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SAN BERNARDINO COUNTY

Contract Number 22-512

SAP Number

Workforce Development Department

Department Contract Representative	Bradley Gates
Telephone Number	909-387-9856
Contractor	California Association Health & Education Linked Professions
Contractor Representative	Pam Bender
Telephone Number	On File
Contract Term	June 15, 2022 through June 30, 2025
Original Contract Amount	Aggregate Maximum Obligation Amount $15,028,497
Amendment Amount	N/A
Total Contract Amount	Aggregate Maximum Obligation Amount $15,028,497
Cost Center	5711042260

IT IS HEREBY AGREED AS FOLLOWS:

WHEREAS, the San Bernardino County Workforce Development Department (WDD) desires to provide services and training for eligible enrolled youth;

WHEREAS, WDD has been allocated funds under the Title I Workforce Innovation and Opportunity Act (WIOA) Youth Program to provide such services in San Bernardino County;

WHEREAS, WDD finds the Contractor qualified to provide Title I Workforce Innovation and Opportunity Act Youth Program services;

WHEREAS, the WDD desires that such services be provided by the Contractor and Contractor agrees to perform these services as set forth below;

NOW, THEREFORE, the County and Contractor mutually agree to the following terms and conditions:

A. DEFINITIONS

Allowable Costs	The necessary and reasonable costs incurred in operating a WIOA program that are allocable to the corresponding expense categories.
America's Job Center of California (AJCC)	America's Job Center of California established by the LWDB and operated by the Workforce Development Department under Title I of the WIOA.
Contractor	An organization by the County to provide WIOA youth services pursuant to this Contract, and assume the other responsibilities delineated under "Service Provider Responsibilities." Also referred to herein as "Service Provider".
Cost Allocation Methodology	The distribution of allowable costs to the benefiting/funded program(s) and cost categories using reasonable and equitable distribution methods.
Degree/ Certificate	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.
Disability	A physical or mental impairment, including a learning impairment that substantially limits one or more of the major life activities as defined by federal and State law.
Eligibility Determination	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 as a Participant.
In-School Youth	IS Youth Eligibility In order to receive services as an IS youth, an individual must meet the following eligibility criteria: 1. Attending school, including secondary and postsecondary school. 2. Age 14-21 years old (A youth with disabilities who is in an individualized education program at the age of 22 may be enrolled as an IS youth [TEGL 21-16 and EC 56026]). 3. Low-income individual. 4. Meets one or more of the following barriers: a. Basic skills deficient. b. An English language learner. c. An offender. d. A homeless individual or runaway. e. An individual in foster care or who has aged out of the foster care system or who has attained 16 years of age and left foster care for kinship guardianship or adoption, a child eligible for assistance under Section 477 of the Social Security Act, or in an out-of-home placement.

	f. Pregnant or parenting (custodial and non-custodial parent including non- custodial fathers). g. An individual with a disability. h. An individual who requires additional assistance to complete an educational program or secure and hold employment. ** A State waiver to serve more foster care, justice involved, and homeless in-school youth may allow for increased expenditures towards in-school youth **
Individual Service Strategy Plan (ISS)	The Individual Service Strategy (ISS) has three purposes; to mutually develop, implement & revise: 1. A set of employment, education, and personal development goals 2. Service objectives and a service plan of action needed to achieve the identified goals and to 3. Document services provided and results The goal of the ISS process is to enable youth to take responsibility for and actively participate in getting from where they are to where they want to be.
Leadership Development	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.
Local Workforce Delivery Area (LWDA)	A geographical area within the State designated by the Governor in accordance with WIOA guidelines, such as San Bernardino County.
Local Workforce Development Board (LWDB)	The governing body of the Local Workforce Delivery Area appointed and serving pursuant to the terms of WIOA.
Out-of-School Youth	OS Youth Eligibility In order to receive services as an OS youth, an individual must meet the following eligibility criteria: 1. Not attending any secondary or postsecondary school (not including Title II Adult Education, YouthBuild, Job Corps, high school equivalency programs [exceptions in definitions], non-credit bearing postsecondary classes, dropout reengagement programs or charter schools with federal and state workforce partnerships). 2. Age 16-24 years old. 3. One or more of the following barriers: a. A school dropout. b. A youth who is within the age of compulsory school attendance, but has not attended school for at least the most recent complete school year quarter. Note – If

	the school does not use school year quarters, Local Areas must use calendar quarters. c. A recipient of a secondary school diploma or its recognized equivalent who is a low-income individual and is either basic skills deficient or an English language learner. d. An offender. e. A homeless individual or a runaway. f. An individual in foster care or who has aged out of the foster care system or who has attained 16 years of age and left foster care for kinship guardianship or adoption, a child eligible for assistance under Section 477 of the Social Security Act, or in an out-of-home placement. g. An individual who is pregnant or parenting (custodial and non-custodial parent including non-custodial fathers). h. An individual with a disability. i. A low-income individual who requires additional assistance to enter or complete an educational program or to secure or hold employment.
Participant	A Participant must be a resident of San Bernardino County and is an applicant to the Title I WIOA program through the Service Provider.
Performance Standards	Represents the measures of performance for employment and training activities. These measures currently include; placement and retention in employment, education, or training, earnings after entry into unsubsidized employment, credential rate, and program skills gains. The WIOA measures are set by the State or Department of Labor.
Public Use Microdata Area (PUMA)	Graphic units used by the US Census for providing statistical and demographic information.
Work Experience, Internships & Job Shadowing	Work experience is a short-term and/or part-time work assignment 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.
Workforce Development Department (WDD)	The San Bernardino County Workforce Development Department (WDD) operates programs under the guidance of the Local Workforce Development Board, funded by the Department of Labor's Workforce Innovation and Opportunity Act.
Workforce Innovation and Opportunity Act (WIOA)	The Workforce Innovation and Opportunity Act (WIOA), signed into law in 2014, is designed to strengthen and improve our nation's public workforce system. The law focuses on helping Americans, including youth and those with significant barriers to employment, gain access to high-quality jobs and careers.

