



Contract Number

SAP Number

Workforce Development Department

Department Agreement

Representative

Bradley Gates

Telephone Number

909-387-9862

Organization

Foundation for California
Community Colleges

Representative

Charles Henkels-Executive Director

Telephone Number

760-925-1975

Agreement Term

June 1, 2023 to May 31, 2028

Original Agreement Amount

N/A

Amendment Amount

N/A

Total Agreement Amount

N/A

Cost Center

IT IS HEREBY AGREED AS FOLLOWS:

WHEREAS, San Bernardino County (County), through its Workforce Development Department (WDD), desires to be able to provide registered pre-apprenticeship and apprenticeship services to the unemployed and underemployed residents of the County;

WHEREAS, the Foundation for California Community Colleges (Foundation) is to provide these services through its LAUNCH Apprenticeship Network (LAUNCH) as the apprenticeship intermediary in coordinating regional apprenticeship projects, working collaboratively to support the growth and success of all programs;

WHEREAS, Foundation and WDD desire entering into this Agreement for the purpose of defining their respective roles in providing apprenticeship services through LAUNCH to County residents;

NOW, THEREFORE, WDD and Foundation mutually agree to the following terms and conditions:

A. DEFINITIONS

A.1 Workforce Development Department (WDD) – The San Bernardino County Workforce Development Department (WDD) operates programs under the guidance of the Workforce

Development Board. WDD implements comprehensive strategies to meet the needs of local businesses for a skilled workforce, while creating opportunities for workers to prepare for and enter into well-paid careers.

A.2 LAUNCH Apprenticeship Network (LAUNCH) – LAUNCH Apprenticeship Network (LAUNCH) is a registered Workforce Intermediary Apprenticeship Sponsor, which is defined by the Department of Labor as an organization that can help broker local, regional, and national workforce solutions, by convening employers and community partners to determine workforce trends and assisting in blending customized services and seed funding to grow the demand for new apprenticeship programs.

B. FOUNDATION RESPONSIBILITIES

B.1 Foundation will offer general technical assistance and support to WDD staff related to apprenticeship grants, programs, policies, or candidate and industry referrals.

B.2 Foundation will facilitate apprenticeship education that increases awareness and understanding of registered apprenticeship and pre-apprenticeship models, benefits, challenges, enrollment processes, and local apprenticeship program opportunities to appropriate staff, including, but not limited to, the WDD Business Services team and America’s Job Centers of California.

B.3 Foundation will provide sponsorship for new registered apprenticeship programs, with a specific focus on WDD’s target sectors of healthcare, manufacturing, public sector, and transportation and logistics, and will provide individual employers with support as they engage in registered apprenticeship for the first time.

B.4 Should WDD receive grant or contract funding related to registered apprenticeship, Foundation will serve as the primary apprenticeship intermediary to help achieve outcomes and metrics.

B.5 Foundation will facilitate monthly regional conference calls with education and workforce partners among the region’s K-12 and colleges, as well as workforce development departments and the Division of Apprenticeship Standards.

C. GENERAL AGREEMENT REQUIREMENTS

C.1 Recitals

The recitals set forth above are true and correct and incorporated herein by this reference.

C.2 Agreement Amendments

Foundation agrees any alterations, variations, modifications, or waivers of the provisions of the Agreement, shall be valid only when reduced to writing, executed and attached to the original Agreement and approved by the person(s) authorized to do so on behalf of Foundation and County.

C.3 Agreement Assignability

Without the prior written consent of the County, the Agreement is not assignable by Foundation either in whole or in part.

C.4 Agreement Exclusivity

This is not an exclusive Agreement. The County reserves the right to enter into an agreement with other contractors for the same or similar services. The County does not guarantee or represent that Foundation will be permitted to perform any minimum amount of work, or receive compensation other than on a per order basis, under the terms of this Agreement.

C.5 Attorney’s Fees and Costs

If any legal action is instituted to enforce any party’s rights hereunder, each party shall bear its own costs and attorney fees, regardless of who is the prevailing party. This paragraph shall not

apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under Indemnification and Insurance Requirements.

