

**K. Contract Assignability.** Without the prior written consent of the County, the Service Provider is prohibited from assigning or transferring the proprietorship of this contract to any other party either in whole or part.

**L. Contract Amendments, Extensions and Waivers.** Service Provider agrees that any alterations, variations, modifications, or waivers of provisions of the Contract shall be valid only when they have been reduced to writing, duly signed and attached to the original of the Contract, and approved by the required persons and organizations. WDD retains the option to amend the Contract, as necessary, in accordance with requirements contained in any future Federal or State legislation, regulations, or policy. Subject to availability of continuing funding and to the Service Provider's meeting all performance and administrative requirements, the contract may be extended for an additional year. No waiver of any provision of this Contract shall be deemed, for any purpose, to be a waiver of any other provisions, or to be a continuing or subsequent waiver of the same provision.

**M. Lawsuits.** Service Provider understands and agrees that any and all legal fees or costs associated with lawsuits against the County concerning this Contract shall be the Service Provider's sole expense and shall not be charged as a cost under this Contract. In the event of any contract dispute hereunder, each party to this contract shall bear its own attorney's fees and costs regardless of who prevails in the outcome of the dispute.

**N. Conflict of Interest.** Service Provider shall comply with the Conflict of Interest provisions of Part I, Section L of the RFP.

**O. Nepotism.** No individual, related by blood, adoption or marriage to any Service Provider executive, person in an administrative capacity, employee or volunteer, shall be allowed to enroll for services or training provided by the Service Provider.

**P. Confidentiality**

1. Service Provider shall require its officers, agents, employees, volunteers and any sub-Service Provider to comply with the provisions of WIA Section 136 (f)(3) and Section 444 of the General Education Provisions Act (20 U.S.C. 1232g) to assure that education records (or personally identifiable information contained therein) will be confidential and will not be open to examination for any person not directly connected with the administration, performance, compliance, monitoring or auditing of the services provided pursuant to this contract.
2. No person will publish or disclose, or use or permit, or cause to be published or disclosed or used, any confidential information pertaining to any applicant or recipient of services under this Contract.
3. Service Provider agrees to inform all sub-Service Providers, consultants, employees, agents and partners of the above provisions, and that any person knowingly and/or intentionally violating the provisions of this article is guilty of a misdemeanor.

**Q. Compliance with Laws and Regulations**

The Service Provider warrants and certifies that, in the performance of this Contract, it shall comply with all applicable laws, rules and regulations of the United States, the State of California, and the County of San Bernardino. The Service Provider further warrants and certifies that it shall comply with any new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Contract.

**R. Environmental Regulations**

1. **EPA Regulations.** If the amount awarded to Service Provider under the Contract exceeds one hundred thousand dollars (\$100,000), Service Provider agrees to comply with Section 306 of the Clean Air Act (42 USC 1857 h), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738 and Environmental Protection Agency regulations (40 CFR, Part 15).
2. **State Energy Conservation Clause.** Service Provider shall observe the mandatory standards and policies relating to energy efficiency in the State Energy Conservation Plan (Title 204, Division 2, Chapter 4, California Code of Regulations).

- S. Recycling.** Service Provider shall use recycled products, whenever practicable, in fulfilling the terms of the Contract. Recycled printed products shall include a symbol identifying the recycled material.
- T. Notification.** In the event of a problem or potential problem that will impact the quality or quantity of work or the level of performance under this Contract, notification will be made within one (1) business day, in writing, and by telephone.
- U. Report on Fraud and Abuse.** The Service Provider shall establish and implement appropriate internal management procedures to prevent fraud, abuse and criminal activity. Further, the Service Provider shall establish a reporting process to ensure that the County is notified immediately of any allegation of WIA-related fraud, abuse or criminal activity, or any suspected or proven fraud, abuse or criminal acts committed by staff or participants. If the allegation is of an emergency and/or fiscal nature, it shall be reported to the County by telephone and, immediately thereafter, a written report shall be submitted. Proof of such report will be maintained in the Service Provider's file. Report on fraud and abuse shall be executed in accordance with WDD Administrative Services Manual, September 22, 2006. In addition, theft or embezzlement from employment and training funds under WIA shall be subject to a fine or imprisonment, pursuant to §665 of Title 18, United States Code.

**XVI. CONCLUSION.** This Contract is the full and complete document describing services to be rendered by Service Provider to the County, including all covenants, conditions, and benefits. The signatures of the parties affixed to this Contract affirm that they are duly authorized to commit and bind their respective institutions to the terms and conditions set forth in this document.///

SAMPLE

**IN WITNESS WHEREOF**, the Board of Supervisors of the County of San Bernardino has caused this Contract to be subscribed to by the Clerk thereof, and Service Provider has caused this Contract to be subscribed in its behalf by its duly authorized officers, on the day, month and year written.

COUNTY OF SAN BERNARDINO

► \_\_\_\_\_  
Gary C. Ovitt, Chairman, Board of Supervisors

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

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

Laura H. Welch  
Clerk of the Board of Supervisors  
of the County of San Bernardino

By \_\_\_\_\_  
*Deputy*

\_\_\_\_\_  
*(Print or type name of corporation, company, contractor, etc.)*

By ► \_\_\_\_\_  
*(Authorized signature - sign in blue ink)*

Name \_\_\_\_\_  
*(Print or type name of person signing contract)*

Title \_\_\_\_\_  
*(Print or Type)*

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

Address \_\_\_\_\_

Approved as to Legal Form

► \_\_\_\_\_  
County Counsel

Date \_\_\_\_\_

Reviewed by Contract Compliance

► \_\_\_\_\_

Date \_\_\_\_\_

Presented to BOS for Signature

► \_\_\_\_\_  
Department Head

Date \_\_\_\_\_