B. CONTRACTOR RESPONSIBILITIES

I. SERVICE PROVIDER SCOPE OF WORK

a. **Scope of Work.** The Service Provider agrees to enroll and serve Participants for the duration set forth herein and have the capability to provide them with the 14 Program Elements listed below. The Service Provider agrees to enroll any in-school Participant only after receiving written approval from WDD. The Service Provider agrees to meet or exceed the performance requirements) of the Contract. The Service Provider understands and agrees that this Contract shall not be construed as an obligation on the part of the WDD to refer Participants. The Service Provider certifies that it is capable and willing to provide services and training to Participants.

b. **Program Elements.**

i. Tutoring, study skills training, and instruction leading to the completion of secondary school, including dropout prevention strategies,

ii. Alternative secondary school services, or dropout recovery services,

iii. Paid/Unpaid work experiences that have as a component academic and occupational education, which may include:

1. Summer and year-round employment opportunities,

2. Pre-apprenticeship and apprenticeship programs,

3. Internships and job shadowing,

4. On-the-job training opportunities,

iv. Occupational skill training in Workforce Development Board approved priority sectors,

v. Education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation,

vi. Leadership development opportunities,

vii. Supportive services,

viii. Adult mentoring for the period of participation,

ix. Follow-up services for not less than 12 months after completion of participation,

x. Comprehensive guidance and counseling,

xi. Financial literacy education,

xii. Entrepreneurial skills training,

xiii. Services that provide labor market and employment information, and

xiv. Activities that help youth prepare for and transition to postsecondary education and training.

Service Provider will find partners for any elements listed above they cannot provide including occupational skill training in Workforce Development Board approved priority sectors.

c. **Eligibility Determination.** Determine eligibility for all individuals referred or recommended for services under this contract. Will ensure all required documentation has been obtained.

d. **Data Entry.** The Service Provider agrees to enter accurate data into the Virtual Operating System(s) required by WDD (i.e., CalJOBS). Participant data includes, but not limited to:

i. Eligibility documentation,

ii. Application information,

iii. Activity codes, as needed,

iv. Closing information,

v. Follow-up information, as needed,

vi. Follow-up activity codes, as needed,

vii. Upload documentation, as needed, and

viii. Case notes.

II. SERVICE PROVIDER RESPONSIBILITIES

a. Conditions

i. Service Provider will serve youth in the following PUMA(s) with the yearly enrollment goals in each PUMA for the length of the contract; PY 22-23, 23-24, and 24-25:

Public Use Microdata Area (PUMA)	Minimum Enrollments For Each Program Year
#1 Big Bear City, Big Bear Lake, Crestline, Lake Arrowhead, Running Springs, and Wrightwood	39
#3 Victorville and Adelanto	158
#5 Hesperia, Apple Valley and Lucerne Valley	129
TOTAL	326

ii. Service Provider is responsible for taking on active cases from outgoing service providers in the Service Provider's PUMA(s).

iii. Service Provider shall ensure adherence to the following WIOA provision: *"No person or organization may charge an individual a fee for the placement or referral of the individual in or to a workforce investment activity under this title."*

iv. Service Provider will only serve residents meeting eligibility in their PUMA; any exceptions must be approved by WDD.

v. Service Provider will provide a monthly program report with specific reporting details to be specified a later date.

vi. Service Provider will use the following email inbox as it relates to requesting program assistance or troubleshooting: Youth.Provider@wdd.sbcounty.gov.

vii. Service Provider will be required to meet yearly apprenticeship goals as follows:

PY 2022 – 2023	PY 2023 – 2024	PY 2024 – 2025

1% of total enrollments per youth provider to enter apprenticeships	3% of total enrollments per youth provider to enter apprenticeships	5% of total enrollments per youth provider to enter apprenticeships

After PY 2024-2025, the goal will remain 5% of total enrollments per youth provider to enter apprenticeships per program year until a new goal is established by the Youth Committee.

viii. Service Providers with the County are subject to the conflict of interest laws which prohibit Service Providers from entering into contracts in which they have a financial interest or otherwise participating in or influencing decisions relating to contracts in which they have a financial interest. As such, Contractors may not contract with, or otherwise invoice the County, for their own organization to serve as the both the vocational institution (e.g. trainer of occupation skills for youth enrolled into their agency's WIOA program) and the administrator of that WIOA program.

ix. Service Provider must have the capability to purchase gift cards to incentivize youth progress in approved WIOA activities. Incentives are based on the incentive policy included in the WDD Youth Provider Handbook.

x. Service Provider agrees to receive referrals from County agencies and partners for potential enrollment into WIOA program.

xi. Service Provider must provide youth with WIOA services without delaying critical access to assistance to meet immediate needs and address barriers.

xii. Service Provider agrees to provide both in-person and virtual services to youth served in their PUMA(s) to efficiently provide services.

xiii. Service Provider agrees to provide extended hours of availability to accommodate youth participants as mutually agreed upon between the Service Provider and WDD. Changes to extended hours of availability must be approved by WDD.

xiv. The Service Provider is responsible for compliance with the terms and conditions applicable to this Contract pursuant to WIOA and United States Department of Labor (DOL) legislation and regulations (http://wdr.doleta.gov/directives/) and Employment Development Department Directives (https://edd.ca.gov/en/Jobs_and_Training/Active_Directives).

xv. All Participants enrolled by the Service Provider shall meet the WIOA Title I Youth eligibility criteria as established and mandated by the WIOA and the LWDB. Participants must be San Bernardino County residents.

xvi. The Service Provider is encouraged to 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. Such over-enrollments require written advance approval by WDD staff.

xvii. The Service Provider shall administer the designated Program Elements in accordance with the RFP and Contract.

xviii. 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 Individual Service Strategy Plan (ISS Plan). This is the plan developed individually with each Participant enrolled to determine and benchmark participation and training activities.

xix. 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. Service Provider agrees to adhere to policies and procedures set forth in the WDD Youth Provider Handbook, as may be amended by WDD. Additionally, Service Provider agrees to access and use forms and policies accessible through an internet accessible Youth Portal.

xx. Service Provider agrees to limit enrollment of basic skills deficient & low-income (only barriers present) youth to 20 percent of its overall enrollment goal.

xxi. Service Provider shall develop, implement, and maintain written program and fiscal procedures applicable to WIOA covering all aspects of the services provided under its program.

xxii. Service Provider shall provide an adequate number of qualified staff to operate an effective program for the number of Participants enrolled.

xxiii. Regarding privacy and security, Service Provider shall:

1. Comply with all applicable State and Federal laws, regulations, and policies pertaining to privacy and security of Participant information and any information related to the Service Provider and LWDB (i.e. business financial records).