C.6 Background Checks for Contractor Personnel

Foundation shall ensure that its personnel (a) are authorized to work in the jurisdiction in which they are assigned to perform Services; (b) do not use legal or illegal substances in any manner which will impact their ability to provide Services to the County; and (c) are not otherwise disqualified from performing the Services under applicable law. If requested by the County and not in violation of applicable law, Foundation shall conduct a background check, at Foundation's sole expense, on all its personnel providing Services. If requested by the County, Foundation shall provide the results of the background check of each individual to the County. Such background check shall be in the form generally used by Foundation in its initial hiring of employees or contracting for contractors or, as applicable, during the employment-screening process but must, at a minimum, have been performed within the preceding 12-month period. Foundation personnel who do not meet the County's hiring criteria, in County's sole discretion, shall not be assigned to work on County property or Services, and County shall have the right, at its sole option, to refuse access to any Foundation personnel to any County facility.

C.7 Change of Address

Foundation shall notify the County in writing, of any change in mailing address within ten (10) business days of the change.

C.8 Choice of Law

This Agreement shall be governed by and construed according to the laws of the State of California.

C. 9 Compliance with County Policy

In performing the Services and while at any County facilities, Foundation personnel (including subcontractors) shall (a) conduct themselves in a businesslike manner; (b) comply with the policies, procedures, and rules of the County regarding health and safety, and personal, professional and ethical conduct; (c) comply with the finance, accounting, banking, Internet, security, and/or other applicable standards, policies, practices, processes, procedures, and controls of the County; and (d) abide by all laws applicable to the County facilities and the provision of the Services, and all amendments and modifications to each of the documents listed in subsections (b), (c), and (d) (collectively, "County Policies"). County Policies, and additions or modifications thereto, may be communicated orally or in writing to Foundation or Foundation personnel or may be made available to Foundation or Foundation personnel by conspicuous posting at a County facility, electronic posting, or other means generally used by County to disseminate such information to its employees or contractors. Foundation shall be responsible for the promulgation and distribution of County Policies to Foundation personnel to the extent necessary and appropriate.

County shall have the right to require Foundation's employees, agents, representatives and subcontractors to exhibit identification credentials issued by County in order to exercise any right of access under this Agreement.

C.10 Confidentiality

Foundation shall protect from unauthorized use or disclosure names and other identifying information concerning persons receiving Services pursuant to this Agreement, except for statistical information not identifying any participant. Foundation shall not use or disclose any identifying information for any other purpose other than carrying out the Foundation's obligations under this Agreement, except as may be otherwise required by law. This provision will remain in force even after the termination of the Agreement.

C.11 Primary Point of Contact

Foundation will designate an individual to serve as the primary point of contact for the Agreement. Foundation or designee must respond to County inquiries within two (2) business days. Foundation shall not change the primary contact without written acknowledgement to the County. Foundation will also designate a back-up point of contact in the event the primary contact is not available.

C.12 County Representative

The WDD Director or his/her designee shall represent the County in all matters pertaining to the services to be rendered under this Agreement, including termination and assignment of this Agreement, and shall be the final authority in all matters pertaining to the Services/Scope of Work by Foundation. If this agreement was initially approved by the San Bernardino County Board of Supervisors, then the Board of Supervisors must approve all amendments to this Agreement.

C.13 Damage to County Property

Foundation shall repair, or cause to be repaired, at its own cost, all damages to County vehicles, facilities, buildings or grounds caused by the willful or negligent acts of Foundation or its employees or agents. Such repairs shall be made immediately after Foundation becomes aware of such damage, but in no event later than thirty (30) days after the occurrence.

If the Foundation fails to make timely repairs, the County may make any necessary repairs. Foundation, as determined by the County, shall repay all costs incurred by the County for such repairs, by cash payment upon demand, or County may deduct such costs from any amounts due to Foundation from the County, as determined at the County's sole discretion.

C. 14 Debarment and Suspension

Foundation certifies that neither it nor its principals or subcontracts is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. (See the following United States General Services Administration's System for Award Management website <https://www.sam.gov>). Foundation further certifies that if it or any of its subcontractors are business entities that must be registered with the California Secretary of State, they are registered and in good standing with the Secretary of State.