2. Not use or disclose Participant information other than as permitted or required by law.

3. Implement administrative, physical and technical safeguards that reasonably protect the confidentiality, integrity and availability of Participant information, both programmatic and fiscal documentation; implement reasonable and appropriate policies and procedures to comply with the standards; conducting a risk analysis regarding the potential risks and vulnerabilities of the confidentiality, integrity and availability of Participant information; conducting privacy and security awareness and training at least annually and retain training records for seven (7) years, and limiting access to those persons who have a business need.

4. Confidential paperwork, both programmatic and fiscal documentation, must be disposed of in a manner that protects the Participant's confidentiality.

5. Report to Deputy Director or designee any unauthorized use, access or disclosure of unsecured Participant information or any other security incident with respect to Participant information no later than one (1) business day upon the discovery of a potential breach. Upon discovery of the potential breach, the Contractor shall complete the following actions:

    a. Provide Deputy Director or designee with the following information to include but not limited to:

        i. Date the potential breach occurred;

        ii. Date the potential breach was discovered;

        iii. Number of staff, employees, subcontractors, agents, or other third parties and the titles of each person allegedly involved;

        iv. Number of potentially affected Participants; and

        v. Description of how the potential breach allegedly occurred.

    b. Conduct and document a risk assessment by investigating without reasonable delay and in no case later than five (5) calendar days of discovery of the potential breach to determine the following:

i. The nature and extent of the Participant information involved, including the types of identifiers and likelihood of re-identification;

ii. The unauthorized person who used the Participant information or to whom it was made;

iii. Whether the Participant information was actually acquired or viewed; and

iv. The extent to which the risk to the Participant information has been mitigated.

c. Provide completed risk assessment and investigation documentation to Deputy Director or designee within ten (10) calendar days of discovery of the potential breach with decision whether a breach has occurred.

i. If a breach has not occurred, notification to Participant(s) is not required.

ii. If a breach has occurred, notification to the Participant(s) is required. The Service Provider must provide notification to the County for review and approval and send said notification to the affected Participant(s).

d. Make available to County and governing State and Federal agencies in a time and manner designated by County or governing State and Federal agencies, any policies, procedures, internal practices and records relating to a potential breach for the purposes of audit or should the County reserve the right to conduct its own investigation and analysis.

6. Adhere to the protection of personally identifiable information (PII). PII includes any information that can be used to search for or identify individuals such as but not limited to name, social security number, address, or date of birth.

xxiv. Service Provider agrees to be held accountable/responsible to determine eligibility, including supporting documentation. Should a Participant be later determined to be ineligible, Service Provider understands and accepts that any costs associated with the Participant will be disallowed.

xxv. Service Provider agrees to request prior written approval prior to purchasing food or drinks for any reason.

xxvi. Service Provider agrees to use specific branding to be finalized post contract execution as the title of their WIOA youth program. Service Provider agrees to use said branding for any out-reach materials (printed or electronic) funded by WIOA funds from WDD.

xxvii. Service Provider agrees to attend all meetings scheduled by WDD. The program manager of each agency shall attend the following meetings and may invite other essential agency staff to attend with them:

1. Quarterly provider meetings
2. Monthly provider conference calls
3. System trainings
4. Fiscal trainings

The Service Provider's program manager, or designee, will attend the following meeting(s):

1. WDB Youth Committee Meetings

WDD reserves the right to add meetings as needed.

xxviii. Service Provider agrees to provide one youth success story each month using the WDD approved form.

xxix. Service Provider agrees to train program and fiscal staff on policies, procedures, reporting requirements, and guidelines to meet fiscal and operational responsibilities.

xxx. California law makes it a crime to record or eavesdrop on any confidential communication, including a private conversation or telephone call, without the consent of all parties to the conversation. Service Provider shall comply with any and all applicable laws, including laws regarding recording and eavesdropping on confidential conversations.

b. Program Activities / Services.

The Service Provider shall:

i. 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 justice involved youth offenders.

ii. Provide an orientation program to all Participants regarding WIOA Youth program elements and expectations, grievance procedures, and services and programs available at the WDD America's Job Centers of California (AJCC).

iii. 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.

iv. Enroll customers specifically residing in their PUMA and refer customers outside of their PUMA to the proper service provider; exceptions must be approved by WDD.

v. 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 Plan 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 Plan will be reviewed with the Participant on a regular basis, at least quarterly, and any changes in training activities will be noted on ISS Plan. For In-School Youth, and any Out-of-School Youth lacking a high school diploma, the Service Provider ensures accomplishment of a high school diploma or equivalent degree.

vi. 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.

vii. Provide or have the capability of providing all 14 of the required program elements listed in. Each youth Participant shall receive services covering the elements that have been identified through the objective assessment and listed on the Participant's ISS Plan. These elements may be provided one at a time or in any combination.

viii. Provide preparation for unsubsidized employment opportunities and facilitate effective connections to intermediaries with strong links to the job market and local and regional employers.

ix. Use an agreement for all Participants enrolled in paid or unpaid work-based activities, which agreement shall contain all the terms and conditions set forth herein. Such an agreement must be signed by the Participant, Service Provider and the worksite operator. The Service Provider shall maintain on file a copy of such agreement with one (1) copy given to the Participant and one (1) copy given to the worksite supervisor.

x. At a minimum, from the closure date of the youth from program services, provide applicable follow-up services for 12 months and complete data entry for each of the four quarters of follow-up. 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.

xi. Ensure that eligible applicants, who do not meet WIOA eligibility are referred to the local AJCC for further assessment.

xii. As needed, register Participants with the AJCC in the immediate area. Service Provider will request prior written approval before co-enrolling Participants with the AJCC.

c. Payment of Benefits and Wages.

i. 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. Hours for work experience and exceptions to minimum wage are established in the WDD Youth Provider Handbook, as may be amended by WDD.

ii. A Participant shall receive no compensation for employment activities in which the Participant fails to participate. Service Provider shall maintain accurate records about timekeeping. Attendance/time sheets must match paid hours.

iii. 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. WIOA funds cannot be used for the Participant's portion of retirement benefits.

d. Subcontracts/Linkages.

i. Service Provider agrees not to enter into any subcontracts 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.

ii. Service Provider, using another party to provide services under this Contract, shall document such services with a formalized subcontract. Any and all subcontracts entered into by Service Provider in order to carry out the purpose of this Contract shall be in writing and shall include the following provisions:

1. The Parties shall comply with any and all applicable laws including but not limited to, compliance with the Workforce Innovation and Opportunity Act (WIOA) and its implementing regulations.

2. Detailed scope, including as appropriate, a statement of training and other applicable services to be offered by the subcontractor.

3. The Parties shall comply with the indemnification and insurance requirements imposed on the Service Provider pursuant to this Contract, which requirements shall either be restated in the subcontract or incorporated by reference to the subcontract.

4. Method of payment to subcontractors.

iii. Copies of all subcontracts must be forwarded to WDD for confirmation of compliance with the above requirements prior to subcontract execution. The Service Provider acknowledges the above requirements and agrees to furnish such subcontracts to WDD staff as a condition to receiving payment.

iv. The Service Provider shall provide written notification to the County of any default, termination, or findings of disallowed costs under these subcontracts. This written notification will be submitted within five working days from the date the Service Provider realized the breach of the subcontract(s).

v. Service Provider is responsible for monitoring its off-site WIOA 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 WDD staff. The Service Provider is responsible for developing its own monitoring guide and for documenting visits made by its staff.

e. Internal Management.

i. The Service Provider will track and expend Contract funds at an efficient rate to ensure full usage of Contract funds, as indicated in the budget document and signed planning estimate, 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.

ii. From time-to-time, performance data on Participant enrollments, activities, and closures 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 calendar days of receipt of the report.

f. Non-Duplication of Service.

i. 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.

ii. 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.

iii. 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.

iv. The Service Provider and its respective linking agencies and/or subcontractors must ensure that youth program services are not duplicated.

C. PERFORMANCE REQUIREMENTS

a. Program Performance

b. Service Provider must operate its program to meet 100% of the State's WIOA Title I Youth Performance Measures and the Performance Rates that will be negotiated between the State and the LWDB. These measures are as follows:

i. Placement in employment, education, or training. Measured in the second quarter after exit.

ii. Retention in employment, education, or training. Percentage of Participants in education, training, or unsubsidized employment, measured in the fourth quarter after exit.

iii. Earnings after entry into unsubsidized employment. Median earnings of Participants in unsubsidized employment during the second quarter after exit.

iv. Credential rate. Percentage of Participants who obtain a recognized credential(s) or secondary diploma during participation or within one year after exit.

v. Measurable Skills Gain (MS). Percentage of Participants in education leading to credential or employment during program year, achieving measurable gains. The MSG are as follows:

1. *Educational Functioning Level*
   Achievement of an increase of at least one educational functioning level for a participant receiving instruction below the postsecondary level.
   - Compare educational functioning levels using a pre-test and post-test as described in TEGL 10-16, Change 1 (PDF).
     - Pre-tests may be provided up to six months prior to program entry.
     - The date of post-test must be within the PY and must be before the program exit date.
   - Earned credits from an adult high school program that leads to a secondary school diploma or recognized equivalent.
     - Local Boards must work with the local school districts to determine what constitutes as an "earned credit."
   - Exits program at the secondary level and enrolls in postsecondary education or training during the PY.

2. *Secondary School Diploma*
   Achievement of a secondary school diploma or its recognized equivalent.

3. *Transcript/Report Card*
   Secondary or postsecondary transcript or report card that documents the participant is meeting the State's academic standards outlined by the CDE.
   - Enrolled in secondary education: transcript or report card for one semester meeting the State's academic standards.
   - Enrolled in postsecondary education: transcript or report card showing a completion of a minimum of 12 hours per semester, or for part-time students a total of at least 12 credit hours over two completed consecutive semesters during the PY, and showing that the participant is meeting the State's academic standards

4. *Progress Towards Established Milestones*
   A satisfactory or better progress report from the OJT employer or training provider documenting progress of meeting established benchmarks.

- Progress report showing the attainment of an established milestone from an employer or training provider within the reporting period.
- Documentation may vary as subrecipients should identify appropriate methodologies based up on the nature of services being provided, but the progress reports must document substantive skill development the participant has achieved. Examples include the following:
    - Training reports on milestones completed as the individual masters the required job skills, or steps to complete the training program.
    - Increase in pay resulting from newly acquired skills.
    - Increase in performance based on newly acquired skills.
    - Completion of a specific milestone of a registered apprenticeship program.

5. *Skills Progression (Passage of an Exam)*
   Successful passage of a knowledge-based exam that is required to document progression of trade or training-related benchmarks. Documentation may include the following:

   - Passage of an exam in an occupational program.
   - Employer-required knowledge-based exam.
   - Passage of an occupational competency-based assessment.
   - Completion test necessary to obtain a credential.

vi. Other performance measures as identified by the State or DOL.

c. WIOA records at WDD shall be used by the County to substantiate the Service Provider's performance. The County shall provide the Service Provider with WIOA performance records for data reconciliation.

d. Performance Review and Evaluation

i. To ensure effective utilization of WIOA 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 budgeted funds are being expended according to the terms of this Contract. Based on the outcomes of the review, the County may simply terminate the Contract in accordance with the terms of this Contract or the amount of funds originally provided to the Service Provider may be altered as follows:

1. <u>De-obligation</u>: 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.