C.15 Drug and Alcohol Free Workplace

In recognition of individual rights to work in a safe, healthful and productive work place, as a material condition of this Agreement, Foundation agrees that Foundation and the Foundation's employees, while performing service for the County, on County property, or while using County equipment:

- C.15.1** Shall not be in any way impaired because of being under the influence of alcohol or an illegal or controlled substance.
- C.15.2** Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal or controlled substance.
- C.15.3** Shall not sell, offer, or provide alcohol or an illegal or controlled substance to another person, except where Foundation or Foundation's employee who, as part of the performance of normal job duties and responsibilities, prescribes or administers medically prescribed drugs.

Foundation shall inform all employees that are performing service for the County on County property, or using County equipment, of the County's objective of a safe, healthful and productive work place and the prohibition of drug or alcohol use or impairment from same while performing such service for the County.

The County may terminate for default or breach of this Agreement and any other Agreement Foundation has with the County, if Foundation or Foundation's employees are determined by the County not to be in compliance with above.

C.16 Duration of Terms

This Agreement, and all of its terms and conditions, shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties, provided no such assignment is in violation of the provisions of this Agreement.

C.17 Employment Discrimination

During the term of the Agreement, Foundation shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. Foundation shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VI and Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

C.18 Environmental Requirements

In accordance with County Policy 11-08, the County prefers to acquire and use products with higher levels of post-consumer recycled content. Environmentally preferable goods and materials must perform satisfactorily and be available at a reasonable price. The County requires Foundation to use recycled paper for any printed or photocopied material created as a result of this Agreement. Foundation is also required to use both sides of paper sheets for reports submitted to the County whenever practicable.

To assist the county in meeting the reporting requirements of the California Integrated Waste Management Act of 1989 (AB 939), Foundation must be able to annually report the County's environmentally preferable purchases. Foundation must also be able to report on environmentally preferable goods and materials used in the provision of their service to the County, utilizing a County approved form.

C.19 Improper Influence

Foundation shall make all reasonable efforts to ensure that no County officer or employee, whose position in the County enables him/her to influence any award of the Agreement or any competing offer, shall have any direct or indirect financial interest resulting from the award of the Agreement or shall have any relationship to Foundation or officer or employee of Foundation.

C.20 Improper Consideration

Foundation shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding this Agreement.

The County, by written notice, may immediately terminate this Agreement if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the County with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once an agreement has been awarded.

Foundation shall immediately report any attempt by a County officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Foundation. The report shall be made to the supervisor or manager charged with supervision of the employee or the

County Administrative Office. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

C.21 Informal Dispute Resolution

In the event the County determines that service is unsatisfactory, or in the event of any other dispute, claim, question or disagreement arising from or relating to this Agreement or breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

C.22 Legality and Severability

The parties' actions under the Agreement shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. The provisions of this Agreement are specifically made severable. If a provision of the Agreement is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

C.23 Licenses, Permits and/or Certifications

Foundation shall ensure that it has all necessary licenses, permits and/or certifications required by the laws of Federal, State, County, and municipal laws, ordinances, rules and regulations. Foundation shall maintain these licenses, permits and/or certifications in effect for the duration of this Agreement. Foundation will notify County immediately of loss or suspension of any such licenses, permits and/or certifications. Failure to maintain a required license, permit and/or certification may result in immediate termination of this Agreement.

C.24 Material Misstatement/Misrepresentation

If during the course of the administration of this Agreement, the County determines that Foundation has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the County, this Agreement may be immediately terminated. If this Agreement is terminated according to this provision, the County is entitled to pursue any available legal remedies.

C.25 Mutual Covenants

The parties to this Agreement mutually covenant to perform all of their obligations hereunder, to exercise all discretion and rights granted hereunder, and to give all consents in a reasonable manner consistent with the standards of "good faith" and "fair dealing".

C.26 Nondisclosure

Foundation shall hold as confidential and use reasonable care to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, confidential information that is either: (1) provided by the County to Foundation or an agent of Foundation or otherwise made available to Foundation or Foundation's agent in connection with this Agreement; or, (2) acquired, obtained, or learned by Foundation or an agent of Foundation in the performance of this Agreement. For purposes of this provision, confidential information means any data, files, software, information or materials in oral, electronic, tangible or intangible form and however stored, compiled or memorialize and includes, but is not limited to, technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data.