2. <u>Re-obligation</u>: 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 allocate. The addition of funds shall be achieved via mutual written

amendment to the planning estimate and is subject to the availability of WIOA funds received by the County. ,.

ii. The Service Provider shall agree and comply with the review and evaluation above.

e. Correction of Performance Deficiencies and Termination

i. If the 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 terminate this Contract as provided in Section F – Term of Contract, or in its sole and absolute discretion, the County may:

1. Provide Service Provider a designated time period during which to cure the deficiency or breach. This period shall be established at the sole discretion of WDD, and/or,

2. Discontinue reimbursement to Service Provider for and during the period in which Service Provider is deficient or in breach. The Service Provider shall not be entitled to later recovery, and/or,

3. Withhold funds during the duration of the deficiency or breach, and/or,

4. Offset against any monies billed by the Service Provider, but yet unpaid by the County, those disallowed monies.

ii. 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 F – Term of Contract.

iii. The 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.

D. 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 connections with WDD programs and activities. These procedures must be substantially the same as those set forth in the Program Complaint and Grievance Procedures form developed by WDD, which will be provided to the Service Provider. A minimum of two Service Provider staff members will be required to be involved with the complaint and grievance process. Service Provider understands their complaint and grievance procedures are subject to inspection by WDD and/or State monitors.

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 E – General Contract Requirements.

E. GENERAL CONTRACT REQUIREMENTS

E.1 Recitals

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

E.2 Contract Amendments

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

E.3 Contract Assignability

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

E.4 Contract Exclusivity

This is not an exclusive Contract. The County reserves the right to enter into a contract with other contractors for the same or similar services. The County does not guarantee or represent that the Contractor 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 Contract.

E.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.

E.6 Background Checks for Contractor Personnel

Contractor shall ensure that its personnel (a) are authorized to work in the jurisdiction in which they are assigned to perform Services; (d) 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, Contractor shall conduct a background check, at Contractor's sole expense, on all its personnel providing Services. If requested by the County, Contractor 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 Contractor 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. Contractor 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 Contract personnel to any County facility.

E.7 Change of Address

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

E.8 Choice of Law

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

E.9 Compliance with County Policy

In performing the Services and while at any County facilities, Contractor 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 Contractor or Contractor personnel or may be made available to Contractor or Contractor 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. Contractor shall be responsible for the promulgation and distribution of County Policies to Contractor personnel to the extent necessary and appropriate.

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

E.10 Confidentiality

Pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health (HITECH) Act, regulations have been promulgated governing the privacy of individually identifiable health information. Contractor acknowledges that it is a covered entity and subject to the requirements of HIPAA and HITECH, and their implementing regulations. Contractor agrees to fully comply with the terms of HIPAA and HITECH, and regulations promulgated thereunder, and to ensure any Subcontractors utilized to fulfill Services pursuant to this Contract comply with said provisions. Contractor further agrees to comply with the requirements of all other applicable federal and state laws that pertain to the protection of health information.

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

E.11 Primary Point of Contact

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

E.12 County Representative

The Director of the Workforce Development Department or his/her designee shall represent the County in all matters pertaining to the services to be rendered under this Contract, including termination and assignment of this Contract, and shall be the final authority in all matters pertaining to the Services/Scope of Work by Contractor. The Director of the Workforce Development Department of his/her designee shall have the authority to execute and modify planning estimates issued from this Contract. If this Contract was initially approved by the San Bernardino County Board of Supervisors, then the Board of Supervisors must approve all amendments to this Contract.

E.13 Damage to County Property

Contractor 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 Contractor or its employees or agents. Such repairs shall be made immediately after Contractor becomes aware of such damage, but in no event later than thirty (30) days after the occurrence.

If the Contractor fails to make timely repairs, the County may make any necessary repairs. The Contractor, 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 the Contractor from the County, as determined at the County's sole discretion.

E.14 Debarment and Suspension

Contractor 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). Contractor 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.

E.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 Contract, the Contractor agrees that the Contractor and the Contractor's employees, while performing service for the County, on County property, or while using County equipment:

E.15.1 Shall not be in any way impaired because of being under the influence of alcohol or an illegal or controlled substance.

E.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.

E.15.3 Shall not sell, offer, or provide alcohol or an illegal or controlled substance to another person, except where Contractor or Contractor's employee who, as part of the performance of normal job duties and responsibilities, prescribes or administers medically prescribed drugs.

The Contractor 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 Contract and any other Contract the Contractor has with the County, if the Contractor or Contractor's employees are determined by the County not to be in compliance with above.

E.16 Duration of Terms

This Contract, 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 Contract.

E.17 Employment Discrimination

During the term of the Contract, Contractor 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. Contractor 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.

E.17.1 Requirements - Contractor 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.

E.17.2 The Contractor 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.

E.17.3 Compliance - Contractor 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. Contractor 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.

E.17.4 Civil Rights Compliance - The Contractor 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. The Contractor shall be monitored by the County for compliance with provisions of its Civil Rights Plan.

E.17.5 Contractor agrees to comply with all applicable provisions of the Americans with Disabilities Act (ADA).

E.17.6 Contractor 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.).

E.17.7 If the amount available to Contractor under this Contract exceeds one hundred thousand dollars ($100 ,000), Contractor agrees to comply with the Clean Air Act (42 U.S.C. Section 7606), section 508 of the Clean Water

Act (33 U.S.C. section 1368), Executive Order 11738 and Environmental Protection Agency regulations (40 C.F.R. section 1.1 et seq.).

E.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 Contractor to use recycled paper for any printed or photocopied material created as a result of this Contract. Contractor 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), Contractor must be able to annually report the County's environmentally preferable purchases. Contractor 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.

E.19 Improper Influence

Contractor 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 Contract or any competing offer, shall have any direct or indirect financial interest resulting from the award of the Contract or shall have any relationship to the Contractor or officer or employee of the Contractor.

E.20 Improper Consideration

Contractor 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 Contract.

The County, by written notice, may immediately terminate this Contract 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 a contract has been awarded.

Contractor shall immediately report any attempt by a County officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Contractor. 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.

E.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 Contract 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.

E.22 Legality and Severability

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

E.23 Licenses, Permits and/or Certifications

Contractor 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. The Contractor shall maintain these licenses, permits and/or certifications in effect for the duration of this Contract. Contractor 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 Contract.

E.24 Material Misstatement/Misrepresentation

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

E.25 Mutual Covenants

The parties to this Contract 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".

E.26 Nondisclosure

Contractor 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 Contractor or an agent of Contractor or otherwise made available to Contractor or Contractor's agent in connection with this Contract; or, (2) acquired, obtained, or learned by Contractor or an agent of Contractor in the performance of this Contract. 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.

E.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 contract, that party shall, within twenty-four (24) hours, give notice thereof, including all relevant information with respect thereto, to the other party.

E.28 Ownership of Documents

All documents, data, products, graphics, computer programs and reports prepared by Contractor pursuant to the Contract 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 Contract, subject to the requirements of Section F –Term of the Contract. Unless otherwise directed by County, Contractor may retain copies of such items.

E.30 Air, Water Pollution Control, Safety and Health

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

E.31 Records

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

All records relating to the Contractor's personnel, consultants, subcontractors, Services/Scope of Work and expenses pertaining to this Contract 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.

E.32 Relationship of the Parties

Nothing contained in this Contract 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.

E.33 Release of Information

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

E.34 Representation of the County

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

E.35 Strict Performance

Failure by a party to insist upon the strict performance of any of the provisions of this Contract 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 Contract thereafter.

E.36 Subcontracting

Contractor shall obtain County's written consent, which County may withhold in its sole discretion, before entering into Contracts with or otherwise engaging any subcontractors who may supply any part of the Services to County. At County's request, Contractor 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. Contractor 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 J – Indemnification and Insurance Requirements. All approved subcontractors shall be subject to the provisions of this Contract applicable to Contractor Personnel.

For any subcontractor, Contractor shall:

36.1 Be responsible for subcontractor compliance with the Contract 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 for Contractor Responsibilities and General Contract Requirements.

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

E. 37 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 Contract is served upon Contractor 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. Contractor 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 Contractor for County.

E.38 Termination for Convenience

The County and the Contractor each reserve the right to terminate the Contract, 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 the Contractor for services rendered and expenses reasonably incurred prior to the effective date of termination. Upon receipt of termination notice Contractor shall promptly discontinue services unless the notice directs otherwise. Contractor 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.

E.39 Time of the Essence

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

E.40 Venue

The parties acknowledge and agree that this Contract 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 Contract 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 Contract 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.

E.41 Conflict of Interest

Contractor shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or subcontractors and the County. Contractor shall make a reasonable effort to prevent employees, Contractor, 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 Contract. This provision shall not be construed to prohibit employment of persons with whom Contractor'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.

E.42 Former County Administrative Officials

Contractor agrees to provide, or has already provided information on former San Bernardino County administrative officials (as defined below) who are employed by or represent Contractor. 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 Contractor. 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.

E.43 Disclosure of Criminal and Civil Procedures

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

Contractor 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, the Contractor will be asked to describe any such indictments or charges (and the status thereof), convictions and the surrounding circumstances in detail.

In addition, the Contractor 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, the Contractor 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.

E.44 California Consumer Privacy Act

To the extent applicable, if Contractor is a business that collects the personal information of a consumer(s) in performing Services pursuant to this Contract, Contractor 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. Contractor 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. Contractor must not sell, market or otherwise disclose personal information of a consumer provided by the County unless specifically authorized pursuant to terms of this Contract. Contractor must immediately provide to the County any notice provided by a consumer to Contractor pursuant to Civil Code section 1798.150(b) alleging a violation of the CCPA, that involves personal information received or maintained pursuant to this Contract. Contractor 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).

F. TERM OF CONTRACT

a. **Contract Period.** This Contract shall commence on June 15, 2022 and terminate on June 30, 2025 unless otherwise modified or terminated early by a formal notice or amendment, as may be applicable. Services to be provided under this Contract shall not commence until July 1, 2022. This Contract may be extended for up to two (2) one (1) year terms by written

amendment signed by both Parties. The Director of the WDD is authorized to execute a written amendment extending the term of this Contract.

b. **Program year enrollment** shall be based on the needs of the individual youth, but twelve months of follow-up services must be provided to all youth and shall begin at the time of program year closure and shall continue for no less than twelve months.

c. **Termination.** Notwithstanding any other provision of this Contract, WDD may terminate this Contract, without cause or without any further liability or cost upon giving the Service Provider at least 30 days advance written notice of the termination. Other than the provision of notice setting forth the date of termination, there shall be no pre-requisites to WDD's exercise of the right to terminate the 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 the Workforce Investment Act of 1998 (WIA), shall be returned to the County or disposed of, according to County's instructions.

G. COUNTY RESPONSIBILITIES

a. **WDD Staff.** Assign WDD staff to establish a communication process between the Service Provider and WDD to answer questions regarding eligibility determination to ensure the Service Provider is in compliance with WIOA regulations.

b. **Response.** Provide timely response for Service Provider questions regarding Participant acceptance or potential denial into the WIOA program so that the Service Provider has the ability to recruit additional eligible youth to meet contractual obligations.

c. **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.

d. **Quarterly Review.** Review program performance on a quarterly basis, allowing for timely technical assistance and/or other action.

e. **Information.** Provide workshops, conferences, and/or meetings to inform and update Service Provider regarding program policies and developments.

f. **Correction.** Implement corrective action plans, which will include deadlines for compliance.

H. FISCAL PROVISIONS

- **Compensation**

  - The Aggregate Maximum Obligation of San Bernardino County for services provided in accordance with all contracts for WIOA services is $15,028,497. This specific Contract is only one of several contracts to which this Aggregate Maximum Obligation applies. It therefore is understood by the parties that reimbursement to Service Provider will be only a fraction of this Aggregate Maximum, with the appropriate authorization from LWDB.