C.27 Notice of Delays

Except as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this agreement, that party shall, within twenty-four (24) hours, give notice thereof, including all relevant information with respect thereto, to the other party.

C.28 Ownership of Documents

All documents, data, products, graphics, computer programs and reports prepared by Foundation pursuant to the Foundation shall be considered property of the County upon payment for services (and products, if applicable). All such items shall be delivered to County at the completion of work under the Agreement, subject to the requirements of Section IV–Term of the Agreement. Unless otherwise directed by County, Foundation may retain copies of such items.

C.29 Air, Water Pollution Control, Safety and Health

Foundation shall comply with all air pollution control, water pollution, safety and health ordinances and statutes, which apply to the work performed pursuant to this Agreement.

C.30 Records

Foundation shall maintain all records and books pertaining to the delivery of services under this Agreement and demonstrate accountability for agreement performance. All records shall be complete and current and comply with all Agreement requirements. Failure to maintain acceptable records shall be considered grounds for withholding of payments for invoices submitted and/or termination of the Agreement.

All records relating to the Foundation’s personnel, consultants, subcontractors, Services/Scope of Work and expenses pertaining to this Agreement shall be kept in a generally acceptable accounting format. Records should include primary source documents. Fiscal records shall be kept in accordance with Generally Accepted Accounting Principles and must account for all funds, tangible assets, revenue and expenditures. Fiscal records must comply with the appropriate Office of Management and Budget (OMB) Circulars, which state the administrative requirements, cost principles and other standards for accountancy.

C.31 Relationship of the Parties

Nothing contained in this Agreement shall be construed as creating a joint venture, partnership, or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.

C.32 Release of Information

No news releases, advertisements, public announcements or photographs arising out of the Agreement or Foundation’s relationship with County may be made or used without prior written approval of the County.

C.33 Representation of the County

In the performance of this Agreement, Foundation, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the San Bernardino County.

C.34 Strict Performance

Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party’s right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

C.35 Subcontracting

Foundation shall obtain County’s written consent, which County may withhold in its sole discretion, before entering into Agreements with or otherwise engaging any subcontractors who may supply any part of the Services to County. At County’s request, Foundation shall provide information regarding the subcontractor’s qualifications and a listing of a subcontractor’s key personnel including, if requested by the County, resumes of proposed subcontractor personnel. Foundation shall remain directly responsible to County for its subcontractors and shall indemnify County for the actions or omissions of its subcontractors under the terms and conditions specified

in Section G. All approved subcontractors shall be subject to the provisions of this Agreement applicable to Foundation Personnel.

For any subcontractor, Foundation shall:

- 36.1** Be responsible for subcontractor compliance with the Agreement and the subcontract terms and conditions; and
- 36.2** Ensure that the subcontractor follows County's reporting formats and procedures as specified by County.
- 36.3** Include in the subcontractor's subcontract substantially similar terms as are provided in Sections B. Foundation Responsibilities and C. General Agreement Requirements.

Upon expiration or termination of this Agreement for any reason, County will have the right to enter into direct Agreements with any of the Subcontractors. Foundation agrees that its arrangements with Subcontractors will not prohibit or restrict such Subcontractors from entering into direct Agreements with County.

C. 36 Subpoena

In the event that a subpoena or other legal process commenced by a third party in any way concerning the Goods or Services provided under this Agreement is served upon Foundation or County, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Foundation and County further agree to cooperate with the other party in any lawful effort by such other party to contest the legal validity of such subpoena or other legal process commenced by a third party as may be reasonably required and at the expense of the party to whom the legal process is directed, except as otherwise provided herein in connection with defense obligations by Foundation for County.

C.37 Termination for Convenience

The County reserves the right to terminate the Agreement, for any reason, with a thirty (30) day written notice of termination. Such termination may include all or part of the services described herein. Upon such termination, payment will be made to Foundation for services rendered and expenses reasonably incurred prior to the effective date of termination. Upon receipt of termination notice Foundation shall promptly discontinue services unless the notice directs otherwise. Foundation shall deliver promptly to County and transfer title (if necessary) all completed work, and work in progress, including drafts, documents, plans, forms, data, products, graphics, computer programs and reports.

C.38 Time of the Essence

Time is of the essence in performance of this Agreement and of each of its provisions.

C.39 Venue

The parties acknowledge and agree that this Agreement was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue of any action or claim brought by any party to this Agreement will be the Superior Court of California, San Bernardino County, San Bernardino District. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Agreement is brought by any third party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, San Bernardino County, San Bernardino District.

C.40 Conflict of Interest

Foundation shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or subcontractors and the County. Foundation shall make a reasonable effort to prevent employees, Foundation, or members of governing bodies from using their positions for purposes that are, or give the appearance of being motivated by a desire for private gain for themselves or others such as those with whom they have family business, or other ties.

Officers, employees, and agents of cities, counties, districts, and other local agencies are subject to applicable conflict of interest codes and state law. In the event the County determines a conflict of interest situation exists, any increase in costs, associated with the conflict of interest situation, may be disallowed by the County and such conflict may constitute grounds for termination of the Agreement. This provision shall not be construed to prohibit employment of persons with whom Foundation's officers, employees, or agents have family, business, or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicant.

C.41 Former County Administrative Officials

Foundation agrees to provide, or has already provided information on former San Bernardino County administrative officials (as defined below) who are employed by or represent Foundation. The information provided includes a list of former County administrative officials who terminated County employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of Foundation. For purposes of this provision, "County administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Executive Officer or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

C.42 Disclosure of Criminal and Civil Procedures

The County reserves the right to request the information described herein from Foundation. Failure to provide the information may result in a termination of the Agreement. The County also reserves the right to obtain the requested information by way of a background check performed by an investigative firm. Foundation also may be requested to provide information to clarify initial responses. Negative information discovered may result in Agreement termination.

Foundation is required to disclose whether the firm, or any of its partners, principals, members, associates or key employees (as that term is defined herein), within the last ten years, has been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense arising directly or indirectly from the conduct of the firm's business, or whether the firm, or any of its partners, principals, members, associates or key employees, has within the last ten years, been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense involving financial misconduct or fraud. If the response is affirmative, Foundation will be asked to describe any such indictments or charges (and the status thereof), convictions and the surrounding circumstances in detail.

In addition, Foundation is required to disclose whether the firm, or any of its partners, principals, members, associates or key employees, within the last ten years, has been the subject of legal proceedings as defined herein arising directly from the provision of services by the firm or those individuals. "Legal proceedings" means any civil actions filed in a court of competent jurisdiction, or any matters filed by an administrative or regulatory body with jurisdiction over the firm or the individuals. If the response is affirmative, Foundation will be asked to describe any such legal proceedings (and the status and disposition thereof) and the surrounding circumstances in detail.

For purposes of this provision "key employees" includes any individuals providing direct service to the County. "Key employees" do not include clerical personnel providing service at the firm's offices or locations.

C.43 Copyright

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 Agreement including those covered by copyright, and reserves the right to authorize others to use or reproduce such material. All such materials developed

under the terms of this Agreement shall acknowledge the San Bernardino County as the funding agency and Foundation as the creator of the publication. No such materials, or properties produced in whole or in part under this Agreement shall be subject to private use, copyright or patent right by Foundation in the United States or in any other country without the express written consent of County. Copies of all educational and training materials, curricula, audio/visual aids, printer material, and periodicals, assembled pursuant to this Agreement must be filed with the County prior to publication.

C.44 Artwork, Proofs and Negatives

All artwork, proofs, and/or negatives in either print or digital format for anything produced under the terms of this Agreement are the property of the County. These items must be returned to the County within ten (10) days, upon written notification to Foundation. In the event of a failure to return the documents, the County is entitled to pursue any available legal remedies. In addition, Foundation will be barred from all future solicitations, for a period of at least six (6) months.

C.45 Reserved.