  - The Service Provider will be issued a letter from WDD prior to the start of each program year of the Contract specifying their program allocation for the upcoming program year. The letter may also include a change in the enrollment numbers as identified in Section B – Contractor Responsibilities, based on collected data that demonstrates a shift in disconnected youth within the PUMAs. Following receipt of the letter from WDD, Service Provider shall develop and submit to WDD within 10 business days of the

receipt of the letter, a planning estimate in accordance with expenditure requirements specified in this Contract and submit to WDD for approval. The signed planning estimate, as may be amended in writing by the Parties from time to time, shall establish the not-to-exceed amount to be paid to Service Provider by County.

- Funding of this Contract is subject to continuing availability of WIOA funds provided to the County during the Contract term. 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).

- Service Provider shall expend twenty percent (20%) of funding from WDD on work experience activities to include Participant wages, staff salaries and benefits in direct activities supporting work experience. Direct activities included but are not limited to development of worksites, monitoring of worksites, and placement activities. Service Provider agrees to have a minimum of thirty-five percent (35%) expenditures toward program services.

- The total compensation to be paid to Service Provider and all other contract providers of WIOA services shall not exceed County's Aggregate Maximum Obligation.

- Service Provider agrees to have no more than 50% of their agency's overall funding from WDD and shall provide proof of other funding.

- Minimum of seventy five percent (75%) of program expenditures must be spent on out-of-school, unless waivers or other directives modify that rate.

- Service Provider attests that it has the financial capacity to carry all costs associated with this Contract for 90 days.

- 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 and the signed planning estimate. The Service Provider shall invoice the County on a monthly basis for expenditures actually incurred during the previous month. Administrative Cost rate should be approved with Cost Allocation Plan (Fiscal Provisions – Section H) Administrative Costs are limited to eight percent of the total invoiced expenditures.

- 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 general ledger, funding source generated from the organization's general ledger, 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 WDD, either by mail or email/cloud solution. Service Provider must be capable of either type of invoicing. WDD will provide instructions will be provided prior to submission of first invoice.

- Payment shall be issued no later than 60 calendar days, after receipt by WDD Fiscal of the Service Provider's claim for reimbursement, if feasible, and provided Service Provider's claim and supporting documentations are sufficient and correct.

- 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.

- County is exempt from Federal excise taxes and no payment shall be made for any personal property taxes levied on Contractor or on any taxes levied on employee wages. The County shall only pay for any State or local sales or use taxes on the services rendered or equipment and/or parts supplied to the County pursuant to the Contract.

- Costs for services under the terms of this Contract shall be incurred during the contract period except as approved by County. Contractor shall not use current year funds to pay prior or future year obligations. Funds made available under this Contract shall not supplant any federal, state or any governmental funds intended for services of the same nature as this Contract. Contractor shall not claim reimbursement or payment from County for, or apply sums received from County with respect to that portion of its obligations that have been paid by another source of revenue. Contractor agrees that it will not use funds received pursuant to this Contract, either directly or indirectly, as a contribution or compensation for purposes of obtaining funds from another revenue source without prior written approval of the County. Contractor shall adhere to the County's Travel Management Policy (8-02 and 08-02SP1) when travel is pursuant to this Contract and for which reimbursement is sought from the County. In addition, Contractor is encouraged to utilize local transportation services, including but not limited to, the Ontario International Airport.

- **Stop Payments**

  - 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 DOL, 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.

  - 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 contracts between the County and the Service Provider.

a. Contractor Compliance. The Service Provider shall follow 2 CFR Part 200 and 2 CFR Part 2900, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards. Service Provider must comply with all State, County, and WDD financial, monitoring, and audit requirements. Single Audit is required for all Non-Federal entities expending more than $750,000 federal awards.

b. Cost Allocation Plan and Methodology.

i. The Service Provider shall submit to WDD for approval an annual Cost Allocation Plan for cost reimbursement contracts. The Plan will explain the allocation method used to distribute allowable direct and indirect costs including leveraged funding. 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.

ii. Service Provider's indirect costs shall be calculated by adding 8% to Service Provider's negotiated indirect rate so long as such amount does not exceed 15%. For example, if Service Provider's negotiated indirect rate is 3%, Service Provider shall be entitled to 11% as indirect costs. As another example, if Service Provider's indirect rate is 10%, Service Provider shall

be entitled to no more than 15% in indirect costs. Service Provider shall not be permitted to recover additional administrative costs, as administrative costs are deemed to be included as a part of Service Provider's indirect costs.

c. Service Provider Accounting Systems

i. Service Provider warrants that it has adopted accrual basis accounting and will make available internal management systems policy and/or procedure manuals applicable to WIOA.

ii. Service Provider's financial and accounting system will reflect the Generally Accepted Accounting Principles (GAAP) standard accounting practices and shall include the following items, but not limited to, records of expenditures, claims for reimbursements, cash payment, check deposits, and evidence of reconciliation with WDD records and expenditures under different funding sources.

iii. 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 WIOA.

d. Purchase of Fixed Assets, Equipment and Property

i. The purchase, lease, or lease to purchase of fixed assets, equipment or property, including sub-contracted services, using funds provided by WIOA and costing more than $500, requires advance approval by WDD. Request to purchase, lease, or lease to purchase said assets, including sub-contracted services must follow the procedural rules adopted by WDD.

ii. Any property, equipment, assets furnished to a Service Provider by the County and/or purchased by a Service Provider with funds from WIOA must be used in connection with, and/or support of, WIOA training programs. All purchases must meet State and County procurement guidelines and competitive requirements. Service Provider will be responsible for an inventory list to be submitted to WDD annually and maintenance of said assets. Disposal or sale of such assets must be pre-approved by WDD.

iii. Any property, equipment, or assets furnished to the Service Provider by the County and/or purchased by a Service Provider with funds from WIOA shall remain the property of the San Bernardino County regardless of whether this Contract is terminated by either party. Within 30 days of Contract termination or expiration, the Service Provider shall return such property, equipment or assets to the County in good condition, 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.

e. Program Income

i. 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.

ii. 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 nonprofit agencies in excess of the actual costs incurred in providing the services and from interest earned on advance of grant/sub grant funds, etc.