C.46 California Consumer Privacy Act

To the extent applicable, if Foundation is a business that collects the personal information of a consumer(s) in performing Services pursuant to this Agreement, Foundation must comply with the provisions of the California Consumer Privacy Act (CCPA). (Cal. Civil Code §§1798.100, et seq.). For purposes of this provision, “business,” “consumer,” and “personal information” shall have the same meanings as set forth at Civil Code section 1798.140. Foundation must contact the County immediately upon receipt of any request by a consumer submitted pursuant to the CCPA that requires any action on the part of the County, including but not limited to, providing a list of disclosures or deleting personal information. Foundation must not sell, market or otherwise disclose personal information of a consumer provided by the County unless specifically authorized pursuant to terms of this Agreement. Foundation must immediately provide to the County any notice provided by a consumer to Foundation pursuant to Civil Code section 1798.150(b) alleging a violation of the CCPA, that involves personal information received or maintained pursuant to this Agreement. Foundation must immediately notify the County if it receives a notice of violation from the California Attorney General pursuant to Civil Code section 1798.155(b).

D. TERM OF AGREEMENT

- D.1.** This Agreement is effective as of June 1, 2023 and expires May 31, 2028 but may be terminated earlier in accordance with provisions of this Agreement.
- D.2.** Either party may terminate this Agreement, for any reason, with a thirty (30) day written notice of termination.

E. COUNTY RESPONSIBILITIES

- E.1** WDD will ensure the Business Services team is knowledgeable and equipped with apprenticeship marketing collateral to introduce registered apprenticeship programs to new and existing employers.
- E.2** WDD will ensure Career Advisors at the America’s Job Centers are knowledgeable and equipped with marketing collateral to highlight registered pre-apprenticeship and apprenticeship programs and how to access them.
- E.3** WDD will develop and implement a coordinated effort, in collaboration with Foundation, to identify how to inform and connect WIOA youth providers or other connected community organizations to apprenticeship programs.
- E.4** If grant or contract funding opportunities related to registered apprenticeship are presented to WDD, WDD will facilitate coordination with Foundation as their preferred apprenticeship intermediary in developing a workplan, metrics, and budget.

F. FISCAL PROVISIONS

There shall be no financial remuneration under the terms of this Agreement.

G. INDEMNIFICATION AND INSURANCE REQUIREMENTS

G.1 Indemnification

Foundation 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 Agreement 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. Foundation 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.

G.2 Additional Insured

All policies, except for Worker's Compensation, Errors and Omissions and Professional Liability policies shall contain additional endorsements naming the County and its officers, employees, agents and volunteers as additional named insured 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.

G.3 Waiver of Subrogation Rights

Foundation 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 Foundation and Foundation's employees or agents from waiving the right of subrogation prior to a loss or claim. Foundation hereby waives all rights of subrogation against the County.

G.4 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.

G.5 Severability of Interests

Foundation 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 Foundation and the County or between the County and any other insured or additional insured under the policy.

G.6 Proof of Coverage

Foundation shall furnish Certificates of Insurance to the County Department administering the Agreement evidencing the insurance coverage at the time the Agreement is executed, additional endorsements, as required shall be provided 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 Foundation shall maintain such insurance from the time Foundation commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this agreement, Foundation 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.

G.7 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".

G.8 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.

G.9 Failure to Procure Coverage

In the event that any policy of insurance required under this agreement 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 agreement or obtain insurance if it deems necessary and any premiums paid by the County will be promptly reimbursed by Foundation or County payments to Foundation will be reduced to pay for County purchased insurance.

G.10 Insurance Review

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.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this agreement. Foundation agrees to execute any such amendment within thirty (30) days of receipt.

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.

G.11 Foundation agrees to provide insurance set forth in accordance with the requirements herein. If Foundation uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, agrees to amend, supplement or endorse the existing coverage to do so.

Without in anyway affecting the indemnity herein provided and in addition thereto, Foundation shall secure and maintain throughout the agreement term the following types of insurance with limits as shown:

G.11.1 Workers' Compensation/Employer's Liability – 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 Foundation and all risks to such persons under this agreement.

If Foundation 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.

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.

- G.11.2** Commercial/General Liability Insurance – Foundation shall carry General Liability Insurance covering all operations performed by or on behalf of Foundation 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.

- G.11.3** 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 Foundation 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 Foundation owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

- G.11.4** 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.

- G.11.5** Professional Liability – Professional Liability Insurance with limits of not less than one million (\$1,000,000) per claim and two million (\$2,000,000) aggregate limits

or

Errors and Omissions Liability Insurance – Errors and Omissions Liability Insurance with limits of not less than one million (\$1,000,000) and two million (\$2,000,000) aggregate limits

or

Directors and Officers Insurance coverage with limits of not less than one million (\$1,000,000) shall be required for Contracts with charter labor committees or other not-for-profit organizations advising or acting on behalf of the County.

If insurance coverage is provided on a “claims made” policy, the “retroactive date” shall be shown and must be before the date of the state of the contract work. The claims made insurance shall be maintained or “tail” coverage provided for a minimum of five (5) years after contract completion.

- G.11.6** **Cyber Liability Insurance** - Cyber Liability Insurance with limits of no less than \$1,000,000 for each occurrence or event with an annual aggregate of \$2,000,000 covering privacy violations, information theft, damage to or destruction of electronic

information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security. The policy shall protect the involved County entities and cover breach response cost as well as regulatory fines and penalties.

Abuse/Molestation Insurance – Foundation shall have abuse or molestation insurance providing coverage for all employees for the actual or threatened abuse or molestation by anyone of any person in the care, custody, or control of any insured, including negligent employment, investigation and supervision. The policy shall provide coverage for both defense and indemnity with liability limits of not less than one million dollars (\$1,000,000) with a two million dollars (\$2,000,000) aggregate limit.

H. RIGHT TO MONITOR AND AUDIT

H.1 The County, State and Federal government 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 Foundation in the delivery of services provided under this Agreement. Foundation shall give full cooperation, in any auditing or monitoring conducted. Foundation shall cooperate with the County in the implementation, monitoring, and evaluation of this Agreement and comply with any and all reporting requirements established by the County.

H.2 All records pertaining to services delivered and all fiscal, statistical and management books and records shall be available for examination and audit by County representatives for a period of three years after final payment under this Agreement or until all pending County, State and Federal audits are completed, whichever is later.

I. CORRECTION OF PERFORMANCE DEFICIENCIES

I.1 Failure by Foundation to comply with any of the provisions, covenants, requirements or conditions of this Agreement shall be a material breach of this Agreement.

I.2 In the event of a non-cured breach, County may, at its sole discretion and in addition to any other remedies available at law, in equity, or otherwise specified in this Agreement:

- a. Afford Foundation thereafter a time period within which to cure the breach, which period shall be established at the sole discretion of County; and/or
- b. Discontinue reimbursement to Foundation for and during the period in which Foundation is in breach, which reimbursement shall not be entitled to later recovery; and/or
- c. Withhold funds pending duration of the breach; and/or
- d. Offset against any monies billed by Foundation but yet unpaid by County those monies disallowed pursuant to Item “b” of this paragraph; and/or
- e. Terminate this Agreement immediately and be relieved of the payment of any consideration to Foundation. In the event of such termination, the County may proceed with the work in any manner deemed proper by the County. The cost to the County shall be deducted from any sum due to Foundation under this Agreement and the balance, if any, shall be paid by Foundation upon demand.

J. EQUAL OPPORTUNITY REQUIREMENTS

J.1 Requirements – Foundation agrees to comply with the provisions of the Equal Employment Opportunity Program of San Bernardino County 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; Division 21 of the California Department of Social Services Manual of Policies and Procedures; California Welfare and Institutions Code section 10000), the California Fair Employment and Housing Act; and other applicable federal, state, and county laws, regulations and policies relating to equal employment or social services to welfare recipients, including laws and regulations hereafter enacted.

Foundation shall not unlawfully discriminate against any employee, applicant for employment, or service recipient on the basis of race, color, national origin or ancestry, religion, gender, marital status, sexual orientation, age, political affiliation or disability. Information on the above rules and regulations may be obtained from the County Human Services Contracts Unit.

J.2 Compliance – Foundation shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. Foundation shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VI and Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted. The "Equal Opportunity is the Law" notice, which explains the nondiscrimination and equal opportunity provisions of WIOA and other similar federal programs, shall be provided to each Customer. All complaints that allege discrimination on the bases listed above will be referred to the WDD Equal Opportunity Officer for action.