iii. The Service Provider may retain any program income earned only if such income is added to the funds committed to the WIOA grant and used for WIOA purposes, and under the terms and conditions applicable to the use of the grant. The Service Provider, receiving funds under

WIOA, shall maintain records sufficient to determine the amount of income received, and the purpose for which such income is utilized.

iv. Service Provider will not charge Participants to participate in activities provided under this Contract.

f. Auditing Requirements

i. As required by the WIOA and its implementing regulations, Service Provider will hire a licensed Certified Public Accountant (CPA), who shall prepare and file with the Deputy Director, a certified audit of related expenditures. The annual financial and compliance audits must be conducted in accordance with GAAP auditing standards by an independent auditor and according to the Single Audit Act Amendment of 1996. In addition, Service Providers must comply with Title 2 of CFR, Part 200 and submit annual Single Audit Report to the County within 30 days after the end of the audit period or no later than six months after the end of the organization's fiscal year. For monitoring Service Providers must comply with 20 CFR, Part 652 and 667.410 for contract monitoring.

ii. As a condition of receiving WIOA funds, the independent auditor or monitor of the LWDA and the WDD auditors, investigators, monitors and their representatives shall, at all times during the period that the grant is in force, and for a period of seven (7) 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 WIOA statute, regulations and directives.

iii. The Service Provider will be responsible for providing the WDD staff with information that will assist the WDD staff 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 single audit report, or audited financial report.

iv. WDD is not responsible for arranging or paying for audits outside the Contract. The responsibility for audits will be that of the Service Provider.

v. WDD 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, WIOA or its Regulations.

vi. The Service Provider acknowledges that San Bernardino County 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.

g. Year-End / End of Contract Report. Within ten 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.

h. Additional Requirements

i. 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.

ii. All financial, procurement and program documents must be made available for monitoring/audit for seven (7) years following the financial audit of the contract. If there is a litigation issue(s) or in the process of audit resolution, records must be retained more than seven (7) years after the final audit resolution and final payment of disallowed costs being accepted by the County.

iii. 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 WIOA) on deposit in a bank insured by Federal Deposit Insurance Corporation (FDIC).

iv. 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.

v. The Service Provider shall be responsible for any funds expended on Participants who were found ineligible for WIOA services or found in violation of rules, regulations, grant, or Contract.

i. **Internal Financial Management.** Service Providers must provide adequate internal contract management in terms of financial management and internal controls to ensure compliance with applicable law and regulations. The regulations are not limited to the following areas, State and Federal WIOA regulations, County WIOA Contract requirements, applicable State and Local Board policies, and acceptable financial and procurement system and practices according to 2 CFR 200*et seq.*, GAAP standards and the County requirements.

I. PELL GRANTS AND OTHER EDUCATIONAL ASSISTANCE FUNDS

a. **Supplemental Funding.** WIOA funds should be used to supplement, not supplant, training resources available through Educational Assistance Programs (Title IV). Both WIOA funds and Educational Assistance Funds may be used to pay costs for the same Participant, as long as the Service Provider can demonstrate that WIOA 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. It there are remaining monies, then the remaining monies can be used for supportive services, books, materials, fees, etc.

d. **Individual Service Strategy Plan.** The ISS Plan shall reflect WDD's arrangement with the educational institution, the Participants' training-related financial assistance needs, and the mix of WIOA 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

J. INDEMNIFICATION AND INSURANCE REQUIREMENTS

J.1 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 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.

J.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.

J.3 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.

J.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.

J.5 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.

J.6 Proof of Coverage

The Contractor shall furnish Certificates of Insurance to the County Department administering the Contract evidencing the insurance coverage at the time the Contract 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 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.

J.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".

J.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.

J.9 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.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 contract. Contractor 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.

J.11 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.

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:

J.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 Contractor and all risks to such persons under this contract.

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.

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.

J.11.2 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.

J.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 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.

J.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.

J.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.

J.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.

J.11.7 **Abuse/Molestation Insurance** – Contractor 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.

K. RIGHT TO MONITOR AND AUDIT

K.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 Contractor in the delivery of services provided under this Contract. Contractor shall give full cooperation, in any auditing or monitoring conducted. Contractor 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.

K.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 Contract or until all pending County, State and Federal audits are completed, whichever is later.

L. CORRECTION OF PERFORMANCE DEFICIENCIES

L.1 Failure by Contractor to comply with any of the provisions, covenants, requirements or conditions of this Contract shall be a material breach of this Contract.

L.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 Contract:

a. Afford Contractor 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 Contractor for and during the period in which Contractor 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 Contractor but yet unpaid by County those monies disallowed pursuant to Item "b" of this paragraph; and/or
e. Terminate this Contract immediately and be relieved of the payment of any consideration to Contractor. 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 the Contractor under this Contract and the balance, if any, shall be paid by the Contractor upon demand.

M. NOTICES

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.

N. ENTIRE AGREEMENT

This Contract, 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 Contract not expressly set forth herein are of no force or effect. This Contract 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 Contract and signs the same of its own free will.

O. ELECTRONIC SIGNATURES

This Contract 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 Contract. The parties shall be entitled to sign and transmit an electronic signature of this Contract (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 Contract upon request.

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

SAN BERNARDINO COUNTY

► _____

Curt Hagman, Chairman, Board of Supervisors

Dated: JUN 14 2022

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

SAN BERNARDINO COUNTY SUPERINTENDENT OF SCHOOLS

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

By ► _____

(Authorized signature - sign in blue ink)

Name **Richard De Nava**

(Print or type name of person signing contract)

Title **Assistant Superintendent of Business Services**

(Print or Type)

Dated: 5/31/2022

Address **601 North E Street**

San Bernardino, CA 92415-0020

FOR COUNTY USE ONLY

Approved as to Legal Form	Reviewed for Contract Compliance	Reviewed/Approved by Department
► Sophie Akins	► Mariann Johnson	► Bradley Gates
Sophie A. Akins, Deputy County Counsel		
Date June 3, 2022	Date June 6, 2022	Date June 6, 2022