J.3 Civil Rights Compliance – Foundation shall develop and maintain internal policies and procedures to assure compliance with each factor outlined by state regulation. These policies must be developed into a Civil Rights Plan, which is to be on file with the County Human Services Contracts Unit within thirty (30) days of awarding of the Contract. The Plan must address prohibition of discriminatory practices, accessibility, language services, staff development and training, dissemination of information, complaints of discrimination, compliance review, and duties of the Civil Rights Liaison. Upon request, the County shall supply a sample of the Plan format. Foundation shall be monitored by the County for compliance with provisions of its Civil Rights Plan.

J.4 Foundation agrees to comply with all applicable provisions of the Americans with Disabilities Act (ADA).

J.5 Foundation shall observe the mandatory standards and policies relating to energy efficiency in the State Energy Conservation Plan (California Code of Regulations title 20, section 1401 et seq.).

K. COMPLIANCE WITH LAWS AND REGULATIONS

K.1 Foundation warrants and certifies that, in the performance of this Agreement, it shall comply with all applicable laws, rules, and regulations of the United States, the State of California, and the County. Foundation 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 Agreement.

K.2 Examples of applicable laws, rules, or regulations include, but are not limited to, the following:

K.2.1 County administrative procedures and technical assistance released in the form of field memorandums and policy manuals.

K.2.2 Copeland Act (Anti-Kickback) and Hobbs Act (Anti-Corruption).

K.2.3 Davis-Bacon Act of 1931 and Fair Labor Standards Act of 1938, as amended.

K.2.4 Hatch Act of 1939, as amended October 1993 and California Political Reform Act of 1974.

K.2.5 Equal Pay Act of 1963.

K.2.6 Age Discrimination Act of 1975, and Age Discrimination in Employment Act.

K.2.7 Military Selective Service Act, Section 3.

K.2.8 Rehabilitation Act of 1973, and Americans with Disabilities Act of 1990.

K.2.9 Title IX of the Education Amendments of 1972 (Non-Discrimination on the Basis of Sex).

K.2.10 Immigration Reform and Control Act of 1986.

K.2.11 Executive Order 12549 (Debarment, Suspension, and Exclusion).

K.2.12 Child Labor Laws in California; Child Labor Standards Act; Family and Medical Leave Act of 1993; Assembly Bill 1900 of January 1995: Employment of Minors.

K.2.13 Drug-Free Workplace Act of 1988.

K.2.14 Anti-Lobbying and Disclosure of Lobbying Activities. No funds related to this Agreement may be to pay any person for influencing or attempting to influence an officer or employee of an agency, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

K.2.15 Pro-Children Act of 1994 - The City will comply with Public Law 103-227, Part C – Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994.

K.2.16 Michelle Montoya School Safety Act of 1997.

L. NOTICES

All written notices provided for in this Agreement or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally, or by facsimile, or deposited in the United States mail, postage prepaid, and addressed to the other party as follows:

San Bernardino County
Workforce Development Department
290 North D Street, Suite 600
San Bernardino, CA 92415

Foundation for California Community Colleges
1102 Q Street, Suite 4800
Sacramento, CA 95811

Notice shall be deemed communicated two (2) County working days from the time of mailing if mailed as provided in this paragraph.

M. ENTIRE AGREEMENT

This Agreement, including all Exhibits and other attachments, which are attached hereto and incorporated by reference, and other documents incorporated herein, represents the final, complete and exclusive agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this Agreement not expressly set forth herein are of no force or effect. This Agreement is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Agreement and signs the same of its own free will.

L. ELECTRONIC SIGNATURES

This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other mail transmission), which signature shall be binding on the party whose name is contained

therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

IN WITNESS WHEREOF, the San Bernardino County and Foundation have each caused this Agreement to be subscribed by its respective duly authorized officers, on its behalf.

SAN BERNARDINO COUNTY

►

Dawn Rowe, Chair, Board of Supervisors

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

Lynna Monell
Clerk of the Board of Supervisors
of the San Bernardino County

By _____
Deputy

Foundation for California Community Colleges

(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 _____

FOR COUNTY USE ONLY

Approved as to Legal Form
► _____
Sophie A. Curtis, Deputy County Counsel
Date _____

Reviewed for Contract Compliance
► _____
Mariann Johnson, Deputy Director
Date _____

Reviewed/Approved by Department
► _____
Bradley Gates, Director
Date _____